

**ACTION AID ASSOCIATION POLICY ON PREVENTION, PROHIBITION AND REDRESSAL OF
SEXUAL HARASSMENT AT WORKPLACE**

sexual harassment at the workplace results in violation of the fundamental rights”

- to equality under articles 14 and 15 of the constitution of india
- to life and to live with dignity under article 21 of the constitution
- to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment.

Protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as convention on the elimination of all forms of discrimination against women, which has been ratified on 25 june 1993 by the government of india.

ACTIONAID ASSOCIATION is an equal employment opportunity organization and is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and in a harassment free workplace to all employees without regard to race, caste, religion, colour, ancestry, marital status, gender, age, nationality, ethnic origin or disability. The organization also believes that all employees of the have the right to be treated with dignity. sexual harassment at the work place or other than work place if involving an employee or employees is a grave offence and is therefore, punishable

1. BACKGROUND AND OBJECTIVE

ActionAid Association is committed to maintain and provide a safe, conducive, secure and positive work environment for all its employees and create an atmosphere where everyone can work with dignity and free from any form of sexual harassment. ActionAid Association India is committed to provide a harassment free workplace notwithstanding race, caste, religion, colour, origin, ancestry, marital status, gender, sexual orientation, age, nationality, disability or creed.

Thus in order to create such a safe and conducive work environment, this Policy on Prevention, Prohibition and Redressal of Sexual Harassment at Workplace (hereinafter “**Policy**”) has been framed, in line with the provisions of the “**Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**” of India (hereinafter referred to as the “**Act**”) and existing rules framed thereunder namely the “**Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013** (hereinafter referred to as the “**Rules**”).

The objective of this Policy is to provide protection against sexual harassment at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith. All concerned should take cognizance of the fact that ActionAid Association India strongly opposes sexual harassment, and that such behavior is prohibited by the law as set down in the Act.

At ActionAid Association, we have zero-tolerance for sexual harassment. We value each and every employee working with us and wish to protect their dignity and self-respect. In doing so, we are determined to promote a working environment in which persons of all genders complement each other as equals in an environment that encourages a harmonious work culture, performance and ensures personal dignity. We at ActionAid Association are committed towards giving every employee a just and fair hearing on issues encountered by them at the workplace with special attention to sexual harassment. ActionAid Association will take serious disciplinary action against victimization of any staff who is complaining or the alleged harasser that may result from a complaint.

2. SCOPE OF THE POLICY

The Policy with regard to Prevention, Prohibition and Redressal of Sexual Harassment covers every “employee” and project partners across ActionAid Association. ActionAid Association encourages every staff who believes they are sexually harassed to use the redressal mechanism as provided in this Policy.

The Policy is with respect to Prevention, Prohibition & Redressal of Sexual Harassment which may arise in places not limited to geographical location viz. ActionAid Association’s offices / branches but includes all such places or locations where acts are conducted in context of working relationships or whilst fulfilling professional duties or which may be visited by an

employee during the course of employment including transportation provided by ActionAid Association for undertaking such visit.

ActionAid Association's Prevention of sexual harassment includes sexual harassment by fellow staff, supervisors, managers as well as agents, contractors, customers, vendors, partners and visitors including outsourced employees. Sexual harassment is judged by the impact on the complainant and not the intent of the Respondent. Sexual harassment as addressed in this Policy need not necessarily be from a male to a female employee, it can be vice versa as well as between individuals of same gender

3. DEFINITION

- 3.1. **"Aggrieved Person"** in relation to a workplace shall mean a person, of any age whether employed or not, who alleges to have been subject to any act of sexual harassment by the Respondent.
- 3.2. **"Employee"** shall mean any person employed by ActionAid Association including associates whether full-time, part-time, temporary, voluntary, seconded, contracted or casual and also researchers, trainees, consultants and employees of project partner.
- 3.3. **"Employer"** shall, mean person responsible for management, supervision and control of the workplace including appointment/removal/termination of employees, and for the purposes of this Policy means the Director OE and Executive Director of ActionAid Association;
- 3.4. **"Internal Complaints Committee"** shall mean an Internal Complaints Committee (hereinafter referred to as **"Committee"**) constituted in terms of this Policy to deal / dispose the matters relating to Sexual Harassment at the Workplace;
- 3.5. **"Respondent"** shall mean a person or persons against whom a complaint of sexual harassment has been made by the Aggrieved Person.
- 3.6. **"Sexual Harassment"** refers to behavior that is not welcome, that is personally offensive, and that debilitates morale and, therefore, interferes with work effectiveness. It is discriminatory when the person has reasonable grounds to believe that their objection would disadvantage them in connection with their employment, including recruitment or promotion, or when it creates a hostile working environment

Sexual Harassment shall include any one or more of the following unwelcome acts or behavior (whether directly or by implication) such as:

- (a) Physical contact and advances; or
- (b) A demand or request for sexual favors; or
- (c) Making sexually colored remarks; or

- (d) Showing pornography or other offensive or derogatory pictures, cartoons, representations, graphics, pamphlets or sayings; or
- (e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature;

Further, the following circumstances, amongst 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:

- (v) Implied or explicit promise of preferential treatment in their employment; or
- (vi) Implied or explicit threat of detrimental treatment in their employment; or
- (vii) Implied or explicit threat about their present or future employment status; or
- (viii) Interference with their work or creating an intimidating or offensive or hostile work environment humiliation treatment likely to affect their health or safety;
- (ix) Humiliating treatment likely to affect the health or safety of Aggrieved Person.

In addition to the instances mentioned hereinabove, any other acts or behavior, which outrages the modesty of a female employee, will be considered as sexual harassment. 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 alleged perpetrator but on the experience of the Aggrieved Person.

Annexure 'A' of this Policy provides a partial list of examples of behavior which may be found to constitute sexual harassment at the workplace.

- 3.7. **“Workplace”** shall mean establishments, enterprises, institutions, offices, branches, premises, locations or units established, owned, controlled by the Company or places visited by the employees out of or during the course of employment including accommodation, transportation provided by the employer for undertaking such journey.

4. ROLES AND RESPONSIBILITIES

Responsibilities of Individual: It is the responsibility of all to respect the rights of others and to never encourage harassment. All employees of ActionAid Association 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. It can be done by:

- Refusing to participate in any activity which constitutes harassment
- Supporting the person to reject unwelcome behavior
- Acting as a witness if the person being harassed decides to lodge a complaint etc.

Responsibilities of Employer: The employer shall ensure that nobody is subject to harassment and there is equal 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. The employer shall provide a safe working environment, display the penal consequences of Sexual Harassments,

organize workshops and awareness programmes at regular intervals, and assist in resolving the sexual harassment complaints.

5. INTERNAL COMPLAINTS COMMITTEE

5.1. **Composition:** Every complaint received shall be forwarded to Committee formed under the policy for redressal. The investigation shall be carried out by Committee constituted for this purpose.

A separate Internal Complaints Committee will be constituted for each office of ActionAid Association that has a staff strength of more than 10 people,

The Committee will have following members as nominated by ActionAid Association,

- c. A woman employee employed at a senior level amongst the employees shall act as Presiding officer of the committee.
- d. Not less than 2 members from amongst employees preferably committed to the cause of women OR who have had experience in social work OR have legal knowledge.
- e. One member shall be from amongst non-governmental organizations OR associations committed to the cause of women OR a person familiar with the issues relating to sexual harassment.

The name of the members of the Committee is as per **Annexure C** of this Policy and any change in such composition shall be effected in the Policy.

At least half the total members of the Committee have to be women. The Presiding Officer and every member of Complaints Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the Employer.

The Committee members will be provided with necessary training inputs to handle such issues effectively and with the required sensitivity and concern.

5.2. **Responsibilities:** The committee is responsible for:

- Receiving complaints of sexual harassment at the workplace
- Initiating and conducting inquiry as per the established procedure
- Submitting findings and recommendations of inquiries
- Coordinating with the employer in implementing appropriate action
- Maintaining strict confidentiality throughout the process as per established guidelines
- Submitting annual reports in the prescribed format.

5.3. **Meetings:** The Committee shall hold at least one meeting in a year, additional meetings could be held as necessary to deal with issues or complaints that may arise. The quorum for holding any meeting of Committee shall be more than half of the existing members, provided that in every meeting of Committee the presence of the member belonging to an NGO who is familiar with the issues of Sexual Harassment, is recommended. Motions shall

be carried by a simple majority of those present and voting. Members shall be intimated of meetings and agenda in writing and/or by electronic communication at least two (2) days in advance.

6. COMPLIANT REDRESSAL MECHANISM

- 6.1. **Raising a Complaint:** Any Aggrieved Person may make, in writing, a complaint of Sexual Harassment at Workplace to the Committee giving details of the Sexual Harassment meted within 3 (three) months from the date of the alleged incident of Sexual Harassment and in case of a series of incidents, within a period of 3 (three) months from the date of the last 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.

Provided where such complaint cannot be made in writing, the Presiding Officer or any member of the Committee shall render all reasonable assistance to the Aggrieved Person for making the complaint in writing or recording the statement of the Aggrieved Person.

Such complaint should be made to the Committee or to any member of the Committee (along with the supporting documents and list of witnesses, if any). Complaints can also be sent to the HR department. The Committee on receipt of such written complaint, may, if require ask the Aggrieved Person to furnish additional information about the alleged harassment. The Committee shall take the record of the Complaint in the performa as given in **Annexure B**.

Any Employee who is aware of an act of Sexual Harassment shall without any delay report the same to the Committee for remedial measures and inquiry.

Where the Aggrieved Person cannot make a complaint on account of physical incapacity, a complaint may be filed by: -

- 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 such incident, with the written consent of the Aggrieved Person.

Where the Aggrieved Person cannot make a complaint on account of mental incapacity, a complaint may be filed by: -

- (a) relative or friend or
- (b) a special educator or a qualified psychiatrist or psychologist or
- (c) the guardian /authority under whose care she is getting treatment or
- (d) any person who has knowledge of such incident jointly with any of the above may make a complaint;

Where the Aggrieved Person 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 their written consent.

Where the Aggrieved Person is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of their legal heir.

6.2. Guidelines after receiving of the Complaint:

The receiver of the complaint has to keep the following things in mind:

- a. A fair, prompt, and impartial inquiry process starts with the Committee capable of creating an environment of trust and confidence throughout the inquiry. Complaints are listened to and the Aggrieved Person is informed that the Company takes the concerns seriously.
- b. Examine the merit of every complaint lodged and situations are not to be pre-judged.
- c. Written notes are taken while listening to the person. When taking accurate notes, complainant's own words, where possible, are used. All notes are kept strictly confidential.
- d. Inform the complainant about the resolution processes available.
- e. The complainant is told the whole process is confidential, however 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.

7. INQUIRY PROCEDURES

7.1. Steps and the manner of inquiry into the complaint

- b. The Committee shall proceed to make inquiry within 7 (seven) working days of receiving the original complaint/closure of conciliation etc.
- c. Upon receipt of the complaint, the committee shall send a copy of the complaint to Respondent within 7 working days
- d. Respondent has the opportunity to reply with all supporting documents within 10 working days of receiving the copy of the complaint
- e. No legal practitioner can represent any party at any stage of the inquiry procedure
- f. The Committee makes inquiry into the complaint in accordance with the principles of natural justice
- g. In conducting the inquiry, a minimum of three committee members including the Presiding Officer is present.

7.2. Resolution Procedures

- (i) **Resolution through conciliation (informal):** The Committee may, before initiating an inquiry and at the request of the Aggrieved Person take steps to settle the matter

between the Aggrieved Person and the Respondent through conciliation. However, Committee shall ensure that-

- a) No monetary compensation shall be made as the basis of conciliation;
- b) If the settlement is arrived during conciliation proceedings, Committee will record the settlement so arrived and provide copies of the suitable action as per the settlement, each to the Aggrieved Person as well as the Respondent and also to the Employer. The settlement shall be signed by both the parties.

No further inquiry shall be conducted where a settlement has been arrived post conciliation.

- (ii) **Resolution through formal process:** The Committee proceed to make inquiry into the complaint in the following cases:
 - No conciliation is requested by Aggrieved Person
 - Conciliation has not resulted in any settlement
 - Complainant informs the Committee that any term or condition of the settlement arrived through conciliation, has not been complied with by Respondent
- (iii) **Interim Relief granted to the Aggrieved Person:** During the pendency of the inquiry, on a written request made by the Aggrieved Person, the Committee may recommend to the Employer, following relief to the Aggrieved Person:
 - (a) Transfer of the Aggrieved Person or the Respondent to any other office of ActionAid Association; or
 - (b) Grant leave to the Aggrieved Person up to a period of 3 (three) months or
 - (c) Grant such other relief to the Aggrieved Person as may be decided by the Committee; and
 - (d) Restrain the Respondent from reporting on the work performance of the Aggrieved Person or writing confidential report, and assign the same to another employee of ActionAid Association.
- (iv) **Power of Civil Court:** For the purpose of making an inquiry, the Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:
 - (v) summoning and enforcing the attendance of any person and examining on oath;
 - (vi) requiring the discovery and production of documents; and
 - (vii) any other matter which may be prescribed.
- (v) **Prohibition on disclosure of information:** Strict confidentiality of the complaint, identity and the address of the Aggrieved Person, Respondent, witnesses, inquiry proceedings and the action taken by the Committee and/or the Employer shall be maintained and shall not be published, communicated or made known to public, press or media in any manner. However, the information regarding the justice given

may be disseminated without disclosing the other particulars of Aggrieved Person and witnesses.

(vi) Procedure

- a) Where the act of Sexual Harassment amounts to an offence under Indian Penal Code, 1860 or any other law in force, then on receiving the complaint, the Aggrieved Person shall be informed by the Committee of his/her right to initiate action under the applicable provisions of Indian Penal Code, 1860, if the Aggrieved Person so desires
- b) The parties shall not be allowed to bring any legal practitioner to represent them in their case at any stage in the proceedings before the Committee.
- c) The entire record of the inquiry proceedings including statements of the witnesses, cross-examinations, averments and arguments made during the inquiry shall be reduced in writing and all parties present at the inquiry shall sign the same and be given a copy thereof for their records;
- d) The Committee shall be free to adopt its own procedure for carrying out the inquiry on the basis of natural justice, equity and fair play so that no prejudice is caused to either party. Keeping in mind the sensitive nature of proceedings, the same shall be conducted expeditiously and without any unreasonable delay.
- e) Retaliation against Aggrieved Person for filing a sexual harassment complaint or any Employee for participating in an inquiry of such a complaint is prohibited. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.
- f) It shall be a violation of this policy for any staff member who learns of the inquiry or complaint to take any retaliatory action, which affects the working environment of any person involved in this inquiry.
- g) The inquiry shall be completed within a period of 90 (ninety) days from the date commencement of inquiry and copy of the findings shall be made available to both the parties.

Note:

1. *Most cases of sexual harassment occur in private, so there may not be any eye-witness. Committee will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the written submissions and oral testimonies of the Aggrieved Person, the Respondent and witnesses if any as well as any documentary evidence. This inquiry is not a criminal investigation or a proceeding in a court of law – a strong probability, rather than ‘proof beyond reasonable doubt’, is enough to take a decision on the Complaint.*
2. *In cases where the face to face meeting is not possible, because of the location of the Aggrieved Person, Respondent and ICC, then in those cases the inquiry may be conducted by ICC through video conferencing following the due procedure as mentioned above.*

(VII) INQUIRY REPORT AND ACTION

On the completion of an inquiry, the Committee shall provide a written report of its findings and conclusions to the Employer within a period of ten (10) days from the date of completion of the inquiry and a copy of the report shall be given to the Aggrieved Person and Respondent. The Employer shall act upon the recommendation within 60 (sixty) days of its receipt;

Where the Committee arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to the Employer that no action is required to be taken against the Respondent;

Where the Committee arrives at the conclusion that the allegation against the Respondent has been proved, Committee shall recommend to the Employer to take action against the Respondent for Sexual Harassment as a misconduct in accordance with the provisions of HROD Policy of ActionAid Association India providing for misconduct and as per the following matrix-

Penalty Matrix	Disciplinary Action
Minor	Warning, Reprimand, Written apology to the Aggrieved Person
Moderate	Withholding of promotions / increments, Rescinding of bonus, Carrying out community service, Transfer from present location
Major	Compensation or deduction from the salary / wages of the Respondent or issue direction for payment; such sum as it may consider appropriate to be paid to the Aggrieved Person or to their legal heirs, as it may determine, Suspension, Termination / dismissal from employment, Legal action under the Criminal Code

A second or repeated offence, shall, on the recommendation of Committee, attract dismissal from service.

8. APPEAL

In the event that any person is aggrieved from the recommendations made by the Committee or non-implementation of such recommendations, he/she may appeal to the appropriate authority, as specified by law, within a period of ninety days of the recommendations.

9. PROCEDURE FOR DEALING WITH FALSE COMPLAINTS

The Employees cannot be permitted to abuse the law and this Policy for personal gains, settling scores and revengeful tactics.

Consensual activities cannot be construed as Sexual Harassment. Making a complaint of Sexual Harassment is an extremely serious matter and it affects the life, career and reputation of the parties involved, hence ActionAid Association India takes such issues with utmost seriousness and sincerity.

Where the Committee arrives at a conclusion that the allegation against the Respondent is malicious or the Aggrieved Person or any other person making the complaint, has made the complaint knowing it to be false or such person has produced any forged or misleading document, it may recommend to take action against the Aggrieved Person as per the code of conduct/service rules of ActionAid Association India including a verbal or written reprimand, probation, demotion, suspension or dismissal of Aggrieved Person or such person.

Mere inability to substantiate a complaint or provide adequate proof need not attract action against the Aggrieved Person.

The malicious intent on part of the Aggrieved Person shall be established after an inquiry by the Committee before any action is recommended.

10. MISCELLANEOUS

10.1. ActionAid Association may make any alteration or amendment or rescind any of the clauses of this Policy as and when it finds it necessary to do so as long as it complies with the Act. Any such alterations or amendment or rescinding will be intimated to all staff.

10.2. Nothing contained in these rules shall operate in derogation of any law for the time being in force or to the prejudice of any right of any employee under any other Rules or Law.

10.3. The Committee shall prepare an annual report with the following details and shall submit the same to the Company to include in its Annual report:

- (c) Number of complaints of sexual harassment received during the year;
- (d) Number of complaints disposed off during the year;
- (e) Number of cases pending for more than 90 days;
- (f) Number of workshops or awareness program against sexual harassment carried out;
- e. Nature of action taken by the Employer.

10.4. The annual report shall be submitted to the district officer as required under the Act with the details required as per the provisions of the Act.

11. NON-RETALIATION AND PROTECTION AGAINST VICTIMISATION

- 11.1. In the event the Respondent is the Aggrieved Person's supervisor/superior, ActionAid Association shall, during the pendency of the inquiry, ensure that the reporting relationship is suspended and that the Aggrieved Person is not subject to appraisal by the Respondent.
- 11.2. ActionAid Association shall strictly prohibit any sort of retaliation against the Aggrieved Person or any witnesses. Any act of reprisal, including internal interference, coercion and restraint, by the Respondent, whether directly or indirectly, will result in appropriate action against the Respondent by the Employer in consultation with the Committee.

12. CONCLUSION

Complaints relating to Sexual Harassment shall be handled and investigations will be conducted under the principles of natural justice, basis of fundamental fairness, in an impartial and confidential manner so as to protect the identity of all viz., the person bringing the charge, potential witnesses, and the person accused of improper behavior. Also, all efforts shall be taken to ensure objectivity and thoroughness throughout the process of investigation. The identity and address of the Aggrieved Person, Respondent and witnesses must not be published or disclosed to the public or media. The decision of ActionAid Association shall be final and binding on all. However, the same is without prejudice to any recourse that ActionAid Association or the individual concerned may have against the Respondent and it shall not limit or restrict the rights of the Aggrieved Person and/or ActionAid Association to pursue, nor shall they be precluded from pursuing, such further and other legal actions as may be available.

Annexure A
SOME EXAMPLES OF SEXUAL HARASSMENT IN THE WORKPLACE

II. Visual Conduct:

- Leering
- Making sexual gestures
- Displaying sexually suggestive or explicit objects, pictures (still or moving), cartoons, graffiti or posters in any manner, including as part of e-mail transmissions

III. Verbal Conduct:

- Whistling and catcalls
- Foul or obscene language
- Making or using derogatory comments which are sexual in nature
- Explicit discussions about sexual activities/behaviors
- Comments about a woman's physical attributes
- Spreading rumors about another person's sexual activities/conduct and/or partners
- Jokes which contain offensive, obscene or lascivious content
- Sexual advances / Sexual propositions
- Sexual innuendo or double entendre

IV. Written Conduct:

- Suggestive, obscene or propositioning letters, notes, greeting cards or invitations, including but not limited to those transmitted via e-mail
- Displaying pictures (still or moving), cartoons, graffiti or posters in writing, including but not limited to e-mail

V. Physical Conduct:

- Unwelcome touching
- Sexual Assault
- Kissing / Hugging / Grabbing
- Coercing another person to participate in sexual intercourse or other sexual behaviors
- Impeding or blocking movements
- Any physical interference with normal work or movement.
- Sexual gestures

ANNEXURE B
SEXUAL HARASSMENT AT WORKPLACE COMPLAINT PERFORMA

This Performa is to be used to document any complaint/s of sexual harassment, which occurs in the workplace, will be recorded using this performa. Only those individuals authorized to receive such complaints may do so.

K. Name of Aggrieved Person:

Department (s):

II. Name(s) of Respondent:

Department(s):

III. Please describe the specific incident of sexual harassment alleged.

IV. Describe each incident separately, including dates, times and locations. If you cannot remember exact dates, times or locations, please provide approximations.

V. Are there others who may have witnessed this alleged sexual harassment? If so, please provide their name(s).

VI. Are there others who may have experienced similar alleged sexual harassment by the individual named above? If so, please provide their name(s).

VIII. Did you tell anyone about your experience after the alleged incident(s)? If yes, please provide their name(s).

IX. Did you speak to the individual named in this report about the alleged harassment? If yes, what was his or her response?

Signature*: _____ Date: _____

Job Title: _____

*I attest that the information I have provided is a true and accurate description of my complaint and that I have not willfully or deliberately made false statements. I understand that the ActionAid Association prohibits any individual from retaliating against me for filing a complaint.

Signature of Person Receiving Complaint _____ Date: _____

Job Title: _____

Annexure C

COMPOSITION OF INTERNAL COMPLAINTS COMMITTEE (AT EVERY OFFICE/ZONE OF ACTIONAID

Association)

S.NO.	DESIGNATION	MEMBERSHIP
1.	Zonal Women Officer	Presiding Officer
2.	Zonal Compliance Manager	Member
3.	Zonal HR Manager	Member
4.	External Advocate / POSH expert	External Member