



SEXUAL HARASSMENT POLICY AND PROCEDURE



Gender justice in the workplace includes the concept of equal employment opportunities for men and women, addressing issues of equal pay, fair recruitment, and appropriate work conditions for both genders. At present, this Code focuses on protecting staffs from gender-related harassment and exploitation in the workplace in order to facilitate a work environment free of intimidation and abuse.

This Code is drawn up in recognition of the principles of equal opportunity for men and women and their right to earn a livelihood without fear of abuse and harassment and in cognizance of the provisions of the Constitution of Pakistan where non-discrimination on the basis of gender in public spaces and the workplace is stated, and also in recognition of Articles 25, 26 and 27 of the Constitution.

While it acknowledges the government's commitment to international conventions, including the ILO Conventions 100 and 111 and the United Nations Convention for Elimination of all forms of Discrimination against Women, CWS-P/A also realizes the complex dynamics of gender harassment at work and the high frequency of the problem, and therefore this code is devised with the expressed intention to elaborate on the existing regulations and fill the vacuum in the existing policies and codes.

Whereas it is expedient to make the Code of Conduct for Gender Justice at the Workplace to provide protection, safety and care for women and men at the workplace, henceforth, in addition to existing provisions, the objective of this Code of Conduct is to create a safe and dignified working environment for male and female staffs which is free from gender harassment, abuse and intimidation and which facilitates higher productivity and a better quality of life at work.

(1) Definitions:

In this Code, unless there is anything to contradict in the subject or context, are as follows:

- I) Accused: a staff or employer of an organization against whom an action is being taken under this Code.
- II) Code: The Code of Conduct for Gender Justice in the Workplace
- III) Complainant: Aggrieved person who has filed a complaint under this Code
- IV) Staff: Person hired by an organization/company (their 'Employer') on a permanent or temporary basis. This includes short term and contract workers also.



- V) Gender Harassment: Includes any unwanted sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, causing interference with work performance, which is made a condition of employment or which creates an intimidating, hostile or offensive work environment, or the attempt to punish the refusal to comply with such a request. This definition applies irrespective of the status or identity of the person delivering the intimidating behavior or act, be they a person in authority, who controls the conditions of the complainant's employment, or a co-worker; it refers to anyone who, by their actions or behavior, has made the work environment hostile for the complainant. (For more details of the parameters of Gender Harassment see Appendix 1.)
- VI) Workplace: The place of work or premises where an organization/employer operates. This might be a specific building, factory, open area or a larger geographical area where the activities of the organization are carried out.
- 1) Violation of this Code shall be considered "misconduct" as defined under the Civil Services Rules, Esta Code, and the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance 1968.
 - 2) The management of the organization is required to incorporate this Code of Conduct as part of their workplace policy.
 - 3) The management will conduct awareness sessions about the Code and the consequences of such harassment in the workplace for both the affected person and the accused, or display copies of this Code of Conduct in English as well as in the language understood by the majority of the workforce, at a conspicuous place in the Organization so that it is read by all staff members.
 - 4) Management is responsible for following this Code in letter and spirit to ensure that each complaint is addressed responsibly. The management will be impartial in the process and will facilitate a just and fair inquiry process without retaliation. The management will not victimize the complainants or the witnesses in the case.
 - 5) Notwithstanding the applicability of this Code to staffs and management of the registered entities, under special circumstances, where while probing the matter of gender harassment, the investigation results in the involvement of any close relative or any associated person to the management in committing that act of gender harassment, this Code requires that legal proceedings against them will commence, at the cost of the management.
 - 6) Any person who aids, abets or covers the commission of any such act perpetrated by another, without which co-operation it would not have been committed, shall also be liable under this Code.



- 7) Recurring acts which may have a cumulative effect or a single severe incident would be considered enough to establish gender harassment.
- 8) The complainant should inform the accused about unwanted conduct constituting gender harassment. It is advisable that records should, where possible, be maintained in writing of all offending incidents noting dates, places, descriptions of act, notification to the accused and names of those to whom the incident may have been mentioned.

MECHANISM FOR EFFECTIVE IMPLEMENTATION OF THE POLICY

A complainant may find it difficult to report gender harassment because of the fear of embarrassment, publicity, economic vulnerability, and fear of retaliation by the accused, co-worker or the employer. The filing of a complaint using the provisions of this Code should not be seen as detrimental to the image of the company, but rather an opportunity to address the problem and to restore the confidence of the staffs and to indicate that the management takes such complaints seriously and professionally.

The following are the regulations for addressing complaints of gender harassment in the workplace:

Informal Approach

- i) An informal approach can take the form of mediation between the parties involved and providing advice and counseling on a strictly confidential basis.
- ii) A staff member can report an incident of gender harassment informally to his/her supervisor, or a member of the Enquiry Committee in which case the supervisor or the Committee member can address the issue at his/her discretion in the spirit of this Code. The request may be made orally or in writing.
- iii) If the case is taken up for investigation at an informal level, a senior manager from the office or the central office will conduct the investigation in a confidential manner. The matter will be reviewed and the alleged offender will be approached with the intention of resolving the matter in a confidential manner.
- iv) If the incident or the case reported does constitute gender harassment of a higher degree and the officers reviewing the case feel that it needs to be pursued formally for a disciplinary action then, with the agreement of the complainant, the case can be taken as a formal complaint.



Formal Approach

A complainant does not necessarily have to take a complaint of gender harassment through the informal channel. S/he can launch a formal complaint at any time.

Launching the Complaint

The Complainant can launch the formal complaint through her / his supervisor, committee nominee or worker's representative, as the case may be, or directly to any member of the Enquiry Committee. Whereby the Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry.

Procedure of the Investigation

In case a complaint is launched against a member of the senior management, no member of the Enquiry Committee should be in a position where they are directly or indirectly reporting to the accused.

Conducive environment for Inquiry

- i) The management should do its best to temporarily make adjustments so that the accused and the complainants do not have to interact intensely for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge (over and above his/her contract) which may give one party excessive powers over the other's job conditions. The management can also decide to send the accused on leave, or suspend the accused in accordance with the applicable laws/procedures for dealing with the cases of misconduct, if required.
- ii) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluations, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side. Where a senior management member has been accused of being a party, it is essential that outside monitoring and control be exercised.

Evidence

It is acknowledged that gender harassment usually occurs between colleagues when they are alone, thereby making it difficult to produce evidence. It is strongly recommended that staffs should report an offensive behavior immediately to someone they trust, even if they do not wish to launch a formal complaint at the time. However, if a complaint is not reported immediately it should not affect the merits of the case.



Records of Evidence:

- i) A detailed account by the complainant and the accused form a part of the evidence.
- ii) Witness statements.
- iii) Statements by persons with whom the complainant may have discussed the incident, statements by persons from whom advice may have informally been sought, should be considered as evidence.
- iv) Any other documentary, audio or video records can be submitted. Expert technical advice can be sought for such submissions.

The Inquiry:

- i) Upon receiving a formal complaint, the Committee shall ask the complainant to prepare a detailed statement of incidents in case the written complaint is not detailed. A statement of allegations will be drawn up by the Committee and sent to the accused.
- ii) The accused will be asked to prepare a response to the statement of allegations and submit this to the Committee within a specified time.
- iii) The statements and other evidence acquired in the inquiry process will be considered confidential materials.
- iv) An officer in the organization could be designated to provide advice and assistance to each party.
- v) Both parties, the complainant and the accused, will have the right to be represented or accompanied by a trade union representative, a friend or a colleague.
- vi) The Committee will organize verbal hearings with the complainant and the accused.
- vii) The Statement of the Complainant will be recorded first in the presence of accused. The accused will then be allowed to cross-examine the complainant.
- viii) The Committee will take testimonies of other relevant persons and review the evidence. Care should be taken to avoid any retaliation against the witnesses by providing the necessary protection.
- ix) The Committee will take the decision after carefully reviewing the circumstances, evidence and relevant statements in all fairness.
- x) If the accused is being provided a fair opportunity to participate in the inquiry and defend him/her and yet defers from participating in the inquiry, the Committee will conduct the inquiry ex-parte.
- xi) The Committee will ensure confidentiality during the inquiry process.

(For more details about reviewing the facts of the case and inquiry time see Appendix 2).



APPENDIX 1 **(Ref. Sub-Para (v) of Para.1)**

Detailed Definition of Gender Harassment

1) There are two significant manifestations of gender harassment in the work environment, which are important to describe:

i) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

ii) Creating a hostile environment

Any unwanted sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or which creates an intimidating, hostile, abusive or offensive work environment.

The typical 'hostile environment' claim generally depends on finding a persistent pattern of offensive conduct. However, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

2) The refusal to grant a sexual favor can result in retaliation, which may include limiting the staff's options for future promotions or training, distorting the evaluation reports, generating gossip against the staff or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment and is covered in this Code.

3) Passing on pornographic material in print or electronic form, or passing on written offensive messages of a sexual nature would also be considered gender harassment.

4) Any expression that suggests superiority of one gender over the other should be avoided. Such expressions may include jokes that demean one gender, and unwelcome references to a person's appearance or body, where they cause psychological harassment and serve to deny colleagues their dignity and respect and contribute to an atmosphere in which inequality is emphasized. Such expressions, if persistent, may constitute gender harassment.



APPENDIX 2

(Para 13 refers)

Guidelines for reviewing facts of cases:

- 1) Gender harassment can include and is not limited to: verbal harassment or abuse, subtle pressure for sexual acts, sexual advances in the pretext of narrating sexual incidents, touching, patting or pinching, leering at a person's body, demanding sexual favors accompanied by subtle or overt threats concerning employment or advancement; and physical assault including rape.
- 2) 'Abuse of authority' cases are complex because of the power imbalance which exists between the complainant and the accused, and may require severe disciplinary actions. Such cases could be linked with the hiring and firing of an staff, promotion, work duties, relocation, leave, training and other aspects affecting employment.
- 3) Cases which create a 'hostile work environment' could range from patterns of offensive behavior or single severe incidents of harassment.
- 4) The above mentioned forms of harassment are not always distinct from each other and can occur simultaneously. Additionally, harassment can happen to men and women at all levels of the employment hierarchy and within all relationships of equal and unequal power.
- 5) The harassment can occur outside working hours and workplace. It is the access that a perpetrator has to the person being harassed by virtue of a job situation or relation that is relevant here.
- 6) To constitute gender harassment, the conduct must be 'unwelcome' or 'unwanted'. Exploration of the case must consider whether the advances of the person indicated were unwelcome initially, even if there was subsequent acquiescence.
- 7) Supervisory staffs and co-workers should be asked about their knowledge of alleged harassment. When witnesses are not identified, testimony may be obtained from persons who observed change in demeanor of the charging party after the alleged incident. Other persons with whom the charging party may have discussed an incident should be interviewed.
- 8) In appropriate cases, gender harassment determination may be based solely on the credibility of a complainant's allegation if the account is sufficiently detailed and internally consistent.
- 9) Lack of corroborative evidence where such evidence should exist would undermine allegation. By the same token, a general denial by the accused will carry little weight when contradicted by other evidence.



- 10) When dealing with harassment through a series of incidents, the investigator should not consider the series of incidents as specific but should consider the impact of separate incidents as a cumulative case; that the cumulative effect on the work environment/complainant may exceed the sum of individual episodes.
- 11) If other matters surface during the inquiry, they should be noted in the inquiry report if relevant or otherwise reported to separate authorities.

Duration of Inquiry

- 12) The investigation procedure should be completed as soon as possible. The inquiry and the implementation of the decision should not take more than six weeks.

Decision of the Committee

- 13) After a decision is reached regarding the complaint, the Committee will recommend the disciplinary action that should be taken in the case of the accused being found guilty. This action may vary from leave without pay to demotion or dismissal from services. The decision will be submitted to the relevant authorities for action and will be binding.
- 14) In the case of a complainant being in trauma, the organization will arrange for counseling and for additional medical leave. This can be suggested as a part of the decision.
- 15) The organization can also offer compensation to the complainant in the case of loss of salary or other damages. The complainant can also be offered compensation if it is decided that the employer has failed in their duty to prevent gender harassment of the complainant.
- 16) The Committee should monitor the situation regularly until they are satisfied that the corrective measures have been implemented.

Appeals

- 17) Any person disciplined for the misconduct of sexual harassment as defined under this Code of Conduct will have the right of appeal before the Authorities / Courts with jurisdiction to hear the cases of disciplinary action under the Laws applicable to the Organization.
- 18) A complainant dissatisfied with the outcome and/or the quantum of sanction can also file an appeal before the Authorities / Courts with jurisdiction to hear the cases of disciplinary action under the Laws applicable to the Organization.