

EMPLOYEE HANDBOOK

On
Sexual Harassment of Employees
at Workplace

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Accepted by: Nomination and Remuneration
Committee (NRC)

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ABOUT SEWA GRIH RIN (SGR)

SEWA (Self Employed Women's Association) Grih Rin Ltd (SGR) was incorporated on 18th July 2011 under the Company's Act 1956 with a specific purpose of becoming a Housing Finance Company (HFC) to provide housing finance for the poor. The SGRL mission is to finance access to decent housing and sound living environments for and with participation of poor women and their families in the informal sector.

SEWA Grih Rin Ltd. is part of a family of SEWA Organisations committed to organising poor women working in informal sector trades and changing their lives by keeping them at the centre of all its activities. SEWA (Self Employed Women's Association) is a movement based on Gandhian Principles of self-reliance, truth, non-violence and cooperation.

PURPOSE OF THIS HANDBOOK

This handbook is meant to provide a basic understanding of sexual harassment at places of work. Additionally, it is designed to offer workers, with simple, user friendly information on sexual harassment; protection against sexual harassment, prevention and redressal of complaints of sexual harassment and the process for complaint of sexual harassment.

WHO IS AN AGGRIEVED EMPLOYEE?

It includes all employees whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise. Their terms of employment can be express or implied. Further, he/she could be a co-worker, a contract worker, probationer, trainee, apprentice, or called by any other such name. The Act also covers an employee, who is working in a dwelling place or house.

WHAT IS SEXUAL HARASSMENT AT THE WORKPLACE?

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

1. Physical contact or advances;
2. A demand or request for sexual favours;
3. Making sexually coloured remarks;
4. Showing pornography;
5. 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 in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

- (i) implied or explicit promise of preferential treatment in his/her employment; or

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

CONSTITUTION OF INTERNAL COMPLAINT COMMITTEE

SEWA Grih Rin Limited has constituted a Committee named as Internal Complaint Committee on 2nd June 2016. The objective of the Committee is to look after the welfare of the all employees, to facilitate redressal of their grievances, to help maintain a harmonious atmosphere at office and to enable employees to pursue their work with dignity and reassurance.

WHAT SHOULD YOU DO IF YOU ARE SEXUALLY HARASSED?

- Do not feel ashamed. Tell the harasser very clearly that you find his behaviour offensive.
- Do not ignore the harassment in the hope that it will stop on its own. Come forward and complain to Internal Complaint Committee (ICC).
- Talk to somebody you trust about the harassment (preferably to ICC). It will not only give you strength but also help others in similar situations to come forward and complain.
- Keep a record of all incidents of sexual harassment. If you feel the need to register a formal complaint later, this record will be helpful.
- Most importantly, the victim must never blame himself/herself for the harassment.

PROCEDURE FOR FILING COMPLAINT

Any aggrieved employee may make in writing a complaint of sexual harassment at workplace to the Internal Complaint Committee (ICC) within 3 months from the date of incident or the date of the last incident in case of a series of incidents. In case the employee cannot write, the Presiding officer/ any member of Internal Committee shall render all reasonable assistance.

If the aggrieved employee is unable to make a complaint on account of his/her physical or mental incapacity or death, his/her legal heirs or such other person as may be prescribed may do so.

The written complaint should contain a description of each incident(s). It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties.

ACTION OF INTERNAL COMPLAINT COMMITTEE ON RECEIPT OF A COMPLAINT

Option A: Upon receipt of the complaint, the ICC must proceed to make an inquiry.

Option B: The ICC may forward the complaint to the Police.

INVESTIGATION PROCEDURE OF THE COMMITTEE

The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer within 10 days from the date of completion of the enquiry. Employers are mandated to take action on the report within 60 days.

PROCESS FOR CONCILIATION AND SETTLEMENT

Before initiating an inquiry, the ICC may and at the request of the aggrieved employee, take steps to arrive at a settlement between the parties. However, no monetary settlement can be made as the basis of such conciliation. Where such a settlement has been arrived at, the ICC, record the settlement and forward the same to the employer to take action as specified in the recommendation. The ICC shall provide copies of the settlement to the aggrieved employee and the respondent.

FORWARDING A COMPLAINT TO THE POLICE

The ICC can forward a complaint to the Police for registering the case under Section 509 of the IPC and any other relevant provisions of the IPC within 7 days.

In the event of non-compliance by the respondent of the terms and conditions of a settlement agreed upon and when the aggrieved employee informs the ICC about it, the ICC may make an inquiry or forward the complaint to the Police.

FURTHER INQUIRY AFTER SETTLEMENT

Where a settlement is arrived at, no further inquiry shall be conducted by the ICC. However, if the aggrieved employee informs the ICC that any term or condition of the settlement has not been complied with by the respondent, the ICC shall proceed to make an inquiry into the complaint or forward the complaint to the police.

FALSE / MALICIOUS COMPLAINTS

In case of malicious or false complaint, there is a penalty according to this handbook. However, mere inability to prove the malicious intent will not attract penalty.

PUNISHMENTS

Whosoever does any shameful act which amounts to sexual Harassment at workplace will be punished under section 509 of the Indian Penal Code with a simple imprisonment for a term which may extend to three years, or with fine, or with both.

CONFIDENTIALITY

It shall be the duty of all the persons and authorities designated under this to ensure that all complaints lodged under this shall be confidential. After the initiation of an enquiry under this such confidentiality shall be continued so far as is possible.

The name of the aggrieved employee or the defendant nor their identity shall be revealed to the press / media or any other persons whilst reporting any proceedings, case, order or Judgment under this policy.

COMPLAINT PROCESS

The Internal Complaint Committee will follow the below procedure for addressing a complaint of workplace sexual harassment.

Step 1: Receive and Acknowledge Receipt of the Complaint.

The complainant submits a sexual harassment complaint in writing within three months of the last alleged incident to the Complaints Committee. Upon receipt, the complaint should be reviewed for: (i). Clarity in the complaint. (ii). Additional information needed from the complainant. The complainant will be notified in writing to acknowledge receipt.

Step 2: Meet and Talk to the Complainant to explore options for Formal and Informal Resolution.

The complainant needs to be informed about the ensuing process and the informal or formal options available for the redress.

Step 3: Informal Mechanism

If the complainant chooses to adopt the informal process to resolve his/her complaint/experience of workplace sexual harassment, then it is the responsibility of the person designated to receive and manage the Complaints Committee to explore enabling ways to address the complaint. This can include counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour or appointing a neutral person to act as a conciliator between the parties to resolve the complaint through conciliation. However, before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route. Where such an informal process is successful, such resolution is to be recorded by the conciliator and forwarded to the ICC who in turn will forward the same to the employer for further action based on the resolution. The choice of a formal process rests with the complainant even if the person responsible for managing the complaint believes that this can be resolved through an informal process.

Step 4: Formal Mechanism

If the complainant opts for formal redress, or the nature of the complaint is serious which calls for formal redress, then the Complaint Committee responds to the complaint.

Step 5: Respondent and Response

Within seven days of receiving a complaint, the Complaint Committee will inform the respondent in writing that a complaint has been received. The respondent will have an opportunity to respond to the complaint in writing within ten days thereafter.

Step 6: Prepare the File

This includes taking into account the following:

(i). Create an independent confidential file of the complaint and all subsequent related documentation. (ii). Obtain and review all supporting documents relevant to the complaint, including those presented by the complainant and the respondent.

Step 7: Consideration

Interim Measures

While a complaint is pending inquiry, a complainant can make a written request for his/her transfer or the transfer of the respondent, or for leave (upto 3 months). She/he can also request the Complaints Committee to restrain the respondent from reporting on her/his work performance or writing her/his confidential report.

Step 8: Interview

Prepare an Interview Plan for the Hearing

Step 9: Finding

Based on the above, the Complaint Committee must arrive at a finding of whether the complaint is upheld, not upheld or inconclusive. Provided, where both the parties are employees, before finalising the findings, the ICC shall share its finding with both the parties and provide them an opportunity to make representation against it before the Committee.

Step 10: Recommendations

Option 1: If the ICC arrives at the conclusion that the allegation against the respondent has not been proved, it will recommend to the employer that no action is required to be taken.

Option 2: If the ICC arrives at the conclusion that the allegation against the respondent has been proved, it will recommend to the employer, the following:

(a) To take action for sexual harassment as a misconduct such as (i) Disciplinary action, including a written apology, reprimand, warning, censure; (ii) Withholding promotion/ pay raise/ increment; (iii) Termination; (iv) Counselling; (v) Community service.

(b) To deduct from the salary or wages of the respondent such sum to be paid to the aggrieved employee or to his/her legal heirs. In case the employer is unable to make such deductions from the salary of the respondent due to her/his being absent or cessation of employment, the ICC may direct to the respondent to pay such sums to the aggrieved employee. In case the respondent fails to pay the sum, the ICC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District officer. The basis of determining sums to be paid to the aggrieved employee will be (i) Mental trauma, pain, suffering and emotional

distress caused to the aggrieved employee (ii) Loss in career incurred by the victim for physical or psychiatric treatment (iii) Income and financial status of the respondent.

Option 3: If the ICC 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, it may recommend to the employer to take the following actions against the employee or the person who has made the complaint:

(a) (i) Disciplinary action, including a written apology, warning, censure; (ii) Withholding promotion/ pay raise/ increment; (iii) Termination; (iv) Counselling; (v) Community service.

(b) To deduct from the salary or wages of the complainant such sum to be paid to the alleged respondent or to his/her legal heirs. In case the employer is unable to make such deductions from the salary of the respondent due to her/his being absent or cessation of employment, the ICC may direct to the complainant to pay such sums to the alleged respondent. In case the complainant fails to pay the sum, the ICC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District officer. The basis of determining sums to be paid to the alleged respondent will be (i) Mental trauma, pain, suffering and emotional distress caused to the alleged respondent (ii) Loss in career incurred by the alleged respondent for such malicious complaint (iii) Income and financial status of the complainant.

Step 11: Writing the Report

The Complaints Committee will prepare a final report that contains the following elements: (i) A description of the different aspects of the complaint; (ii) A description of the process followed; (iii) A description of the background information and documents that support or refute each aspect of the complaint; (iv) An analysis of the information obtained; (v) Findings as stated above; (vi) Recommendations.

An inquiry must be completed within 90 days and a final report must be submitted to the Employer within ten days thereafter. Such report will also be made available to the concerned parties. The Employer is obliged to act on the recommendations within 60 days.

APPEAL

Any person not satisfied with the findings or recommendations of the Complaints Committee or non-implementation of the recommendations, may appeal first to the Board of Directors within 30 days time period and thereafter to an appropriate court or tribunal, as prescribed under the Service Rules or where no such service rules exist, in such manner as may be prescribed.

Appeal to a court has to be done within a period of 90 days of recommendation.