



PREVENTION OF SEXUAL HARASSMENT IN THE WORKPLACE

Preamble

Eunomia Foundation (hereafter, Eunomia, popularly known as Prosperiti) has zero-tolerance towards sexual harassment. The Sexual Harassment Policy has been drafted to ensure that every employee can work and advance professionally in a safe and welcoming environment. **This Policy provides protection to employees of all genders.**

Eunomia Foundation is committed to providing a safe, healthy and conducive work environment for all persons associated with the organisation. As part of this commitment, Eunomia has drafted its Sexual Harassment Policy in line with the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the 'Act') and the Rules framed thereunder (hereinafter referred to as 'Rules').

All individuals working with Eunomia Foundation, in any capacity (full time or part-time employees, consultants or service providers) are required to read the policy carefully.

Policy for Prevention of Sexual Harassment in the Workplace:

- outlines the meaning of sexual harassment,
- specifies the manner in which complaints relating to instances of sexual harassment may be pursued and resolved, and
- all other related matters.

Important Definitions

1. **Aggrieved person:** A person of any age, whether or not employed by Eunomia Foundation, who alleges to have been subjected to sexual harassment within Eunomia's workplace.
2. **Committee:** The Internal Complaints Committee at Eunomia Foundation constituted in accordance with Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which is tasked with the responsibility to receive, respond to, and decide on, all complaints of sexual harassment related to members of Eunomia or received inside Eunomia.
3. **Employee:** A person who is employed or contracted as a Consultant by Eunomia Foundation



- 3.1. for any work on regular, temporary, ad hoc or daily wage basis;
- 3.2. either directly by Eunomia Foundation or through an agent; or
- 3.3. whether for remuneration or not, or working on a voluntary basis or otherwise.

4. **Management:** Any person or board or committee responsible for formulation and administration of policies for the organisation.
5. **Incident:** Any occurrence that, as per the allegation of the aggrieved person, constitutes sexual harassment. Where the aggrieved person alleges that there are multiple such occurrences, all references to the term 'incident' in the policy shall be construed to mean the date of the last instance of such occurrence.
6. **Sexual Harassment:** Generally, any one or more of the following unwelcome acts or behavior (whether directly or by implication):
 - 6.1. physical contact and advances; or
 - 6.2. a demand or request for sexual favours; or
 - 6.3. making sexually coloured remarks; or
 - 6.4. showing pornography; or
 - 6.5. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The following circumstances if they occur or are present 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. interference 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.

7. **Respondent:** The person against whom the complaint is filed by the aggrieved person.
8. **Workplace:** Any place:
 - 8.1. visited by the employee arising out of or during the course of employment; and
 - 8.2. any virtual platform, whether or not maintained by Eunomia Foundation, which is used by any or all employees to record or communicate information in any form including audio-visual or textual form, during the course of employment.



Obligations of the employer

In addition to other functions described in this Policy, the employer shall be responsible for taking the following measures to ensure full compliance with the Act and Rules and to create a safe working environment for all employees:

1. Submitting such information to the Committee as the Committee may request to effectively conduct inquiries;
2. Conducting workshops and awareness programmes for all employees in the workplace at regular intervals;
3. Ensuring that information regarding the penal consequences of sexual harassment and the names and contact details of all the Members of the Committee.

Constitution of the Internal Complaints Committee

Eunomia shall constitute a Committee, ensuring that the following standards are followed with respect to its constitution:

- The Committee shall consist of 5 members of which at least 3 members shall be women.
 - The Presiding Officer (employee) shall be the head of the Committee, and shall be a woman who is employed at a senior level in the workplace.
 - Three employees shall be appointed from amongst the employees.
 - One member of the Committee shall be appointed from amongst non-governmental organisations or associations, who committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- Each member of the Internal Complaints Committee shall be nominated for a term of 3 years or such lesser tenure as specified by the employer. After the end of their tenure, the person who served as a member shall be ineligible for reappointment to the Committee for at least 1 year from the last date of them being a member. The employer shall take all reasonable measures to ensure that information regarding any change to the membership of the Committee is communicated to every employee.
- The employer shall conduct, or cause to be conducted, orientation and capacity building programmes to ensure that all members of the Committee have the knowledge and understanding to effectively conduct the activities expected of them.

The following is the current constitution of the Internal Complaints Committee (this table shall be updated whenever any changes are made to the membership of the Committee):

Name	Role	Email	Mobile Number
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Bhuvana Anand	Presiding Member	bhuvana@prosperiti.org.in	+91 99539 88304
Sargun Kaur	Member	sargun@prosperiti.org.in	+91 99589 31801
Abhishek Singh	Member	abhishek@prosperiti.org.in	+91 99711 95191
Naveena Pradeep	Member	naveena@prosperiti.org.in	+91 94955 12555
Arti Chaudhury	External Member	arti_chaudhury@artichaudhry.com	+91 98103 18252

Filing a Complaint

Eunomia Foundation acknowledges the emotional and mental difficulty that an aggrieved person may face while deciding to file a complaint of sexual harassment. To address this issue, the employers and the members of the Internal Complaints Committee shall take all practicable measures, in accordance with the provision of this Policy, to ensure that the aggrieved person can file a complaint in as convenient a way as possible. The following standards shall apply to the act of filing a complaint under this Policy:

Time period of filing a complaint:

- Ordinarily, the aggrieved person should consider filing the complaint as soon after the incident as possible. The sooner the aggrieved person files a complaint, the faster the Committee will be able to effectively address the complaint.
- However, the aggrieved person may file the complaint at any time within ***three months*** from the date on which the incident took place.
- The Committee may condone the delay of up to 3 months from the last date by which the complaint should have been originally filed by the aggrieved person.

Manner in which to file the complaint:

- All complaints should be sent to a member of the Committee in writing.
- The aggrieved person may submit the complaint themselves or through any other person, provided said person has received the written consent of the aggrieved person to file the complaint.
- Where the aggrieved person suffers from physical incapacity, they may submit the complaint via a relative, friend, co-worker, any person who has knowledge of the incident and has received the written consent of the aggrieved person, or (where the aggrieved person is a woman) an officer of the National Commission for Women or State Women's Commission.
- Where the aggrieved person suffers from mental incapacity, they may submit the complaint via a
 - relative,
 - friend,



- co-worker,
- a special educator,
- a qualified psychiatrist or psychologist,
- the guardian or authority under whose care they are receiving treatment or care, or
- any other person who has knowledge of the incident, provided they are filing the complaint jointly with any other person as described above.
- Where the aggrieved person is dead, the complaint may be filed by any other person who has knowledge of the incident, provided that said person has received the written consent of the legal heir of the aggrieved person to file the complaint.
- Where the aggrieved person so requests of a member of the Committee, the member shall record the relevant details as narrated by the aggrieved person, after which the aggrieved person shall affix a mark/signature on the document indicating that the record contains an accurate description of the aggrieved person's allegations. This record shall be treated as a complaint for the purpose of the proceedings.

Form and contents of the complaint:

- The aggrieved person may submit the complaint either in physical or digital format (icc@eunomia.in). (Please refer to **Annexure - I** for a list of components that constitute a well-drafted complaint).
- The complaint shall contain a description of the incident in clear and simple language.
- The aggrieved person shall submit the names, addresses and other contact details of all witnesses that the aggrieved person would want to present in a proceeding. However, where the witness is an employee, it shall be enough for the aggrieved person to uniquely identify the employee.
- The aggrieved person shall submit all documents that would substantiate the allegations made by them.

Action that shall be taken where the respondent is not an employee

- Where the respondent is not an employee, the respondent is employed by a different employer and the incident took place in the workplace of the aggrieved person, the employer shall support (by sharing of information, measures to register a complaint) the complainant to register a complaint under the relevant provisions of the Indian Penal Code, with the police.
- Where the aggrieved person is an employee, the respondent is employed by a different employer and the incident took place in the workplace of the aggrieved person, the Committee constituted at the workplace of the aggrieved person shall take all practicable steps to ensure that the complaint is received by the Committee constituted in the workplace of the respondent.



Conciliation of complaint

Before initiating an inquiry, the aggrieved person has the right to request the Committee to help settle the matter between them and the respondent. In the interest of the efficient management of the Committee's time, the aggrieved person should ideally make a request for conciliation at the time of filing a complaint. However, the aggrieved person may file a request for conciliation at any time before the respondent submits their response to the complaint in writing.

Upon receiving a request for conciliation, the Committee shall take all necessary steps to conduct such conciliation. However, the Committee shall not do anything that may cause the aggrieved person to feel pressurised to opt for conciliation. Instead, where the aggrieved person does not affirmatively declare their wish to participate in a conciliation, the Committee shall directly initiate an inquiry.

Where the aggrieved person and the respondent are able to reach a settlement, the Committee shall record the terms of this settlement. If:

- the aggrieved person and the respondent fail to reach a settlement; or
- the aggrieved person and the respondent reach a settlement but the respondent violates the terms thereof;

the aggrieved person shall have the right to approach the Committee to initiate an inquiry against the person who violated the settlement terms.

Inquiries by the Committee

The Committee has the responsibility to conduct inquiries and shall initiate them in the following cases:

- A Committee member has received a complaint and the aggrieved person has not opted for conciliation.
- The aggrieved person had opted for conciliation, but attempts at reaching a settlement did not succeed.
- The aggrieved person and the respondent reached a settlement, but the latter violated the terms thereof.

Provisions governing the functioning of the Committee

- ***Autonomy:*** The Committee shall regulate its own functioning and the employer shall not have any authority to direct the Committee to do or omit to do anything except submit the final reports of inquiries in a timely manner.
- ***Quorum:*** A minimum of three members of the Committee shall be present at all hearings held by the Committee.



- **Decision where unanimity not possible:** Where the members participating in the inquiry fail to reach a unanimous decision, the individual members shall indicate their respective opinion with reasons, in writing in the final report. The decision of the majority of the members of the Committee shall be final.
- **Bias:** Either the aggrieved person or the respondent may raise objection to the presence of any member of the Committee on the grounds of bias:
 - Upon receiving such a complaint, the Committee shall hear arguments from the person raising the objection and the member of the Committee who has been accused of bias.
 - The Committee shall only decide to exclude a member of the Committee from the inquiry if there is a real likelihood of bias. Mere apprehension of bias shall not be enough. To judge whether or not a real likelihood of bias exists, the Committee would have to ascertain if a reasonable person would see a real likelihood of bias on the part of the accused member.
 - If a member of the Committee is excluded due to bias, the inquiry process shall have to begin afresh.
- **Powers of Civil Court:** The Committee may exercise the following powers of the Civil Court while conducting inquiries:
 - summoning and enforcing the attendance of any person and examining him on oath; and
 - requiring the discovery and production of documents.

Wherever necessary, the Committee may request the employer to assist the Committee in ensuring the presence of the aggrieved person, any witness or the respondent. The employer shall oblige all requests that are made with respect to an employee.

- **Special powers to terminate inquiries or decide on complaints:** The Committee may choose to either terminate the inquiry or decide on the complaint without fully hearing the relevant party, if the complainant or respondent fails, without sufficient cause, to present themselves for three consecutive hearings. However, no decision shall be taken before the hearing is complete, without first giving a fifteen days' notice to the defaulting party.
- **Submission of annual reports:** For each calendar year, the Committee shall prepare an annual report and submit it to the employer and the office of the District Magistrate in South Delhi. The report shall contain the following details:
 - number of complaints of sexual harassment received in the year;
 - number of complaints disposed off during the year;
 - number of cases pending for more than ninety days;
 - number of workshops or awareness programme against sexual harassment carried out; and
 - nature of action taken by the employer or District Officer.



Broad outline of the procedure during and after inquiry

The following table describes the procedure by which the Committee shall conduct the inquiry. In line with the Act and the Rules, each step has to be completed within a period of time as specified against each step. In case any part of the procedure is not followed, the final recommendations shall not be considered to be valid and a fresh inquiry shall have to be instituted.

S. No.	Action to be taken	No. of days within which the step must be completed
1.	Committee shall forward a copy of the complaint to the respondent.	<i>Seven full working days</i> after the day on which the member of the Committee received the complaint
2.	Respondent shall file a response to the complaint. The response shall be filed along with a list of supporting documents which shall include the name and addresses of all witnesses that the respondent wishes to present. Where the witness is an employee, the respondent needs to only uniquely identify said employee.	<i>Ten full working days</i> after the day on which the respondent received the complaint.
3.	The Committee shall conduct the inquiry by taking the following steps: <ul style="list-style-type: none"> <li data-bbox="355 1220 997 1332">• conducting hearings, where the aggrieved person and the respondent, together with their respective witnesses, present their arguments; <li data-bbox="355 1332 997 1495">• appreciating the evidence put on record in the written responses and during the hearings, drawing conclusions and producing a preliminary report of findings; <li data-bbox="355 1495 997 1607">• sharing the preliminary report with the aggrieved person and the respondent and giving both parties 7 full days to prepare representations; <li data-bbox="355 1607 997 1755">• giving both parties an opportunity to make representations with respect to observations recorded in the preliminary report, in such form as the Committee may deem fit. 	<i>Sixty full days</i> after the date on which the member of the Committee received the complaint.
4.	The Committee shall submit the final report of the inquiry to the employer, the aggrieved person and the respondent.	<i>Ten full days</i> after the date on which the inquiry is completed.



In the report, the Committee shall also recommend the action, if any, that ought to be taken against the respondent.

5. The employer shall act upon the recommendation made by the Committee in the final report. *Sixty full days* after the date on which the employer receives the final report.

Interim measures that may be taken in the interest of the aggrieved person

During the pendency of the inquiry and upon a request of the aggrieved person, the Committee may recommend to the employer that any or all of the following measures be taken in the interest of the aggrieved person:

- transfer the aggrieved woman or the respondent to any other workplace;
- grant leave with pay to the aggrieved woman up to a period of three months without prejudice to the number of days of leave available to said aggrieved person; or
- restrain the respondent from reporting on the work performance of the aggrieved person or writing her confidential report, and assign the same to another officer.

The employer shall, upon receiving a recommendation from the Committee, implement said recommendation and send a report to the Committee detailing the measures taken to implement the Committee's recommendations.

Actions that may be taken during or after an inquiry

Cases where the respondent is found to be guilty

If the Committee arrives at the conclusion that the allegations against the respondent have been proved, the Committee may recommend any or all of the following measures in addition to compulsorily requiring the respondent to submit a written apology:

- warning,
- reprimand or censure,
- withholding of promotion,
- withholding of pay rise or increments,
- terminating the respondent from service for cause,
- undergoing a counselling session,
- carrying out community service, and
- compensation receivable as deductions from the salary or wages of the respondent.



To determine the extent of compensation that the aggrieved person should receive from the respondent, the Committee should take the following factors into consideration:

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

Cases where evidence or complaint that is either false or filed maliciously

If the Committee arrives at the conclusion that the complaint or any evidence filed in the inquiry against the respondent is:

- filed with malicious intent;
- filed by the aggrieved person or the respondent, as the case may be, knowing that said complaint or evidence is false; or
- the aggrieved woman or any other person making the complaint has produced any forged or misleading document.

Then the Committee shall recommend any or all of the same actions against the aggrieved person or the witness, as the case may be, as can be taken against the respondent under this Act. Before taking any such action however, the Committee shall follow the same inquiry process as it does pursuant to the complaint of the aggrieved person. **A mere inability to substantiate a complaint or provide adequate proof need not attract action against the aggrieved person.**

Confidentiality and action that may be taken in case of violation thereof

The following information regarding the inquiry shall not be published, communicated or made known to the public, press and media in any manner:

- the contents of the complaint;
- the identity and addresses of the aggrieved person, respondent and witnesses;
- any information relating to conciliation and inquiry proceedings;
- recommendations of the Internal Committee; and
- the action taken by the employer.

In case any person publishes, communicates or makes known any such information to the public, press and media in any manner, the person shall be liable to pay a penalty of ₹10,000 to the employer and respondent.



Provision for appeal

Any person aggrieved by:

- any recommendation made by the Committee; or
- the failure of the employer to implement the recommendations made by the Committee;

shall have the right to appeal the decision to the Delhi High Court.

Savings

In case any changes are made to this Policy, the change shall only be applicable with respect to complaints filed after the day on which the change is made.



Annexure-I: Features of a well-drafted complaint

In the interest of effective and speedy resolution of complaints, any aggrieved person should endeavour to file a complaint that specifies all relevant facts and which discloses all relevant documents which corroborate the complaint. **It is important to note that no complaint will be rejected solely because the conditions specified in this section are not met.** The following list of components have only been specified to ensure that aggrieved persons can access timely and meaningful justice.

The following features would make for a well-drafted complaint:

1. The complaint should be addressed to the ICC members and **not** the employer/HR representative.
2. The complaint should be concise, i.e. it should be written in simple language which can be understood easily.
3. The following details should be specified in the complaint:
 - a. Details of the respondent including name, designation, and whether the respondent is a subordinate, colleague or a superior;
 - b. Details of exact incident, date and time, witness etc.;
 - c. Circumstances preceding and following the incident; and
 - d. Whether the complainant asked the respondent to desist from the unwelcome act(s).
4. The complaint should be appended by as many documents as possible in whatever format i.e. relevant emails, screenshots of SMSs/WhatsApp messages, call details, photographs, recordings etc.
5. The complaint should not state any fact that is false or incorrect.



Annexure-II: Summary of the Dispute Resolution Process

Step of the process	Action to be taken	No. of days within which the step must be completed
Filing the complaint	<p>Aggrieved person may file a complaint.</p> <p>Aggrieved persons may file the complaint:</p> <ul style="list-style-type: none"> • themselves, • by dictating the details of the incident to a member of the Committee, or • through any other person, provided said person has obtained the permission of the aggrieved person to file the complaint. 	Three months after the last instance of the incident which is the subject of the complaint. Upon receiving a delayed complaint, the Committee may still condone a delay of up to 3 months .
Conciliation	<p>The complainant may request that an attempt at conciliation be made.</p> <p>No conciliation proceedings will be held unless the complainant so requests, and no aggrieved person shall be forced to participate in conciliation proceedings and no conciliation proceedings. Where the complainant does not make a request for conciliation, the Committee shall initiate an inquiry.</p>	At any point before the respondent files a response to the complaint.
Inquiry	<p>Committee shall forward a copy of the complaint to the respondent.</p> <p>To be held if:</p> <ul style="list-style-type: none"> • Complainant does not request conciliation; • Conciliation proceedings are undertaken, but the aggrieved person and the respondent fail to reach a settlement; or • Conciliation proceedings are undertaken and terms 	Seven full working days after the day on which the member of the Committee received the complaint
	<p>Respondent shall file a response to the complaint.</p> <p>The response shall be filed along with a list of supporting documents which shall include the name and addresses of all witnesses that the respondent wishes to present. Where the witness is an employee, the respondent needs to only uniquely identify said employee.</p>	Ten full working days after the day on which the respondent received the complaint.
	<p>The Committee shall conduct the inquiry by taking the following steps:</p>	Ninety full days after the date on which the member of



of settlement decided, but the respondent violates those terms.

- conducting hearings, where the aggrieved person and the respondent, together with their respective witnesses, present their arguments;
- appreciating the evidence put on record in the written responses and during the hearings, drawing conclusions and producing a preliminary report of findings;
- sharing the preliminary report with the aggrieved person and the respondent and giving both parties 7 full days to prepare representations;
- giving both parties an opportunity to make representations with respect to observations recorded in the preliminary report, in such form as the Committee may deem fit.

The Committee shall submit the final report of the inquiry to the employer, the aggrieved person and the respondent.

the Committee received the complaint.

In the report, the Committee shall also recommend the action, if any, that ought to be taken against the respondent.

The employer shall act upon the recommendation made by the Committee in the final report.

Ten full days after the date on which the inquiry is completed.

Sixty full days after the date on which the employer receives the final report.