

## **Preamble**

Consumer Unity & Trust Society (CUTS) strives to create and maintain a healthy, safe and productive work environment, free from discrimination and harassment. It further strives to provide equal opportunity and a harassment free workplace to all its employees.

In compliance with the Vishakha judgement, the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act in 2013 and its rules and notification that were published on 9th December 2013 and following its own belief of a harassment free workplace, CUTS has devised this policy on prevention of sexual harassment. Sexual harassment is a clear violation of employee's right to gender equality as guaranteed under Articles 14 and 15, her right to live with dignity under Article 21 and her right to work with dignity in a safe environment under Article 19 (1) (g) of the Constitution of India.

This policy aims to provide protection against sexual harassment at workplace and puts measures in place for the prevention and redressal of complaints of sexual harassment and for matters connected herewith or incidental thereto should it occur to cover all gender types' male, female and transgender.

Any and all complaints or allegations of sexual harassment will be investigated promptly. Appropriate, corrective action will be implemented based on the results of the investigation in the event harassment is found to have taken place.

CUTS is committed to providing an environment, free from sexual harassment for all staff. CUTS has zero tolerance for harassment, intimidation or humiliation of any kind in its workplace and is dedicated to ensure the policy and best practices to prevent and prosecute acts of sexual harassment are followed at all times.

## **Scope and coverage**

This policy applies to all allegations of sexual harassment made by any employee of CUTS against any another employee irrespective of whether sexual harassment is alleged to have taken place within or outside the office premises during or/and in course of employment. All actions prohibited by this policy are also applicable to all individuals who are on the CUTS premises anywhere in India or outside where it conducts its work or their staff are travelling for work.

If an individual commits an act in violation of this policy, whether an employee or an external person interacting with CUTS, CUTS will take appropriate remedial measures under the circumstances, including measures to mitigate the potential for repetition, and to discipline any of its employees who may have participated in such a conduct or may have failed to stop such conduct when he or she had the authority to do so.

## Definitions

'Employee' as mentioned in Chapter II of Service Rules, 1995 (amended in January 2012).

'Employer' hereinafter referred to as CUTS.

'Complainant' means a person who files a formal accusation or brings a formal charge.

'Aggrieved Individual' in relation to a workplace is a person of any age who has been treated wrongly/unjustly.

'Accused' is an individual against whom a complaint has been made.

'External person' means any individual visiting the premises of CUTS for professional purpose or wherever CUTS conducts its work anywhere in the world.

Sexual harassment might occur as a single incident or a series of incidences which may interfere with an individual's performance by creating an intimidating, hostile or offensive environment. 'Sexual harassment' includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: The list mentioned below is indicative but not limited to:

- (i) Physical contact and advances; or
- (ii) A demand or request for sexual favours; or
- (iii) Making sexist remarks;
- (iv) Showing pornography;
- (v) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature; examples of which are mentioned hereunder, but are not limited to:

### VERBAL

- Making lewd remarks about a person's body
- Asking about sexual fantasies, preferences (or history)
- Making kissing sounds, howling, and smacking lips

### NON-VERBAL

- Displaying sexually suggestive visuals or private parts
- Making sexual gestures with hands or through body movements

### PHYSICAL

- Touching or rubbing oneself sexually around another person
- Molestation and rape

When any of these acts are committed in circumstances where the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work, such conduct can be humiliating and will amount to sexual harassment.

## Obligation on CUTS

No employee should be subjected to verbal, non-verbal, physical, unsolicited and unwelcome sexual overtures or conduct. Behaviour that amounts to sexual harassment may result in disciplinary action, up to and including dismissal.

CUTS will be responsible, among others, for the following:

- a) Prohibit, prevent and deter commission of acts of sexual harassment;
- b) Implement the Policy by providing "discrimination and hostility free" work environment;
- c) Spread awareness of the Policy amongst its employees, including by publication, notification and circulation of the Policy;
- d) Sensitising employees about sexual harassment issues;
- e) Provide fair and impartial procedures for resolution, settlement or prosecution of acts of sexual harassment by taking all necessary steps;
- f) Set up an Internal Complaints Committee (ICC) to look into matter of sexual harassment.
- g) Adoption and implementation of the decision of the ICC;
- h) ICC and Management to meet, a minimum of twice a year, to discuss previous cases, outcomes, actions taken and success of any initiatives.

## Redressal Procedure

An Internal Complaints Committee (ICC) will be set up by CUTS which will deal with all cases of alleged sexual harassment whether brought to it by any employee or taken up suo moto by the organisation, to prevent and deal with sexual harassment and to otherwise implement the Policy.

If an aggrieved individual believes that he/she is the victim of sexual harassment, he/she is encouraged to report such complaints immediately and in any case within 15 working days of occurrence of the alleged incident. The complaint shall contain all the material and relevant details concerning the alleged Sexual Harassment.

An employee who considers that they have been sexually harassed can raise their concern in the following ways:

1. Informally, by speaking or writing directly with the accused or by raising the matter with their Line Manager/Centre Head or Head of Human Resources (HR), seeking their assistance in making a direct request for the behaviour to cease. In such cases no formal record will be made of the matter. However if the behaviour recurs, details of the informal proceedings may be referred to in a subsequent formal complaint.
2. Formally, by lodging a written and signed or an electronic complaint with the Presiding Officer, Internal Complaints Committee (ICC) and in case the complaint is against the Presiding Officer then to the Secretary General. Where a formal complaint is lodged the matter will be investigated and the findings of the investigation recorded and retained.

3. In case the complaint is raised against the Secretary General of the organisation, the Internal Complaints Committee (ICC) will submit its report along with recommendations to the Board and their decision will be final and binding on all the parties.
4. In case the complaint is against an external person, a notice in writing would be sent and would be advised to cooperate in investigation. The complaint will clearly contain reference to the possibility of reporting the matter to Police to ensure that the person concerned cooperates in every way possible.

Filing of a complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc. During the pendency of an enquiry and till the final determination of a complaint of sexual harassment under this Policy the organisation shall not alter the conditions of service/study of the Complainant/Supporter/Witness concerned to their prejudice, as a consequence to the filing, participation or holding of an enquiry under this Policy.

A formal investigation of the alleged sexual harassment will be conducted by the Internal Complaints Committee (ICC) appointed by the Secretary General or any other officer nominated by him.

#### **INTERNAL COMPLAINTS COMMITTEE**

The POSH Act requires an employer to set up an 'Internal Complaint committee' ("ICC") at each office or branch, of an organisation employing 10 or more employees, to hear and redress grievances pertaining to sexual harassment.

The detail of the committee is notified to all covered persons at the location (workplace).

The committee at each location comprises of:

- **Presiding Officer:** A woman employed at a senior level in the organisation or workplace
- At least 2 members from amongst employees, committed to the cause of women and or having legal knowledge
- One external member, familiar with the issues relating to sexual harassment
- At least one half of the total members is women
- The term of the ICC Members shall not exceed 3 years
- Further, a minimum of 3 Members of the ICC including the Presiding Officer are to be present for conducting the inquiry.

#### **The ICC 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

## **Constitution of ICC at CUTS**

In due compliance with the POSH Act, CUTS has constituted an ICC which is as follows:

<b>S. No</b>	<b>Designation</b>	<b>Membership in ICC</b>
1	Centre Head, CITEE	Presiding Officer
2	Centre Head, CCIER	Member
3	Centre Head, CART	Member
4	Head, Human Resources	Member
5	Female Member from CUTS Board	Member
6	Renowned Activist on Women empowerment and gender based violence	External Member

Note:

- External member will be taken on board from case to case basis
- For current members of ICC please refer Annexure I

## **REDRESSAL MECHANISM**

### **CONCILIATION**

Before initiating action on a complaint, the ICC on the request of the aggrieved employee, can make efforts to settle the matter between the parties through conciliation by bringing about an amicable settlement. Conciliation is basically an informal method of resolving complaints before the complaint escalates into a fully blown formal inquiry. Thus, after a complaint of sexual harassment has been lodged, the aggrieved employee may request the ICC to resolve the matter by conciliating between the parties before commencement of the inquiry proceedings, although monetary settlement should not be made as a basis of conciliation.

It is made clear to all parties that conciliation in itself doesn't necessarily mean acceptance of complaint by the respondent. It is a practical mechanism through which issues are resolved or misunderstandings cleared.

In case a settlement is arrived at, the committee records and reports the same to the employer for taking appropriate action. Resolution through conciliation happens within 2 weeks of receipt of complaint.

The committee provides copies of the settlement to complainant and respondent. Once the action is implemented, no further inquiry is conducted.

**FORMAL COMPLAINT**

In compliance with the Act, if the complainant's warrants formal intervention, the complainant needs to lodge a written complaint, which shall be followed by a formal redressal mechanism as described in this Policy.

In case of a verbal complaint, the complaint will be reduced in writing by the receiver of the complaint and signatures of the complainant will be obtained.

An aggrieved employee who intends to file a complaint is required to submit six copies of the written complaint, along with supporting documents and names and addresses of the witnesses 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.

There are provisions for friends, relatives, co-workers, psychologist and psychiatrists, etc. to file the complaint in situations where the aggrieved employee is unable to make the complaint on account of physical incapacity, mental incapacity or death. If the initial complaint is made to a person other than a committee member, upon receiving such a complaint, it will be the responsibility of the complaint receiver to report the same to the committee immediately.

Filing of a complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc. During the pendency of an enquiry and till the final determination of a complaint of sexual harassment under this Policy the organisation shall not alter the conditions of service/study of the Complainant/Supporter/Witness concerned to their prejudice, as a consequence to the filing, participation or holding of an enquiry under this Policy. A formal investigation of the alleged sexual harassment will be conducted by the ICC.

An email ID [icc@cuts.org](mailto:icc@cuts.org) has been created for filing of complaints. The complaint can also be filed by informing the same to the ICC members telephonically as well.

**Conducting Inquiry**

The committee initiates inquiry in the following cases:

- No conciliation is requested by aggrieved employee
- 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

The Committee proceeds to make an inquiry into the complaint within a period of 1 week of its receipt of the original complaint/closure of conciliation/repeat complaint.

### **Manner of inquiry into complaint:**

- Complainant should submit the complaint along with supporting documents and the names of the witnesses
- Upon receipt of the complaint, the committee sends 1 copy of the complaint to respondent within 7 working days
- Respondent replies with all supporting documents within 10 working days of receiving the copy of the complaint
- No legal practitioner can represent any party at any stage of the inquiry procedure
- The Complaints Committee makes inquiry into the complaint in accordance with the principles of natural justice
- In conducting the inquiry, a minimum of three committee members including the Presiding Officer is present

### **Interim relief**

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

- Transfer the complainant or the respondent to any other workplace
- Grant leave to the aggrieved employee of maximum 3 months, in addition to the leave she would be otherwise entitled
- Prevent the respondent from assessing complainant's work performance
- Grant such other relief as may be appropriate

Once the recommendations of interim relief are implemented, the employer will inform the committee regarding the same.

### **Termination of Inquiry**

ICC may terminate the inquiry or give ex-parte decision, if complainant or respondent respectively is absent for 3 consecutive hearings, without reason. 15 working days written notice to be given to the party, before termination or ex-parte order

### **Inquiry procedure**

All proceedings of the inquiry is documented. The Committee interviews the respondent separately and impartially. Committee states exactly what the allegation is and who has made the allegation. The respondent is given full opportunity to respond and provide any evidence, etc. Detailed notes of the meetings are prepared which may be shared with the respondent and complainant upon request. Any witnesses produced by the respondent are also interviewed and statements are taken.

If the complainant or respondent desires to cross examine any witnesses, the Committee facilitates the same and records the statements.

In case complainant or respondent seeks to ask questions to the other party, they may give them to the Committee which asks them and records the statement of the other party.

Any such inquiry is completed, including the submission of the Inquiry Report, within 90 working days from the date on which the inquiry is commenced. The inquiry procedure ensures absolute fairness to all parties.

### **Considerations while preparing inquiry report**

While preparing the findings/recommendations, following are considered:

- Whether the language used (written or spoken), visual material or physical behaviour was of sexual or derogatory nature
- Whether the allegations or events follow logically and reasonably from the evidence
- Credibility of complainant, respondent, witnesses and evidence
- Other similar facts, evidence, for e.g. if there have been any previous accounts of harassment pertaining to the respondent
- Both parties have been given an opportunity of being heard
- A copy of the proceedings were made available to both parties enabling them to make representation against the findings

A copy of the final findings is shared with the complainant and the respondent to give them an opportunity to make a presentation on the findings to the committee.

### **Action to be taken after inquiry**

The ICC submits its report after conducting the inquiry containing the findings and recommendations to the Management, within 10 working days of completion of the inquiry.

The findings and recommendations are reached from the facts established and is recorded accurately.

If the situation so requires, or upon request of the complainant, respondent or witness, Management may decide to take interim measures such as transfer, changing of shift, grant of leave etc. to protect against victimisation or distress during or subsequent to the course of inquiry, pending the final outcome.

### **Complaint unsubstantiated**

Where the committee arrives at the conclusion that the allegation against the respondent has not been proved, it recommends to the employer that no action is required to be taken in this matter.

Further, the committee ensures that both the parties understand that the matter has been fully investigated, that the matter is now concluded and neither will be disadvantaged within the organisation.

**Complaint substantiated**

Where the committee arrives at the conclusion that the allegation against the respondent has been proved, it recommends to the employer to take necessary action for sexual harassment as misconduct, in accordance with the applicable service rules and policies, and this may include:

- Counseling
- Censure or reprimand
- Apology to be tendered by respondent
- Written warning
- Withholding promotion and/or increments
- Suspension
- Termination
- Or any other action that the Senior Management may deem fit and appropriate.

**Timelines**

- Written Complaints (6 copies) along with supporting documents and name and address of witnesses have to be filed within 3 months of the date of the incident.
- Timeline extendable by another 3 months.
- Upon receipt of the Complaint, 1 copy of the complaint is to be sent to the respondent within 7 working days.
- Upon receipt of the copy of the complaint, the respondent is required to reply to the complaint along with a list of supporting documents, and names and addresses of witness within 10 working days
- The inquiry has to be completed within a total of 90 working days from the receipt of the complaint
- The Inquiry report has to be issued within 10 working days from completion of the inquiry
- The employer is required to act on the recommendations of ICC within 60 working days of receipt of the inquiry report
- Appeal to management against the decision of the committee is allowed within 90 working days from the date of recommendations.

**Management Obligations**

Management of CUTS shall provide all necessary assistance for the purpose of ensuring full, effective and prompt implementation of this policy. It shall further be bound by the decisions of the ICC and shall implement the same expeditiously.

The Management shall consider the decision and findings of the ICC and take a decision in relation to action to be taken against the Accused within 5 working days of the submission of the report by the ICC.

**The support to be provided to ICC includes:**

- Ensure that secretarial and administrative support is made available for training, preventive actions and during an enquiry.
- Helping to set up ICC.
- Adequate financial resources for all activities related to training or the enquiry process.
- CUTS is expected to provide adequate protection to ICC members in case of threats and any retaliation. Support and protection must also be provided if matters go to Court.
- Circulation and display of CUTS policy in English or Hindi on sexual harassment to all persons employed by or in any way acting in connection with the work and/or functioning of CUTS.

**Management Discretion**

On receiving the decision of the ICC, the management shall consider the findings and decisions of the Committee as specified above in the 'Obligation on CUTS' section (g). The management is bound to implement the decision of the ICC. However, if it decides not to uphold the decision or give direction to amend the decision as they deem fit, it will have to do so within 5 working days of receiving the report and in writing by providing sufficient reasons for not doing so.

The Management shall inform the Head of HR of the decision in writing so this can be actioned and passed on to the Complainant, Accused and to the ICC.

**Punishment for Sexual Harassment:**

In case if an employee is held guilty of sexual harassment, the Management can impose punishment on him/her which will include (but will not be limited to) the following. These penalties shall be classified as minor and major penalties as defined in Service Rules, 1995 in Chapter XIII, Clause 2.

Provided however, that in addition to all these penalties, the Accused will also be required to give a written apology to the Complainant and upon failure to do so, the punishment can be enhanced.

In case an external person is found guilty, the person would be asked for a written apology. Subsequently a formal complaint may be filed in the nearest police station in concurrence with the victim. However, the organisation will proceed with any action as deemed fit by it.

**Protection against Victimisation**

Whilst the Complaint process is being carried out, the Committee shall, in the event the Accused is the Complainant's Supervisor/Superior, review the possibility of relocating the subordinate within the office and ensure that he/she is not subject to appraisal by the Accused.

The Committee shall ensure that any sort of retaliation against the Complainant or witnesses is strictly prohibited. Any act of reprisal, including internal interference, coercion and restraint, by the Accused, whether directly or indirectly, will result in appropriate action against the Accused by the Management in consultation with the ICC. If need be, the complainant shall be given paid leave from the organisation for period of the inquiry.

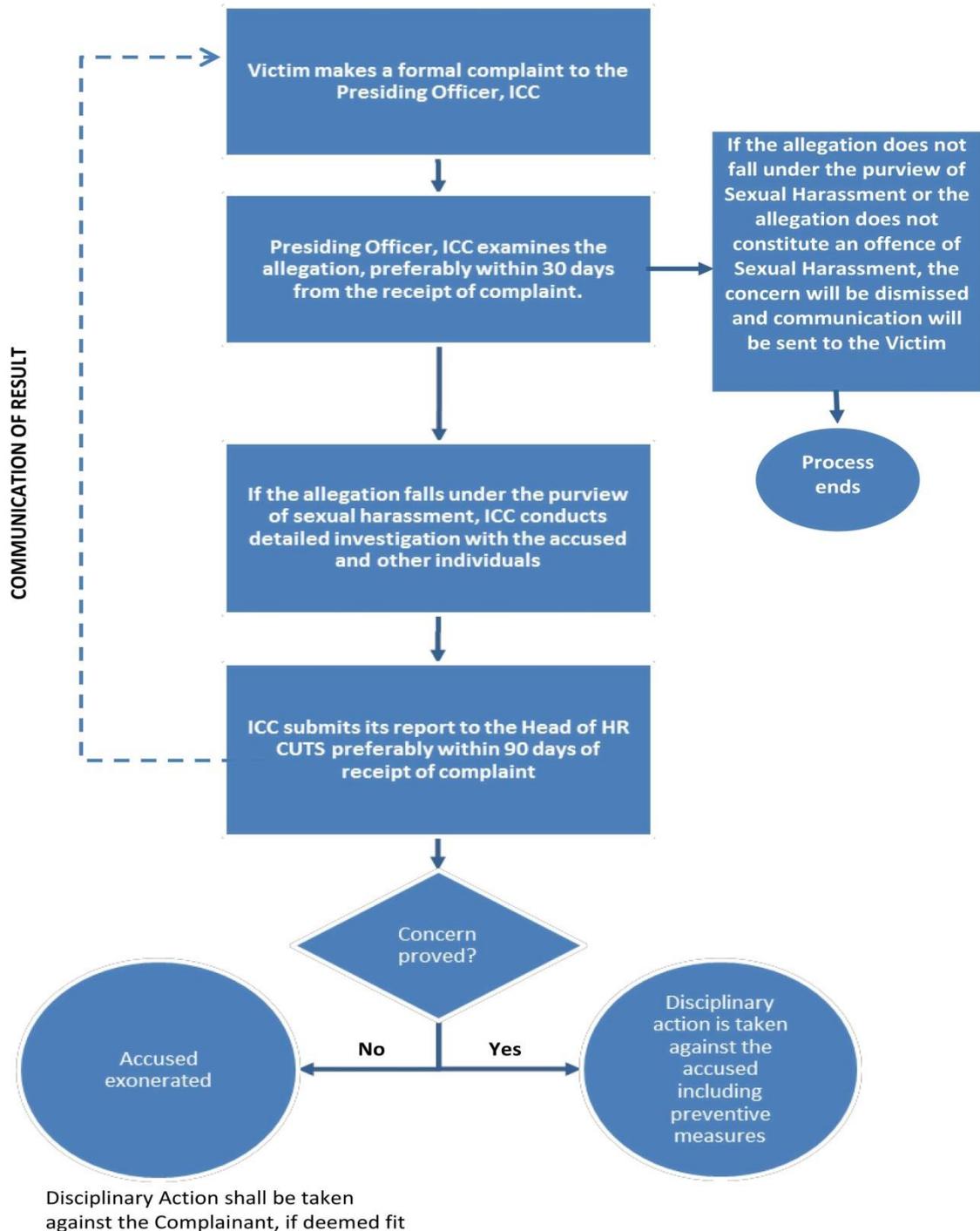
Where the Accused is an outsider, during the period of the investigation of the Complaint and even thereafter, if he/she is found guilty, the Accused shall not be allowed to enter the Organisation premises or anywhere where CUTS conducts its work except for the purpose of attending the Complaint.

In the event of the Accused and the Complainant both being employees of CUTS, then during the period of the investigation of the Complaint and thereafter, if the Accused is found to be guilty, the Accused shall not write the appraisal reports of the Complainant, if he/she is otherwise so authorised.

### **Modification and Review of the Policy:**

The Management reserves the right to modify and, or, review the provisions of this Policy, so as to comply with applicable legal requirements, internal policies, or with a view to fine tune or alter the provisions of this Policy to the extent deemed necessary by the CUTS from time to time.

## Process Flow



**ANNEXURE - I****Current Members in ICC**

<b>S. No</b>	<b>Name</b>	<b>Designation</b>	<b>Membership in ICC</b>
1	Ms. Veena Vidyadharan	Fellow and Centre Head, CITEE	Presiding Officer
2	Ms. Madhuri Vasnani	Senior Communication Officer	Member
3	Mr. George Cheriyan	Director, CUTS and Centre Head, CART	Member
4	Mr. Udai S Mehta	Head, HR	Member
5	Ms. Rima Hooja	Member in CUTS Board	Member