



VINJEY Software Systems Pvt Ltd

PREVENTION OF SEXUAL HARASSMENT POLICY (POSH) AT WORKPLACE

- * ZERO TOLERANCE
- * REPORTING PROCEDURES
- * CONFIDENTIALITY
- * SUPPORT & RESOURCES



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1.2 Anti Sexual Harassment Policy

Annexure-A VINJEY Anti Sexual Harassment Policy

Policy Statement¹

VINJEY Software Systems Private Limited (hereinafter referred to as "VINJEY") is committed to providing a safe environment for all its employees free from discrimination on any ground and from harassment at work including sexual harassment. VINJEY will operate a zero tolerance policy for any form of sexual harassment in the workplace, treat all incidents seriously and promptly investigate all allegations of sexual harassment. Any person found to have sexually harassed another will face disciplinary action, up to and including dismissal from employment.

All complaints of sexual harassment will be taken seriously and treated with respect and in confidence. No one will be victimised for making such a complaint.

1. Title and Commencement

- (1) This policy may be called "VINJEY Anti Sexual Harassment Policy"
- (2) This shall come into effect on the date of it is updated to the Employee Handbook.

2. Definitions

In this policy, unless the context otherwise requires,-

- (a) "VINJEY" means "VINJEY Software Systems Private Limited"
- (b) "Act" means "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" (14 of 2013);
- (c) "Rules" means "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013"
- (d) "Handbook" means "Handbook on Sexual Harassment of Women at Workplace for Employers/ Internal Committee" issued by Ministry of Women and Child Development, Government of India (Nov-2015) Edition.
- (e) "Guidebook" means "Preventing and Responding to Sexual Harassment at Work: Guide to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, India" issued by International Labour Organization Decent Work Team for South Asia and Country Office for India.
- (f) "Sample Policy" means "Sample Sexual Harassment Policy" provided by International Labour Organization for the purpose of adaptation.
- (g) words and expressions used herein and not defined but defined in the Act (Or) Rules shall have the meanings respectively assigned to them in the Act (Or) Rules.

3. Definition of Sexual Harassment

- (1) As noted in Section 2(n) of the Act, Sexual Harassment includes following behaviour
 - (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or

¹Created based on Sample Policy([1])

- (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- (2) As noted in Section 3 of the Act, following circumstances may amount to sexual harassment
- (i) implied or explicit promise of preferential treatment in her employment; or
 - (ii) implied or explicit threat of detrimental treatment in her employment ; or
 - (iii) implied or explicit threat about her present or future employment status; or
 - (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - (v) humiliating treatment likely to affect her health or safety.
- (3) As noted in Sample Policy, following are examples of conduct/behaviour which constitute sexual harassment
- A. Physical conduct
- (i) Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
 - (ii) Physical violence, including sexual assault
 - (iii) Physical contact, e.g. touching, pinching
 - (iv) The use of job-related threats or rewards to solicit sexual favours
- B. Verbal conduct
- (i) Comments on a worker's appearance, age, private life, etc.
 - (ii) Sexual comments, stories and jokes
 - (iii) Sexual advances
 - (iv) Repeated and unwanted social invitations for dates or physical intimacy
 - (v) Insults based on the sex of the worker
 - (vi) Condescending or paternalistic remarks
 - (vii) Sending sexually explicit messages (by phone or by email)
- C. Non-verbal conduct
- (i) Display of sexually explicit or suggestive material
 - (ii) Sexually-suggestive gestures
 - (iii) Whistling
 - (iv) Leering
- (4) As noted in Handbook, below are the examples of behaviour of various kind with regard to the sexual harassment.
- A. Behaviour that constitute sexual harassment
- (i) Making sexually suggestive remarks or innuendos.

- (ii) Serious or repeated offensive remarks, such as teasing related to a person's body or appearance.
- (iii) Offensive comments or jokes.
- (iv) Inappropriate questions, suggestions or remarks about a person's sex life.
- (v) Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
- (vi) Intimidation, threats, blackmail around sexual favours.
- (vi) Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
- (vii) Unwelcome social invitations, with sexual overtones commonly understood as flirting.
- (viii) Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.
- (ix) Physical contact such as touching or pinching.
- (x) Caressing, kissing or fondling someone against her will (could be considered assault).
- (xi) Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
- (xii) Persistently asking someone out, despite being turned down.
- (xiii) Stalking an individual.
- (xiv) Abuse of authority or power to threaten a person's job or undermine her performance against sexual favours.
- (xv) Falsely accusing and undermining a person behind closed doors for sexual favours.
- (xvi) Controlling a person's reputation by rumour-mongering about her private life.

B. Below are examples that may indicate sexual harassment, which merits inquiry

- (i) Criticizing, insulting, blaming, reprimanding or condemning an employee in public.
- (ii) Exclusion from group activities or assignments without a valid reason.
- (iii) Statements damaging a person's reputation or career.
- (iv) Removing areas of responsibility, unjustifiably.
- (v) Inappropriately giving too little or too much work.
- (vi) Constantly overruling authority without just cause.
- (vii) Unjustifiably monitoring everything that is done.
- (viii) Blaming an individual constantly for errors without just cause.
- (ix) Repeatedly singling out an employee by assigning her with demeaning and belittling jobs that are not part of her regular duties.
- (x) Insults or humiliations, repeated attempts to exclude or isolate a person.
- (xi) Systematically interfering with normal work conditions, sabotaging places or instruments of work.

- (xii) Humiliating a person in front of colleagues, engaging in smear campaigns.
- (xiii) Arbitrarily taking disciplinary action against an employee.
- (xiv) Controlling the person by withholding resources (time, budget, autonomy, and training) necessary to succeed.

C. Below are examples that may not indicate sexual harassment

- (i) Following-up on work absences.
- (ii) Requiring performance to job standards.
- (iii) The normal exercise of management rights.
- (iv) Work-related stress e.g. meeting deadlines or quality standards.
- (v) Conditions of works.
- (vi) Constructive feedback about the work mistake and not the person.

[(5) Anyone can be a victim of sexual harassment, regardless of the sex of the harasser. VINJEY recognises that sexual harassment may also occur between people of the same sex. What matters is that the sexual conduct is unwanted and unwelcome by the person against whom the conduct is directed. At this time, policy covers only sexual harassment of women only.

(6) VINJEY recognises that sexual harassment is typically a manifestation of power relationships and often occurs within unequal relationships in the workplace, for example between manager or supervisor and employee.

(7) Anyone, including employees of VINJEY, clients, customers, casual workers, contractors or visitors who sexually harasses another will be reprimanded in accordance with this internal policy.

(8) All sexual harassment is prohibited whether it takes place within VINJEY premises or outside, including at social events, business trips, training sessions or conferences sponsored by VINJEY.]²

4. Definition of workplace

5. Definition of employee

6. Constitution of Internal Committee

(1) Whenever VINJEY have 10 or more employees, it would constitute an Internal Committee as noted in Section 4 of the Act.

(2) Presiding officer of the Internal committee shall be a woman employed at senior level in VINJEY. If such a person is not available, such a person can be chosen from other organisation. (Section 4(2)(a))

(3) As noted in Section 4(2)(b) of the Act, not less than two members should be from the employees of the Company, preferably

- Committed to the cause of women or
- Have experience in social work or
- Have legal knowledge

(4) One member from an NGO (or) associations committed to the cause of women committed to the cause of woman (or) person familiar with issues relating to sexual harassment. (Section 4(2)(c))

²Adopted from Sample Policy

- (5) At least 50% of the members shall be women. (Proviso to Section 4(2))
- (6) Term of member/presiding officer is 3 years and not subject to renewal (Section 4(3))
- (7) As noted in Section 4(5), Presiding Officer (Or) Member of internal committee shall be removed on following grounds
- (i) Discloses confidential information in relation to complaint in contravention of Section 16 of the Act.
 - (ii) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (iii) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - (iv) has so abused his position as to render his continuance in office prejudicial to the public interest,
- (8) Details of Internal Committee members shall be added to the employee handbook and be part of notices (Section 19(b))
- (9) A Quorum of three members is required to be present for the proceedings. The quorum must include Presiding Officer and at least one another who is female. (Rule 7(7))
- (10) Aggrieved woman, respondent (Or) witness shall not be member of the Internal Committee (Rule 7(4))
- (11) Members of the Committee shall be appointed by the Board of Directors. Board of Directors has the powers to reconstitute the Committee as may be stipulated by the Act.

7. Local Committee

- (1) When the number of employees is less than 10, complaints, if any shall be addressed to the Local Committee formed by the District Officer under Section 6 of the Act (Section 7(1))
- (2) When the complaint is against employer, it shall be addressed to the Local Committee (Section 7(1))

8. Complaint

- (1) Aggrieved woman has to file a written complaint to the Internal/Local Committee within 3 months of the incident (Or) within 3 months of the last incident in case of series of incidents. It also can be upto six months for the reasons recorded in writing and the committee is satisfied with the reasons provided. (Section 9(1))

- (2) Complaints has to be sent to Internal Committee, except for following scenarios

- IC is not formed in the Company on account of employee head count being less than 10.
- Complaint is made against the employer

as noted in Section 6(1).

- (3) IC/LC Member has to provide assistance in drafting of the complaint in case aggrieved woman has difficulty in providing the complaint in writing (Proviso to Section 9(1))

- (4) If complaint cannot be made by aggrieved woman on account of physical incapacity, same can be made by her relative or friend or co-worker or officer of National/State Commission for Women or any person with the knowledge of the incident. Written consent from the aggrieved woman is required in this case (Rule 6(i)).

- (5) If complaint cannot be made by aggrieved woman on account of mental incapacity, same can be

made by relative or friend or special educator or psychiatrist or psychologist or guardian/authority who is providing treatment/care or any person with knowledge of incident jointly with any of other persons mentioned above (Rule 6(ii)).

(6) If complaint cannot be made by aggrieved woman on account of death, same can be filed by any person with knowledge of incident with written approval from legal heir (Rule 6(iv)).

(7) For complaint cannot be made for reasons not mentioned in sub-paragraphs (4), (5) and (6), complaint can be made by any person with the knowledge of the incident along with written approval of aggrieved woman (Rule 6(iii))

(8) As note in the Handbook, Complaint should have following contents along with description of incident(s)

- Behaviour of respondent directed towards the complainant that may be classified as Sexual harassment.
- Nature of harm experienced by the complainant due the said behaviour.
- Location of occurrence of behaviour (It should be workplace as defined under the Act)
- Date(s), Timing(s) and working relationship between the complainant and the respondent.

Once the complaint is verified for above criteria and found to be order, IC will provide an acknowledgement of the same to complainant, which shall be done within 2 days of receipt of complaint.

In the event of discrepancies, feedback in writing shall be provided to the complainant with regard to the discrepancies identified in the complaint.

9. Conciliation³

(1) At the request of aggrieved woman, IC can initiate the conciliation process.

(2) IC shall review the nature of complaint and in complaints that it feels are serious in nature, it shall advise aggrieved woman for inquiry process.

(3) Under no circumstances IC shall not recommend that aggrieved woman resolve the matter directly with the respondent.

(4) No monetary settlement can be made through conciliation approach.

(5) If settlement is arrived, IC shall share the settlement agreement with the employer. Employer shall then take action as noted in the settlement agreement.

(6) A copy of the settlement agreement shall be provided to the aggrieved woman and the respondent.

(7) Time limit for completion of conciliation process is 2 weeks from the date of complaint.

(8) If the the aggrieved woman notifies IC that any provisions noted in the settlement agreement is not complied with, inquiry proceedings would be initiated.

10. Method of Inquiry

(1) Six copies of the complaint along with the supporting documents, names and addresses of the witnesses has to be collected from the aggrieved woman (Rule 7(1)).

(2) One copy the complaint received from the aggrieved woman shall be shared with the respondent within seven working days (Rule 7(2)).

(3) Time limit to be provided to the respondent to file their response shall be 10 working days (Rule 7(3)).

³Drafted based on [SOP Note 10](#). Everything except time limit is based on Act or Handbook

- (4) Complainant and respondent are not allowed to have representation through a legal practitioner (Rule 7(5)).
- (5) Persons involved in the case (Complainant, Respondant, Witnesses of Complainant or Respondant) cannot be part of the inquiry team (Rule 7(4)).
- (6) Copy of the finding should be provided to both parties to enable them to create representation against those findings (Rule 7(4)).
- (7) When complainant or respondent doesn't appear for three consecutive hearings, then IC have the right to pass termination (Or) exparte order. Such an order shall not be passed before providing 15 days of notice in writing (Rule 7(5)).
- (8) Time limit to complete the inquiry proceedings is 90 days (Section 11(4)).
- (9) IC has powers of civil court in terms of summoning and enforcing attendance of any person, requiring discovery and production of documents (Section 11(3)).
- (10) Within 10 days of completion of the inquiry, committee has to submit its report to the Company, Aggrieved Woman and the Respondant.

11. Relief to complainant during inquiry proceedings

- (1) On written request from aggrieved woman to IC, IC may recommend following to the employer in writing one or more from the following list
 - (a) Transfer of aggrieved woman or the respondent to another workplace
 - (b) Grant leave to aggrieved woman for a period of upto 3 months
 - (c) Restrain respondent from writing work performance report or her confidential report
 - (d) Change the reporting structure such that respondent and the aggrieved woman don't work on same project, that would require them to collaborate.
- (2) On receipt of such recommendation from the IC, employer is bound to implement the recommendation and provide an implementation report containing details of implementation to IC.
- (3) Leave granted, if any, would be considered as fully paid leave.

12. Inquiry Report and Actions for Sexual Harassment

- (1) IC shall submit its inquiry report within 10 days of completion of its inquiry. Copy of such inquiry report shall be provided to the complainant and the respondent (Section 13(1)).
- (2) The standard of proof to be used by IC is "preponderance of probability" as noted in the Handbook. In particular, it doesn't need to prove that allegation is true "beyond reasonable doubt".
- (3) In the allegation noted in complaint is not proven, IC shall recommend to the employer that no action shall be initiated against the respondent. (Section 13(2)).
- (4) If the allegation noted in the complaint is proven, IC shall recommend to the employer, one or combination of actions mentioned below (Section 13(3)(i) and Rule 9)
 - (a) Written apology
 - (b) Warning
 - (c) Reprimand and Censure
 - (d) Withholding of promotion

- (e) Withholding of pay rise
- (f) Termination of respondent from services
- (g) Undergoing a counselling session
- (h) Carrying out a community service

(5) When allegation noted in the complaint is proven, in addition to the punishment noted in sub-para (4), amount of financial compensation to be provided by the respondent to the aggrieved woman or legal heir has to be provided. While determining such compensation, following factors has to be considered by IC (Section 13(3)(ii) and 15)

- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman
- (b) the loss in the career opportunity due to the incident of sexual harassment
- (c) medical expenses incurred by the victim for physical or psychiatric treatment
- (d) the income and financial status of the respondent
- (e) feasibility of such payment in lump sum or in instalments

(6) IC's order should have information on the method of recovery of compensation, which can be lumpsum payment (Or) recovery from the salary payable.

(7) Employer has to give effect to the order within 60 days of receipt of order (Section 13(4)).

(8) When company is not able to effect the recovery of compensation, copy of IC order shall be forwarded to the District Officer, who shall make recovery as if it arrears in land revenue (Section 13(3)(ii)).

13. Punishment for Malicious/false complaint by the complainant

(1) If at the enquiry, IC comes to the conclusion that

- (a) Allegation by the complainant against the respondent is malicious
- (b) Complainant has made the complaint knowing it to be false
- (c) Complainant has submitted a forged (Or) misleading document

IC can recommend to the employer punishment to be given to the complainant (Or) aggrieved woman, as applicable (Section 14).

(2) As noted in Rule 10, punishment in this case is one of the following (Or) a combination of following

- (a) Written apology
- (b) Warning
- (c) Reprimand and Censure
- (d) Withholding of promotion
- (e) Withholding of pay rise
- (f) Termination of respondent from services
- (g) Undergoing a counselling session
- (h) Carrying out a community service

14. Punishment for false evidence or production of forged/misleading document by the

witness

(1) If at the enquiry, IC comes to the conclusion that

- (a) Witness has provided false evidence
- (b) Witness has provided forged or misleading document

IC can recommend to the employer punishment to be given to the witness (Section 14).

(2) As noted in Rule 10, punishment in this case is one of the following (Or) a combination of following

- (a) Written apology
- (b) Warning
- (c) Reprimand and Censure
- (d) Withholding of promotion
- (e) Withholding of pay rise
- (f) Termination of respondent from services
- (g) Undergoing a counselling session
- (h) Carrying out a community service

15. Confidentiality in inquiry proceedings and report

(1) Following information have to be kept confidential (Section 16)

- (a) Identity and address of the aggrieved woman, respondent and witnesses
- (b) Any information with regard to conciliation or inquiry proceedings
- (c) Recommendation of IC/LC
- (d) Action taken by the employer with regard to the order provided by IC/LC.

(2) Breach of confidentiality by an IC member will lead to them being removed from the committee (Section 4(5)(a)).

(3) Breach of confidentiality by an employee of the company will result in a fine of Rs. 50000 (Or) gross monthly salary for two months, whichever is higher.

(4) Confidentiality guidelines provided by Bombay High Court in the case of P Vs A and Others (Suit No. 142 of 2021) shall be followed for the conciliation/inquiry proceedings and the action taken by the employer.

16. Appeal

(1) As noted in Section 18, if any person is aggrieved by the recommendations made by the IC/LC (Or) non implementation of the recommendations by the employer (Or) any other person on account of

- (a) Allegations against the respondent is not proven, so no action is recommended to be taken against the respondent (Section 13(2)).
- (b) Action has been recommended against the respondent (Section 13(2)(i) and 13(2)(ii)).
- (c) Action has been recommended against the aggrieved woman or complainant for
 - (i) filing false or malicious complaint (Or)

- (ii) Submission of forged or misleading document
- (d) Action has been recommended against the witness on account of
 - (i) providing false evidence (Or)
 - (ii) Submission of forged or misleading document
- (e) Breach of confidentiality during the proceedings or implementation of recommendations by anyone involved (Section 17).
- (f) Non implementation of the recommendations provided by IC/LC.

appeal can be made to the appellate authority notified under clause (a) of Section 2 of the Industrial Employment (Standing Orders) Act.

(2) Any appeal made under this clause should be made within 90 days of the recommendation.

17. Complaint under BNS

For any offences noted in Chapter V of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as “BNS”), part summary of which is provided in Table-1.1, on request from aggrieved woman, employer is duty bound to

- Provide assistance to file complaint under BNS or any other law in force.
- Initiate steps to take action under BNS or any other law in force, when the incident took place in the workplace and the perpetrator is not an employee.

18. Penal Consequences for Sexual Harassment and Display of Information

(1) On request from aggrieved woman for any offences noted in BNS, action can be initiated by the employer or IC as noted in paragraph 17.

(2) On conviction of sexual harassment, IC/LC can recommend to the employer action to be taken as noted in paragraph 12.

(3) In the event of malicious/false complaint (Or) submission of forged/misleading document, IC/LC can recommend to the employer to take action against aggrieved woman or complainant as noted in paragraph 13.

(4) In the event of production of false evidence (Or) submission of forged/misleading document, IC/LC can recommend to the employer to take action against witness as noted in paragraph 14.

(5) For breach of confidentiality in the inquiry proceedings or report, employer can initiate action as noted in paragraph 15.

(6) Details of IC Members shall be provided in the following format for display (Section 19(b))

SN	Details of member of IC	Name	Official Designation	Contact detail and email address	Remarks
1	Presiding Officer (Should be a Senior level woman)				
2	Member				
3	Member				
4	External Member (External Member should be qualified to act under POSH Act, 2013)				

Section	Gender	Offence	Penalty
63 – 73	Any	Rape	See BNS
74	Any	Assault or use of criminal force to woman with intent to outrage her modesty	Imprisonment between 1 to 5 years and fine
75(1)(i), (ii), (iii)	Man	Sexual harassment (i) physical contact and advances involving unwelcome and explicit sexual overtures; or (ii) a demand or request for sexual favours; or (iii) showing pornography against the will of a woman;	Imprisonment upto 3 years (Or) fine (Or) both
75(1)(iv)	Man	Sexual harassment (iv) making sexually coloured remarks	Imprisonment upto 1 year (Or) fine (Or) both
76	Any	Disrobe	Imprisonment between 3 to 7 years and fine
77	Any	Voyeurism – watches, or captures the image of a woman engaging in a private act	First Conviction – Imprisonment between 1 to 3 years and fine Second or subsequent conviction – Imprisonment between 3 to 7 years and fine
78	Man	Stalking – physical or electronic	First Conviction – Imprisonment upto 3 years and fine Second or subsequent conviction – Imprisonment upto 5 years and fine
79	Any	Word, Gesture or Act intended to insult modesty of a woman	Imprisonment upto 3 years and fine

Table 1.1: Partial List of offences against woman against which complaint can be provided under BNS. For complete list, refer to Chapter V of BNS