

PREVENTION, PROHIBITION & REDRESSAL OF SEXUAL HARASSMENT AT WORKPLACE (PoSH)

Objective

This policy has been prepared based on the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and rules as applicable. For any further clarifications please refer to the acts and the rules.

This policy is by way of guidelines only.

Introduction

Shapoorji Pallonji Real Estate, henceforth referred to SPRE, is committed to providing a safe and respectful work environment to its employees that enables employees to work without fear of prejudice, harassment or any form of intimidation or exploitation. SPRE also believes that all employees have the right to be treated with dignity.

SPRE does not support discrimination of individuals on the basis of race, colour, gender, age, national origin, religion, sexual orientation, marital status, citizenship or disability.

Sexual harassment at workplace is strictly prohibited. Sexual harassment to women results in violation of the fundamental rights of a woman to equality under articles of the Constitution of India and her right to life and to live with dignity and the right to practice any profession or to carry out any occupation, trade or business which includes the right to safe environment which is free from Sexual Harassment.

SPRE treats Sexual Harassment as gross misconduct under the service rules and other applicable laws and action will be initiated appropriately for such misconduct. It is necessary for employees to deal with their colleagues and third parties with full fairness, respect and dignity and realise that his/her behaviour will be attributed to the company and can affect its reputation. Currently India has a specific legislation dealing with Sexual Harassment and a new act called “The Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and its rules are in force.

Purpose of the policy

The purpose of the Policy is to provide protection and prevention against Sexual Harassment at workplace and for understanding the redressal of complaints of Sexual Harassment and for matters connected therewith. The policy has been formed with a view to:

- Promote a workplace based on equality, respect and dignity.
- Provide a gender sensitive safe and congenial work environment.
- Create awareness and sensitization about prevention of Sexual Harassment at the workplace.
- Prohibit Sexual Harassment.
- Provide formal and informal mechanism for redressal in case of complaint of Sexual Harassment at the workplace.
- Know the legal implications of Sexual Harassment.
- Ensure protection against retaliation to complainants, witnesses, committee members and other employees involved in prevention and redressal.

Applicability

This Policy applies to all the employees i.e. who are on the rolls of the company including probationers, permanent employees, trainees and retainers. (Whether in the office premises or while outside on official duty).

This policy will also apply to women who are covered by definition in “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013”.

By the above, in case of “women”, it means a woman employed at a SPRE workplace for any work on regular, temporary, ad hoc or daily wage basis either directly or through an agent, including a contractor, with or without the knowledge of SPRE, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are expressed or implied and includes a co-worker, contract worker, probationer, trainee or apprentice or called by any other such name.

Where Sexual Harassment occurs to an employee as a result of an act by a third party or outsider while on official duty, SPRE will take necessary and reasonable steps to assist the affected person in terms of support and preventive action.

This policy will come into force with immediate effect. There will be no exceptions to this policy.

Definitions

- **Aggrieved Woman** means a woman of any age whether employed or not, who alleges to have been subjected to any act of Sexual Harassment by the respondent.
- **Aggrieved Man** means a man of any age employed with SPRE who alleges to have been subjected to any act of Sexual Harassment by the respondent.
- Respondent means a person against whom the **Aggrieved Woman** or **Aggrieved Man** has made a complaint.
- **Complaint** means the written complaint made by the Aggrieved Woman or Aggrieved Man.
- **Complainant** means the person reporting the incident of Sexual Harassment.
- **Management Committee (MC)** means the body of individuals, who will take a final decision on the complaint.
- **Internal Complaints Committee (ICC)** means an Internal Complaints Committee constituted under the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” to address Sexual Harassment complaints.
- **Member** means a member of the ICC.
- **Presiding Officer** means the presiding officer of the ICC.

Key Concepts

Sexual Harassment

Sexual Harassment includes such unwelcome sexually determined behaviour, as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands whether by words, gestures or actions. Such conduct can be humiliating and may constitute an unsafe and disrespectful work environment.

Key Concepts

Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- Physical contact and advances; or
- A demand or request for sexual favours; or
- Making sexually coloured remarks; or
- Showing pornography; or
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Types of Sexual Harassment

- Under the quid pro quo (meaning “this for that”) form of Sexual Harassment, a person or authority, usually the superior of the Aggrieved Woman or Aggrieved Man or someone who has direct control over the working conditions of the Aggrieved Woman or Aggrieved Man demands sexual favours for giving a job benefit (like good increment, promotion, etc.) or threatens to not extend benefits if sexual favours are not met. In other words implied or explicit promise of preferential treatment or implied or explicit threat of detrimental treatment or implied or explicit threat about their present or future employment status will amount to quid pro quo Sexual Harassment.
- When a man or woman creates a hostile and unsafe work environment through verbal means (includes sexual words and other sexual suggestive comments), non-verbal means (includes showing sexual gestures or written offensive material or making offensive sounds) and physical means (includes intentional touching of the body and inappropriate display of the body) which interferes with another man/woman’s job performance or creates an atmosphere which is intimidating or offensive or hostile or humiliating.

Committee

Details of the Internal Complaints Committees (ICC) are provided in **Annexure L.3.A1**.

Informal Redressal

If you experience unwelcome behaviour or if you are subjected to Sexual Harassment committed by anyone, including visitors or non-employees you should tell the offender that his/her behaviour is unwelcome and ask him/her to stop the same immediately. However at this stage if you wish to make a complaint you may choose to do so.

In case there is no change in the behaviour please approach the concerned HR Head. If you are at a site or in the regional office approach the concerned HR. You can also approach the concerned HR Head if you are not comfortable approaching the concerned person directly.

If you as an employee feel that someone else is being subjected to unwelcome behaviour then you can approach the concerned HR person on his or her behalf. Once the concerned HR person is approached she/he will speak with the person and understand the situation. She/he will then talk to the employee whose behaviour is unwelcome and help them understand the effect of their behaviour and will counsel them and make them appreciate the fact that everyone should be treated with dignity. In some situations it may be a simple misunderstanding and, in such cases, the concerned HR Head will talk to both of them and resolve the issue amicably.

It is not mandatory to follow the informal redressal route.

Complaint Process

If you experience Sexual Harassment committed by anyone, including visitors or non-employees, you should:

- Tell the offender that his/her behaviour is unwelcome and ask him/her to stop the same immediately
- If, after telling the offender to stop his/her behaviour, the Sexual Harassment continues, report the abuse to your Reporting Manager or HR representative. If the respondent is your Reporting Manager then report the same to your HR representative.
- You can address the Sexual Harassment complaint to a member of the ICC as mentioned in **Annexure L.3.A1** or send the same to the ICC email address complaint@shapoorji.com along with your name and contact details.
- The complaint may be made orally on phone or by meeting face-to-face. Complaints can also be made in writing via e-mail or letter. Such a complaint should be sent to either your HR Manager or Reporting Manager or to any member of the ICC. However for all oral complaints it is necessary for the Aggrieved Woman/Man to meet and give her/his consent to the complaint by way of signature or thumb impression. A thumb impression complaint will require one signature of a person who has the knowledge of the incidence. If the person making the complaint cannot write then either the HR Manager or an ICC member will document the complaint based on the narration of the person, explain the same in a language understood and then take a signature/thumb impression on the same. Only after receiving the written complaint the ICC will initiate further action.
- Such a complaint should be made within a period of 3 months from the date of the incident and in case of a series of incidents, within a period of 3 months from the date of the last incident. The written complaint has to have supporting evidences and the names and contact details of the witnesses if any.
- If an Aggrieved Woman is unable to make a complaint in writing due to physical or mental incapacity then it is possible for another person who has knowledge of the incident to file the complaint. To do so please contact a member of the ICC who will help you with the same.
- If an Aggrieved Woman is dead, any person, who has knowledge of the incident with the consent of her legal heir, may file a complaint.
- Keep a record of incidents (dates, times, locations, possible witnesss, what happened, your response, etc.). It is helpful and necessary to have a record of events, since such a record can strengthen your case and help you remember the details over time.
- Once the Aggrieved Woman or Aggrieved Man or the Complainant (in case of an Aggrieved Woman who is unable to make the complaint or in case of an Aggrieved Woman who is dead) makes the complaint it is important for them to keep the information about the complaint "Strictly Confidential".

Process for redressal

If the HR Head or Reporting Manager receives a complaint, it is his/her responsibility to forward the same within 1 working day to the Presiding Officer and not mention the same to anyone else.

Consistent with SPRE's obligation to conduct an investigation and take appropriate corrective action, complaints of Sexual Harassment will be treated immediately and fairly. Complaints received in accordance with the above section will be addressed as per the process documented below:

- Once the complaint is received, it will be kept strictly confidential and will be dealt with confidentially. In case the Aggrieved Woman/Man or Complainant (in case of an Aggrieved Woman who is unable to make the complaint or in case of an Aggrieved Woman who is dead) has submitted only 1 copy of the complaint the ICC will make 5 additional copies of the complaint.
- The respondent will be informed that a complaint has been made against him/her and that no unfair acts of retaliation or Unethical action will be tolerated. The ICC shall send one copy of the complaint received to the respondent within 7 working days.
- The respondent has to file his/her reply to the complaint along with his/her list of documents and names and addresses of witnesses, within a further period of 10 working days from the date she/he receives the complaint copy. The reply should be sent to the ICC.
- The ICC may before initiating an inquiry and at the request of the Aggrieved Woman/Man take steps to settle the matter between her/him and the respondent through conciliation, provided no monetary settlement shall be made the basis of conciliation.
- Where there is a settlement arrived through conciliation, ICC will record the settlement and forward the same to the MC to enable them to take action as specified in the settlement. Copies of the settlement will be given to the Aggrieved Woman/Man and Respondent. ICC will conduct no further inquiry in such case.
- If the Aggrieved Woman/Man is not willing to settle the matter through conciliation or the conciliation does not lead to a settlement then the ICC will go ahead with the inquiry.
- If the Aggrieved Woman/Man informs the ICC, that any term or condition of the settlement arrived at, has not been complied with by the respondent, the ICC shall proceed to make an inquiry into the complaint.
- Both the Aggrieved Woman/Man and the alleged Respondent initially will be questioned separately with a view to ascertain the veracity of their contentions.
- The ICC shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of this policy. In addition, the ICC shall if the Aggrieved Woman/Man so desires and a prima facie case exists, assist and forward the complaint to the police, for registering the case under Section 509 of the Indian Penal Code.
- The ICC can summon and enforce the attendance of any person and examine him/her under oath and also ask for the production of any document.

- The ICC will have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the Aggrieved Woman/Man or Respondent fails without sufficient reason to be present in 3 consecutive hearings convened for the purpose. Such a decision will be taken after giving a notice in writing, fifteen days in advance to the relevant party.
- During the pendency of inquiry, on a written request made by the Aggrieved Woman/Man the ICC in its sole discretion may recommend to the MC any or more of the following:
 - Transfer the Aggrieved Woman/Man or the Respondent to any other workplace or department.
 - Restrain the Respondent from reporting on work performance of the Aggrieved Woman/Man or writing her/his confidential performance report and assign these task to an alternative person.
 - Grant leave to the Aggrieved Woman up to a period of 3 months. The ICC will make such a recommendation after considering the necessity for taking such an action: if a prima facie case of Sexual Harassment exists and if the medical condition of the Aggrieved Woman so requires, as certified by a competent medical authority. It will also depend on the extent of damage it can cause and looking at the severity of the incidence.
- The ICC shall complete the inquiry in 90 days. The ICC on completing the inquiry will make a detailed report within 10 working days of completing the inquiry and submit it to the MC. The report should cover:
 - Background
 - Documents testimony of the Aggrieved Woman/Man or Complainant and the Respondent
 - Evidences gathered/recorded.
 - Findings of the inquiry.
 - Recommended Action. List of possible recommended actions is given in Annexure L3.A2.
- The ICC, if after completing the inquiry arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to the MC that no action be taken in the matter.
- If the ICC arrives at the conclusion that the allegations against the Respondent have been proved, then it shall recommend to the MC any one or more actions as listed in Annexure L.3.A2.
- Upon receipt of the report the MC shall review the report and determine what action and follow-up needs to happen. The MC will take the decision within 60 working days of the receipt of the report from the ICC
- The MC will inform the ICC of the decision and the ICC in turn will communicate the same to the Aggrieved Woman/Man and Respondent
- Notwithstanding anything contained in the Right to Information Act 2005, the contents of the complaint, identity, addresses of the Aggrieved Woman/Man, Respondent, Complainant and witnesses, any information relating to the conciliation and inquiry proceedings, recommendations of the ICC and final decision shall not be published, communicated or made known to the public

False or Malicious Complaints

This policy has been evolved as a tool to ensure that in the interest of justice and fair play, our employees have a forum to approach in the event of instances of Sexual Harassment. However, if on inquiry by the ICC it is revealed and concluded that the complaint was made with a malicious intent or the Aggrieved Woman/Man or Complainant making the complaint has made the complaint knowing it to be false, forged or misleading document submission with the motive of maligning the concerned respondent and tarnishing his/her image in the company and to settle personal/professional scores, it will recommend to the MC to take any action including a written apology, warning, reprimand, withholding of increment and/or promotion, undergoing counselling, carrying out community service or termination from employment.

During the inquiry mere inability to substantiate a complaint or provide adequate proof may not attract action against the Aggrieved Woman/Man or Complainant.

If in case the ICC 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 MC similar action as prescribed for a false or malicious complaint.

Protection Against Victimisation

SPRE prohibits retaliation of any sort regardless of the outcome of the complaint against a person who has reported a concern, brought a complaint, co-operated in the inquiry of a complaint, or because she/he is closely associated with the Aggrieved Woman/Man or Complainant.

SPRE while dealing with complaints of Sexual Harassment shall ensure that the Aggrieved Woman/Man, Complainant and witnesses are not victimized or discriminated against by the Respondent. The Aggrieved Woman/Man or Complainant should report any unwarranted pressures, retaliatory or any other type of unethical behaviour from the Respondent while the inquiry is in progress to the ICC as soon as possible. MC will take disciplinary action against the Respondent if the complaint of retaliation made is found to be genuine.

At the same time ICC will ensure that the Respondent is protected from unnecessary hardship and punishment during the pendency of the inquiry.

Appeal

Any appeal with the outcome of the inquiry should be addressed to the HR Head. Such an appeal should be made within 90 days of the decision conveyed to the Aggrieved Woman/Man and Respondent by the ICC.

Amendment to the Policy

SPRE reserves the right to amend the Policy from time to time in order to comply with any laws/rules/regulations that come into effect from time to time, related to Sexual Harassment.

Annexure L.3.A1

Contact details for members of ICC and MC and for an appeal are given below:

Joyville (All projects and Sion office) INTERNAL COMPLAINTS COMMITTEE (ICC)		
Name	Email id	Contact Number
Ms. Snehal Jadhav (Presiding Officer)	snehal.jadhav@shapoorji.com	+91 9821489850
Ms. Shabnam Sayyed	shabnam.sayyed@shapoorji.com	+91 8087523189
Mr. Himanshu Jani	himanshu.jani@shapoorji.com	+91 9867153149
Ms. Rashmi Jumani	rashmi.jumani@shapoorji.com	+91 9769751029
Mr. Sandesh Gurao	sandesh.gurao@shapoorji.com	+91 9324387060
Ms. Kishwar Nensey (External ICC)	kishwarnensey@gmail.com	+91 9820023020

Possible Disciplinary Actions that can be Recommended

Possible disciplinary actions under this policy are:

- A letter of warning;
- Written Apology;
- Reprimand;
- Suspension for a period of time with no pay;
- Stoppage of Increment for a specified time period;
- Stoppage of Performance Bonus for a specified time period;
- Stoppage of Promotion for a specified time period;
- Reduction in cadre;
- Curtailment of privileges;
- Counselling;
- Carrying out community service;
- Monetary Fine;
- Termination of Services;
- Filing a formal complaint before the relevant authorities;
- Any other action that they may deem fit;

In addition to the above one can recommend that an amount needs to be deducted from the salary of the Respondent that may be considered appropriate and pay the same to the Aggrieved Woman/Man as prescribed under the law. SPRE can deduct the same from the salary of the Respondent. If it is not able to do so due to absence from duty or cessation of employment, then it can direct the Respondent to pay such sum directly. In case the Respondent fails to pay the sum then SPRE can forward the order for recovery of the sum to the concerned District Officer.