
 APEX HOSPITALS	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

Policy on Prevention of Sexual Harassment of Employees in Workplace

Apex Hospitals Pvt. Ltd.

Index

SN	Contents	Page No.
1	Preamble	3
2	Objective	4
3	Scope	4
4	Consensual Sexual Relationships	5
5	Internal Complaints Committee/Complain Redressal Committee	6
6	Reporting and Redressal Process	7
7	Inquiry Process	8
8	Finding and Conclusion of the Inquiry	10


 APEX HOSPITALS	Policy	
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POLICY ON PREVENTION OF SEXUAL HARASSMENT OF EMPLOYEES IN WORKPLACES

Apex Hospitals Pvt. Ltd.

1.0 PREAMBLE

- 1.1. Apex Hospital Pvt Ltd. (hereinafter referred to as 'Hospital' or 'Apex') is committed to creating a safe and healthy work environment that enables its employees to work without fear of prejudice, gender bias and sexual harassment. The Hospital also believes that all its employees have the human right to be treated with dignity. Sexual Harassment at the work place or in the course of official duties, if involving employees of the Hospital shall be considered a grave offence, and is therefore punishable under the applicable laws.
- 1.2. The Supreme Court of India in its landmark judgement of 1997 in 'Vishaka and others vs. State of Rajasthan', laid down guidelines making it obligatory for every employer and other responsible persons to provide a mechanism to redress grievances pertaining to workplace sexual harassment and evolve a specific policy to combat sexual harassment in the workplace and enforce the right to gender equality of working women. Sexual Harassment is a violation of right of woman to gender Equality under Articles 14 and 15, Right to Life and Dignity under Article 21 and Right to Work (Liberty) under Article 19(1)(g) of the Constitution of India.
- 1.3. The Government of India has made effective on April 23, 2013 a law called 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 on prevention of sexual harassment against female employees at the workplace. Any person making unwelcome physical contact and explicit sexual overtures, demanding or requesting sexual favours, making sexually coloured remarks or showing pornography against the will of a woman shall be guilty of the offence of Sexual Harassment and Section 354 A of the Indian Penal Code 1860 prescribes punishment for this offence, ranging from simple to rigorous imprisonment, for term one year to three years, or with fine, or with both.
- 1.4. Every woman shall have a right to be free from sexual harassment and the right to work in an environment that is free from any form of sexual harassment. The right of women to protection from sexual harassment and the right to work with dignity are recognized as universal human rights by international conventions such as 'Convention on the Elimination of all Forms of Discrimination against Women' (CEDAW), which has been ratified by Government of India.
- 1.5. This Policy has also been formulated to create and maintain a safe working environment where all employees treat each other with courtesy, dignity and respect irrespective of their gender, race, caste, creed, religion, place of origin, sexual orientation, disability, economic status or position in the hierarchy. Employees in the Hospital are entitled to work in an environment free from any form of discrimination or conduct which can be considered harassing, coercive, or disruptive.
- 1.6. This Policy seeks to assist individuals who believe they have been subjected to such behaviour with appropriate support and remedial action.

 APEX HOSPITALS	Policy	
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1.7. This Policy is prepared under the overall ambit of the Apex Code of Conduct and Business Ethics and per the statutory requirement.

2.0 OBJECTIVE

2.1 To fulfill the directive of the Supreme Court of India enjoining all employers to develop and implement a Policy against sexual harassment of women at the work place or in the course of official duties. The policy will remain applicable wherever employees have occasion to interact with each other including for example, in vehicles, third party premises, off site meetings and public venues.

2.2 To uphold Women's' Right to Protection against Sexual Harassment and the Right to Livelihood and towards that end for the prevention and redressal of Sexual Harassment of Women.

2.3 To evolve an effective mechanism for the prevention, prohibition and redress of sexual harassment of women at the work place or in the course of official duties with the Hospital.

2.4 To promote an environment that will raise awareness about and deter acts of sexual harassment of employees of the Hospital.

2.5 to ensure implementation of the Policy in letter and spirit by taking all necessary and reasonable steps including but not limited to constitution of appropriate Committees for purposes of gender sensitization and to conduct enquires into complaints of sexual harassment.

2.6 To uphold the commitment of the Hospital to provide an environment that is free from discrimination and violence against women.


2.7 To generate general awareness against sexual harassment of women at the workplace.

3.0 SCOPE

3.1 This Policy extends to all employees of the Hospital and is deemed to be incorporated in the service conditions of all employees and comes into effect immediately. These Rules and Procedures shall be applicable to all complaints of sexual harassment made by a woman employee of the Hospital against male employee of the Hospital provided the harassment has taken place at work place or in the course of official duties.

3.2 "Sexual Harassment" would mean and includes any or all of the following:

- (i) Any unwelcome sexually determined behavior such as physical contact or advances, requests or demand for sexual favours, either explicitly or by implication, in return for employment, promotion, examination or evaluation of a person towards any hospital activity;

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

- (ii) Any unwelcome sexual determined behaviour involving verbal, non-verbal or physical conduct such as sexually coloured remarks, jokes, letters, phone calls, SMS or email communication, gestures, showing of pornography, lucid stares, physical contact or molestation, stalking, sounds, display or pictures, signs, verbal or non-verbal communication which offend the individual's sensibilities and affects his or her performance at the workplace;
- (iii) Eve-teasing, innuendos and taunts, physical confinement against one's will and likely to intrude upon the individual's privacy;
- (iv) Any act of showing pornography or any other unwelcome physical verbal or non-verbal conduct of sexual nature; and
- (v)) Any act or conduct by a person in authority which creates the environment at workplace hostile or intimidating to a person belonging to the other gender, such as presence or occurrence of circumstances of implied or explicit promise of preferential treatment in employment; threat of detrimental treatment in employment; threat about present or future employment; interference with work or offensive work environment; or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation or humiliating treatment likely to affect the person's health or safety.

3.3 When a man uses with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to a woman without her consent or against her will, such conduct will amount to sexual assault.

3.4 It is clarified that it is the reasonable perception of the woman that would be relevant in determining whether any conduct was sexually determined and, if so, whether such conduct was unwelcome or not and that her objection would disadvantage her in connection with her education or employment, including evaluation, grading, recruitment or promotion, or when it creates a hostile working environment.

3.5 It is further clarified that "Hostile Environment" is said to be created when any act of Sexual Harassment has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive employment / environment.


3.6 Every employee is free to directly approach the person alleged to harass that employee and request that the harassing behaviour is immediately stopped, before approaching the Internal Complaints Committee formally with the Complaint of Sexual Harassment.

4. CONSENSUAL SEXUAL RELATIONSHIPS

The Hospital discourages romantic or 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); as such relationships could lead to conflicts of interest at work.

It is therefore in the best interest of all concerned, that if there is such a relationship, the involved parties notify Management of the Hospital so that the reporting chain can be altered to ensure that no direct or indirect reporting relationship continues.

5. INTERNAL COMPLAINTS COMMITTEE / COMPLAINT REDRESSAL COMMITTEE

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

5.1 An Internal Complaints Committee/ Complaint Redressal Committee (hereinafter called 'Committee') have been constituted by the Management of the Hospital to consider and redress complaints of Sexual Harassment. The Chairman and Members of the Committee are as follows:

1	Dr. Jai Wade	Chairperson
2	Ms. Gunjan Nimawat	Member Secretary
3	Mrs. Kavita Apoorva Verma	External Member
4	Dr. Sandeep Sharma	Member
5	Mr. Gleetus Timothy	Member
6	Mrs. Kunju Jhavar	Member

5.2 A Quorum of three members is required to be present for the proceedings to be conducted in the Committee. The Quorum shall include the Chairperson, at least two members, out of which one Member shall be a woman.

5.3 If in the Committee the member representing the category of the defendant is junior in the hierarchy of the Hospital to the defendant, then, for that particular enquiry that member shall be substituted on the Committee by another person, senior in rank to the defendant.

5.4 No person who is a complainant, witness or defendant in the complaint of sexual harassment shall be a member of a Committee.

5.5 Any Committee member charged with sexual harassment in a written complaint must step down as a member during the enquiry into that complaint.


5.6 In the Committee, not less than half of the number of members shall be women.

5.7 The Committee shall also have one person who is a nominee from a Non-Governmental Organization or any such person who is familiar with the subject of Sexual Harassment, as a third party Member.

5.8 Changes in the Members of the Committee, whenever necessary, shall be made as expeditiously as possible by the Competent Authority.

6. REPORTING AND REDRESSAL PROCESS

6.1 The mechanism for registering complaints should be safe, accessible and sensitive. All complaints must preferably be brought by the complainant in person. All precaution will be taken to protect the privacy of the individuals involved. Any aggrieved employee who is of the view that he/she is being sexually harassed directly or indirectly, may submit a complaint of the alleged incident to any or all the members of the Committee in writing with his/her signature within **three months** from the date of occurrence of 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** It is also encouraged that both parties maintain records of all incidents, (such as, physical copies of

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

emails, details of dates, places, witnesses and their feelings at the time of the alleged harassment. Photographs, video/audio recordings submitted should be tamper proof. These are useful should a formal process come up).

Provided however that where such complaint cannot be made in writing, the Chairperson or any Member of the Internal Complaints Committee, as the case may be, shall render all reasonable assistance to the individual concerned for reducing the complaint in writing.


6.2 A written complaint with the following details must be submitted:

- a) State the name of the alleged offender including designation and contact numbers;
- b) State the date(s) and location(s) of the alleged incident(s) of harassment;
- c) A detailed description of the incident(s) in question as well as other relevant circumstances; The written complaint/email must provide the details of the incident together with the name/s of, the alleged harasser/s and the victim/s, as available.
- d) Names of witnesses and physical and/or documentary proof if any that supports the allegation; including other potential complainants, if any;
- e) Shall be signed and dated; no anonymous complaints shall be accepted by the Committee.
- f) Complaint should include with contact details of the complainant / victim such as name, address, contact number, department etc;

6.3 The filing of a complaint shall not ordinarily adversely affect the Complainant's status/job/salary/promotion, grades, etc. During the pendency of an enquiry and till the final determination of a complaint of sexual harassment under this Policy, the Hospital shall not alter the conditions of service of the Complainant/Witness/Supporter concerned to their prejudice, as a consequence to the filing, participation or holding of an enquiry under this Policy.

6.4 The Hospital encourages prompt reporting of Sexual Harassment incidents so that timely and appropriate action may be taken. Nevertheless, considering the sensitivity of the issue and the emotional aspects that may arise, a delay may be considered favourably by the Committee provided the Complainant submits sufficient cause for such delay. In case the employee has experienced Sexual Harassment during his/her tenure of employment, but has since left the services of Apex, then, the Committee shall accept a Complaint so long as it is received in writing within three months from the date of cessation of employment.


6.5 If an employee believes 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 before the Committee, then, such employee should immediately report the matter to the Committee. Such incidents shall be treated as seriously as an alleged case of Sexual Harassment and will apply even if the original complaint is not given. Similarly, any undue influence whether direct or indirect, to the proceedings by any party shall be construed as 'Misconduct' and shall attract disciplinary action.

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only


- 6.6 The Committee shall maintain a register to endorse the complaint received by it and keep the contents strictly confidential, if it is so desired, except to use the same for discreet investigation.
- 6.7 The Committee shall hold a meeting with the Complainant within **ten** working days of the receipt of the complaint, but no later **than fifteen working days** in any case. In exceptional cases, emergency meeting may be convened by the Chairperson as per the requirement.
- 6.8 At the first meeting, the Committee shall hear the Complainant and record her/his allegations. The Complainant can also submit any corroborative material with a documentary proof, oral or written, etc. to substantiate the complaint. If the Complainant does not wish to depose in person due to embarrassment of narration of events, a lady officer for lady employee(s) and a male officer for male employee(s) desirous of lodging such complaint shall meet and record the statement.
- 6.9 Thereafter, the Committee shall summon the person against whom the Complaint is made for the purposes of a deposition before the Committee and an opportunity shall be given to such person to give an explanation to the allegations, where after, an 'Inquiry' shall be conducted and concluded.
- 6.10 In case of the complaint being found and determined to be of malafide intent or blatantly false or that the incident was publicized without going through the recommended process, such behavior will be construed as a misconduct and the Complainant shall, if deemed fit be liable for appropriate disciplinary action including but not limited to termination of services by the Management of the Hospital.
- 6.11 If the Committee decides not to conduct an enquiry into a complaint, it shall record the reasons for the same in the minutes of the Committee meeting. The Committee shall make the same available to the Complainant in writing.
- 6.12 During the pendency of an Inquiry, the Committee may recommend for transfer of the aggrieved employee or the person against whom the complaint is made; or grant leave to the aggrieved employee up to a period not exceeding three months (which shall be in addition to the leave otherwise entitled) or grant such other relief to the individual as may be prescribed by the Hospital from time to time.

7 INQUIRY PROCESS

- 7.1 The Committee shall immediately proceed with the Inquiry and communicate the same to the Complainant and person against whom complaint is made. The venue of the Inquiry shall take into consideration the convenience and security of the complainant.
- 7.2 The identities of the Complainant and all witnesses shall throughout be protected and kept confidential by the Committee.
- 7.3 The Committee shall prepare and handover the Statement of Allegation to the person against whom complaint is made and give him/her an opportunity to submit a written explanation if she/he so desires within **seven working days of receipt of the same**.

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

- 7.4 The Complainant shall be provided with a copy of the written explanation submitted by the person against whom complaint is made.
- 7.5 If the Complainant or the person against whom complaint is made desires any witness (es) to be called, they shall communicate in writing to the Committee, the names of witness (es) that they propose to call. The responsibility of communicating with the witnesses lies with the complainant/defendant regarding the date, time and venue of the meeting.
- 7.6 If the Complainant desires to tender any documents by way of evidence before the Committee, she/he shall supply original copies of such documents. Similarly, if the person against whom the complaint is made desires to tender any documents in evidence before the Committee, he/she shall supply original / true copies of such documents. Both shall affix his/her signature on the respective documents to certify these to be true copies of the original. The Committee shall have the power to summon any official papers or documents pertaining to the complaint under enquiry.
- 7.7 The Committee shall call upon all witnesses mentioned by both the complainant and the person against whom the complaint has been lodged. The Committee may at its sole discretion, summon necessary and relevant document / witness, if it is of the opinion that it shall be in the interest of justice.
- 7.8 The Committee shall provide every reasonable opportunity to the Complainant and the defendant for putting forward and defending their respective case. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender insensitive. Any behavior, verbal or otherwise, on the part of the defendant or his nominee, that is designed to intimidate or subject the complainant or her witness to mental and physical trauma, shall entitle the Committee to recommend disciplinary action against the defendant.
- 7.9 The Complainant and the defendant shall have the right of cross-examination of all witnesses.
- 7.10 If the Committee believes that the absence of either of the Complainant or the Defendant and or their witnesses to the dispute is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding fifteen working days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting of the Committee without prior intimation/valid grounds.
- 7.11 The Committee shall have the right to summon, as many times as required, the defendant, the complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
- 7.12 The Committee shall have the right to terminate the proceedings and to give an 'ex-parte' decision on the complaint, should the defendant fail, without valid ground, to present himself for three consecutive hearings convened by the Committee.
- 7.13 The Committee shall complete the 'Inquiry' within reasonable period but in no case beyond three months from

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

the date of its commencement and communicate its findings and its recommendations for action to the Competent Authority of the Hospital. In the event of any delay in submission of the Inquiry Report, the reasons for the same shall be recorded in writing by the Committee. The Report of the Committee shall be treated as an Inquiry Report on the basis of which a delinquent employee shall be awarded appropriate punishment by the Competent Authority of the Hospital. The Competent authority will act on the report of the Committee in accordance with the Hospital Rules.

7.14 The Committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, and conduct, personal and sexual history.

7.15 The Committee shall take note of the respective socio-economic positions of the parties, their hierarchy in the organization of the Hospital / workplace.

7.16 The Committee shall be governed by such rules and guidelines as may be consistent to prevalent law or regulation, as amended or enacted from time to time.

8 FINDINGS AND CONCLUSION OF THE INQUIRY

8.1 Where the Committee arrives at a conclusion that the allegation against the defendant has not been proved, it shall recommend to the Competent Authority that no action is required.

8.2 Where an incident of Sexual Harassment has been determined by the Committee, corrective / disciplinary action based on the gravity of the offence may be recommended to the Management of the Hospital/Competent Authority.


8.3 The range of Corrective measures / disciplinary and such suitable measures and action which the Competent Authority may consider to impose, may include but not limited to:

- a) A communication / letter of warning be sent to the employee and a copy of which shall be placed in the personal file of that employee by Human Resources Department.
- b) Immediate transfer or any other appropriate disciplinary action.
- c) Stoppage of increment with or without cumulative effect.
- d) Reduction in rank;
- e) Termination/dismissal from the services of the Hospital by the Competent Authority;
- f) Any other action that the Competent Authority may deem fit and proper; and
- g) Filing of a complaint before the relevant statutory / police authorities / court of law;

8.4 The Management of the Hospital shall provide all necessary assistance for the purpose of ensuring full, effective and speedy implementation of this Policy.

8.5 The Committee shall analyse and submit periodical Inquiry reports on all such complaints received by it at the end of each financial year to the Competent Authority of the Hospital.

8.6 Upon receipt of the Inquiry Report, the Competent Authority shall promptly act on the Inquiry Report. If the

	Policy	
	«Prevention of Sexual Harassment of Employees in Workplace»	Confidential. For internal usage only

Competent Authority disagrees or wishes to modify the recommendations of the Committee against Sexual Harassment, it may do so by recording the reasons in writing.

- 8.7 A Copy of the Inquiry Report shall be given by the Competent Authority to the Complainant and the Defendant. The Competent Authority shall however take disciplinary action only after giving the defendant an opportunity to reply to the findings of the Committee.
- 8.8 The Complainant and the Defendant shall have the right to appeal if they are dissatisfied with the decision of the concerned Committee or the Competent Authority before the Appellate Authority.
- 8.9 Where the conduct of sexual harassment amounts to a specific offence under the Indian Penal Code, 1860 or under any other law; it shall be the duty of the Committee to immediately inform the complainant of her right to initiate action in accordance with law with the appropriate authority, and to give advice and guidance regarding the same. Any such action or proceedings initiated shall be in addition to proceedings initiated and / or any action taken under this Policy. Further, nothing in this Policy shall prevent the Complainant or the person against whom the complaint was made, from pursuing formal legal remedies or resolution through competent authorities empowered by law or regulation or courts of law in India.
- 8.10 The disciplinary action shall be commensurate with the nature and impact of the sexual harassment. Non-adversarial modes of redress and resolution could also be considered in appropriate cases which may include verbal warning, verbal apology, promise of good behaviour, counselling, etc.
- 8.11 A second or repeated offence shall on the recommendation of the Committee attract an enhanced penalty.
- 8.12 For the purposes of this Policy, the 'Competent Authority' shall be the senior-most member of the Management Team or such person as appointed by the Chief Executive Officer of the Hospital, to act as such from time to time.
- 8.13 For the purposes of this Policy, the 'Appellate Authority' shall be the Chief Executive Officer of the Hospital.
- 8.14 The names of the persons acting as 'Competent Authority' or Appellate Authority shall be communicated to the Employees by the Human Resources Department from time to time through the Hospital website/ and prominent Notice Boards at the Hospital premises.
- 8.15 On the basis of the working of this Policy, the Competent Authority of the Hospital shall have the powers to make recommendations for bringing about changes in this Policy and after adequate consultation with the Management of the Hospital, suggest changes as and when required in keeping with the Preamble and Objectives of the Policy. Any changes to the Policy shall be suitably communicated to all employees by the Human Resources Department of the Hospital.
