

# SARASWATI COMMERCIAL (INDIA) LIMITED

CIN: L51909MH1983PLC166605

Registered Office: 209-210, 2<sup>nd</sup> Floor, Arcadia Building, Plot No. 195, Nariman Point, Mumbai 400 021

Tel.: 022 40198600/500, Fax: 022 40198650

Website: [www.saraswaticommercial.com](http://www.saraswaticommercial.com)



<b>Effective from</b>	<b>13.02.2015</b>
<b>1<sup>st</sup> Review</b>	<b>12.02.2024</b>

## **POLICY ON PREVENTION OF SEXUAL HARASSMENT**



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## I. INTRODUCTION

In accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Saraswati Commercial (India) Limited has adopted the policy for Prevention of Sexual Harassment at the Workplace and the Board of Directors has unanimously adopted the same w.e.f. February 13, 2015.

Vide notification dated December 9, 2013; Ministry of Women and Child Development have introduced Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013. This policy shall be in effect from February 13, 2015.

### **Scope**

This policy shall be applicable to all employees of Saraswati Commercial (India) Limited. It includes all categories of employees of the Company, including permanent management and workmen, temporary appointees, trainees and employees on contract at its workplace or at client sites.

It shall also include any unwelcome behavior of a sexual nature mentioned in the policy by any other employees, customers, consultants, visitors, vendors, contractors or other non-employees during the course of a business relationship, to any of our employees.

## II. DEFINITIONS

- **“Workplace”** includes:

1. All offices or other premises where the Company’s business is conducted.
2. All company-related activities performed at any other site away from the Company’s premises including transportation provided by the employer for undertaking such a journey.
3. Any social, business or other functions where the conduct or comments may have an adverse impact on the workplace or workplace relations.

- **“Employee”** means:

A person employed at a 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 called by any other such name.

- **“Employer”** means:

The head of the organization or any person who is responsible for the management, supervision and control of the work place.

- **Officer in Charge:** Person appointed by Board for ensuring compliance under this policy.

- **“Sexual Harassment”**

Sexual Harassment can occur between individuals of the opposite sex or the same sex. This may include but is NOT limited to unwelcome sexual behavior of direct or implied nature such as:

1. physical contact and advances; or
2. demand or request for sexual favors; or
3. making sexually coloured remarks; or
4. showing pornography; or
5. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:

- i) Implied or explicit promise of preferential treatment in the employment; or
- ii) Implied or explicit threat of detrimental treatment in the employment; or
- iii) Implied or explicit threat about the present or future employment status; or
- iv) Interference with the work or creating an intimidating or offensive or hostile work environment for employee; or
- v) Humiliating treatment likely to affecting to the health or safety.

- **“Unwelcome sexually determined behavior”**

Unwelcome sexually determined behavior includes but is not limited to:

- Subjecting another person to an unwelcome act of physical intimacy including grabbing, brushing, touching, including sexual flirtations, advances or propositions.
- Making any unwelcome remark with sexual connotations like sexually explicit, remarks, cracking jokes or using sentences with sexual connotations or making sexist remarks, etc.
- Showing any sexually explicit visual material in the form of pictures / cartoons / pin-ups / calendars / screen-savers on computers / any offensive written or electronic material.
- Engaging in any other unwelcome conduct of a sexual nature, verbal or even nonverbal, etc.
- Sending unwelcome communication of a sexual nature, through e-mail, letter, mobile technology or any other form of written or electronic communication, exhibiting conduct of a sexual nature.

- **“Aggrieved”**

In relation to 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.

- **“Respondent”**

Against whom the aggrieved has made a complaint.

### III. RESPONSIBILITIES REGARDING SEXUAL HARASSMENT

All employees of the Company have a personal responsibility to ensure that their behavior is not contrary to this policy.

All employees are encouraged to reinforce the maintenance of a work environment free from sexual harassment.

### IV. GRIEVANCE REDRESSAL MACHINERY

1. The aggrieved person may make, in writing, a complaint of sexual harassment at the workplace to Officer in charge, within a period of three months from the date of incident and in case of a series of incidents, **within a period of three months** from the date of the last incident.

If the Office in charge finds that the circumstances were such which prevented the aggrieved from filing a complaint within the said period, then the Officer in Charge may extend the time limit. However the extension cannot exceed three months. Also the reasons for extension of time limit has to be recorded in

writing.

2. i) Where the aggrieved is unable to make a complaint on account of his/her physical incapacity, a complaint may be filed by aggrieved person's—
    - (a) Relative or friend; or
    - (b) Co-worker; or
    - (c) An officer of the National Commission for Women or state Women's Commission; or
    - (d) Any person who has knowledge of the incident, with the written consent of the aggrieved.
  
  - ii) Where the aggrieved is unable to make a complaint on account of his/her mental incapacity, a complaint may be filed by the aggrieved person's:
    - (a) Relative or friend; or
    - (b) A special educator; or
    - (c) A qualified psychiatrist; or
    - (d) The guardian or authority under whose care she is receiving treatment or care; or
    - (e) Any person who has knowledge of the incident jointly with the aggrieved's relative or friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care the aggrieved is receiving treatment or care;
  
  - iii) Where the aggrieved for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with the aggrieved's written consent;
  
  - iv) Where the aggrieved is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of the aggrieved's legal heir.
3. Once a complaint is received, Officer in charge may, at the request of the aggrieved, take steps to settle the matter between the aggrieved and the respondent through conciliation. Monetary settlement cannot be the basis of conciliation.

Once the settlement is arrived at, Officer in charge shall record the settlement arrived at and forward the same to the employer to take action as specified in the recommendation.

The Officer in charge shall provide the copies of the settlement to the aggrieved and the respondent.

Where a settlement is arrived, no further inquiry shall be conducted.

However if the aggrieved informs Officer in charge that any term or condition of the settlement arrived at has not been complied with by the respondent, Officer in charge shall proceed to make an inquiry into the complaint or forward the complaint to the police. Where both the parties are employees, the parties shall during the course of inquiry be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Officer in charge.

4. During the pendency of inquiry, Officer in charge may recommend to the employer such relief to the aggrieved as may be considered appropriate and in line with all the applicable statutory laws.

The employer shall implement such recommendations.

5. On completion of the inquiry, Officer in charge shall provide a report of its findings to the employer, within a period of 10 days from the date of the completion of the inquiry and such reports can be made available to the concerned parties.
6. Where the allegation of the respondent is proved by Officer in charge, it shall recommend the employer to grant such relief to the aggrieved which shall be in line with the applicable statutory laws.

Where Officer in charge comes to a conclusion that the allegation against the respondent is not proved, it shall recommend to the employer that no action shall be taken in the matter.

The employer shall act upon the recommendation within 60 days of the receipt of the recommendation.

#### **V. MANNER OF INQUIRY INTO COMPLAINT**

1. At the time of filing the complaint, the complainant shall submit 6 copies of the complaint along with the supporting documents and the names and addresses of the witness, if any to Officer in charge.
2. On receipt of the complaint, Officer in charge shall send one of the copies received from the aggrieved to the respondent within 7 working days.
3. The respondent then has to file reply to the complaint along with its list of documents and names and addresses of witnesses, if any within 10

working days from the date of receipt of documents by the respondent.

4. In case the respondent or the complainant fails to present themselves for three consecutive hearings convened the Officer in charge shall have the right to terminate the inquiry proceedings or make an *ex-parte* decision on the complaint. The Committee however cannot terminate or pass an *ex parte* decision unless a notice is given in 15 days advance to the parties concerned. The Committee shall see to it that it shall act fairly at the time of inquiry into the complaint.
5. The parties shall not be allowed to bring any legal practitioner to represent them in their case in any stage of the proceedings Officer in charge
6. Officer in charge may take assistance of any person as he/she may deem fit.

#### VI. PUNISHMENT FOR FALSE AND MALICIOUS COMPLAINTS

1. If Officer in charge arrives at a conclusion that:
  - i) the allegation against the respondent is malicious; or
  - ii) the aggrieved or any other person making the complaint has made a complaint knowing it to be false; or
  - iii) the aggrieved or any other person making the complaint has produced any forged or misleading document;

then, Officer in charge may recommend to the employer to take necessary action against the complainant or the person who has made a complaint.

However, a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant. A malicious intent on part of the complainant can be established only after conducting an inquiry into the complaint.

2. If Officer in charge arrives at a conclusion that during the inquiry any witness had given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness, to take action as may be prescribed in the provisions of the statutory laws.

#### **Manner of taking action:**

Where Officer in charge arrives at a conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to take any or more of the following actions:

- Written apology



- Warning
- Reprimand or censure
- Withholding of promotion
- Withholding of pay rise or increments
- Terminating the respondent from service
- undergoing a counseling session
- conducting a community service

The employer, can also take actions other than the above mentioned, if he/she deems fit.

**Prohibition of publication or disclosing the content of complaint or inquiry proceedings:**

The contents of the complaint made, the identity and addresses of the aggrieved, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of ICC and the action taken by the employer shall not be published, communication or made known to the public, press or media in any manner.

Any person who violates the above shall be penalised by the employer with such amount as may be prescribed in the applicable statutory rules. However justice secured to any victim of sexual harassment can be disseminated without disclosing the details mentioned above.

**Appeal to the court**

Any person, who is aggrieved from the recommendations made, may prefer an appeal to the Court or Tribunal. This appeal shall be made within a period of 90 days from the date of the recommendation.

**VII. MODIFICATIONS**

This policy will be periodically revised and is subject to modification. Any amendment or waiver of any provision of this Code must be approved in writing by the Company's Board of Directors, or such other committee as may be decided.

## VIII. FAQs RELATED TO THE POLICY

**a) Can both men and women be victims of sexual harassment?**

Yes, both men and women can be victims of sexual harassment. Anyone being sexually harassed, regardless of gender, should know that the law protects them and should feel encouraged to take appropriate action.

**b) What are the types of sexual harassment in the workplace?**

Sexual harassment can take many forms, including but not limited to supervisor harassment, co-employee harassment, and even harassment by non-employees.

**c) How bad must a hostile work environment get before I should complain?**

An employee should notify an employer whenever they reasonably believe themselves to be the victim of harassment. If the conduct is severe, it may be enough that it occurred only once. If the conduct is less severe, but occurred over an extended period of time, which too may be sufficient.

**d) What if an employee witness inappropriate conduct, or someone tells him/her about it?**

Anyone who witness inappropriate comments or conduct, even if it is directed at someone else, is encouraged to report it. Moreover any employee who become aware of sexual harassment are required to report it to any of the committee members.

**e) Will the complaint made be treated confidentially?**

The Company shall make every reasonable effort to handle inquiries, complaints and related proceedings in a manner that protects the privacy of all parties. Each situation is resolved as discreetly as possible, with information shared with those who need to know in order to investigate and resolve the matter. In certain circumstances, it may be possible to address the concerns without disclosure of the Identity of the parties, however this is not possible in every matter, as some situations require the disclosure of the complainant's identity in order to fully investigate the matter and/or to enable the accused harasser the ability to fully respond to the allegations against him or her.

**f) May the complainant or the respondent have a support person with me during the Investigation Process?**

During the course of the investigation process, both the complainant and the respondent may have a friend or colleague present with them during the investigatory interview to support them during the process. The parties shall not however not be allowed to bring any legal practitioner to represent them in their case in any stage of the proceedings.

**g) What if the complainant is retaliated against for complaining about harassment or participating in an investigation?**

The Company's Sexual Harassment Policy strictly forbids retaliation against anyone for making a good-faith harassment complaint. Retaliation is a serious violation that can subject the offender to strict actions by the Company, independent of the merits of the sexual harassment allegation. Anyone experiencing any conduct that he or she believes to be retaliatory should immediately report it to one of the committee members.

**Please Note**

Officer in charge will not entertain any anonymous complaints.