

Prevention of Sexual Harassment (POSH) at Workplace

Objective:

“STELMEC LIMITED “is committed to creating a safe work environment that is free from any form of sexual harassment and where all employees are treated with dignity and respect. STELMEC LIMITED is dedicated to maintain an environment which is free from coercion and intimidation.

STELMEC LIMITED shall adopt certain procedures and guidelines to govern cases against sexual harassment. The procedure has been provided below in STELMEC’s policy against sexual harassment (“Policy”).

All allegations of sexual harassment shall be taken seriously by STELMEC and shall be governed by this Policy.

This Policy extends to all employees of STELMEC and is deemed to be incorporated in the service conditions of all employees and comes into effect immediately.

Definition:

Any behavior (physical, verbal, written, graphic, electronic, emotional, psychological or through gestures that offend) which has been defined as inappropriate by the Policy , whether intentional or not, which offends the dignity of the person towards whom the behavior is directed by fellow employee(s),supervisor(s),customer(s) or supplier(s) will be considered as sexual harassment and shall invite serious disciplinary action.

Sexual harassment would mean and include (whether direct or by implication) any of the following:

- ❖ Unwelcome sexual advances, requests or demand for sexual favors, either explicitly or implicitly, in return for employment, promotion, examination or evaluation of a person towards any STELMECactivity;
- ❖ Advances involving verbal, non-verbal, or physical conduct such as sexually coloured remarks, jokes, letters, phone calls, e-mail, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, indecent exposure, physical contact, sounds, display of pictures, intrusive questions about a person’s private life or body, signs, insults or taunts based on sex, obscene communication, verbal or non-verbal communication which offends the individuals sensibilities and affect her/his performance.
- ❖ Eve teasing, innuendos and taunts, unwelcome invitations to go out, suggestive comments or jokes, physical confinement against one’s will and likely to intrude upon one’s privacy;
- ❖ Act or conduct by a person in authority which creates the environment at workplace hostile or intimidating to a person belonging to the other sex;
- ❖ Conduct of such an act at work place or outside in relation to an employee of STELMEC, or Vice versa during the course of employment;
- ❖ Any unwelcome gesture by an employee having sexual overtones.
- ❖ Physical contact and advances;
- ❖ Demand or request for sexual favors;
- ❖ Staring, leering or unwelcome touching;
- ❖ Suggestive comments or jokes;
- ❖ Sexually colouredremarks;

- ❖ Showing pornography;
- ❖ Any unwelcome sexual activity tied to employment decision or benefits.
- ❖ .Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Applicability:

- ❖ All employees of STELMEC (including employees on contract, on 3rd (third) payrolls)
- ❖ All customers, suppliers and contractors of STELMEC.
- ❖ All third parties associated with STELMEC at work or involved in work related activities.
- ❖ The complainant as well as the respondent may be a man or a woman
- ❖ The complainant needn't be of the opposite sex
- ❖ The respondent can be anyone including the complainant's supervisor/ an agent/contractor/customer/client /3rd (third) party associated with STELMEC /or any other employee of STELMEC.
- ❖ The complainant does not have to be the person harassed but could be anyone affected by the offensive conduct. □ It may occur without economic injury to the complainant.
- ❖ It may occur at work place or any other place where the employee is engaged in work related activities.
- ❖ It may occur with STELMEC employees deputed to client sites.

Constitution of complaints committee complaints:

Complaints of sexual harassment made by female employees shall be dealt with by the Internal Complaints Committee ("ICC")

- ❖ Annexure 1 of the Policy provides for constituent members of the ICC.
- ❖ The ICC should comprise of a Chairperson (compulsorily woman), and not less than half of its members should be women.
- ❖ External member as mandated by law

Complaints of sexual harassment made by male employees shall be dealt with by the Complaints Committee ("CC")

- ❖ CC shall be constituted within 3 (three) days of making of complaint by a male member.
- ❖ CC shall be formulated by members of the committee which takes the management, control and board decisions of STELMEC ("Executive Committee").

Redressal procedure and mechanism:

- ❖ Where a complaint has to be made against the employer, the complainant shall make the complaint to the Local Complaints Committee ("LCC") as formulated by the deputy collector as a district officer (as provided under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013) ("the Act"). The district officer shall nominate members in accordance with the Act to formulate LCC.
- ❖ For redressal of complaints made by a female member of STELMEC:
 - Complainant may submit a complaint in writing and inform any committee member

- Complaints must be made by the complainant to any of the Committee Member of the ICC if constituted or to LCC or to the email IdPosh@stelmec.com within 3 (three) months from the date of the incident
- The ICC may by reasons to be recorded in writing, extend the time period for making a complaint to a further period of 3 (three) months;
- All the complaints made by a female member shall be forwarded to the Executive Committee.
- The complaint can be made by the female complainant or any other person on behalf of the complainant (as set out in the following manner):
 - In case of physical incapacity of the aggrieved woman, the complaint may be made by her relative, friend, co-worker or an officer of National Commission for Women or State Women's Commission or any person who has knowledge of the incident, with the written consent of the aggrieved women/complainant.
 - In case of mental incapacity of the aggrieved woman, a complaint may be made be filed by the relative/friend, special educator, psychologist, guardian or authority under whose care she is receiving treatment or care or any person who has knowledge of the incident jointly.
- Complaints can be made in person/via phone/email/letter, to the Chairperson or any of the committee members. Any oral communication should be followed up with a written communication.
- If the employee is working outside the STELMEC office i.e. in client place, she may also lodge a complaint with the committee members and she will report that to the committee member.
- If the complaint has been made to the superior, she must immediately communicate the details to the committee members and also apprise the committee of any action taken, failing which the superior will be liable for penalty action.
- In case it is found that any employee has lodged a false complaint, after the enquiry, the ICC shall recommend to the District officer or STELMEC to take actions.
- Every employee who threatens or intimidates any person who has made complaint under this policy or any witness thereof shall be liable for disciplinary actions as per the rules of the STELMEC.

For sexual harassment complaints made by male members:

- The male member must make a complaint to the Executive Committee in or by email to Posh@stelmec.com within 3 (three) months from the date of the incident of sexual harassment.
- The Executive Committee shall form the CC within 3 (three) working days of reporting of the incident of sexual harassment.
- Due procedure of redressal will be followed uniformly irrespective of the position held by the person in STELMEC.

Conciliation and informal complaint redressal procedure:

For female members:

- ❖ The ICC shall meet within 2 (two) days of filing of the complaint, to examine the complaint made by the female member.
- ❖ At the start of initiating the inquiry, and at the request of the complainant, ICC shall settle the matter between the complainant and the respondent/accused through conciliation. □ Such conciliation should in no case include any monetary settlement.
- ❖ The ICC shall, in case of settlement, record and forward the same to the Executive Committee.
- ❖ The Executive Committee shall implement such recommendation and send a report of such recommendation

within 15 (fifteen) days to the ICC.

- ❖ Copies of such settlement shall be provided to the complainant and the respondent.
- ❖ On conciliatory settlement being attained, no further inquiry shall be conducted by the ICC.

For male members:

- ❖ The CC shall meet within 2 (two) days of filing of the complaint to examine the complaint made by the male member.
- ❖ At the start of initiating the inquiry, and at the request of the complainant, CC shall settle the matter between the complainant and the respondent/accused through conciliation.
- ❖ Such conciliation should in no case include any monetary settlement.
- ❖ The CC shall, in case of settlement, record and forward the same to the Executive Committee to take action as specified in there commendation.
- ❖ A copy of the settlement shall also be provided to the complainant and the respondent.

Relief to complainant during pendency of inquiry:

During the pendency of inquiry of the female complainant, and upon request being made by the complainant, the ICC to proceed with any of the following:

- ❖ Transfer complainant to any other STELMEC location;
- ❖ Grant leave to the complainant for a period of 3 (three) months, which shall be over and above the official leave.
- ❖ Restraining respondent/accused from reporting on the work performance of the aggrieved woman/complainant or writing her confidential report, and assigning the same to another officer.
- ❖ Restrain respondent/accused from supervising any academic activity of the complainant (in case of any educational training)

The Executive Committee shall decide upon the same within 7 (seven) days of recommendation being received from the ICC. During the pendency of inquiry of the male complainant:

- ❖ The CC may make its recommendations regarding interim reliefs to the Executive Committee.
- ❖ The Executive Committee shall make final decision on these recommendations and convey the same to CC, complainant and the respondent.

Formal complaint redressal procedure and manner of inquiry:

For female employees:

- ❖ Where a complaint is received by the ICC and the aggrieved woman/complainant opts for a formal recourse, the ICC members shall within 2 (two) working days of receiving the complaint, interview both the parties and record findings of the incident (in case no settlement has been reached between the complainant and the respondent).
- ❖ While conducting the inquiry, a minimum of 3 (three) members of the ICC including the Chairperson and External member shall be present.
- ❖ ICC members shall discuss the complaint and the report shall be submitted to the Chairperson for her to scrutinize the

findings in support of complainant's contentions.

- ❖ The ICC shall give an opportunity of being heard and of making representations before the ICC to the respondent.
- ❖ Copy of findings shall be made available to both the employees (complainant and respondent), enabling them to make representations against the findings to the Executive Committee.
- ❖ The ICC shall make inquiry into the complaint in accordance with principles of natural justice. □ Committee to document all investigations and findings in writing.
- ❖ The ICC shall have the same powers as that of a Civil Court as per the provisions of the Civil Procedure Code, 1908, including the following:
 - Summon and enforce the attendance of any person and examining him / her on oath
 - Require discovery and production of documents ;and
 - Any other matter which may be prescribed
- ❖ At the time of filing the complaint, the complainant shall submit 6 (six) copies of complaints along with supporting documents and addresses of witnesses.
- ❖ ICC shall send copy of the complaint received from aggrieved woman to the respondent within 7 (seven) days of receiving such complaint
- ❖ The respondent shall file a reply to the complaint and supporting documents within 10 (ten) days of receiving the documents.
- ❖ The ICC may terminate the inquiry proceedings, if the complainant or the respondent fails to present herself/himself before the chairperson of the ICC for 3 (three) consecutive hearings.

Provided, a 15 (fifteen) days' notice shall be given for such termination/cancellation.

For sexual harassment complaints by male members:

- ❖ In case no settlement is arrived at, the CC may summon and enforce the attendance of any person and examining him / her and require discovery and production of documents.
- ❖ The CC shall give an opportunity to complainant and respondent of being heard and make representations before the CC.
- ❖ The CC shall prepare its report and submit it to the Executive Committee within 90 (ninety) days.

Inquiry Report:

- ❖ The ICC shall provide a report of its findings to the Executive Committee within 10 (ten) days from date of completion of the inquiry.
- ❖ Where the ICC finds that no action is required to be taken, then it shall communicate the same to the Executive Committee.
- ❖ Where the ICC concludes that the allegation made by the complainant is true, it shall recommend to the Executive Committee:
 - To take action for sexual harassment as per the service rules or

- To deduct from the salary of the employee as it may consider appropriate to be paid to the aggrieved woman.
- Executive Committee shall act within 60 (sixty) days of receipt of recommendation from the ICC.

DISCIPLINARY ACTIONS AND COMPENSATION:

For sexual harassment complaints made by a female member:

Where the ICC arrives at a conclusion that the allegations against the respondent have not been proved it shall recommend to the Executive Committee that no action is required to be taken against the respondent.

The nature and severity of the action against the accused will be in direct proportion to the seriousness of the offence. The ICC, in case if it finds the allegations against the respondent to be true, shall recommend to the Executive Committee to take actions against the respondent for the misconduct as it deems fit.

To deduct from the salary / wages of the respondent such compensation as determined by it to be paid to the female member / complainant or her legal heir or direct the respondent to pay the amount.

The compensation shall be determined by the ICC keeping in mind the following:

- Mental trauma, pain, suffering and emotional distress caused to the female member
- Loss to career opportunity due to the incident of sexual harassment
- Medical expenses incurred by the female member for physical or psychiatric treatment
- Income and financial status of the respondent
- Feasibility of such payment in lump sum or installments

Such disciplinary action shall include, but not be limited to the following:

- A letter of warning that will be placed in the personal file
 - Written apology, warning, reprimand, withholding of promotion, withholding of pay rise or increments, undergoing counseling session, carrying out community services
 - Immediate transfer/suspension with or without pay D
 - Dismissal/termination from the services of STELMEC (wherein the respondent shall not be paid any compensation for the notice period) or
 - Any other action that the Executive Committee may deem fit
- ❖ The Executive Committee shall act upon the recommendations made by the ICC within 60 (sixty) days of receipt.
 - ❖ In case the Executive Committee respondent's salary / wages due to his being absent from duty or cessation of employment it may direct the respondent to pay such compensation to the female member
 - ❖ In case the respondent fails to make the payment Committee then the ICC may forward the order for recovery of sum as an arrear of land revenue to the concerned district officer.
 - ❖ For complaints, which the ICC considers to fall outside its jurisdiction, for e.g. offences of a criminal nature, the applicable laws of India shall apply.

For sexual harassment complaints made by a male member:

- ❖ Where the CC arrives at a conclusion that the allegations against the respondent have not been proved it shall recommend to the Executive required to be taken against the respondent.
- ❖ In case the CC comes to a finding that the allegation was false or malicious or the complainant has produced forged documents as evidence it shall conduct an inquiry against the complainant action to be taken against the complainant /witness.
- ❖ The Executive Committee shall take a final decision on the recommendation made by the CC and shall implement it within 15 (fifteen) working days.
- ❖ In case the CC comes to a finding that the allegation against the respondent has been proved, it shall send its recommendation to the Executive Committee.
- ❖ Appropriate action against the Respondent for such misconduct would include reprimand, written respondent will not be entitled to any compensation for the notice period.
- ❖ The Executive Committee shall take a final decision on the recommendation and implement it within 30 (thirty) days of receipt of the recommendation from CC.

MANNER OF TAKING ACTION AGAINST THECOMPLAINANT:

- ❖ If the ICC or CC (as the case may be) believes that the complainant has knowingly made a false/malicious complaint, then it may recommend to the Executive Committee to take action against the complainant.

APPEAL:

- ❖ Any female person aggrieved by the decision of the ICC and implementation by the Executive Committee may prefer an appeal before the appellate authority as notified under Clause 2(a) of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).
- ❖ Decision of the CC and the Executive Committee shall be final and binding for the male member and shall not be appealable.

CONFIDENTIALITY:

- ❖ Individuals involved in the complaints process/system should refrain from divulging the details of complaint/any information gathered by them in the course of the inquiry and the identities of the persons involved in the case should not be disclosed. Any breach of confidentiality will be taken seriously and the implications of which shall be disciplinary actions as per the rules of the STELMEC.
- ❖ Involved parties breaching the confidentiality provisions shall, in addition to the above be liable to penalty. STELMEC shall recover a sum of INR 5,000 (Indian Rupees Five thousand) as penalty from such person.

TRAINING ANDWORKSHOPS:

Members of the ICC and CC shall compulsorily undergo the training program formulated against sexual harassment at workplace.

The training program and workshops conducted shall include, but not be limited to the following layout:

- Understanding the paradigms of the Act and scope of definition of sexual harassment
- Gender sensitization
- Examples and case studies
- .Procedural intricacies
- Orientation programs and seminars

- Capacity building and skills building
- vii. Declare names and contact details of all members of ICC
- Complaint mechanism i
- ICC/CC

Manner to organize workshops:

- ❖ Formulate and widely disseminate an internal policy;
- ❖ Carry out orientation programs
- ❖ Carry out employees awareness programs
- ❖ Conduct capacity building;
- ❖ Declare names and details of members of the ICC;
- ❖ Use modules developed by the State Governments to conduct workshops

DUTIES OF THE EMPLOYER:

- ❖ To provide safe working environment to the all persons at the workplace;
- ❖ Display at any place in the workplace, penal consequences of sexual harassment;
- ❖ Organise workshops and training programs at regular levels
- ❖ Provide necessary facilities to ICC and CC for dealing with complaints and conducting inquiries
- ❖ Assist in securing attendance of respondents and witnesses before the ICC or CC
- ❖ Provide assistance to a woman if she chooses to file a complaint under the Indian Penal Code or any other applicable law
- ❖ Monitor timely submission of reports by the ICC;

And any other assistance required by the ICC, CC or LCC for conducting inquiries into complaints made against sexual harassment.

PREPARATION OF REPORT:

The ICC shall prepare an annual report and submit the same to the district officer (a summary of which shall be submitted to the State Government) which should inculcate the following details:

- i. Number of cases of sexual harassment received in a year;
- ii. Number of complaints disposed off in a year;
- iii. Number of cases pending for more than 90 (ninety) days;
- iv. Number of workshops of awareness programs carried out against sexual harassment and
- v. Nature of action being taken by the Executive Committee or the employer.