

## **NCF's POLICY ON GENDER ISSUES AND SEXUAL HARASSMENT**

**(March 2014, Revised Jan 2018)**

### **I. Background and reasons governing the policy**

Nature Conservation Foundation (NCF) is an equal employment opportunity organisation and is committed to creating a healthy working environment that enables its Staff Members to work without fear of prejudice, gender bias and sexual harassment. NCF also believes that all Staff Members have the right to be treated with dignity. Sexual harassment at the workplace or at any other place visited by Staff Members in the course of their work is unacceptable and will not be tolerated under any circumstance. This policy has been framed with the objective to prevent sexual harassment at the workplace and includes a redressal mechanism for dealing with instances of sexual harassment faced by Staff Members at the workplace.

The present policy i.e. Policy on Prevention of Sexual Harassment of Women ("**Policy**") has been framed in consonance of the guidelines laid by the Supreme Court of India in "Vishaka and others v. State of Rajasthan" in the year 1997 as well as on the "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" ("**Act**"); <http://www.iitb.ac.in/WomensCell/data/Vishaka-Guidelines.pdf>). Pursuant to these guidelines and the Act, NCF has affirmed the need for a policy on Sexual Harassment at the Workplace in all offices and workplaces of NCF, including in Mysore, Bangalore, field stations/sites and other work environments of NCF Staff Members.

NCF, has formed various committees—among them being a Gender Issues and Sexual Harassment Cell (GISH Cell) which presently consists of the following members: Divya Mudappa, Charudutt Mishra, and Saloni Bhatia (all internal members); Dr. Prashant N S (Institute of Public Health), and Ms. Shweta Luthra (SASHA) (both external members). Because NCF takes allegations of sexual harassment seriously, NCF, as an organisation will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, prompt action will be taken, including disciplinary action where appropriate.

Please note that while this Policy sets forth NCF's goals of promoting a workplace that is free of sexual harassment, the Policy is not designed or intended to limit the Management's right to discipline or take remedial action against conduct at the workplace which the Management deems unacceptable, regardless of whether that conduct satisfies the definition of Sexual Harassment (*as defined hereinafter*).

This Policy shall come into immediate effect upon being notified by NCF's Executive Board. Copies of the Policy will be available with NCF administration staff, Director, all committees, and programme heads.

Should the Staff Members have any concerns or queries regarding any of the points outlined in this Policy, please contact any of the following: Divya Mudappa, email: [divya@ncf-india.org](mailto:divya@ncf-india.org); mobile: +919443215215; Charudutt Mishra <[personalcharu@gmail.com](mailto:personalcharu@gmail.com)>; Saloni Bhatia <[saloni@ncf-india.org](mailto:saloni@ncf-india.org)>; Prashanth N. S. <[prashanth.ns@gmail.com](mailto:prashanth.ns@gmail.com)>; and Shweta Luthra <[shweta@sashaindia.com](mailto:shweta@sashaindia.com)>; mobile: 08746820305.

## II. Scope of the policy

This Policy will be applicable to:

- (a) All allegations of Sexual Harassment by an employee/employer against another employee, irrespective of gender or whether the Sexual Harassment is alleged to have taken place within or outside the Workplace.
- (b) All allegations of Sexual Harassment made by an outsider against an employee (as defined in III) or made by an employee against a third party, if the Sexual Harassment is alleged to have taken place within the Workplace.
- (c) All Employees, as defined hereunder.
- (d) All the satellite offices and field stations of NCF. Each field station and office is requested to identify and share a point of contact in addition to the contact of the programme heads with the IC. This list of contacts will be made available through the annexures of the policy as well as on site. All complaints have to be brought to the notice of the IC.

## III. Definitions

1. **"Employers"** are the Trustees and the Director of **"NCF"** Nature Conservation Foundation. They are also referred to as **"Management"** in this policy, as they will be responsible for the implementation of this policy and the committee related to this.
2. **"Employee"** shall mean any staff or person engaged by NCF including full-time, part-time, temporary, voluntary, adjunct, honorary, contracted or casual staff, researchers, trainees, interns and consultants.
3. **"Sexual Harassment"** includes any unwelcome act or behaviour (whether direct or by implication) such as:
  - (a) physical contact and advances
  - (b) a demand or request for sexual favours;
  - (c) sexually coloured remarks
  - (d) showing pornography
  - (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

Explanation: "Unwelcome act or behaviour" shall include but not be limited to the following instances:

- (a) where submission to, or rejection of sexual advances, request or conduct is made either explicitly or implicitly as a term or condition of employment, basis for employment decisions, or benefits in existing employment; or,
- (b) such advances, requests or conduct (whether direct or implied) have the purpose or effect of interfering with an individual's work performance by creating an intimidating, hostile, or sexually offensive work environment; or
- (c) humiliating treatment likely to affect health and safety of an employee.

Under these definitions, direct or implied requests or offers by an employee, favours of a sexual nature in exchange for actual or promised job benefits such as favourable reviews, salary

increases, promotions, increased benefits, or continued employment, constitutes Sexual Harassment.

The legal definition of Sexual Harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to staff will also constitute Sexual Harassment.

While it is not possible to list all circumstances that may constitute Sexual Harassment, the following are some examples of conduct, which if **unwelcome**, may constitute Sexual Harassment depending upon the totality of the circumstance including the severity of the conduct and its pervasiveness:

- (a) Unwelcome sexual advances—whether they involve physical touching or not;
- (b) Sexual epithets, lurid stares, jokes, written or oral reference to sexual conduct, gossip regarding one's sex life; comment on an individual's appearance, comment about an individual's sexual activity, deficiencies, or prowess;
- (c) Displaying sexually suggestive objects, pictures, cartoons;
- (d) Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
- (e) Inquiries into one's sexual experiences; and
- (f) Discussion of one's sexual activities.

4. **“Director”** means the Director of NCF.
5. **“Workplace”** means (i) premises, locations, establishments, enterprises, institutions, offices, branches or units established, owned or controlled by NCF; (ii) places visited by the employee arising out of or during the course of employment, including any transportation provided by NCF to travel to such places; and (iii) Any accommodation provided by NCF to its employees.
6. **“Complainant”** means in relation to a Workplace, any employee or other person who alleges to have been subjected to any act of Sexual Harassment.
7. **“GISH Cell”** means the Internal Committee, also known as the Sexual Harassment (Redressal and Complaints) Committee constituted in accordance with Section V below.
8. **“Respondent”** means the person against whom the Complainant has made a complaint.
9. **“Act”** is The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the rules framed thereunder.

#### **IV. Preventive action**

Consistent with the Act, NCF shall take all reasonable steps to ensure prevention of Sexual Harassment at the Workplace. This includes:

1. Circulation of this Policy and any other policy issued by NCF on gender issues and Sexual Harassment to all employees and persons connected with the work and/ or functioning of NCF;
2. Ensuring that Sexual Harassment as an issue is raised and discussed at NCF meetings from time

to time, such as annual meetings, employer/programme heads – employee meetings, evaluations, and supervisor – supervisee meetings;

3. The names and contact details of all members of the GISH Cell shall be prominently displayed on the main notice board of all NCF offices and field stations;
4. Training / orientation programmes will be conducted periodically within NCF to make employees aware of gender and sexual harassment issues and the NCF's policy on the same;
5. Where ever possible, the GISH Cell will collaborate with other organisations in organizing workshops or counseling about gender and sexual harassment issues;
6. Employee's and consultant's contracts with NCF will contain provisions and obligations in relation to Sexual Harassment at the Workplace;
7. The Policy and related information will be available with NCF administration staff, Director, all committees, and programme heads;
8. Wherever necessary, this Policy shall be translated to the local language such that it can be shared and disseminated within the local field staff; and
9. The NCF website will contain brief details of its views on Sexual Harassment. It is the responsibility of the programme heads to make the policy available for all associated with their programmes both in the field as well as in the offices.

**V. The Internal Committee, also known as the Gender Issues and Sexual Harassment (Redressal and Complaints) Committee**

1. **Cell:** NCF has an Internal Committee (IC) called the Gender Issues and Sexual Harassment (Redressal and Complaints) Committee (hereinafter referred to as "**GISH Cell**") to investigate and adjudicate on Sexual Harassment complaints and also to function as a committee that would address gender-related issues.

**2. Membership:**

- (a) The GISH Cell shall be comprised of at least four members including three from within NCF and one external member as follows:
  - (i) A Presiding Officer (a woman) who shall be a senior member of NCF;
  - (ii) A person (a man), also a senior member of NCF;
  - (iii) One person (a woman) selected from among the Research Affiliates /Senior Research Associates;
  - (iv) External member - One or more third party individual familiar with the issue of Sexual Harassment;
- (b) Additional member(s) can be appointed to GISH Cell at the discretion of the Management provided such member complies with the minimum qualifications set out in the Act. Membership to the GISH Cell shall be for a period of three years. Thereafter, the Employer shall make new appointments, keeping in mind the prescribed qualifications. In the event of any vacancy on the GISH Cell due to resignation, termination, death or for any other reason, such vacancy shall be

filled in accordance with the procedures prescribed by this Policy within a reasonable time period but no later than 3 months from the date of vacancy.

3. **Disqualification of members:** A member of the GISH Cell shall not be member of the IC in the event of any of the following:
  - (a) Upon she/he ceasing to be an employee or associated with NCF;
  - (b) There being any complaint of Sexual Harassment pending against him or her;
  - (c) If he or she is found guilty of Sexual Harassment at any point of time or is convicted for an offence or an enquiry into an offence under any law;
  - (d) If he/she is guilty of confidentiality obligations as set out in this Policy;
  - (e) If he/she is found guilty in disciplinary proceedings or a disciplinary proceeding is pending against him/her;
  - (f) If he/she has abused his/her position as a member of GISH Cell so as to render his/her continuance in office prejudicial.
  - (g) If he/she is a Complainant (till the period of inquiry and disposal of that particular case)
4. **Resignation of members:** A member of the GISH Cell can resign from his/her office at any time by tendering his/her resignation in writing to the Chairperson of the GISH Cell. The resignation shall take effect once accepted by the Employer.

## VI. Procedures of the GISH Cell

1. **Place of meetings and inquiry:** All meetings of the GISH Cell shall take place as and where is mutually agreed, including teleconferencing by at least 3 members, which shall include the Presiding Officer and External Member.
2. **General meetings:** The GISH Cell should meet at least once a year regardless of whether complaints have been made to it. In these meetings, the GISH Cell would review status of preventive actions taken by the organisation and discuss matters pertaining to prevention of Sexual Harassment at the Workplace.
3. **Meetings to address complaints:** In the event of a complaint being lodged with the GISH Cell, it may decide the number of times it should meet, participants in the meetings, and the venue of these meetings, with the consensus of at least 3 members, which shall include the Presiding Officer and External Member.
4. **Quorum:** The quorum for any meeting of GISH Cell shall be 3 members of GISH Cell, which shall include the Presiding Officer and External Member. , and shall have a minimum 50% of female members. In conducting an inquiry into a Sexual Harassment complaint, a quorum shall be present.

## VII. Powers and duties of the GISH Cell

1. To enquire into grievances, concerning Sexual Harassment and to establish the facts based on a thorough and exhaustive enquiry.
2. To recommend to the Management appropriate action to be taken against the Respondent in the case the Respondent is found guilty.

3. To recommend to the Management appropriate action to be taken against the Complainant if the complaint is found to be false, malicious or frivolous.
4. To recommend to the Management appropriate action to be taken against a witness who provides false testimony or evidence, or intentionally tries to mislead the GISH Cell.
5. To take steps to ensure the prevention of Sexual Harassment at the Workplace through awareness and other activities.
6. To maintain records related to NCF's actions to prevent Sexual Harassment at the Workplace, and to duly submit to the appropriate government authorities necessary filings and reports.
7. To be available to discuss any concerns, questions and clarification that employees may have in relation to this Policy and the process of enquiry and adjudication of Sexual Harassment complaints.

#### **VIII. Complaints procedure for Sexual Harassment complaints**

1. The Complainant may file a complaint with GISH Cell in writing or as an official email.
2. The Complainant may provide supporting documents and a list of witnesses along with the complaint letter.
3. A complaint may be filed with any of the members of the GISH Cell whose name and contact details are communicated to the employees from time to time.
4. If the complaint is oral, then this will be reduced into writing by the member who receives the complaint. The Complainant will then review this written report of the complaint and sign it or agree to the contents of the report over email if he/she finds it to be correct and in line with the oral complaint.
5. The Complainant shall be afforded full confidentiality at this stage.
6. Upon receipt of the complaint and in no event later than 2 working days from the date of receipt of the complaint, the member of GISH Cell to whom the complaint is made, shall communicate the same to the Chairperson. The GISH Cell is not required to share details of the enquiry with the Director or the Management. The GISH Cell shall conduct the enquiry process independently.
7. Within one week from the date of receipt of the complaint, the Chairperson shall acknowledge the receipt of the complaint. The GISH Cell shall send one copy of the complaint to the Respondent within a period of seven working days from date of receipt of written complaint, along with a notice explaining his/her rights as a Respondent in the inquiry process.
8. The GISH Cell shall be empowered to do all things necessary to ensure a fair hearing to the parties involved in the complaint i.e., the Complainant and the Respondent including all things necessary to ensure that such persons or witnesses are not victimised or discriminated against at the Workplace. In this regard, the GISH Cell shall also have discretion to make appropriate recommendations for interim relief, such as **(i)** suspension or transfer of the Respondent pending outcome of the complaint; **(ii)** upon the request of the Complainant, transfer of the Complainant to another Workplace or granting of paid leave for a period up to, and not exceeding three months.

9. Upon request from the Complainant, the GISH Cell shall recommend interim relief measures, for immediate implementation by the Employer.
10. The Respondent shall file his/her reply to the complaint along with supporting documents and list of witnesses within a period not exceeding ten days from the date of receipt of complaint from the GISH Cell.
11. Based on convenience of the parties and members of GISH Cell, the Chairperson shall expeditiously convene a meeting of the GISH Cell to look into the complaint and to initiate (at the option of the Complainant), a conciliation or an enquiry into the matter.
12. The Complainant and the Respondent shall be given advance intimation of this meeting.
13. The Respondent and Complainant must remain personally present throughout the Conciliation/Enquiry process. Under exceptional circumstances and her sole discretion, the Chairperson may allow the Complainant or the Respondent to participate through teleconferencing. Legal representative cannot be brought by either party to represent them, during the course of these proceedings.
14. The GISH Cell will explain the process to the Complainant and the Respondent, their rights, confidentiality, as well as the option of conciliation or inquiry.
15. The enquiry into a complaint by GISH Cell may include interviews with the Complainant, Respondent, the person filing the complaint, witnesses and other persons considered relevant to the adjudication of case.

#### 15.1 Conciliation:

- i. Conciliation can take place only at the option of the Complainant.
- ii. No monetary settlement shall be made as a basis of conciliation.
- iii. The IC shall only record the settlement so arrived at and forward the same to the Employer to take action as specified in the recommendation.
- iv. The IC shall provide copies of the settlement to the Complainant and the Respondent.
- v. Where a settlement is arrived at under conciliation, no further inquiry shall be conducted by the IC, unless the settlement arrived upon is not followed.

*Note: In cases where the Complainant feels that it is a minor incident which could be redressed through conciliation settlement, and wherein the Respondent does not refute the allegations that have been made, only in such cases, can conciliation be arrived at.*

- 15.2 The Employer shall assist the Complainant in filing a FIR against the Respondent, if so desired by the Complainant.
- 15.3 It is the Employer's obligation to implement the recommendations of the IC within 60 days of receiving a copy of the Inquiry Report.
- 15.4 Failure to comply with any of the provisions of the SH Act will result in a fine of Rs. 50,000 for the Employer, and in case of repetition of offence, a fine of Rs. 1,00,000 and cancellation of business licenses.
- 15.5 Where the Complainant, the Respondent and/or any other Employee, who is a part of the proceedings of the complaint as a witness, violates the confidentiality provisions of this Policy, he/she shall be subject to appropriate disciplinary action, in addition to being liable for a fine of Rs. 5,000.

16. **Appeal:** The Complainant and the Respondent shall have the right to appeal against the recommendation of the IC, to the Court of appropriate jurisdiction, within ninety days of the decision of the IC, if they are not satisfied with the decision.
17. The GISH Cell shall have the right to terminate proceedings or give ex parte orders (i.e. orders without the presence of one or more parties), if the Complainant or the Respondent fails to present themselves for more than three consecutive hearings without sufficient cause. The ex parte orders shall be issued after giving the party concerned a 15 days notice.
18. All complaints shall be treated as confidential and be heard and investigated into within the shortest possible period of the complaint having been made, which in no event shall be greater than 90 days from the date of the complaint. However, a final report of the case, findings and recommended action (if any) proposed by the GISH Cell may be completed outside this 90 day time period.
19. The GISH Cell should not share the draft of the enquiry report with any member of the Management.
20. The final enquiry report containing findings on the alleged Sexual Harassment along with recommended remedial action made by the GISH Cell shall be forwarded to the Employer for necessary action within one week of such recommendations being made. The report of the GISH Cell (including its findings and recommendations) shall be deemed to be final and binding on the Complainant and the Respondent. Any party unhappy with the recommendations of the GISH Cell may appeal against it in a court of appropriate civil jurisdiction.
21. All the proceedings of the GISH Cell including statements of the Complainant, Respondent, witnesses and other relevant persons shall be recorded and signed by such person in addition to the Chairperson or any other member present at the time such statements were made. These records shall be available for review and inspection to all members of GISH Cell.
22. The investigation into a complaint will be conducted in such a manner so as to maintain confidentiality to the extent practicable under the circumstances.
23. In the case of a Sexual Harassment complaint against the Employer, it will have to be filed with the District Local Complaints Committee.
24. In the course of investigating any complaint of Sexual Harassment, the GISH Cell shall ensure that the principles of natural justice are adhered to namely:
  - *No bias:* All members shall conduct the inquiry in a fair and unbiased manner, irrespective of their professional or other relationships with any of the parties of an inquiry. The IC shall adopt the due process as is legally mandated as well as maintaining the highest level of integrity and empathy.
  - *Equal opportunity to be heard:* Both parties (i.e. the Complainant and the Respondent) shall be given reasonable opportunity to be heard along with witnesses and to produce any other relevant documents before the GISH Cell;
  - *Justice shall not just be done, but seen to be done:* The GISH Committee shall not just give recommendations at the end of an inquiry, but also provide clear reasoning for the actions recommended by them.

## **IX. Management obligations**

The management of NCF shall provide all necessary assistance for the purpose of ensuring full, effective and prompt implementation of this Policy. It shall be further bound by the decisions of the GISH Cell and shall implement the same within four weeks.

## **X. Third-party harassment**

1. In the event that the conduct about which a complaint is lodged, is committed by a third-party, with whom the Complainant came into contact at the Workplace, and where this conduct amounts to a specific offence under Section 354A of the IPC or under any other law in existence, the GISH Cell, subject to the wishes of the Complainant, shall assist the complainant in filing of FIR (First Information Report) at the appropriate Police Station or with the Local Committee in that district.
2. The GISH Cell will actively assist and do all that is necessary to ensure the safety of a Complainant at the Workplace or otherwise in respect to any duties/activities performed in connection with his/her work.

## **XI. Confidentiality**

1. The GISH Cell shall abide by the following rules relating to confidentiality:
  - (a) The entire proceedings of the GISH Cell shall remain confidential unless required to be disclosed under provisions of applicable law;
  - (b) The Complainant's identity shall be revealed to the Respondent, including at the time of publication of the report, unless a request to keep this identity confidential has been made in writing by the Complainant, and the GISH Cell believes that it is essential for the safety of the Complainant, or for any other valid reason, to keep the Complainant's identity confidential. However, the Complainant's identity cannot be kept confidential from the GISH Cell.
  - (c) Reports relating to proceedings of the GISH Cell are confidential documents and are not subject to the RTI Act.
  - (d) All main documents pertaining to the workings of the GISH cell, particularly in relation to complaints, shall be in the custody of the Chairperson.
  - (e) Information in relation to enquiry into Sexual Harassment complaints will be shared with the Management only if the members think it necessary.

## **XII. False and malicious complaints or witness statements**

1. If the GISH Cell is of the opinion, substantiated by facts that the complaint with regard to Sexual Harassment was false, and has been lodged deliberately and with malicious intent, such an act would amount to misconduct. The GISH Cell shall recommend to the Management, appropriate action in this regard. Absence of evidence to support a complaint will not make a complaint as false. Intention to file a false or malicious complaint must be determined based on a full inquiry.
2. Action can be taken against a witness for providing false testimony or evidence with the intention of misleading the IC.

## **XIII. Protection against victimisation**

As stated above, retaliation against an individual who has complained about Sexual Harassment, and retaliation against individuals for cooperating with an investigation of a Sexual Harassment complaint is unlawful and will not be tolerated.

In the event of the Complainant and the Respondent being Employees/Employer, during the investigation and enquiry, and until the case is adjudicated by GISH Cell, the Respondent shall not:

- (a) Write confidential reports in relation to the Complainant;
- (b) Evaluate the performance of the Complainant;
- (c) Supervise the work of the Complainant; or
- (d) Require the Complainant to report to him/her.

#### **XIV. Punishment and penalties**

1. In addition to the penalties for misconduct stipulated in other NCF policies, a Respondent guilty of Sexual Harassment shall be liable for any or all of the following minor and major penalties depending on the nature of the offence, conduct and subsequent behavior of such Respondent:
  - (a) Minor penalties
    - (i) Reprimand;
    - (ii) Warning or censure;
    - (iii) Withholding of an increment not exceeding one year
    - (iv) Internal transfers within other offices
  - (b) Major penalties
    - (i) Deducting appropriate amounts from the salary and/or payment of compensation considered adequate by GISH Cell;
    - (ii) Withholding of increment for more than one year;
    - (iii) Suspension from office for a period not exceeding one month;
    - (iv) Termination of service.
2. The Respondent may also be required to give a written apology to the Complainant, and upon his/her failure to do so his/her punishment can be enhanced by the GISH Cell.
3. In case a minor penalty has been imposed on the Respondent on an earlier occasion, on a second offence, he or she shall be imposed with a major penalty irrespective of the gravity of the second offence.

#### **XV. Others**

1. The proceedings under this Policy shall not be stalled or postponed merely because the Complainant is proceeding against the Respondent under any other provision of law.
2. The provisions of this Policy shall not restrict the powers of the Management or the Complainant to proceed against the Respondent for any other misconduct (which does not constitute Sexual Harassment).
3. To the extent the Policy does not cover or deal with any aspect relating to protection against Sexual Harassment or in relation to prevention and redressal of complaints of Sexual Harassment, the provisions of the Act shall apply.