



VOLUNTARY ACTION NETWORK INDIA (VANI)

DRAFT

Policy on Prevention of Sexual Harassment (POSH)

Policy on Prevention of Sexual Harassment (POSH) at work place

The policy on prevention of sexual harassment at workplace is a statutory requirement and is guided by Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) (SHWW) Act, 2013.

Objective: The objective of this policy is to prohibit and provide protection against sexual harassment to any employee, vendors, suppliers, consultants, trainees, visitors, students, community workers etc.

Applicability: This policy is applicable to all employees who are on rolls or on contract, trainees, interns, suppliers or vendors, consultants, visitors, students, community workers etc. VANI is keen at promoting a gender neutral, unbiased culture for its employees and stakeholders, hence we are zero tolerant towards any act of sexual harassment, irrespective of who is involved.

Acronyms:

- a) **“VANI”** means Voluntary Action Network India, New Delhi, duly registered under the Societies Registration Act.
- b) **“CEO”** means the Chief Executive Officer/Member Secretary of VANI appointed as such under the by-laws of VANI; who is fully responsible for managing VANI, and is accountable administratively to the “Working Committee/ Governing Board”. The CEO is the final executive authority in all matters concerning this policy, and his interpretation of these provisions shall be final. CEO may, however, assign certain functions or delegate certain powers to other functionaries of VANI.
- c) **“Competent Authority”** means an authority authorized by the Chairperson, as empowered by the Committee to take final decisions on the specified matters related to POSH act.
- d) **IC:** Internal committee

Definitions:

Aggrieved person: An Aggrieved Person, in relation to a workplace, is a person, of any age, any gender, whether an Employee or not, who alleges to have been subjected to any act of Sexual Harassment.

Respondent: Against whom the complaint is given

Employee: Individuals either on permanent rolls or on contract basis of VANI

All employees in the organisation must be aware of the following:

Sexual harassment: It includes any one or more of the following unwelcome acts or behaviour (whether directly or indirectly) namely:

- Physical contact and advances; or
- A demand or request for sexual favours; or
- Making sexually coloured remarks; or
- Showing pornography or offensive pictures or written materials; or
- Verbal – unpleasant or suggestive remarks, personal comments, jokes causing embarrassment, innuendos and taunts, sexist remarks (gender-based insults) and offensive telephone calls/messages
- Implied or explicit promise of preferential treatment in his/her employment; or
- Implied or explicit threat of detrimental treatment in his/her employment; or
- Implied or explicit threat about his/her present or future employment status; or

- Interference with his/her work or creating an intimidating or offensive or hostile work environment for her or him.
- Humiliating treatment likely to affect his/her health or safety
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Workplace includes:

- Within the premises of the office/sites/
- Any place visited by the employee for official purpose, whether on roll or on contract, trainees, interns arising out of or during the course of the employment.
- Transportation provided by VANI or during travel whether in the own vehicle or of others or hired.
- Guest house/hotel where an employee whether on rolls or on contract, trainees and interns is staying while on duty.
- Virtual workplace in case an employee has chosen work from home: Any unwelcome and sexually colored correspondence, messages, inappropriate jokes, audio or video recordings sent through any electronic means or social media platforms like WhatsApp, LinkedIn, Email, Instagram and more, will amount to sexual harassment in the virtual workplace and the same will be treated as sexual harassment under the policy

Process on Prevention of Sexual Harassment (POSH) VANI

Internal Committee:

The Internal s Committee (IC) is constituted at VANI to consider and redress complaints related to sexual harassment. The Constitution of IC is as per the Act and includes external member from NGO or person familiar with the issues relating to sexual harassment.

Nomination: The Board will decide the constitution of the IC including the Convenor and its members IC. Once the IC is constituted, the CEO shall inform all employees regarding such constitution.

Term of office: Members of the Internal Committee will hold the office for a period not exceeding three years from the date of the nomination. Post the completion of the term, the Board will decide to either reappoint the existing members or freshly appoint new members.

The IC is governed by the rules of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the Ministry of Women & Child Development notification dated 9th December 2013 or any other legislation, rules or notifications as may be enacted later on.

Code of Conduct for the members of IC:

The members have to assure confidentiality for all issues/ decisions/action taken by the Committee.

They should be open to any feedback given by the staff for the operation of the Committee.

The Chairperson has the right to change a member mid-way if her/his performance is found unjust. However, the decision of the chairperson will be in consultation with other members of the Committee. In case a member of the Committee leaves the organization, a new member will be selected.

The members should tackle all issues with an unbiased mind and put their responsibilities above personal judgments and relationships.

No individual member of the Committee will have the right to take decision on their own without consulting the other members.

Roles and responsibilities of the IC:

IC being the sole designated authority constituted to deal with the problems of sexual harassment at workplace, their primary role shall be to ensure a safe and inclusive workplace culture. In addition, following shall be the other responsibilities:

1. IC shall be responsible to investigate every complaint of sexual harassment in the best possible manner and act impartially, considering the rights available to both the parties;
2. IC may investigate the complaint of sexual harassment either when they are made by the Complainant or by someone else on behalf of the Complainant but with the written consent of the Complainant or Suo Moto; IC shall be responsible for creating awareness on “what constitutes sexual harassment at workplace” through various trainings, workshops etc. and ensure that informative educational material with respect thereof and composition of IC is circulated as well as displayed at appropriate places/notice boards. The IEC material shall comprise of the contact details of the IC members and shall also give information on the methods of writing a complaint w.r.t. sexual harassment at workplace.
3. IC shall timely submit desired reports to the CEO of VANI
4. IC shall extend complete support to the aggrieved person or the Complainant during the entire process of investigation and thereafter to make them feel comfortable;
5. IC shall in each calendar year prepare and submit the Annual Report to the CEO and District Officer in the jurisdiction where VANI is located;
6. Where sexual harassment occurs as a result of an act or omission by the third party or an outsider, IC shall take necessary steps to assist the aggrieved person and extend adequate support as well as preventive actions to safeguard the rights of the parties involved;
7. IC shall make sure that all the members are duly adhering to the provisions of the Act and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as ‘The Rules’).
8. The Committee will also try to look into the harassment issues at a broader level. Going beyond the harassment of staff within VANI, it would also try to study the harassment issues of the wider constituency with whom we work. This issue will be seen in greater depth by organizing presentations/ discussions inclusion of the gender issue of within the programme of VANI.
9. Beyond tackling issues that are directly linked to sexual harassment, the Committee also aims to study other related issues that promote a conducive environment for men and women to work in.
10. The staff members can give their suggestions from time to time for improvement in the functioning of the committee or to add new ideas and issues that can be taken up.

Best Practices and Restrictions for the committee:

- The Committee can take up issues on their initiative, for e.g. if an individual member's conduct is not appropriate but no complaint has been lodged, the Committee can discuss it in their meetings and take the necessary action.
- All disciplinary action should be taken by the Committee with consent of a minimum of four members and the approval of the chairperson. If the chairperson is not available, the members can appoint a chairperson amongst themselves, who shall have the authority of taking/ approving of the decision.
- The Committee will take stern action if any staff member lodges a false complaint as per the provisions of the Act and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as 'The Rules').

The members will meet at least once in every quarter

- The Committee has to be always headed by a woman and a minimum of 50% of the members should be women.
- The Committee will not take up issues related to employment, interpersonal problems etc. unless they are linked to the issue of sexual harassment.

Members of the Internal Committee

In compliance with Section 4 of the Act, VANI vide its Board resolution dated has appointed the following members as part of its internal committee

Sl. No.	Name	Designation	Mobile No.	Email id

I. Redressal of Complaints:

- The Internal Committee (IC) in the Organisation is responsible for attending the complaints on cases of Sexual Harassment. The names and their contact details of the members of the ICC shall be made available on the intranet and displayed in notice boards.
- The complaint needs to be signed by the complainant in six copies and submitted to ic@vaniindia.org
- If the CEO is involved, then it may be submitted to the Local Complaint Committee. All such cases are then forwarded to LC for inquiry, detail of which can be obtained from the District Office given hereunder:

DC Office South West
Old Tax Terminal Building
Kapashera, Delhi-37
011-25069484
eMail:- dcsw@nic[dot]in

- If the complainant is unable to make a complaint in writing, he/she should intimate the IC and the IC would render all reasonable assistance to the complainant for making the complaint in writing.
- Though it is desirable that the complaint is given within 90 days of the incident or 90 days of the last incident in case of series of incidents. However, there may be situations, where the complainant may not be able to file the complaint within the specified time due to compelling circumstances, in such cases, if IC is satisfied that the circumstances were such that prevented the aggrieved person to file a complaint, the time of submitting the complaint may be extended by the IC after discussion.
- Where the Complainant is unable to give the complaint on account of his/her physical or mental incapacity the legal heir or friend or relative or any co-worker, a guardian who is taking care of the aggrieved person or any other person who has the knowledge of the incident may make a written a complaint on her/his behalf to the IC. In case the aggrieved person is deceased, the complaint can be filed by any person who has the knowledge of the incident, with written consent from legal heir of the aggrieved person
- The complaint can be electronically submitted to the IC at the designated email id ic@vaniindia.org or can be physically submitted to any IC member. The complaint should be accompanied such supporting documents and relevant details concerning the alleged incident (s), the name and details of the respondent and names and address of the witnesses, if any.
- The aggrieved person can file a complaint in person during office hours or fix up a meeting at any other place, as per convenience of the aggrieved person, if he/she is not comfortable to come in person to the office premises
- The Committee maintains a register to endorse the complaint received by it and keeps the contents confidential, if it is so desired, except to use the same for discreet investigation.
- IC holds a meeting with the complainant after receipt of the complaint. The complainant will be formally be intimated of the date of the meeting.
- If the complaint does not fall under the purview of sexual harassment or the complaint is not an offence under the sexual harassment, the same is to be dealt under the disciplinary procedure of the organisation. The investigation of such complaints is not under the purview of IC.
- Proceedings of the IC shall be properly documented in the form of minutes and signed by all members and endorsed by the Chairperson.
- Proper attendance register of all IC meetings should be maintained
- In case of any conflict or difference of opinion, the decision or recommendations of the majority of the members shall prevail

II. Conciliation:

It is important to note that prior to initiating an inquiry, the IC may with the consent of the Aggrieved Person and the Respondent, take steps to settle the matter between the Aggrieved Person and the Respondent through conciliation, provided that no monetary settlement shall form a part of the conciliation procedure. Such settlement could include an apology from the Respondent, Respondent agreeing to gender sensitization and related training or any other settlement agreement arrived at. In case of the settlement, IC shall record the settlement and forward the same to CEO to take appropriate actions as specified in the recommendation of the IC. The copies of the settlement shall be provided to the Complainant and the Respondent. Upon a conciliation being reached, the IC would not be required to conduct any further inquiry

III. Actions to be taken during pendency of enquiry

During the pendency of an inquiry, on a written request made by the Complainant, the IC may recommend the following actions to be taken:

- transfer the Aggrieved Person or the Respondent to any other workplace or may assign work from home;
- grant leave to the Aggrieved Individual up to a period of three months;
- grant such other relief to the Aggrieved Person as may be prescribed under the Act and the Rules;
- restraint the Respondent from reporting on the work performance of the Aggrieved Person or writing his/her confidential report and assign the same to another officer;
- The leave granted to the Aggrieved Person shall be in addition to the leave he/she is otherwise entitled to;
- On receiving recommendations from the IC, CEO shall implement such recommendations and send a report of implementation of recommendations to the IC.

IV. Inquiry:

- During the enquiry both parties will be given an opportunity of being heard as per principle of natural justice. The copies of the findings will be given to both the parties so that they can represent the committee against the findings.
- The IC conducts the inquiry within seven days of the receipt of the complaint.
- During the inquiry the Complainant or the Respondent may produce witnesses or documents. In such cases, the names of the witnesses and the documents to be produced are to be given to the IC in writing. However, if there are fresh evidences to be produced the complainant or the respondent can make such requests.
- Further, IC shall have the right to terminate the inquiry proceedings and give an ex-parte decision on the compliant, if the Complainant or the Respondent fails, without any sufficient cause to present themselves in front of the Chairperson or Presiding Officer for 3 (three) consecutive hearings and IC shall give such order only after giving an advance notice of 15 (fifteen) days to the concerned party.
- In case of the complaint is made against a third person who is not a part of VANI, the IC shall advise the Complainant to file a Complaint with the police immediately. The option of whether the Complaint should be filed with the police or not is left with the Complainant, yet the support of VANI in filing the Complaint shall always be ensured. If the complaint amounts to offence under the Indian Penal Code, then VANI can assist the victim in initiating criminal action.
- In conducting the inquiry, a minimum of three members of IC including the Presiding Officer shall be present.

V. Post inquiry - Report submission and action taken:

- IC submits the report to CEO within ten days of the completion of the inquiry
- The copy of the report is given to the Complainant and the Respondent.
- If the allegation is proved in the conciliation stage, the respondent may also be directed by the Chief Executive Officer on the recommendation of IC to make monetary compensation to the complainant.

The following factors may be taken into account while the Respondent is directed to pay the complainant:

1. Mental trauma, pain, suffering and emotional distress caused to the Complainant;
2. Loss in the career opportunity due to sexual harassment;
3. The income and financial state of the respondent;

4. Medical expenses incurred by the victim for physical or psychiatric treatment;
5. Feasibility of such payment in lump sum or in installments

If the allegation is proved in the inquiry stage, action will be taken against the Respondent as per the Standards of Conduct;

- a. A letter of warning that will be placed in the personal file of the respondent
 - b. Stop the increment with or without cumulative effect
 - c. Reduction in rank.
 - d. Termination/dismissal from the services of the Company.
 - e. Any other action that the Disciplinary Authority may deem fit.
- During the inquiry if it is found that the allegation against the respondent is malicious or if the complainant or any other person makes such complaint knowing it to be false or produces any forged or misleading document, action will be taken against them as per the code of Conduct/Standing Order.
 - However, if the Complainant is unable to substantiate a complaint or provide adequate proof, no action will be taken.
 - During the inquiry, if it is proved that the witness/witnesses have given false evidence or produced any forged documents, action will be taken against them in accordance with VANI's code of Conduct/Standing Order.
 - The proceedings, conciliation or the action taken etc. is to be not made public or published and the names or addresses will not be disclosed.
 - If required, the information may be disseminated to secure justice, without disclosing the name, address, identity or any other particulars, which may lead to the identification of the aggrieved woman and witnesses.
 - If the person who is entrusted with the duty to handle or deal with the complaint, inquiry or any recommendation or action, which has to be taken, does not comply with the above-mentioned clauses action to be taken as per VANI's code of Conduct.

Non Retaliation:

VANI will not accept, support or tolerate retaliation in any form against any Employee who, acting in good faith, reports suspected misconduct, asks questions or raises concerns. Any person who engages in such retaliation directly or indirectly, or encourages others to do so, may be subject to appropriate disciplinary actions.

VANI hereby ensures that:

- Retaliation will be treated as a major misconduct;
- Retaliation against those reporting Sexual Harassment is prohibited by this policy;
- Retaliation means and includes any hurtful employment action(s) against an individual(s);
- Anyone suspecting or experiencing retaliation should report such matter immediately to the HR of VANI;
- Anyone feeling that a retaliation complaint did not get a prompt response can contact the CEO directly;
- Retaliation cases are treated as seriously as an alleged case of Sexual Harassment even if the original Sexual Harassment Complaint is not proven.

Support provided by the Management to the Complainant:

- Provide a safe working environment at the workplace which also includes employees, visitors, clients or any other internal or external individuals

- Provide assistance to the complainant if he/she chooses to file a complaint in relation to the offence under the Indian Penal Code.
- Assist the complainant to initiate action under the Indian Penal code against the perpetrator who is not an employee in the workplace where the sexual harassment has taken place.
- Treat sexual harassment as a misconduct under the Code of Conduct.

APPEAL

In the event that Aggrieved Person or the Respondent is not satisfied with the recommendations of the IC, the person may appeal to the appropriate authority, as specified by the Act, within a period of 90 (ninety) days of receiving such recommendations from the IC.

Responsibilities:

Employee:

- Participate in the POSH awareness programme as and when conducted.
- Seek clarification on POSH including what constitutes Sexual Harassment.
- Understand the process of giving complaint.
- Support the fellow employee if he/she is sexually harassed.
- Acknowledgement that the policy is understood.

Management:

- Encourage employees to attend the POSH Awareness programme,
- Clarify doubts on POSH.
- Address employees' concern on POSH,
- Support employees if they are sexually harassed.

Human Resources department (HR):

- Organise Awareness programmes on POSH.
- POSH policy to be displayed in the Notice board and intranet.
- Annual awareness programme on POSH with updated information.
- Acknowledgement from all employees that they have understood the POSH Policy.
- File acknowledgement from employees in their personal file

A gist of all the steps required to be taken by the IC is given hereunder TIMELINES

The act has laid an extensive list of responsibilities for the employer. The employer has to comply with these provisions religiously to avoid any penalties or punishments. A detailed checklist for employers is appended herewith as Annexure-2 to this report. The IC must keep in mind the following timelines:

Responsibility	Timeline
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Submission of Complaint	Within 3 months of the last incident
Notice to Respondent	Within 7 working days of receiving the copy of the complaint
Completion of Inquiry	Within 90 days
Submission of report by IC/LC to employer/District Officer	Within 10 days of completion of inquiry
Implementation of Recommendations	Within 60 days
Appeal by complainant/respondent	Within 90 days of the recommendations
Annual report to the District officer	Once in a year after 31 st December

