

JAGORI, APRIL 2007

PREVENTION AND REDRESSAL OF SEXUAL HARASSMENT

JAGORI is committed to ensuring an enabling, dignified and equitable work environment for every employee, and therefore has a **zero tolerance policy** on sexual harassment.

The primary objective of this policy is the protection of employees from sexual harassment by colleagues or third parties.

In cases where harassment is reported, this policy is aimed at ensuring fast and fair investigation to provide justice and redressal to the complainant as well as appropriate disciplinary action against the perpetrator if harassment is proved.

Definition of sexual harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favours and other visual, verbal or physical conduct of a sexual nature. It includes (but is not limited to) demands for sexual favours, coercion/pressure to enter into sexual relationships, intrusive/unwanted physical contact, sexually-coloured comments, use of sexually suggestive language, or showing material that is likely to cause offence on account of its sexual content or because it is derogatory to women.

Sexual harassment may span a wide range of actions and behaviours. **Whether or not a particular action or behaviour constitutes sexual harassment is determined by the effect on the recipient, independent of the intention of the perpetrator.**

Sexual harassment can be subtle and indirect or blatant and overt. It can occur between people of the opposite sex or people of the same sex, between peers or between people at differing levels in the organisational hierarchy, and may involve a single incident or repeated incidents over a long period.

Sexual harassment is unacceptable to JAGORI because it is a violation of the right of every employee to respect, equality and safety in the workplace. Sexual harassment creates an intimidating, threatening or hostile work environment, and adversely impacts the morale, mental equilibrium and work performance of the person at whom it is directed.

Sexual harassment is discriminatory if the person being harassed has reason to believe that protesting against the harassment will have an adverse effect on career prospects or working conditions.

Sexual harassment is a criminal offence under the provisions of the proposed Sexual Harassment of Women at the Workplace (Prevention and Redressal) Bill.

Scope and coverage

The provisions of this policy are applicable to

- All employees of JAGORI, regardless of the nature of their contract, duration of employment or position in the organisation.
- Volunteers and interns, regardless of the duration of their association with the organisation.
- Partners, clients and users of JAGORI services including, but not limited to, visitors to the resource centre and violence counselling centre, participants in training programmes and workshops and participants in campaigns and public events.
- Service providers such as vendors and field personnel of public utilities.

Action under this policy will be initiated in cases where any of the above are subjected to sexual harassment by a JAGORI employee, inside or outside the office.

In cases where a JAGORI employee is subjected to sexual harassment by a third party who is not a JAGORI employee, this policy mandates immediate action to protect the complainant and to initiate action against the harasser, either through the appropriate policy of the concerned employer or, in cases where this is not possible, through the criminal justice system.

Complaints Committee

Complaints of sexual harassment will be received, reviewed and investigated by a Complaints Committee with five members (at least three of them women) constituted as follows.

- Coordinator (ex-officio Chair)
- Team Manager (to be nominated by Programme Team)
- Member of Staff (to be nominated by Staff Forum)
- Member of the Executive Committee (to be nominated by the Chairperson of the Executive Committee)
- External expert (a person with experience and expertise on the issue of sexual harassment, to be nominated by the Executive Committee).

The Complaints Committee will have a term of two years and will be constituted by a resolution of the Executive Committee. The Committee will be empowered to receive complaints, attempt informal resolution through mediation, conduct formal enquiries and recommend appropriate actions for redressal and punishment.

In cases where a complaint is received against a member of the Complaints Committee, the concerned individual will be required to step down, and will be replaced by another person from the same category.

In cases where a complaint is received against the Coordinator, the Complaints Committee will be chaired by the Chairperson of the Executive Committee.

Procedures

Filing of complaints

- Any individual who holds a JAGORI contract or has professional dealings with JAGORI can approach any member of the Complaints Committee with a verbal or written complaint of sexual harassment against a staff member or a third party.
- A meeting of the Complaints Committee will be convened within three days of receipt of a complaint, to discuss the substance of the complaint and draw up a time-bound schedule for the further process.
- In the event of all the members of the Complaints Committee not being available for a meeting within the stipulated time limit, those present will be empowered to convene a meeting and take immediate decisions on the further process.

Informal process (mediation)

- If judged appropriate, an informal process (discussion with both parties and mediation to resolve the issue) will be attempted within one week of receipt of the complaint.
- In cases where the alleged offender accepts part or all of the substance of the complaint in the course of the informal process, the Complaints Committee may recommend appropriate disciplinary action.
- In cases where the informal process has been successful in resolving the grievance, the Complaints Committee will close the case and submit a report to the Executive Committee recommending measures to prevent the recurrence of the situation that generated the complaint.
- In cases where the informal process reveals *prima facie* evidence of gross sexual misconduct, the Complaints Committee may decide to institute a formal enquiry even if the complainant is satisfied with the informal process.

Formal process (investigation)

- In cases where an informal approach is deemed inappropriate, or is tried and fails to resolve the issue, a formal investigation will be instituted within fifteen days of the receipt of the original complaint. The complainant and the alleged offender will be informed of the initiation of the formal process and asked to cooperate. If the initial complaint was made verbally, it will be taken in writing at this stage.
- The complainant will be asked to submit a written statement with details of the alleged incident(s) of harassment, with supporting evidence and names of persons who can provide corroboration.

- The alleged offender will be informed in writing of the substance of the complaint. Depending on the nature of the complaint and the particular circumstances of the case, the alleged offender will be requested to respond either in writing or orally to the Complaints Committee, which will record the response.
- The alleged offender will also be asked to submit documentary or other evidence in refutation of the complaint.
- In the course of investigating the complaint, the Complaints Committee will conduct interviews with and cross-question the complainant, the alleged offender and any other individuals who can provide information in support of, or in refutation of, the complaint. The Committee may also examine documents, including confidential files and records pertinent to the case.
- The proceedings of the investigation and the deliberations of the Committee will be recorded both in writing and on tape.
- The complainant (or a person nominated by the complainant as an observer) will have the right to remain present during the depositions by the alleged offender and witnesses. Transcripts of the depositions may be made available in cases where the complainant chooses not to exercise the right to be present.

Report and recommendations

- At the close of the investigation, the Committee will submit a report in writing to the Executive Committee, stating their findings and recommending the appropriate course of action.
- Barring extraordinary circumstances, the process of enquiry will be completed within 30 days of the receipt of the complaint. Any delays will have to be explained in writing to the complainant, the alleged offender and the Executive Committee.
- If cases where the alleged offence is not proved, or where the offence does not merit disciplinary action, the investigation report should include recommendations for steps to be taken to prevent the recurrence of similar incidents in the future.

Disciplinary action

- In all cases where the offence is proved to have been committed and disciplinary action is recommended by the Complaints Committee, an extraordinary meeting of the Executive Committee will be convened within a week of submission of the report and appropriate disciplinary action against the offender will be taken immediately thereafter.
- In cases where the complaint is found to be false and motivated, the Executive Committee may initiate disciplinary action against the complainant and others who are proved to have provided false information or concocted evidence.
- In cases where disciplinary action has been taken, a brief report with details of the offence, the investigation findings and the action taken will be shared with all staff members.

Confidentiality and protection

The Complaints Committee will address complaints and carry out the investigation process in a manner that respects the confidentiality and privacy of complainants, alleged offenders and others who provide information or evidence in cases of sexual harassment.

In exceptional situations, the Complaints Committee may decide to set aside the commitment to confidentiality, such as in cases where legal proceedings are initiated and the organisation is required to disclose information, or in cases where disclosure is deemed necessary to protect the interests of others.

Under the terms of this policy, the organisation is committed to provide support and protection to complainants. Measures will also be taken to prevent further harassment or discriminatory treatment of complainants by supervisors or colleagues on account of having filed a complaint.

Duties and responsibilities for implementation

Every employee of JAGORI, regardless of role or seniority, is responsible for creating and maintaining a respectful and harmonious work environment. All employees are therefore expected to react quickly and effectively to stop or report harassment, whether directed at themselves or at other colleagues.

The Coordinator and Team Managers are responsible for ensuring that the contents and implications of this policy are understood by staff, and for monitoring workplace practices and the work environment. Individuals in supervisory roles may be held personally liable in cases where they knew or can reasonably be expected to have known about an incident of sexual harassment but did not take reasonable steps to deal with it.

The Coordinator and Team Managers are also responsible for internal capacity-building so as to equip all staff with the conceptual understanding and personal confidence necessary to recognise, resist and report sexual harassment.

The ultimate responsibility and authority for implementing this policy lies with the Coordinator in her capacity as the authorised representative of the Executive Committee.
