



OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED

PREVENTION OF SEXUAL HARRASMENT POLICY

JULY 2024

POLICY APPROVAL DETAILS

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GLOSSARY

Abbreviation	Meaning
OMKARA ARC / OARPL	Omkara Assets Reconstruction Private Limited
ARC	Asset Reconstruction Company
ICC	Internal Complain Committee
POSH Act	The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013

I. INTRODUCTION TO THE POLICY

This policy has been framed in accordance with the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and Rules framed thereunder (hereinafter “the Act”). It intends to provide protection against sexual harassment of women at workplace and the prevention and redressal of complaints of sexual harassment and matters related to it.

The Act was passed in response to the landmark judgement by the Supreme Court of India in the case of Vishaka vs State of Rajasthan (1997). The court recognized sexual harassment of women at workplaces a human rights violation. Later, the government formulated and enacted the POSH Act, based on the guidelines laid out in this judgement.

The aforesaid Act aims at the protection of women; however, OARPL aims to safeguard all its employees irrespective of their gender.

II. DEFINITIONS

1. Sexual Harassment: Sexual Harassment as defined under the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 includes:

Any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- i. Unwelcome physical contact or advances – (For e.g. unwanted deliberate touching of hair, body, clothing, leaning over, stalking, elevator eyes, cornering, pinching, brushing up, molestation etc.); or
- ii. Any unwelcome sexual advances, demand or request for sexual favours either implicitly or explicitly whether or not in return for betterment in employment or working conditions or under the threat of detriment to working prospects in any manner whatsoever, or
- iii. Making sexually coloured remarks or innuendos; (for e.g. turning work discussions to sexual topics, asking personal questions about sex life, sexual preferences, comments about sexual orientation or interest)
- iv. Showing pornography (e.g. display of pictures, sexually suggestive and offensive emails, messages, WhatsApp shares, jokes etc.; or
- v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature; or
- vi. Any act or conduct of a person in authority or otherwise, which outrages the modesty or dignity of the aggrieved woman or is humiliating treatment likely to affect her health or safety and /or create a hostile and/or intimidating work environment or;
- vii. Any conduct of an unwelcome sexual nature, which has the purpose or effect of unreasonably interfering with the aggrieved woman’s work performance.

It is the impact or effect of the behaviour of the recipient and not the intent of the offender that is critical in an assessment of such issues/cases.

2. Aggrieved person: In relation to a workplace, a person, of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent and includes contractual, temporary, visitors.
3. Employer: A person responsible for management, supervision and control of the workplace.

4. Employee: A person employed at the 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 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 co-worker, a contract worker, probationer, trainee, apprentice or by any other such name.
5. Respondent: A person against whom a complaint of sexual harassment has been made by the aggrieved person.
6. Workplace: In addition to the place of work [Head office / Branch offices] it shall also include any place where the aggrieved person or the respondent visits in connection with his / her work, during the course of and / or arising out of employment / contract / engagement with OARPL.

III. ROLES AND RESPONSIBILITIES

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:

1. Ensuring that their behavior is not contrary to this policy.
2. Refusing to participate in any activity which constitutes harassment.
3. Supporting the person to reject unwelcome behavior.
4. Acting as a witness if the person being harassed decides to lodge a complaint.

Responsibilities of Managers: All managers of OARPL 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.

IV. COMPLAINT MECHANISM

An appropriate complaint mechanism in the form of “Internal Complaints Committee” has been created in OARPL for time bound redressal of the complaint made by aggrieved party.

1. Internal Complaints Committee (Henceforth known as ‘the Committee’):

- i. The committee must comprise of:
 - a. Presiding Officer: A woman employed at a senior level in the organization or workplace, In case a senior level woman employee is not available, the presiding Officer shall be nominated from other offices or administrative units. In case the other offices or administrative units 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.
 - b. At least 2 members from amongst employees, committed to the cause of women or who have had experience in social work or have legal knowledge.
 - c. One Member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

- ii. At least one half of the total members of the Committee shall be women. Further, the presiding officer and every member of the Committee may hold office for a maximum period of 3 years from the date of their nomination.
- iii. For proceeding with a meeting or inquiry, a quorum of minimum 3 members including the Presiding officers and at least one-half of the total members of the ICC is necessary, as per the Act. If the quorum is not fulfilled, no steps can be taken for the proceedings.
- iv. The Committee shall meet periodically, but at least 2 times a year.
- v. Remuneration of the External members include fees and allowances which will be decided by the management of OARPL depending on the scope of work to the external members. Act permits a person to serve as an External Member of multiple organizations.
- vi. Members of the Internal Complaints Committee (ICC) can be removed or replaced on the following grounds:
 - a. If the member's actions or disposition is found to be in violation of the objectives and principles of the Act.
 - b. In case the member has been convicted for an offense or an inquiry into an offense is pending against the member.
 - c. In case the member has been found guilty in a disciplinary proceeding or a disciplinary proceeding is pending against him/her.
 - d. In case the member has pursued or is pursuing any litigation against OARPL.
 - e. In case the member has abused his position in the Committee to settle personal scores.
 - f. The replacement of the presiding officer or any member of the ICC should not be against any woman who has filed a complaint of sexual harassment.
 - g. Any change in the ICC shall be officially recorded and made known to all employees of the organization.
 - h. The removal or replacement of any member of the Committee shall be done after due inquiry and shall be properly documented and recorded to avoid any legal complications later. Furthermore, a replacement must be made within 30 days from the date of removal of the member.

2. Lodging a Complaint:

The complainant needs to submit a detailed complaint in writing, to any of the committee members at the workplace through email/by post/hand delivery.

In case of physical incapacity, the complaint may be filed by the complainant's relative/friend/co- worker/any person who has the knowledge of the incident with the consent of the complainant.

In case of mental incapacity, the complainant's relative/ guardian/friend/qualified psychiatrist or psychologist /any person who has the knowledge of the incident can file the complaint.

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 it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

Provided that where such a complaint cannot be made in writing, the Presiding Officer or any Member of the Committee shall render all reasonable assistance to the aggrieved person for making the complaint in writing.

If the aggrieved person is unable to lodge the complaint in account of his / her incapacity, the following may do so on his / her behalf:

- i. Legal heir, relative or friend
- ii. Co-worker
- iii. Any person having the knowledge of the incident.

3. Resolution procedure through conciliation

Before the Committee initiates an inquiry, the complainant may request the Committee to take steps to resolve the matter through conciliation provided no monetary settlement shall be made as basis of conciliation. If a settlement has been so arrived, the Committee shall record the same and forward the same to the Employer and provide copies of the settlement to the aggrieved person and the respondent. In such cases, no further inquiry shall be conducted by the Committee.

4. Resolution procedure through formal inquiry

Conducting Inquiry

The committee shall initiate inquiry in the following cases:

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

Manner of Inquiry into Complaint

- i. Complainant should submit the complaint in writing along with supporting documents, if any.
- ii. Upon receipt of the complaint, the Committee shall send 1 copy of the complaint to respondent within 7 working days.
- iii. Respondent has to reply with all supporting documents within 10 working days of receiving the copy of the complaint.
- iv. The Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

Interim Relief

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

- i. Transfer the aggrieved person or the respondent to any other workplace; or
- ii. Grant leave to the aggrieved person of maximum 3 months, in addition to the leaves he/she would be otherwise entitled; or

- iii. Grant such other relief to the aggrieved person as may found to be appropriate; or
- iv. Restraint the respondent from reporting on the work performance of the complainant.
- v. On the recommendation of the Internal Committee, the employer shall implement the recommendations made and send the report of such implementation to the Internal Committee.

Inquiry report

All proceedings of the inquiry shall be documented. The Committee shall interview the respondent separately and impartially. Committee shall clearly state the allegations and who has made the allegations. The respondent shall be given full opportunity to respond and provide any evidence etc. Detailed notes of the meetings shall be prepared which may be shared with the respondent and complainant upon request.

On the completion of an inquiry under this Act, the Committee, shall provide a report of its findings to the employer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

Complaint unsubstantiated

Where the Committee arrives at the conclusion that the allegations against the respondent have not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

Complaint substantiated

Where the Committee arrives at the conclusion that the allegations against the respondent have been proved, it shall recommend 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.

Malicious Allegations

Where the Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved person or any other person making the complaint has made the complaint knowing it to be false or the aggrieved person or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against such person or the person making the complaint.

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant. Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed before any action is recommended.

Confidentiality

The identity of the complainant, respondent, witnesses, statements and other evidence obtained in the course of 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.

V. PUNISHMENTS AND COMPENSATIONS

In addition to the disciplinary action provided above, the Act also envisages payment of compensation to the Complainant by the Respondent. The compensation payable shall be determined based on:

1. The mental trauma, pain, suffering and emotional distress caused to the aggrieved employee,
2. The loss in career opportunity due to the incident of sexual harassment,
3. Medical expenses incurred by the victim for physical/ psychiatric treatment,
4. The income and status of the alleged perpetrator, and
5. Feasibility of such payment in lump sum or in instalments.

In the event that the respondent fails to pay the aforesaid sum, Internal Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

VI. ANNUAL REPORTING

Internal Complaints Committee is required to submit an Annual Report each calendar year to both OARPL and the district officer.

The Annual Report shall have the following information:

1. Number of complaints of sexual harassment received in the year,
2. Number of complaints disposed off during the year,
3. Number of cases pending for more than 90 days,
4. Number of workshops or awareness programme against sexual harassment carried out,
5. Nature of action taken by the employer or District Officer.

OARPL shall include the number of cases filed (if any) and their outcomes in their annual reports.

The said report as well as all documents regarding Sexual Harassment complaints shall be kept in the safe custody of the Internal Committee.

VII. PREVENTIVE ACTION

OARPL shall take all reasonable steps to ensure prevention of Sexual Harassment at work. Such steps can include:

1. Circulation of the OARPL's Anti Sexual Harassment Policy to all employees, directors and offices and to all persons employed by or in any way acting in connection with the work and/or functioning of OARPL.
2. Ensuring that sexual harassment as an issue is raised and discussed at OARPL meetings from time to time.

3. Conduct or cause to carry out in-house gender training on sexual harassment and addressing complaints to Staff and to the members of the Anti-Sexual Harassment committee.
4. Encourage staffs to speak directly to the person(s) causing offence and inform them that they find it unwelcome and wish it to stop.
5. Conduct surveys: The survey can simply ask the employees (male and female) if they have experienced any form of sexual harassment during the past year. The survey helps to show that OARPL is actively engaged in preventing and correcting sexual harassment.
6. Widely publicize that sexual harassment is a crime and will not be tolerated particularly in cases when the Accused (after proven guilty) gets appointed by another employer).
7. In-house training on Sexual Harassment:
 - i. The Committee shall educate, sensitize and train all staff about the Anti-Sexual Harassment Policy and promote a healthy discussion of the policy.
 - ii. Training for all staff (at induction and ongoing) should address perceptions and understanding of sexual harassment, recognize sexual harassment, deal with it when it occurs and prevent it, impact of sexual harassment on individuals and workplace, understanding the policy and complaints mechanism.
 - iii. Training for the committee members who are going to be instrumental in implementing the policy should in addition to the above, also include the component of gender sensitization, procedures of investigation of Sexual Harassment complaints, skills necessary for enquiries, documentation of the procedures.

VIII. APPEALS AND ALTERNATE LEGAL REMEDIES

The employee may appeal to appellate authority under the Act.

IX. CONSENSUAL ROMANTIC/ SEXUAL RELATIONSHIPS

Omkara ARC discourages romantic/sexual relationships between a member of management or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person), because such relationships tend to create conflicts of interest at work. It is therefore in the best interest of all concerned, that if there is such relationship, the involved parties notify management so the reporting chain can be changed to ensure no direct or indirect reporting relationship.

X. PROTECTION AGAINST RETALIATION

Retaliation is a serious violation of this policy and any person found to have retaliated against an individual for reporting harassment will be subject to appropriate disciplinary procedures.

If anyone feels that he/she is experiencing retaliation of the nature of intimidation, pressure to withdraw the case or threats for reporting, testifying or otherwise participating in the proceedings, should report the matter to the Internal Committee.

As with complaints of harassment, this too will be treated as a misconduct and Omkara ARC will take appropriate action to prevent/rectify the retaliation.

Retaliation will be treated as seriously as an alleged case of harassment and will apply even if the original complaint is not proven.

XI. GENDER EQUALITY

OARPL is committed to provide equal opportunity and a harassment free workplace irrespective of the gender. Thus, in order to create such a safe and conducive work environment, this policy extends to all employees including individuals coming to the workplace for employment or for any other purpose whatsoever including but not limited to visitors, vendors, contractual resources, secondees and applies to any alleged act of sexual harassment against persons at workplace, whether the incident has occurred during or beyond office hours.

XII. CONCLUSION

In conclusion, OARPL reiterates its commitment to providing its employees, a workplace free from harassment/ discrimination and where every employee is treated with dignity and respect.

XIII. REGULATORY REFERENCE

1. Sexual harassment of women at workplace (prevention, prohibition and redressal) act & rules, 2013
2. FAQs on sexual harassment of women at workplace (prevention, prohibition and redressal) act & rules, 2013
3. Handbook on sexual harassment of women at workplace (prevention, prohibition, and redressal) act & rules, 2013

XIV. POLICY REVIEW AND UPDATE

The Prevention & Sexual Harassment Policy will be displayed on the website of OARPL for information of all stakeholders.

The Prevention & Sexual Harassment Policy shall be reviewed and updated as and when there is any change in any legal and/or regulatory framework or at least annually for incorporating regulatory updates and changes, if any. The Code after such review shall be placed before the Board of Directors of OARPL for necessary directions and approval.
