

POSH

(PREVENTION OF SEXUAL HARASSMENT)

**“THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION,
PROHIBITION AND REDRESSAL) ACT, 2013”**

A. Introduction

BN Group is committed to maintaining an environment where all women, enjoy a safe, friendly and supportive working environment, free of harassment and exploitation. BN Group strongly believes that every Employee should have the opportunity to work in an environment free from any conduct which can be considered as sexual harassment and is committed to treating every Employee with dignity and respect.

This policy has been framed in accordance with the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” which was published in Gazette of India on 22nd April, 2013 (hereinafter “the Act”) and The Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Rules, 2013 (“Rules”) which was published in Gazette of India on 09th December, 2013. Accordingly, while the policy covers all the key aspects of the Act, for any further clarification/ or in case of any conflict between the Policy and the Act, reference shall always be made to the Act and the provisions of the Act shall prevail over the Policy.

B. Applicability

This Policy is based on the laws of India and therefore the Policy is applicable to whole BN Group located in India including all employees of BN Group, irrespective of their level, rank or designation, across all departments, functions and operations. Unlisted subsidiaries shall adopt this Policy and ensure compliance to the Act. The listed companies under BN Group shall adhere to and ensure compliance of this Policy.

C. Definitions

Sexual harassment may occur not only where a person uses sexual behavior to control, influence or affect the career, salary or job of another person, but also between co-workers. It may also occur between a BN Group employee and someone that employee deals within the course of his/her work who is not employed by the Company.

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

(A) Any unwelcome sexually determined behaviour, or pattern of conduct, that would cause discomfort and/or humiliate a person at whom the behaviour or conduct was directed namely:

- ✓ Physical contact and advances.
- ✓ Demand or request for sexual Favors.
- ✓ Sexually coloured remarks or remarks of a sexual nature about a person's clothing or body;
- ✓ Showing pornography, making or posting sexual pranks, sexual teasing, sexual jokes, sexually demeaning or offensive pictures, cartoons or other materials through email, SMS
- ✓ Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person's
- ✓ Giving gifts or leaving objects that are sexually suggestive; Eve teasing, innuendos and taunts, physical confinement against one's will or any such act likely to intrude upon one's privacy
- ✓ Persistent watching, following, contacting of a person; and
- ✓ Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

(B). The following circumstances if it occurs or is present in relation to any sexually determined act or behaviour amount to sexual harassment:

- ✓ Implied or explicit promise of preferential treatment in employment.
- ✓ Implied or explicit threat of detrimental treatment in employment.
- ✓ Implied or explicit threat about the present or future employment status.
- ✓ Interference with the person's work or creating an intimidating or offensive or hostile work environment; or
- ✓ Humiliating treatment likely to affect her health or safety.

The reasonable person standard is used to determine whether the conduct was offensive and what a reasonable person would have done. Further, it is important to note that whether harassment has occurred or not, does not depend on the intention of the people but on the experience of the aggrieved woman.

1. **“Aggrieved Woman”** means in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent.
2. **“Respondent”** means a person against whom the Aggrieved Woman has made a Complaint.
3. **“Employee”** means a person employed at the workplace, for any work on regular, temporary, ad hoc or daily wage basis, either directly or by or through

an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a domestic worker, a co-worker, a contract worker, probationer, trainee, apprentice or by any other name called. Explanation: The aforesaid definition of 'Employee' shall be used only for the purposes of the Policy and cannot be used to claim rights of an employee conferred by any law for the time being in force.

4. **“Workplace”** means and includes in addition to the place of work [Head office / Branch offices, Factories] it shall also include any place where the aggrieved woman or the respondent visits in connection with his/her work, during the course of and/or arising out of employment/ contract/ engagement with BN Group, including transportation provided for undertaking such a journey.
5. **“Employer”** means any person responsible for the management, supervision or control of the workplace.
6. **“Committee(s)”** means committee(s) formed by BN Group for redressal of complaints of Sexual Harassment in accordance with the procedure laid down in this Policy.
7. **“Complaint”** means any complaint (written or oral form) made by a female Employee against any other employee within BN Group or any Third Party having business dealings with BN Group.
8. **“Third Party”** means and includes any person not on the rolls of BN Group but interacts with the employees such as consultants, retainers, customers, vendors, suppliers, contract workers, trainees or any outside visitor within or outside BN Group.

D. Roles & Responsibilities

- i. **Responsibilities of Individual:** It is the responsibility of all to respect the rights of others and to never encourage harassment. It can be done by: -
 - a. Refusing to participate in any activity which constitutes harassment.
 - b. Supporting the person to reject unwelcome behaviour.
 - c. Acting as a witness if the person being harassed decides to lodge a complaint.

All are encouraged to advise others of behavior that is unwelcome. Often, some behaviors are not intentional. While this does not make it acceptable, it does give the person behaving inappropriately, the opportunity to modify or stop their offensive behavior.

- ii. **Responsibilities of Employer:** Subject to the provisions of the Act and Rules/applicable laws prevalent in the relevant jurisdiction, the duties of the Employer shall be as contained in Annexure A of the policy.
- iii. **Responsibilities of Managers:** All managers at BN Group must ensure that nobody is subject to harassment and there is equal treatment. They must also ensure that all employees understand that harassment will not be tolerated; that complaints will be taken seriously; and that the complainant, respondent/s, or witnesses are not victimized in any way.

E. Internal Complaints Committee (Henceforth known as 'committee')

To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same, an "**Internal Complaints Committee**" is constituted at each location. The detail of the committee is notified to all covered persons at the location (workplace).

The committee at each location comprises of:

- Presiding Officer: who shall be a woman employed at a senior level at workplace from amongst the employees: Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1): Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;
- Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.
- One member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment
- Provided that at least one-half of the total Members so nominated shall be women.

The **committee** is responsible for:

- Receiving complaints of sexual harassment at the workplace
- Initiating and conducting inquiry as per the established procedure
- Submitting findings and recommendations of inquiries
- Coordinating with the employer in implementing appropriate action
- Maintaining strict confidentiality throughout the process as per established guidelines
- Submitting annual reports in the prescribed format

Current nominated members of the committees are given in **Annexure B**.

F. Redressal Mechanism – Formal Intervention

In compliance with the Act, if the complainant's warrants formal intervention, the complainant needs to lodge a written complaint, which shall be followed by a formal redressal mechanism as described in this Policy. In case of a verbal complaint, the complaint will be reduced in writing by the receiver of the complaint and signatures of the complainant will be obtained.

G. Lodging a Complaint

- i. The complainant needs to submit a detailed complaint, along with any documentary evidence available or names of witnesses, to any of the committee members at the workplace.
- ii. The complaint must be lodged within **3 months** from the date of incident/ last incident. The Committee can extend the timeline by **another 3 months** for reasons recorded in writing, if satisfied that these reasons prevented the lodging of the complaint.
- iii. Provided that where such a complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Complaint Committee shall render all reasonable assistance to the women for making the complaint in writing.
- iv. If the aggrieved woman is unable to lodge the complaint in account of her incapacity, the following may do so on her behalf, with her written consent.
 - a) Legal heir, relative or friend
 - b) Co-worker
 - c) Any person having the knowledge of the incident

iv. If the initial complaint is made to a person other than a committee member, upon receiving such a complaint, it will be the responsibility of the complaint receiver to report the same to the committee immediately.

H. Receiving a Complaint (guidelines)

Dealing with incidents of harassment is not like any other type of dispute. Complainants may be embarrassed and distressed and it requires tact and discretion while receiving the complaint.

The following points are kept in mind by the receiver of the complaint:

- Complaint is listened to and the complainant informed that the Company takes the concerns seriously.
- Complainant is informed that these concerns will be reported to the appropriate committee and follow up will be done speedily.
- Situations are not pre-judged. Written notes are taken while listening to the person. Complainant is allowed to bring another person to the meeting if they wish. When taking accurate notes, complainant's own words, where possible, is used. Clear description of the incident in simple and direct terms is prepared and details are confirmed with the complainant.

All notes are kept strictly confidential. Complainant's agreement is taken to allow proceeding with the matter, which involves a formal investigation.

The complainant is advised that although the process is confidential, the respondent needs to be informed, and any witnesses and persons directly involved in the complaint process will also learn of the complainant's identity.

Care is taken to prevent any disadvantage to or victimization of either the complainant or the respondent.

I. Resolution procedure through conciliation

Once the complaint is received, before initiating the inquiry, the committee may take steps to conciliate the complaint between the complainant and the respondent. This is only if requested by the aggrieved woman.

It is made clear to all parties that conciliation in itself doesn't necessarily mean acceptance of complaint by the respondent. It is a practical mechanism through which issues are resolved or misunderstandings cleared.

In case a settlement is arrived at, the committee records & reports the same to the employer for taking appropriate action. Provided that no monetary settlement shall be made as a basis of conciliation. Resolution through conciliation happens within 2 weeks of receipt of complaint.

The committee provides copies of the settlement to complainant & respondent. Once the action is implemented, no further inquiry is conducted.

J. Resolution procedure through formal inquiry

i. Conducting Inquiry:

The committee initiates inquiry in the following cases:

- No conciliation is requested by aggrieved woman
- Conciliation has not resulted in any settlement
- Complainant informs the committee that any term or condition of the settlement arrived through conciliation, has not been complied with by respondent.

The Committee proceeds to make an inquiry into the complaint within a period of 1 week of its receipt of the original complaint/closure of conciliation/repeat complaint.

- Manner of inquiry into complaint:
- Complainant should submit the complaint along with supporting documents and the names of the witnesses.
- Upon receipt of the complaint, the committee sends 1 copy of the complaint to respondent within 7 working days.
- Respondent replies with all supporting documents within 10 working days of receiving the copy of the complaint.
- No legal practitioner can represent any party at any stage of the inquiry procedure.
- The Complaints Committee makes inquiry into the complaint in accordance with the principles of natural justice
- In conducting the inquiry, a minimum of three committee members including the Presiding Officer is present.

I. Interim relief

During pendency of the inquiry, on a written request made by the complainant, the committee may recommend to the employer to –

- Transfer the complainant or the respondent to any other workplace
- Grant leave to the aggrieved woman of maximum 3 months, in addition to the leave she would be otherwise entitled
- Prevent the respondent from assessing complainant's work performance

Grant such other relief as may be appropriate

Once the recommendations of interim relief are implemented, the employer will inform the committee regarding the same.

ii. Termination of Inquiry

- Committee at BN Group may terminate the inquiry or give ex-parte decision, if complainant or respondent respectively is absent for 3 consecutive hearings, without reason. 15 day written notice to be given to the party, before termination or ex-parte order.

iii. Inquiry procedure

- All proceedings of the inquiry is documented. The Committee interviews the respondent separately and impartially.
- Committee states exactly what the allegation is and who has made the allegation. The respondent is given full opportunity to respond and provide any evidence etc. Detailed notes of the meetings are prepared which may be shared with the respondent and complainant upon request. Any witnesses produced by the respondent are also interviewed & statements are taken.
- If the complainant or respondent desires to cross examine any witnesses, the Committee facilitates the same and records the statements.
- In case complainant or respondent seeks to ask questions to the other party, they may give them to the Committee which asks them and records the statement of the other party.
- Any such inquiry is completed, including the submission of the Inquiry Report, within 90 days from the date on which the inquiry is commenced. The inquiry procedure ensures absolute fairness to all parties.

K. Considerations while preparing inquiry report

While preparing the findings/recommendations, following are considered:

- Whether the language used (written or spoken), visual material or physical behaviour was of sexual or derogatory nature
- Whether the allegations or events follow logically and reasonably from the evidence
- Credibility of complainant, respondent, witnesses and evidence
- Other similar facts, evidence, for e.g. if there have been any previous accounts of harassment pertaining to the respondent
- Both parties have been given an opportunity of being heard
- A copy of the proceedings was made available to both parties enabling them to make representation against the findings

A copy of the final findings is shared with the complainant and the respondent to give them an opportunity to make a representation on the findings to the committee.

L. Action to be taken after inquiry

- Post the inquiry the committee submits its report containing the findings and recommendations to the employer, within 10 days of completion of the inquiry. The findings and recommendations are reached from the facts established and is recorded accurately.
- If the situation so requires, or upon request of the complainant, respondent or witness, Management at BN Group may decide to take interim measures such as transfer, changing of shift, grant of leave etc. to protect against victimization or distress during or after the course of inquiry, pending the final outcome.
- i. Complaint unsubstantiated: - Where the committee arrives at the conclusion that the allegation against the respondent has not been proved, it recommends to the employer that no action is required to be taken in this matter. Further, the committee ensures that both parties understand that the matter has been fully investigated, that the matter is now concluded and neither will be disadvantaged within the BN Group.

- ii. **Complaint substantiated:-** Where the committee arrives at the conclusion that the allegation against the respondent has been proved, it recommends to the employer to take necessary action for sexual harassment as misconduct, in accordance with the applicable service rules and policies, and this may include: i. Counseling ii. Censure or reprimand iii. Apology to be tendered by respondent iv. Written warning v. Withholding promotion and/or increments vi. Suspension vii. Termination viii. Or any other action that the Management may deem fit. The employer at BN Group acts upon the recommendations within 60 days and confirm to the committee.
- iii. **Malicious Allegations:-** Where the committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person making the complaint. The action recommended should be similar to the ones proposed for the respondent in case of substantiated complaints.

While deciding malicious intent, the committee should consider that mere inability to substantiate a complaint need not mean malicious intent. Malicious intent must be clearly established through a separate inquiry.

- M. **Confidentiality:** - The identity of the complainant, respondent, witnesses, statements and other evidence obtained during inquiry process, recommendations of the committees, action taken by the employer is considered as confidential materials, and not published or made known to public or media. Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the act.
- N. **Appeal:** - Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the appellate authority in accordance with the Act and rules, within 90 days of the recommendations being communicated.

Annexure A

Duties of Employer

The Employer shall:

- (a) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- (b) Display at any conspicuous place in the workplace, the penal consequences of sexual harassments and the order constituting the IC.
- (c) Formulate and widely disseminate an internal policy for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote a gender sensitive safe space and remove underlying factors that contribute towards a hostile work environment against women.
- (d) Carry out employee's awareness programmes and create forums for dialogues which may involve any other body as may be considered necessary
- (e) Provide necessary facilities to the Internal Committee or the Local Committee for dealing with the complaint and conducting an inquiry.
- (f) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
- (g) make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- (h) Use modules developed by the State Government to organise and conduct workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act
- (i) Carry out orientation programmes and seminars for the members of IC.
- (j) Conduct capacity building and skill building programmes for the Members of the IC.
- (k) Declare the names and contact details of all the Members of the IC;
- (l) Provide assistance to the Complainant if she chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force,

- (m) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the Complainant so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.
- (n) Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- (o) Monitor the timely submission of reports by the Internal Committee.
- (p) Take all steps necessary and reasonable to assist the Complainant in terms of support and preventive action, where sexual harassment occurs at a workplace because of an act or omission by any third party or outsider.
- (q) Include in its annual report number of cases filed, if any, and their disposal under this Policy.
- (r) Shall remove any member/s of IC, if the member:
 - i. Contravenes confidentiality provisions stated in the Policy; or
 - ii. Has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

Annexure B

POSH Internal Complaint Committee

S. No	Name	Designation
1	Heena Vikas Kapoor	Presiding Officer
2	Priyanka Chaudhary	Member
3	Mukesh Ranga	Member
4	Sanket Bansal	Member
5	Adv. Madhuri Bakshi	External Member