

**POLICY AGAINST SEXUAL HARASSMENT OF
WOMEN AT THE WORKPLACE
(PREVENTION, PROHIBITION AND
REDRESSAL)
INCLUDING THE RULES AND PROCEDURE**



SATYARTHI

KAILASH SATYARTHI CHILDREN'S FOUNDATION

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Section A –The Policy ‘KAILASH SATYARTHI CHILDREN’S FOUNDATION POLICY Against The Sexual Harassment of Women At Workplace (Prevention, Prohibition and Redressal) Policy’

Kailash Satyarthi Children’s Foundation (KSCF) is a zero tolerant organization to any kind of sexual harassment at workplace. The organization is committed to ensuring a safe work environment free from sexual harassment. Disciplinary action will be taken against anyone who breaches this policy. Witnesses and bystanders will be supported to take action against sexual harassment.

In compliance with the mandate of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013 KSCF adopts the present Policy for the prevention, prohibition and Redressal of sexual harassment of women at its workplace. The same is termed as Kailash Satyarthi Children’s Foundation **Policy Against Sexual Harassment of Women at the Workplace and shall hereafter be referred to as KSCF - PASHW.**

1. Policy Statement

‘The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) policy enforces a strict measure in KSCF to prevent sexual harassment against women associates in any form at work place. The intent of this policy is to create and establish an amicable atmosphere/environment for women associates to be respected and treated with dignity.

Sexual harassment is recognised as a Major Misconduct, the KSCF PASHW will be guided by The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and implemented by Internal Complaints Committee (ICC) and the Management.

The KSCF PASHW is applicable to all women associates of KSCF as specified in section B.1 (ii)

2. Source of Application

This policy is applicable to all women associates of KSCF including permanent & temporary associates, trainees, interns, consultants, contractual staffs, volunteers and daily wage workers employed either directly or through an agent, or called by any other name who are working in the KSCF premises located in any part of India.

3. Definition

“Sexual Harassment of a woman” means as described in Section B.1 (viii)

4. Constitution of Internal Complaints Committee (ICC)

The Employer shall, by an order in writing, constitute an ICC for purposes of implementing the mandate of the KSCF PASHW and for conducting inquiry into any complaint of sexual harassment. The ICC so constituted shall have jurisdiction over all the offices of KSCF located in any part of India, including the head office located at New Delhi. The ICC shall have diverse representation. The guidelines for the constitution of ICC are detailed in Section B.3.

5. Redressal Process

KSCF complies with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 in providing its women associates with a redressal mechanism to report incidents of sexual harassment. The key processes for redressal include:

- (i) A woman associate sexually harassed at workplace, may make a complaint in writing within 3 months from the date of the last incident to the ICC directly or through the Supervisor or Peers or HR. The Supervisors, Peers and HR are bound to report all cases to the ICC within 24 hours without attempting mediation.
- (ii) The HR would communicate to ICC on follow up on the complaints to ensure compliance and protection of the complainants and witnesses.
- (iii) The Peers or witnesses or bystanders would be protected from any forms of retaliation, and the ICC, through regular reports from HR, would monitor the follow up of the cases for at least one year.

The entire process as per the Act is detailed in Section B.4.

6. Enquiry Process

The ICC shall while inquiring into complaints of sexual harassment will follow the procedures in conformity with the principles of natural justice and gender sensitivity. The key processes for enquiry include:

- (i) The members of the Committee shall convene a meeting within 10 working days from the date of receipt of the Complaint to decide whether the matter does constitute sexual harassment and whether the same should be taken up by the Committee.

(ii) The ICC shall have the right to terminate the inquiry proceedings or to give an *ex parte* decision on the complaint, if the complainant or the respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings. Such termination or *ex parte* may be passed only after giving a notice in writing 15 days in advance to the party concerned.

(iii) The parties will not be allowed to bring any legal practitioner to represent them in this case.

(iv) On completion of the enquiry, the Committee shall provide a report of its finding to the employer within ten days from the completion of the inquiry and this report shall be made available for both the parties.

(v) If the ICC arrives at the conclusion and the allegation against the respondent is proved, recommend to the management, as the case maybe, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating service or undergo counseling sessions.

For the entire process for enquiry into any complaint of sexual harassment of a woman at the workplace, the Rules and Procedures provided in Section B.5 shall be followed.

7. Dealing with Retaliation:

Any retaliation against any complainant and/ or associate who participates in a sexual harassment case enquiry shall be liable for action by the organization. This will be addressed in the manner as given in the Redressal process Section B.4, through regular reports from HR to ICC and management to monitor the follow up of the cases for at least one year.

8. Confidentiality:

All complaints (oral/ written) of sexual harassment will be treated with utmost confidentiality by the Committee. However, in order to conduct an inquiry limited disclosure of pertinent information to certain parties, including the alleged harasser may be required. The Chairperson of the ICC and the Employer shall be responsible for ensuring that there is strict compliance with the Rule prohibiting publication or disclosure and maintaining confidentiality. The consequences of breach of confidentiality are detailed in Section B.6.

Section B – KAILASH SATYARTHI CHILDREN'S FOUNDATION POLICY -POLICY AGAINST SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE RULES AND PROCEDURES

These Rules shall be called the "KAILASH SATYARTHI CHILDREN'S FOUNDATION POLICY- Policy Against Sexual Harassment of Women at the Workplace

Rules and Procedures"

These Rules and Procedures are in compliance with the legal mandate of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 and The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013.

These Rules shall be applicable to all complaints under the KAILASH SATYARTHI CHILDREN'S FOUNDATION POLICY - Policy Against Sexual Harassment of Women at the Workplace (KSCF-PASHW).

1. DEFINITION--- in these Rules, unless the context otherwise requires, --

- (i) "Complainant" or "Aggrieved Woman" is any female associate of KSCF who makes a written complaint against any other male associate/s under this policy.
- (ii) "Associates" shall include all associates of KSCF, including permanent & temporary associates, trainees, interns, consultants, contractual staffs, volunteers and daily wage workers employed either directly or through an agent, or called by any other name who are working in the KSCF premises located in any part of India.
- (iii) "Employer" means the Executive/Managing Director and Chief Executive Officer of KSCF.
- (iv) "External Expert on ICC" means and includes an NGO representative or any other expert having a known contribution, or experience in working for women's rights and gender justice;
- (v) "Internal Complaints Committee (ICC)" means a committee constituted for purposes of conducting an inquiry into any complaint of sexual harassment at the workplace at KSCF.
- (vi) "Outsider" means any person who is not an associate of KSCF, and includes but is not limited to:
 - (a) any contractor or person providing residential, food, courier, transport, office supplies, or any other facilities to KSCF;

- (b) visitor to any of the offices of KSCF,
 - (c) participant attending a seminar, workshop, training programme, meeting, or any other event or programme organized by KSCF.
- (vi) "Alleged harasser" or "Respondent" means any person against whom the aggrieved woman has made a written complaint of sexual harassment and includes but is not limited to an associate of KSCF.
- (vii) "Sexual Harassment of a woman" means any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: -
- (a) physical contact or advances; or
 - (b) demand or request for sexual favours; or
 - (c) making sexually coloured remarks; or
 - (d) showing of pornography; or
 - (e) any other unwelcome, physical, or verbal, or non-verbal conduct, of a sexual nature, or sexually determined behaviour, including but not limited to, loaded comments, jokes, letters, phone calls emails, sms, twitter or any other form of internet or electronic communication, gestures, lurid stares, spreading rumors, physical contact, stalking, sounds or display of a derogatory nature, deprecatory or denigrating remarks or conduct based on gender identity and directed towards women.
 - (f) any unwelcome physical, verbal or non-verbal act or conduct of a sexual nature, or sexually determined behaviour, which amounts to:
 - (a) implied or explicit promise of preferential treatment in her employment; or
 - (b) implied or explicit threat of detrimental treatment in her employment; or
 - (c) implied or explicit threat with regard to her present or future employment status; or
 - (d) which has the purpose or effect of interfering with or interferes with a woman's work, or performance, or of creating an intimidating, hostile or offensive work environment; or
 - (g) humiliating treatment likely to affect her health and safety.
 - (h) when submission to any of the above conduct is made a term or condition of employment, participation or evaluation of a woman's engagement in any activity of the KSCF.
 - (i) any conduct of a sexual nature that is likely to affect her mental, physiological, emotional or physical health or safety;
- (ix) "Workplace" includes any place visited by the associate arising out of or during the course of

employment including transportation provided by the employer for undertaking such journey.

2. DUTIES AND RESPONSIBILITIES OF EMPLOYER:

The Employer is under a statutory obligation to diligently discharge the following duties and responsibilities:

- (i) Provide a safe work environment free from sexual harassment of women including prevention and deterrence of sexual harassment.
- (ii) Display at any conspicuous place in the workplace, the penal consequences of sexual harassments, and the order constituting the Internal Complaints Committee.
- (iii) Organize workshops and awareness programmes at regular intervals for sensitizing the associates with the KSCF-Policy Against Sexual Harassment of Woman at the Workplace and orientation programmes for the members of the Internal Complaints Committee in the manner as may be prescribed.
- (iv) Provide necessary facilities to the Internal Complaints Committee for dealing with the complaint and conducting an inquiry.
- (v) Assist in securing the attendance of respondent and witnesses before the Internal Complaints Committee.
- (vi) Make available such information to the Internal Complaints Committee as it may require having regard to the complaint made.
- (vii) Provide assistance to the complainant if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.
- (viii) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or of the aggrieved woman so desires, where the perpetrator is not an associate, in the workplace at which the incident of sexual harassment took place.
- (ix) Treat sexual harassment as a misconduct and initiate action for such misconduct.
- (x) Employer will ensure confidentiality regarding the identity of the persons involved in a complaint, or the proceedings of the ICC, and will not allow the same to be published, communicated or made known to the public, press or media in any manner, in violation of the prohibition under Section B.6. The Employer may share such information with supervisors and team members to the extent required so as to generate

confidence and enabling environment for the case.

(xi) Monitor the timely submission of reports by the Internal Complaints Committee and adherence to the recommendations of the ICC.

(xii) Based on the findings of ICC, the management would take any action recommended, including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating service or undergo counseling sessions.

(xiii) Include adherence to KSCF PASHW as a term and condition in all employment contracts and ensure that the same is binding on the person entering into employment contract with KSCF.

(xiv) To record in the Annual Report of KSCF, the number of complaints of sexual harassment filed and details regarding their disposal, and other activities undertaken in fulfillment of KSCF-PASHW.

3. CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE (ICC):

The Employer shall, by an order in writing, constitute an ICC for purposes of conducting an inquiry into any complaint of sexual harassment. The ICC so constituted shall have jurisdiction over all the offices of KSCF located in any part of India, including the head office located at New Delhi.

(i) Composition of the ICC

The ICC members shall have equal representation from institute, program, campaigns and program support departments. The Internal Complaints Committee shall consist of the following members to be nominated by the Employer:

- (a) The ICC shall consist of 5 core members, and representation from all the locations with KSCF presence with physical offices.
- (b) At least half of the total members so nominated shall be women.
- (c) Chairperson who shall be a woman employed at senior levels of KSCF headquarter at New Delhi. Provided that if no suitable woman associate is available at senior levels of KSCF headquarter, the Chairperson shall be nominated from other offices of KSCF.
- (d) not less than 2 members from amongst associates preferably committed to the issue of women's rights or have relevant social work experience or relevant legal knowledge.
- (e) one External Expert member, from an NGO or otherwise, having a known contribution or experience in working for women's rights and gender justice.

(ii) Term

- (a) The term of the individual members of the ICC shall be for two years from the date of nomination and the Employer shall nominate the new ICC members prior to the expiry of the term of the members of the ICC.
- (b) The outgoing ICC members will continue to discharge all functions till a new Committee is constituted.

(iii) Fee or Allowance

The External Expert member shall be given an allowance of Rs.200 per day for participating in proceedings of the ICC and also the reimbursement of travel expenses.

(iv) Vacancy

If a member nominated to the ICC remains absent without written intimation to the ICC from three consecutive meetings, her/his post shall thereupon become vacant.

(v) Resignation

A member of the ICC may resign her/his office at any time by tendering her/his resignation in writing to the Employer. Such a person shall be deemed to have vacated her/his office as soon as the Employer has accepted the resignation.

(vi) Disqualification of Member

The Chairperson or any member shall be disqualified and removed from the ICC by the Employer if he/she:

- (a) has breached the confidentiality regarding the identity of the persons involved in a complaint, or the proceedings of the ICC, and allowed the same to be published, communicated or made known to the public, press or media in any manner, in violation of the prohibition under Section B.6 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/her; or
- (c) has been found guilty in any disciplinary proceedings, or a disciplinary proceeding is pending against him/her; or
- (d) has been found guilty in any disciplinary proceedings or inquiry, or a disciplinary proceeding is

pending against him, on the charge of sexual harassment or any other misconduct relating to the dignity of a woman;

(vii) Fresh Nomination to the ICC

In the event of a member being removed or a vacancy being created or a casual vacancy arising for any other reason in the ICC, the Employer shall make a fresh nomination to the ICC in accordance with the criteria prescribed herein.

(viii) Periodicity of the ICC meetings and Quorum

- (a) The first meeting of the Core Committee to decide on proceeding on a case needs to include all members. During this meeting, decision on quorum can be taken.
- (b) Any case would be handled by at least 2 core committee members and other members would be involved as required in the case as decided by core committee.
- (c) ICC members can meet quarterly in case there are no cases during the period for updates and follow ups as required.

4. REDRESSAL PROCESS:

All women associates of KSCF are permitted to seek redressal under this policy. KSCF complies with Sexual Harassment of Women At Workplace (Prevention, Prohibition and Redressal) Act 2013 in providing its women associates with a redressal mechanism to report incidents of sexual harassment. The Redressal process includes:

- (i) A woman associate sexually harassed at workplace, may make a complaint in writing **within 3 months** from the date of the last incident to the ICC directly through the Supervisor or Peers or HR. The Supervisors, Peers and HR are bound to report all cases to the ICC **within 24 hours** without attempting mediation.
- (ii) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, the legal heir or such other person (preferably the nominee) may make the said written complaint; or where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filled by any person who has knowledge of this incident, with her written consent.
- (iii) On receipt of the written complaint the member who receives the complaint should inform the other

(iv) The witnesses or bystanders are encouraged to report to the ICC, even if the aggrieved woman/women are not willing or in a position to make a written complaint, with the assurance of confidentiality.

(v) The representative of HR, as nominated by the Employer, would communicate to ICC on follow up on the complaints to ensure compliance and protection of the complainants and witnesses.

(vi) The Peers or witnesses or bystanders would be protected from any forms of retaliation, and the ICC, through regular reports from HR, would monitor the follow up of the cases for at least one year. The ICC would update the Employer regarding the follow up of the cases on a regular basis to highlight compliance required.

5. ENQUIRY PROCESS:

Once a complaint is received, the Internal Complaints Committee will initiate a prompt and thorough enquiry.

- (i) The complainant shall submit to the ICC six copies of the complaint along with supporting documents and the names and addresses of the witnesses. In case the complainant is unable to submit six copies, for whatsoever reasons, the ICC may get the necessary copies made.
- (ii) The members of the Committee shall convene a meeting within 10 working days from the date of receipt of the Complaint to decide whether the matter does constitute sexual harassment and whether the same should be taken up by the Committee. (referred to as Preliminary findings)
- (iii) On receipt of the complaint the ICC shall send one copy to the respondent within a period of seven working days.
- (iv) The respondent shall file a reply to the complaint along with his list of documentary evidence and names and addresses of witnesses, within a period not exceeding ten working days from the receipt of the documents.
- (v) The ICC shall conduct an enquiry into the complaint in accordance with the principles of natural justice.
- (vi) The ICC shall have the right to terminate the inquiry proceedings or to give an *ex parte* decision on the complaint, if the complainant or the respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings. Such termination or *ex parte* may be passed only after giving a notice in writing 15 days in advance to the party concerned.
- (vii) The parties will not be allowed to bring any legal practitioner to represent them in this case
- (viii) The ICC at the written request from the complainant may recommend to the management a)

to restrain the respondent from reporting on her work performance or writing her confidential report, and assign the same to another officer; b) transfer the complainant or the respondent to any other workplace; c) grant leave to the complainant up to a period of three months; or d) grant such other relief as may be prescribed.

- (ix) In case ICC receives a request in writing from the complainant to settle the matter through reconciliation, it may examine the option, while ensuring no monetary settlement or fear is the basis of reconciliation.
- (x) On completion of the enquiry, the Committee shall provide a report of its finding to the employer within ten days from the completion of the inquiry and this report shall be made available for both the parties. The employer/management would ensure implementation of recommendations, and follow up the cases, including status of the complainant and witnesses, and will report to ICC on the same. Reporting periodicity will be specified as per case.
- (xi) If the ICC arrives at the conclusion and the allegation against the respondent is proved, recommend to the management, as the case maybe, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating service or undergo counseling sessions or carry out community service.

6. BREACH OF CONFIDENTIALITY

- (i) The contents of the complaint made, the identities and addresses of the aggrieved woman, respondent and all witnesses, any information relating to the process of conciliation or the settlement reached, the inquiry proceedings, the findings of the inquiry Report or the recommendations of the ICC, and action taken by the Employer under the KSCF PASHW shall throughout be protected and kept confidential and the same shall not be published, communicated or made known to the public, press and media in any manner.
- (ii) The Chairperson of the ICC and the Employer shall be responsible for ensuring that there is strict compliance with the Rule prohibiting publication or disclosure and maintaining confidentiality.

Provided that the information regarding action taken and justice secured to any aggrieved woman may be disseminated by the ICC and the Employer to create deterrence and awareness, without disclosing the name, identity, address or any other particulars that are likely to lead to the identification of the aggrieved woman and the witnesses.

- (iii) Where any associate contravenes by breach of confidentiality, the Employer shall recover a sum of

Rs. 5,000 by deducting the same from the salary or earnings of such associate and the amount so recovered as penalty shall be used by the ICC for the purpose of gender sensitization and creating awareness about the KSCF-PASHW.



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