



# PREVENTION OF SEXUAL HARRASSMENT at WORK PLACE POLICY

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## Prevention of sexual harassment at work place Policy

The purpose of this policy is to fulfill the directive of the Supreme Court enjoining all employers to develop and implement a policy against sexual harassment at the work place; To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at DBRC; To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures; To uphold the commitment of the organization to provide an environment free of gender-based discrimination; To create a secure physical and social environment; this will deter acts of sexual harassment; To promote a social and psychological environment; this will raise awareness about sexual harassment in its various forms.

DBRC is committed to maintaining human dignity and providing a work environment of tolerance and respect for all employees (i.e. working relationship between peers, superior-subordinate, etc.)

DBRC is hence committed to providing a workplace free from all forms of harassment, including sexual and ethnic harassment. This policy applies to all DBRC employees working within the limits of the organization. Sexual harassment has come to be widely condemned as a form of human rights violation, and as an infringement on life and liberty as defined by the Constitution of India. Such behavior is seen to transgress common dignity, gender equality, and fundamental rights. Sexual harassment is contrary to anti-discrimination laws [Article 15: “Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth” and Article 19(1) (g): Right to Freedom which upholds a woman’s right “to practice any profession, or to carry on any occupation, trade or business”].

The Supreme Court of India, in a landmark judgment in August 1997 (*Vishaka & others vs. the State of Rajasthan & others*) stated that every instance of sexual harassment is a violation of “Fundamental Rights” under Articles 14, 15, and 21 of the Constitution of India, and amounts to a violation of the “Right to Freedom” under Article 19 (1)(g). Another Supreme Court Judgment in January 1999 (*Apparel Export Promotion Council vs. Chopra*) has stated that sexually harassing behavior “needs to be eliminated as there is no compromise on such violations”. The Supreme Court further reiterated that sexual harassment is a violation of the fundamental right to gender equality and the right to life and liberty”. These judgments confirm India’s international commitment to the International Covenant on Economic, Social and Cultural Rights (acceded to in 1979) and the Convention for the Elimination of Discrimination Against Women (CEDAW, ratified 1993). The Government of India was also a signatory to the Resolutions of the Fourth World Conference on women in Beijing in 1995. The Supreme Court judgment of 1997 makes it obligatory for every employer and other responsible persons to follow the guidelines laid down by the Court and to evolve a specific policy to combat sexual harassment in the workplace.

Following this, DBRC is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction.

### Definition of sexual harassment

Sexual Harassment is any unwanted and unwelcome sexually oriented behavior. Such an act spoils working environment. Sexual Harassment includes such unwelcome sexually determined conduct (whether directly or by implication) by a male or female:

#### Physical harassment:

- Physical contact and advances
- Intentional touching, pinching, grabbing, brushing against another’s body Sexual assault

- Cornering, trapping or blocking a person's pathway
- Excessively lengthy handshakes
- Any physical conduct which is unwelcome

### **Verbal harassment**

A demand or request for sexual favours. In the work context, this is a behavior in which a victim is made to submit herself / himself to sexual favors or advances over promises related to his/ her employment such as work conditions, promotion, and increments, otherwise described above as "Quid pro quo" sexual harassment.

Gestural harassment: Of all forms of sexual harassment, this is probably the most common experienced by women but also the most controversial. Some examples are:

- Making sexually suggestive or off-color comments; threats; slurs; sexual propositions;
- Sexual jokes or teasing; misogynist humor; sexually colored gender specific jokes
- Innuendoes and off-color remarks
- Comments about how someone looks, especially about parts of body
- Catcalls, whistles and forms of address like 'honey', sweetheart etc.

### **Written or graphic harassment:**

- Showing pornography; and,
- The display of pornographic material with a women/ male employee as the target is obviously discriminatory and offensive.
- Other forms of unwelcome visual displays include:
- Written material that is sexual in nature such as letters or notes containing a sexual comment.
- Leering or staring at another's body and/or sexually suggested

### **Gesturing**

Displaying sexually visual material such as pinups, cartoons, graffiti, computer programmes, catalogues of a sexual nature.

### **Any other unwelcome physical, verbal or non-verbal conduct of sexual Nature**

In keeping with our non-discriminatory policy, DBRC will take immediate corrective and disciplinary action up to and including termination against any employee who engages in the type of the behavior noted above.

Any employee who has a grievance on this account may approach the Grievance Redressal Committee (GRC), who will do the needful to represent the grievance at an appropriate forum. This does not however foreclose the option that any employee may choose to exercise of first discussing the matter with his/her Reporting Manager / Team Leader.

- It will be headed by a gentleman/ lady depending on the case
- It will have 50% women members
- It might include a third-party representative from an NGO or any other agency conversant with the issue of sexual harassment

- It shall handle complaints in a confidential manner and within a time-bound framework

As per the 1997 Supreme Court Judgment, it is mandatory for each committee to have a woman chairperson as well as at least 50 per cent women members.

### **Enquiry Procedures**

1. All complaints made to the HR Head must be received and recorded, who shall then inform the Chief Functionary about the complaint, who in turn shall call a meeting of the committee.
2. All meetings of the committee will be called by the HR Head in consultation with the Chief Functionary and a notice of at least 3 to 5 working days must be given.
3. The committee is bound to maintain confidentiality during the time of the enquiry (in order not to prejudice the proceedings).
4. After the report has been finalized, confidentiality should be maintained, if the complainant so desires, by withholding the complainant's name and other particulars that would identify him/ her. (Revealing the identity either in exceptional cases such as stalking may put the complainant at greater risk or as a result of social prejudices the complainant may face additional adverse effects as a result of public circulation of the finished report.)
5. During an enquiry the quorum for all committee meetings will be one-third of the total membership, and must include at least one member from the complainant's category as well as, one of the two members co-opted from outside.
6. The committee will, within ten days of the receipt of a complaint, establish a prima facie case of sexual harassment on the basis of both the definition of sexual harassment as given in this policy, and the jurisdiction of this policy.
7. Reasons for not pursuing a complaint must be recorded in the minutes and made available to the complainant in writing.
8. In case of a complaint filed by another person on behalf of the complainant (where the complainant is in confinement) the complaint will be investigated in order to explore whether a prima facie case of sexual harassment exists and whether intervention or some other assistance is required.
9. In case a prima facie case is established the committee shall set up an enquiry committee of 3-5 members, with at least one member of the complainant's category, as well as a member from outside the organization.
10. The sub-committee must inform the accused in writing about the charges made against him/her and s/ he should be given a period of five days from the date of receipt of the notification to respond to the charges.
11. During the enquiry procedure, the complainant and the accused will be called separately so as to ensure freedom of expression and an atmosphere free of intimidation. The complainant will be allowed to be accompanied by one representative during the enquiry.
12. The sub-committee must submit its report to the larger committee not later than 15 working days. The larger committee will discuss the report and make recommendations for punitive action if required.
13. The entire process of enquiry should be completed within one month.

## **Redressal**

1. The committee can suspend the alleged harasser if his/her presence is likely to interfere with the enquiry.
2. The victim of sexual harassment as per the Supreme Court judgment will have the option to seek transfer of the perpetrator or their own transfer where applicable.
3. The Chief Functionary upon receipt of the enquiry report shall refer the same to the Governing Body for disciplinary action on the basis of the recommendations of the Complaint Committee.
4. The disciplinary action will be commensurate with the nature of the violation. Disciplinary action could be in the form of:
  - Warning
  - Written apology
  - Bond of good behavior
  - Adverse remarks in the Confidential Report Debarring from supervisory duties
  - Denial of membership of statutory bodies Denial of re-employment
  - Stopping of increments /promotion Reverting, demotion
  - Suspension Dismissal
  - Any other relevant mechanism

## **The Chief Functionary will be the final deciding authority on the issue to be addressed.**

In case the complaint is against any member of the GRC, the board will comprise of any other senior member of the organization in lieu of that person.

**Sexual harassment matters must not be used deliberately and/ or with malicious intent. In such cases, action will be equally severe on the person initiating the complaint.**