



JAI VAKEEL FOUNDATION POLICY ON PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

1. BACKGROUND:

Jai Vakeel Foundation (JVF) is committed to create a healthy working environment for women to enable women to work without fear of prejudice, gender bias and sexual harassment (as defined below). Sexual harassment at the workplace (as defined below) is a grave offence and is unacceptable and will not be tolerated under any circumstances. Everyone has a responsibility to maintain an environment free from harassment of whatsoever nature.

This policy i.e. Policy on Prevention of Sexual Harassment of Women at Jai Vakeel Foundation ("**Policy**") has been framed in consonance with the recently laid down statute, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("the **Act**") and The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 ("the **Rules**") laid down thereunder.

This policy is applicable to all students, employees and third party as defined in this policy. This policy applies to all complaints of discrimination or sexual harassment against women, made by a student, or an employee of the Institute, or a third party; with accusations against a student, or an employee, or a third party.

2. DEFINITION:

- a. **Sexual Harassment** at the workplace is defined as "unwelcome" sexually determined behavior (whether directly or by implication). This includes:

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

- i. Physical contact and advances;
- ii. Demand or request for sexual favours;
- iii. Sexually colored remarks or remarks of a sexual nature about a person's clothing or body;
- iv. Showing pornography, making or posting sexual pranks, sexual teasing, sexual jokes, sexually demeaning or offensive pictures, cartoons or other materials through email, SMS, MMS etc.;
- v. Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person's wishes;
- vi. Giving gifts or leaving objects that are sexually suggestive;



- vii. Eve teasing, innuendos and taunts, physical confinement against one's will or any such act likely to intrude upon one's privacy;
- viii. Persistent watching, following, contacting of a person; and
- ix. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

The following circumstances if it occurs or is present in relation to any sexually determined act or behavior 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 or not 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.

- b. **A Student** is any person who is enrolled for any course/programme at the Institute (fulltime/part-time/short term/long term/Volunteering).
- c. **An Employee** is any person employed by JVF, in the positions of management, the accounts staff, technical staff, doctors, administration staff, service staff, social workers, therapists, teachers, volunteers (with specific role) and interns including those appointed in temporary, part-time, honorary, visiting, ad-hoc, or casual capacity.
- d. **A Third party** includes volunteers, students of other schools, visitors, donors, vendors, drivers of contract bus staff, parents, others that visits the Jai Vakeel Foundation premises at any point of time.
- e. **Workplace:** In addition to the place of work (Jai Vakeel Foundation), 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 JVF, including transportation provided for undertaking such a journey.
- f. **Aggrieved Woman/Complainant in relation to a work place** is any woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent and includes employees contractual, temporary, visitors.
- g. **Respondent** means the person against whom the allegation of sexual harassment has been made by the aggrieved woman.
- h. **Employer:** A person responsible for management, supervision and control of the workplace.



3. ROLES & 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:

- a. Refusing to participate in any activity which constitutes harassment
- b. Supporting the person to reject unwelcome behavior
- c. Acting as a witness and supporting 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.

Responsibilities of Department Heads: All Department Heads at JVF must ensure that nobody is subject to harassment and there is equal and fair 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.

Responsibilities of Employer: The employer shall:

- a. provide a safe working environment at the workplace
- b. display the penal consequences of sexual harassment and the order constituting the Internal Committee, at conspicuous places
- c. Organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the internal Committee.
- d. Provide necessary facilities to the internal Committee for dealing with the complaint and conducting an enquiry.
- e. Assist in securing the attendance of respondent and witnesses before the Internal Committee
- f. Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code
- g. Cause to initiate action, under the Indian Penal Code, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.
- h. Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct
- i. Monitor the timely submission of reports by the Internal Committee

4. REDRESSAL MECHANISM – FORMAL INTERVENTION:

In compliance with the Act, if the complainant's complaint warrants formal intervention, the complainant needs to lodge a written complaint, which shall be followed by a formal redress 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.



5. INTERNAL COMPLAINTS COMMITTEE (ICC):

An Internal Complaints Committee (“**Internal Committee**”) shall be appointed by the Foundation to deal with all the cases of alleged sexual harassment and shall comprise of the following:

(a) **Presiding Officer:**

At any point of time, the Presiding Officer should fulfill the following criteria:

- o Should be an Employee;
- o Should be a senior level woman committed to prevent sexual harassment;
- o In the event a senior level woman from the Foundation is not available, then the Presiding officer should be appointed from an affiliate organization of the Foundation.
- o At least one-half of the total members so nominated shall be women.
- o The members of the Internal Committee shall not hold office for a period exceeding three years from the date of their nomination.
- o A minimum of three members of the Internal Committee including the presiding officer are to be present for conducting the inquiry.
- o The Internal Committee will make an annual report and will submit the same to management of the Foundation, and the District Officer as required by law. The report is required to include the number of cases filed, if any, and their disposal under the Act in the annual report of JVF or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

The **Committee** is responsible for:

- o Receiving complaints of sexual harassment at the workplace
- o Initiating and conducting inquiry as per the established procedure
- o Submitting findings and recommendations of inquiries



- o Coordinating with the employer in implementing appropriate action
- o Maintaining strict confidentiality throughout the process as per established guidelines
- o Submitting annual reports in the prescribed format

Current nominated members of the Committees are given in **Annexure A**.

(b) Additional Members (Non mandatory):

At least two members should be employees of the Foundation who are committed to the cause of women, or who have legal knowledge or experience in social work.

(c) Third Party Members (Non mandatory):

One member should be from a non-governmental organization or associations committed to the cause of women or a person familiar with the issue of sexual harassment.

6. LODGING A COMPLAINT

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. The complainant can file a complaint through SHe-Box as well.

The complaint must be lodged within **3 months** from the date of incident/ last incident. The Internal 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.

If 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.

If the aggrieved woman is unable to lodge the complaint on account of her physical or mental incapacity or death or otherwise, the following may do so on her behalf, **with her written consent**.

- o Legal heir, relative or friend
- o Co-worker
- o Any person having the knowledge of the incident

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.

Wherever possible JVF ensures that all the complaints are dealt with speedily, discretely and as close as possible to the point of origin.

7. GUIDELINES FOR ACTION ON RECEIVING A COMPLAINT

Dealing with incidents of harassment is unlike that for any other kind of dispute. Complainants may be embarrassed and distressed and tact and discretion are necessary while receiving the complaint.

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

- o Complaints are listened to and the complainant informed that JVF takes the concerns seriously. Complainant is informed that these concerns will be reported to the appropriate Committee and follow up will be done speedily.
- o Situations are not to be 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, complainants own words, where possible, are used. Clear description of the



incident in simple and direct terms is prepared and details are confirmed with the complainant.

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



- o 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.

8. 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 and reports the same to the employer for taking appropriate action. Resolution through conciliation happens within **2 weeks** of receipt of complaint.

The Internal Committee provides copies of the settlement to complainant and respondent.

Once the action is implemented, no further inquiry is conducted.

9. RESOLUTION PROCEDURE THROUGH FORMAL INQUIRY

Conducting Inquiry

The Committee initiates inquiry in the following cases:

- o No conciliation is requested by aggrieved woman
- o Conciliation has not resulted in any settlement
- o 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:

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



Interim relief

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

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

Termination of Inquiry

Internal Committee at JVF 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

Inquiry procedure

All proceedings of the inquiry is documented. The Internal Committee interviews the respondent separately and impartially. The Internal 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 Internal 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.

TIMELINE FOR COMPLAINT AND ACTION:

Submission of Complaint	Within 3 months of the incident/ last incident
Completion of inquiry	Within 90 days from the date on which inquiry commenced
Submission of report by ICC to Board of Management/District Social Welfare Officer	Within 10 days of completion of the inquiry
Implementation of Recommendations	Within 60 days of date of judgment
Appeal	Within 90 days of the recommendations

Considerations while preparing inquiry report

While preparing the findings/recommendations, following are considered:

- o Whether the language used (written or spoken), visual material or physical behavior was of



sexual or derogatory nature

- o Whether the allegations or events follow logically and reasonably from the evidence
- o Credibility of complainant, respondent, witnesses and evidence
- o Other similar facts, evidence, for e.g. if there have been any previous accounts of harassment pertaining to the respondent
- o Both parties have been given an opportunity of being heard

A copy of the proceedings were 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 Internal Committee

Action to be taken after inquiry

Post the inquiry, the Committee submits its report containing the findings and recommendations to the Board of Management, 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, the management at JVF may decide to take interim measures such as transfer, changing of shift, grant of leave etc. to protect against victimization or distress during or subsequent to the course of inquiry, pending the final outcome.

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 JVF.

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. Counselling
- 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 Board of Management of JVF may deem fit. The Board of Management of JVF acts upon the recommendations within 60 days and confirms to the Committee

Post implementation of the actions, follow up with the complainant occurs to ascertain whether the behavior has in fact stopped, the solution is working satisfactorily and if no victimization of either party is occurring. This follow up is undertaken by the complainant's Section head supported by the human resource department of JVF

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.

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. Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the Act.

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.

In compliance with Section 21 of the Act and Rule 14 of the Rules, the Committee shall prepare an annual report which shall have the following details and submit it to JVF and the concerned authority under the Ministry of Electronics and Information Technology for onward submission to the Department of Personnel & Training:

- Number of complaints of sexual harassment received in the year
- Number of complaints disposed of during the year
- Number of cases pending for more than ninety days
- Number of workshops or awareness programme against sexual harassment carried out
- Nature of action taken by JVF or District Officer.



PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE | POSH COMMITTEE

Annexure A

Members of the Internal Complaint Committee of Jai Vakeel Foundation

Sr No	Name	Designation	Contact No	Email ID
Mumbai – Internal Committee				
1	Namita Jain	Presiding Officer	9323672097	namita.jain@jaivakeel.org
2	Chetna Bhatt	Member	9619370007	chetna.bhatt@jaivakeel.org
3	Manasi Mulam	Member	9004334268	manasi.mulam@jaivakeel.org
4	Sandip Shelar	External Member	9619166285	sandip.shelar@jaivakeel.org
5	Shirin Balsara	Member Legal (External)	9867640913	shirinb9@gmail.com
6	Kishor Salvi	Human Resources Member	9920752113	kishor.salvi@jaivakeel.org
Talegaon – Local Internal Complaint Committee				
1	Jayshree Adane	Presiding Officer	9156322901	jayshree.adane@jaivakeel.org
2	Amar Solanki	Member	7977624040	amar.solanki@jaivakeel.org
3	Shirin Balsara	Member Legal (External)	9867640913	shirinb9@gmail.com
Deolali – Local Internal Complaint Committee				
1	Seema Ghughe Wagh	Presiding Officer	9096626369	seema.wagh@jaivakeel.org
2	Sachin Badhan	Member	9833321197	sachin.badhan@jaivakeel.org
3	Shirin Balsara	Member Legal (External)	9867640913	shirinb9@gmail.com

Please feel free to reach out to any of the POSH Committee members for any related issues, concerns & feedbacks