

St. Xavier's University, Kolkata

POLICY ON PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT

Policy Statement

St. Xavier's University, Kolkata (hereinafter referred as 'SXUK' or the 'University') is committed towards maintaining and strengthening an educational, employment and living environment free of harassment and intimidation. Sexual harassment impedes equal employment and educational opportunities and is antithetical to the standards of the University community. SXUK does not tolerate acts of sexual harassment. The Policy framed in pursuance of *the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* (hereinafter referred as the 'Act') and the allied Rules and *University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015* (hereinafter referred as the 'Regulations'), seeks to ensure prevention and prompt redressal of acts of sexual harassment.

1. Title, Scope and Application

- 1.1 This Policy may be called the SXUK Policy on Prevention, Prohibition and Redressal of Sexual Harassment.
- 1.2 The Policy applies to students, teaching staff, non-teaching staff, officers, and third parties who engage with any University Functionary or student.

2. Definitions

- i. "**Act**" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. 2013 (14 of 2013);
- ii. "**Aggrieved Person**" means a person of any gender, who alleges to have been subjected to any act of sexual harassment by the respondent in the University;
- iii. "**Commission**" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956);
- iv. "**Employee**" means a person as defined in the Act and also includes, for the purposes of these Policy trainee, apprentice (or called by any other name), interns, volunteers, teacher assistants, research assistants, whether employed or not, including those involved in field studies, projects, short-visits and camps;
- v. "**Internal Complaints Committee (ICC)**" means Internal Complaints Committee to be constituted by the University under sub regulation (1) of regulation 4 of the Regulations. Any existing body already functioning with the same objective (like the Gender Sensitization Committee Against Sexual Harassment (GSCASH)) should be reconstituted as the ICC.
- vi. "**Protected Activity**" includes reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation;
- vii. "**Respondent**" means a person against whom the aggrieved person has made a complaint.

- viii. **“Rules”** means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013;
- ix. **“Sexual harassment”** means-
- I. An unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates or creates a hostile and intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and includes any one or more or all of the following unwelcome acts or behaviour (whether directly or by implication), namely;
 - a) any unwelcome physical, verbal or non-verbal conduct of sexual nature;
 - b) demand or request for sexual favours;
 - c) making sexually coloured remarks;
 - d) physical contact and advances; or
 - e) showing pornography.
 - II. Anyone (or more than one or all) of the following circumstances, if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones
 - a) implied or explicit promise of preferential treatment as quid pro quo for sexual favours;
 - b) implied or explicit threat of detrimental treatment in the conduct of work;
 - c) implied or explicit threat about the present or future status of the person concerned;
 - d) creating an intimidating offensive or hostile learning environment;
 - e) humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned;
- x. **“Student”** means a person duly admitted and pursuing a programme of study either through regular mode or distance mode, including short-term training programmes in the University;
- Provided that a student who is in the process of taking admission in the University, although not yet admitted, shall be treated, for the purposes of the Regulations, as a student of the University, where any incident of sexual harassment takes place against such student;*
- Provided that a student who is a participant in any of the activities in the University other than the university where such student is enrolled shall be treated, for the purpose of this Policy, as a student of that University where any incident of sexual harassment takes place against such student;*
- xi. **“University Functionary”** includes academic staff, non-teaching staff and service provider engaged by the University;
- xii. **“Third Party”** refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or outsider, who is not an employee or a student of the University, but a visitor to the University in some other capacity or for some other purpose or reason;
- xiii. **“Victimisation”** means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour;
- xiv. **“University”** includes:
- a) Any department, office, branch or unit of the University;
 - b) Any sports institute, stadium, sports complex or competition or games venue,

whether residential or not used for training, sports or other activities relating thereof in the University;

- c) Any place visited by the employee or student arising out of or during the course of employment or study including transportation provided by the University for undertaking such journey for study in the University;
- d) Any canteen, bank counter situated in University premises.

3. Prohibition of Sexual Harassment

All instances of sexual harassment at the University are prohibited and shall be dealt as per the Act, Regulations and this Policy.

4. Responsibilities and Obligations of the University

4.1 The University will:

- a) publicly notify the provisions against sexual harassment and ensure their wide dissemination;
- b) organise training programmes or as the case may be, workshops for the officers, other non-teaching staff functionaries, faculty and students, as indicated in the SAKSHAM Report (Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses) of the Commission, to sensitize them and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under these regulations;
- c) act decisively against all gender based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and some male students and students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation;
- d) publicly commit itself to a zero tolerance policy towards sexual harassment;
- e) reinforce its commitment to creating the University free from discrimination, harassment, retaliation or sexual assault at all levels;
- f) include in prospectus and display prominently at conspicuous places or Notice Boards the penalty and consequences of sexual harassment and make all sections of the institutional community aware of the information on the mechanism put in place for redressal of complaints pertaining to sexual harassment, contact details of members of ICC, complaints procedure and so on.
- g) inform employees and students of the recourse available to them if they are victims of sexual harassment;
- h) organise regular orientation or training programmes for the members of the ICC to deal with complaints, steer the process of settlement or conciliation, etc with sensitivity;
- i) be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC to curb and prevent sexual harassment in the University;
- j) treat sexual harassment as a misconduct under service rules and initiate action for misconduct if the perpetrator is an employee;
- k) treat sexual harassment as a violation of the disciplinary rules (leading up to rustication and expulsion) if the perpetrator is a student;
- l) prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the Commission.

4.2 The Vice-Chancellor will mandatorily extend full support to see that the recommendations of the ICC are implemented in a timely manner. All possible institutional resources must be given to the functioning of the ICC, including office and building infrastructure (computers, photocopiers, audio-video, equipment, etc.), staff (typists, counselling and legal services) as, well as a sufficient allocation of financial resources.

4.3 The University will conduct a regular and half yearly review of the efficacy and implementation of this Policy.

5. Constitution of the Internal Complaints Committee (ICC)

The Vice-Chancellor shall, by an order in writing, nominate and constitute a Committee to be called as 'Internal Complaints Committee' (hereinafter called as 'ICC'), consisting of the following members:

- i. A *Presiding Officer* who shall be a woman faculty member employed at a senior level (not below a Professor) at the University;
- ii. *Two Faculty Members* and *Two Non-Teaching Employees*, preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- iii. *Three Students, if the matter involves students*, who shall be enrolled at the undergraduate, master's, and research scholar levels respectively;
- iv. *One Member from amongst non-government organisations* or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- v. At least half of the total members of the ICC shall be women.
- vi. Persons in senior administrative positions in the University, such as Vice-Chancellor, Pro-Vice-Chancellor, Registrar, Deans, Heads of Departments, etc., shall not be members of ICC in order to ensure autonomy of their functioning.
- vii. The term of office of the members of the ICC shall be for a period of 3 years.

6. Responsibilities of ICC

The ICC will:

- a) provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining aggrieved person's rights, and minimize the need for purely punitive approaches that lead to further resentment, alienation or violence;
- b) protect the safety of the aggrieved person by not divulging the person's identity, and provide the mandatory relief by way of sanctioned leave or relaxation of attendance requirement or transfer to another department or supervisor as required during the pendency of the complaint, or also provide for the transfer of the respondent;
- c) ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment; and
- d) ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity.

7. Who can file Complaint

7.1 Any aggrieved person may make, in writing (*as per the Format given in Annexure-A*), a complaint of sexual harassment at the University to the ICC within 3 months from the date of the incident and in case of a series of incidents within a period of 3 months from the date of the last incident.

Provided that if the aggrieved person is unable to submit the complaint in writing by herself or himself, the ICC may allow any other person to file a complaint on her behalf if it considers it reasonable and appropriate.

Provided further that the ICC may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the aggrieved person from filing a complaint within the said period.

7.2 Friends, relatives, colleagues, co-students, psychologists, or any other associate of the victim may file complaint in situations where the aggrieved person is unable to make a complaint on account of her physical or mental incapacity or death.

8. Filing of Complaint

8.1 The complaint may be submitted by hand or by post or email to the Presiding Officer of ICC at the follow:

Email: icc@sxuk.edu.in

Address: St. Xavier's University, New Town, Action Area IIIB, Kolkata - 700 160

9. Process of Conducting Inquiry

9.1 The ICC shall, upon receipt of the complaint, send one copy of the complaint to the respondent within a period of 7 working days of the receipt.

9.2 Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complaint in writing, alongwith a list of documents and names and addresses of witnesses within a period of 10 working days.

9.3 The ICC may ask any of the parties to the complaint and the witnesses not to bring mobile phones or recorders during the deposition or proceedings, to maintain and ensure confidentiality.

9.4 No copy of any of the documents pertaining to either party be handed over to anyone except the parties, to maintain confidentiality required in the proceedings.

9.5 All proceedings of the ICC shall be recorded in writing. The record of the proceedings and the statements of witnesses shall be endorsed and authenticated by the persons concerned as well as by the members of ICC present in that meeting.

9.6 The ICC shall make inquiry into the complaint in accordance with the principles of natural justice.

9.7 The ICC shall have the right to terminate the inquiry proceedings or to give an *ex-parte* decision on the complaint, if the aggrieved person or respondent fails, within sufficient cause to present herself or himself for 3 consecutive hearings convened by the Presiding Officer, as the case may be:

Provided that such termination or *ex-parte* order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

9.8 The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.

9.9 The inquiry must be completed within a period of 90 days from the receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted within

10 working days from the completion of the inquiry to the Vice-Chancellor. Copy of the findings or recommendations shall also be served on both parties to the complaint.

9.10 The aggrieved person may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The University shall facilitate a conciliation process through ICC as the case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved person wherever possible, is preferred to purely punitive intervention.

10. Interim Relief

During pendency of the inquiry, on a written request made by the aggrieved person, the committee may recommend to the employer to-

- a) Transfer the aggrieved person or the respondent to any other department or section to minimise the risks involved in contact or interaction;
- b) Grant leave to the aggrieved person with full protection of status and benefits for a period of 3 months;
- c) Restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the aggrieved person;
- d) ensure that respondents are warned to keep a distance from the aggrieved person, and wherever necessary, if there is a definite threat, restrain their entry into the University;
- e) take strict measures to provide a conducive environment of safety and protection to the aggrieved person against retaliation and victimisation as a consequence of making a complaint of sexual harassment.

11. Initiation of Action

11.1 The Vice-Chancellor shall act on the recommendations of the committee within a period of 30 working days from the receipt of the inquiry report, unless an appeal against the findings is filed within that time by either party.

11.2 If the Vice-Chancellor decides not to act as per the recommendations of the ICC, then it shall record written reasons for the same to be conveyed to ICC and both the parties to the proceedings.

11.3 If on the other hand it is decided to act as per the recommendations of the ICC, then a show cause notice, answerable within 10 days, shall be served on the party against whom action is decided to be taken. The Vice-Chancellor shall proceed only after considering the reply or hearing the aggrieved person.

12. Appeal

An appeal against the findings or / recommendations of the ICC may be filed by either party before the Vice-Chancellor within a period of 30 days from the date of the recommendations.

13. Conciliation

At any point before the submission of the Inquiry Report of the ICC under sub-section 9.9 of this Policy, the aggrieved party may seek conciliation, through a written request to ICC, in order to settle the matter. No monetary settlement shall be made as a basis of conciliation. The ICC shall facilitate a conciliation process through ICC, once it is sought.

Explanation: Conciliation cannot be prescribed by the ICC on its own even where subsequent consent is given by aggrieved party. A prior written request from the aggrieved party shall be mandatory.

14. Confidentiality of Proceedings

- 14.1 The identities of the aggrieved person or victim or the witness of the respondent shall not be made public or kept in the public domain especially during the process of the inquiry.
- 14.2 The identity of the aggrieved person, respondent, witnesses and proceedings of ICC and its recommendations and the action taken by SXUK shall not be published, communicated or made known to the public, press or media in any manner and it will be outside the purview of the Right to Information Act, 2005.
- 14.3 No decision under this Policy, except the final decision in the form of Report of the Inquiry Committee or the Appellate Committees shall be made public, if required.

15. Considerations while preparing Inquiry Report

While preparing the Inquiry Report, following are considered:

- a) Whether the language used (written or spoken), visual material or physical behaviour alleged by the aggrieved person was of sexual nature.
- b) Whether the allegations or events follow logically and reasonably from the evidence.
- c) Credibility and consistency in the statements of aggrieved person, respondent and witnesses and evidence recorded.
- d) Other similar facts etc. for example, if there have been any previous account of harassment pertaining to the aggrieved person/respondent.
- e) Other cases filed before any other fora/agency/department and the result or report, whether having some basis or just to harass or humiliate or for some ulterior motive(s).
- f) Both parties have been given an opportunity of being heard.
- g) A copy of the statements was made available to both parties enabling them to make representation against the findings.
- h) The title page is the identity of the Inquiry Report and it shall contain:
 - The name of the parties
 - Designation of the parties
 - Their reporting Authority
 - Their tenure in the University
 - Case number and other reference number, if any
 - The name and the designation of ICC members
 - Date of receipt of complaint because the whole process is time-bound
 - Date of submission of inquiry report
- i) The information provided by both the parties and witnesses should be included in detail. It should mention the nature of allegations, the basic contents of the complaint, how the complaint falls within the purview of POSH, how the complaint was received by the ICC, the details of everyone contacted by the aggrieved person with respect to this case before or after approaching ICC, contents of the response of the respondent and details of any employee of the organization who is aware about the case or the proceedings.
- j) As a part of the investigation process, the ICC is required to document each and every meeting that is held with the parties, witnesses and internally within the committee for that particular case. The inquiry report should include a brief about all the meetings that are conducted during the investigation.

- k) Each charge should be mentioned categorically with statements thereto, discussion on evidence with reference to that particular charge and findings of ICC with reasons specified need to be included in the inquiry report.
- l) The reason for admitting or dismissing the charge or allegation based on the evidence needs to be put up in clear words.

16. Punishments and Compensation

16.1 Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the University, if the respondent is an employee.

16.2 Where the respondent is a student, depending upon the severity of the offence, the University may:

- a) withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
- b) suspend or restrict entry into the University for a specific period;
- c) expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;
- d) award reformatory punishments like mandatory counselling and, or, performance of community services.

17. Annual Reports

The ICC shall prepare an Annual Report giving an account of the cases filed, if any and their disposal etc. and submit the same to the Vice-Chancellor. The Annual Report shall have the following details:

- a) number of complaints of sexual harassment received in the year;
- b) number of complaints disposed off during the year;
- c) number of cases pending for more than 90 days;
- d) number of workshops or awareness programme against sexual harassment carried out;
- e) nature of action taken by the University.

18. Action against False and Frivolous Complaints

To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised within the University.

If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the necessary action may initiated by SXUK against the complainant based on the recommendations of ICC.

However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the aggrieved person. Malicious intent on the part of the aggrieved person shall not be established without an enquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

19. Saving

The proceedings under this Policy shall be conducted analogously and shall be independent of any other proceedings in law, if such a case arises.

The provisions of this Policy shall not restrict the power of the University or aggrieved person to proceed against the respondent for any other misconduct or to pursue other criminal or civil remedies.

Annexure-A

Name of the Aggrieved person:

Designation:

Qualification:

Contact Details:

(complete postal address, mobile no., email id)

Date & Time of Incident(s):

Brief Details of the incident(s):

Name of the Respondent:

Designation of Respondent:

Relationship with Respondent:

(If complaint made on behalf of the Respondent)

First reaction after/during the alleged Incident:

Representation/Complaint before any other forum/agency: If yes, brief details and copies:

List of Witness(es) (if any):

Witnesses Designation, addresses, contact details:

Relationship with the witnesses, if any:

Any previous grievance/incident caused by Respondent: If yes, give details:

Whether complaint within 3 months of incident: If not, give reasons:

Give details of mode of filing the complaint:

COMPOSITION OF INTERNAL COMPLAINTS COMMITTEE

Name	Composition	Email / Mobile
	One Presiding Officer who shall be a <i>woman faculty member employed at a senior level</i> (not below the rank of a Professor) but should not be Dean or HoD	
	Two Faculty Members (<i>preferably committed to the cause of women or who have had experience in social work or have legal knowledge</i>)	
	Two Non-Teaching Staff (<i>preferably committed to the cause of women or who have had experience in social work or have legal knowledge</i>)	
	One NGO Member (<i>committed to the cause of women or familiar with issues relating to sexual harassment</i>)	
	One PhD Student (<i>if the matter involves students</i>)	
	One PG Student (<i>if the matter involves students</i>)	
	One UG Student (<i>if the matter involves students</i>)	