

# **“Policy for Prevention and Redressal of Sexual Harassment at Workplace”**

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# Policy for Prevention and Redressal of Sexual Harassment at Workplace

## Objective

HCL Corporation Private Limited, is committed to provide an environment free of unlawful harassment. This policy prohibits sexual harassment and harassment based on pregnancy, childbirth or related medical conditions, race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation, or any other basis protected by central, state, or local law or ordinance or regulation. All such harassment is unlawful.

## Scope

This policy applies to all employees of 'HCL Corporation Private Limited' including its subsidiaries and associates (excluding its associate company 'HCL Infosystems Limited') hereinafter referred to as "Organization" or "HCL". This policy also covers contractual staff, vendors, partners, clients, consultants, trainees, visitors etc. of HCL, hereinafter referred to as "Others". Any complaints brought for harassment of an employee by any of the Others or of any of the Others by an employee will be treated under this Policy.

## Applicability

This Policy applies to all persons involved in the operation of the organization and prohibits unlawful harassment from / to any employee of the organization towards from / to other employee including supervisors, vendors, partners and clients. It also prohibits unlawful harassment based on the perception that anyone has any of the above-mentioned prohibited characteristics or is associated with a person who has or is perceived as having any of those characteristics.

## Commitment

HCL is committed to providing a work environment that ensures every employee is treated with dignity and respect. The organization is also committed to promoting an environment that is conducive to the growth of its employees.

The organization will not tolerate any form of sexual harassment and is committed to take all necessary steps to ensure that its employees and other stakeholders are not subjected to any form of harassment.

## Policy Guidelines

HCL is committed to implement the guidelines of "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013".

However, this is to clarify that our policy is gender neutral and covers both male and female members at the workplace.

## Definitions:

**Workplace:** For the purposes of this Policy, the expression 'workplace' or 'at work' is not confined or limited to the actual working place of the employee in the sense of the physical space in which paid work may be performed. 'Workplace' or 'at work' would include HCL offices and campus including but not limited to office buildings, rooms, meeting rooms, cafeteria, grounds, common area and also include any place visited by the employee arising out of or during course of employment, including transportation provided by employer (if any). Workplace also includes inter alia office gatherings / parties, work-related social functions, phone calls, sending messages through cellular phones or email from home even on an off day, or other contacts outside the organization's working hours and work-related interactions.

Thus, it is not the physical workplace that would govern, but the 'accesses' that a perpetrator has to the recipient of sexually harassing behavior by virtue of a job situation or relation that is relevant.

**“Complainant”** refers to an ‘employee’ and ‘Others’ making a complaint under this policy

**"Respondent"** means a person against whom the complainant has made a complaint.

**"Internal Committee:** "Internal Committee" refers to the committee constituted by the Organisation as per policy and the relevant laws in India for investigation and redressal of all sexual harassment complaints and conducting preventive activities to create an environment free from sexual harassment.

### **Definition of Sexual Harassment:**

“Sexual harassment” shall include any one or more of the following unwelcome acts or behaviour, (whether directly or by implication) namely-

- a) Physical contact and advances; or
- b) A demand or request for sexual favours;
- c) Making sexually colored remarks;
- d) Showing pornography; or
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

You may be experiencing sexual harassment when one of the following is true:

- It is stated or understood that you must submit to the behavior in order to get or keep a job
- Employment decisions are based on whether or not you go along with the behavior, or
- The behavior creates a hostile or abusive work atmosphere that changes the conditions of your employment / position in the workplace

### • **Job Sexual harassment could be:**

- **"Quid pro quo"** (this for that) harassment occurs when decisions regarding employment are promised, threatened or given, based upon whether or not one or more employee will submit to sexually-oriented conduct. Quid pro quo sexual harassment is far broader. In a quid pro quo situation, the sexual behavior does not have to be physical. For example, a Functional Head might give the best work assignments to an employee who doesn't spurn his/her sexually-oriented behavior and may penalize those who spurn such advances.
- **"Hostile environment"** sexual harassment occurs where the sexually-oriented conduct of one employee creates an offensive and unpleasant working environment for any other employee. Harassment is often about one person (or a group of people) using power inappropriately over another person/group of people. But harassment can also happen between people when there is no power relationship. It may simply create a hostile environment.
- The following circumstances among other circumstances if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment.
  - a) Implied or explicit promise of preferential treatment in employee's employment and welfare or
  - b) Implied or explicit threat of detrimental treatment in employee's employment/ and welfare
  - c) or implied or explicit threat about employee's present or future employment status / welfare  
Interference with employee's work or creating an intimidating or offensive or hostile work environment
  - d) Humiliating treatment likely to affect employee's health & safety

### **Employee's responsibility**

Employees of the organization must conduct themselves so as to ensure a work environment that promotes, respect and upholds the dignity of every individual at the organization and does not become the cause of unlawful harassment. This term and act of “unlawful harassment” includes but is not restricted to unwelcome behavior whether through visual displays, verbal, non-verbal, physical or other conduct making a person submit to requests, favors, threats or demands that alter or threaten to alter the terms of employment and interfere with work conditions.

**All employees must read and acquaint themselves with the organization's policy to deal with sexual harassment at the workplace and clear any doubts they have with their local HR representative.**

As a first step, employees are encouraged to deal directly and ask the person causing harassment to stop the unwelcome behavior. If such efforts are not successful, employees must report every incident of perceived harassment that they are aware of through the official channels mentioned here.

Employee must cooperate with the organization in investigations and in preventing and curtailing unlawful discrimination and harassment at the organization.

### **Organization's responsibility as an Employer**

- The organization has constituted an **Internal Committee** for the redressal of all sexual harassment complaints, known as the "**Committee against Sexual Harassment**" (**CASH or the Committee**).
- Prevent and prohibit all and any acts of harassment, including sexual harassment, in order to ensure a safe and healthy work environment.
- Redress and resolve grievances pertaining to sexual harassment.
- Take the following proactive steps:
  - Display the penal consequences of the acts of sexual harassment at all conspicuous places.
  - Conduct regular workshops and employee awareness programs for gender sensitization.
  - Create forum for open dialogues for creating sensitization towards gender issues and also address various concerns and issues highlighted thereof.
  - Orientation programs to be conducted for the Internal Committee.
  - Conduct capacity building and skill building programs for the Members of the Internal Committee.
  - Monitor timely submission of the reports including Annual Report by the Internal Committee.
  - To ensure timely submission of the Annual Report by the Internal Committee to the District Officer. The Report shall contain details as to number of complaints of sexual harassment received in the year; number of complaints disposed-off during the year; number of cases pending for more than ninety days; number of workshops or awareness program against sexual harassment carried out; and nature of action taken by the employer. The District officers will in-turn forward the report to the concerned State Govt.
  - Timely and efficient enactment of the recommendations received from the Internal Committee.
  - To assist the aggrieved person in filing an official complaint with the concerned authorities under the Indian Penal Code.
  - Treat Sexual harassment as misconduct under the service rules and initiate action for such misconduct

### **Constitution of Internal Committee**

- The Internal Committee shall consist of the following members to be nominated by the organization, namely:-
  - A Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:
    - Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace;
    - Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;
  - Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
  - One member from amongst non – governmental organizations or associations committed to the cause of women or person familiar with the issues relating to sexual harassment:
    - Provided that at least one – half of the total Members so nominated shall be women
  - The Presiding Officer and every member of the Internal Committee shall hold Office for such period, not exceeding three years, from the date of their nomination as may be specified by the organization
  - Where the Presiding Officer or any other member of the Internal committee,
    - a) has been convicted for an offense or an inquiry into an offense under any law for the time being in force is pending against him/her; or

- b) they have been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against them; or
  - c) has abused their position as to render the continuation in office prejudicial to the public interest, such Presiding Officer or member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the aforesaid provision.
- A quorum of at least 75% of the members is required to be present for the proceedings to take place. The quorum shall include the Presiding Officer of the Committee, one member from the Internal Committee and the third member from the NGO.

The CASH shall have the same powers as vested to Civil Court under the CPC (Civil Procedure Court) w.r.t. summoning & enforcing attendance, examining on oath, requiring discovery & production of documents and such other matters.

For any grievances, employees must write to [secure-hclc@hcl.com](mailto:secure-hclc@hcl.com) and/or report harassment to a supervisor or HR representative or members of the CASH preferably within 3 (three) months from the occurrence.

On receipt of the complaint the CASH shall proceed to commence enquiry as per service rules/rules in that regard.

In cases where there is a prima facie case made out, the CASH will forward the complaint to police within 7 days for registering a criminal case under 509 IPC.

- **Conciliation**

The aggrieved employee may also choose to resort to Conciliation. On the request made by the aggrieved employee, before initiating the inquiry, the CASH will take steps to settle the matter through conciliation.

No monetary settlement shall be made as a basis of conciliation.

CASH shall record the settlement and forward it to the employer to take action. CASH will provide copies of the settlement to the aggrieved employee and respondent and no further inquiry shall be conducted. The settlement terms will need to be duly implemented or else enquiry will need to be initiated.

- **False Accusations**

In case the Committee of Sexual Harassment is of the opinion that the complaint was false and malicious, appropriate disciplinary action up to termination could be taken against the complainant. A detailed reasoning for having reached the above said conclusion shall be submitted. This does not, however, include complaints which are difficult to prove or have been made in good faith but do not constitute sexual harassment per say.

- **Right to appeal**

Any person aggrieved from the recommendations made may prefer an appeal to the court or tribunal, within a period of 90 (ninety) days of the recommendations, in accordance with the manner as may be prescribed, without prejudice to provisions contained in any other law for the time being in force

## **Process for dealing with complaints**

- The complainant may make, in writing, a complaint of sexual harassment at workplace to CASH within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident.
- Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the CASH, as the case may be, shall render all reasonable assistance to the complainant for making the complaint in writing.

- Provided further that CASH or, as the case may be, 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 employee from filing a complaint within the said period.
- The complainant, at the time of filing the written complaint, would be required to submit to the Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- On receipt of the complaint, the Committee shall send information of the complaint to the respondent within a period of seven working days.
- The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents.
- The Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- The Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint (after giving 15 days advance notice), if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson.
- 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 Committee. In conducting the inquiry, a minimum of three Members of the Committee including the Presiding Officer shall be present.

The parties shall be given reasonable opportunity of being heard and a copy of the findings by the CASH shall be made available to them.

The inquiry would ordinarily be concluded within 45 working days of the receipt of the formal written complaint by the CASH, subject to the upper limit of a maximum of 90 days. In case the time limit of 90 days is exceeded, the same will be clearly explained in the final report submitted by the CASH.

Notwithstanding the organization's internal procedure, every employee retains the right to file a complaint of unlawful harassment under the law of the land with relevant authorities.

In relevant cases, in accordance with the mandate of the law of the land, the organization retains the right and responsibility to hand over the investigation or employee to relevant state authorities.

During the pendency of an Inquiry, CASH may recommend to:

- i. Grant leave to the aggrieved employee up to a period of 3 months; Leave granted shall be in addition to the leave otherwise entitled; or
  - ii. Grant such other relief to the aggrieved employee as may be prescribed.
- CASH will provide a report of its findings within 10 days from the date of completion of inquiry and such report may be made available to the concerned parties.
  - The employer is required to act upon the recommendation within 60 days of its receipt of report sent by the CASH.
  - In the cases where the allegations are proved, the Committee shall recommend to the employer to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the perpetrator from service or undergoing a counseling session or carrying out community service.

## **Indian Law**

The ministry of law and justice has published The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act and Rules 2013: An act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

"Sexual harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) 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 sexual nature.

For more clarity reference is being made to the Supreme Court Judgment in the Vishakha case: "Where any of these acts is committed in circumstances whereunder the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem.

It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto."

## **Frequently Asked Questions**

### **Q: What is expected from every employee?**

**A:** If you believe that you have been harassed in any manner, you may submit a complaint to your own supervisor or any other supervisor, or any of the Human Resources Manager of the organization within reasonable time of the occurrence of any untoward incident. Alternatively, you can also report your complaint to the central committee responsible for addressing grievances against harassment at [secure-hclc@hcl.com](mailto:secure-hclc@hcl.com)

We encourage you to report all facts of the incident(s).

It is imperative for a prompt and appropriate redressal of any concerns of discrimination, retaliation or harassment that the incident is brought to attention immediately.

- In cases of sexual harassment, you can forward your complaint immediately to [secure-hclc@hcl.com](mailto:secure-hclc@hcl.com)
- If you happen to notice, observe or receive any good faith information about any incident harassment to a third party, then you need to report this to your supervisor or the Human Resource Manager.

If the organization determines that harassment has occurred, appropriate remedial action shall be taken. Any employee determined by the organization to have caused any kind of harassment shall be dealt appropriate disciplinary action, up to, and including termination. The organization shall not retaliate against anyone for filing a complaint and shall not tolerate or permit retaliation by management, employees or co-workers.

Any queries pertaining to what constitutes discrimination or harassment, you are encouraged to contact your local Human Resources Manager.

### **Q: What are the types of behaviour that are considered as Sexual Harassment?**

**A:** Types of behavior which can be considered as sexual harassment:

Depending on the circumstances, each of the following kinds of behavior may be sexual harassment:

- Material that is sexual in nature, sexist, sexually explicit and so on and is displayed in the workplace, circulated, or put in someone's workspace or belongings, or on a computer or fax machine or on the Internet or any other public display system or public place in the work premises.
- Verbal abuse or comments that put down people because of their sex
- Comments about people's (women/men) bodies
- Tales of sexual exploits
- Graphic descriptions of pornography
- Pressure for dates
- Sexually explicit gestures
- Unwelcome touching and hugging
- Sexist and insulting graffiti
- Sexist jokes and cartoons. There is a difference between harmless humor which may refer to gender, race and so on and using a racist, sexist or other types of stereotyping jokes to have a "dig" at someone (and therefore to harass them). If this difference is not clear or if someone is offended, the behavior should stop immediately
- Obscene phone calls
- Displaying pornography in the workplace
- Insisting that workers wear revealing clothing
- Inappropriate gifts (for example, lingerie)
- Discussion of one's partner's sexual inadequacies
- Lewd and threatening letters
- "Accidentally" brushing sexual parts of the body
- Pressing or rubbing up against a victim
- Sexual sneak attacks (such as grabbing private parts on the run)



- Indecent exposure
- Subtle or overt pressure for sexual favors
- Soliciting sexual services
- Demanding sexual services
- Sexual or physical contact, such as slapping, kissing or touching
- Intrusive questions about sexual activity
- Sexual assault (a crime as well, of course, under the Indian Penal Code)
- Repeated sexual invitations when the person invited has refused/ignored similar invitations
- Coerced sexual intercourse (e.g., as a condition of employment or academic status)

In some cases, a single act may be enough to amount to harassment.

**Q: If I think I have been sexually harassed, or am part of a hostile environment, what should I do?**

**A:** The first thing you should consider is filing your complaint to a member of the Complaints Committee (CASH) or the HR Manager. Your organization cannot solve the problem if they are not aware of the problem. If you do file a complaint, be sure to follow up on it, to be sure that the organization is addressing the issue in a timely manner.

People who are harassed initially respond by trying to ignore the problem. But often, harassment grows worse when it is ignored. Here are some primary steps to deal with sexual harassment.

Tell the harasser to stop. Make it clear you don't welcome this behavior. You can say this in person or in a letter sent by registered mail. Keep copies of any written correspondence.

Follow the grievance procedures outlined in the organization's Policy against Sexual Harassment. Remember that stopping sexual harassment is the responsibility of the employer as well as the harasser.

Log a complaint with the Secure email ID, the members of **CASH**. In case you do not have access to mails please send a Registered letter, courier, call or meet with them. Please note that anonymous complaints will not be taken up. If you choose to complain to your manager, he/she will ensure that the complaint is routed to the committee.

Keep notes describing each incident, including date, time, place, what the harasser said or did, how you responded, who else might have heard or seen it and what you did at that time? Keep these notes at home. Also keep any gifts, notes or cartoons you've received from the harasser.

Talk to others at work, even though it may be embarrassing. Be judicious about talking to your co-workers so you don't encourage gossip or possibly harmful actions by others. But you may find witnesses, allies or other victims of the harasser who will support you. It may be helpful to talk about the experience with friends and family as well.

Keep copies of your employment record at home. Harassers sometimes try to defend themselves by attacking their victims' job performance.

**Q: What if there was a voluntary sexual relationship?**

**A:** The end of a voluntary sexual relationship may give rise to a situation alleging sexual relationship. A party may claim that the relationship was the result of quid pro quo harassment, and was not the result of voluntary conduct or mutual attraction.

Should one party try to continue the relationship, it is possible to have the other claim that the pursuing party is engaged in hostile environment sexual harassment.

It is also possible that there may be a spiteful action in the form of a hostile environment sexual harassment by either party as a consequence of the fallout between the parties

In all these circumstances, it becomes a matter of proof, considering the facts and circumstances in determining whether there has been an incidence of sexual harassment.

**Q: Can one incident constitute sexual harassment?**

**A:** In "quid pro quo" cases, a single sexual advance may constitute harassment if it is linked to the granting or denial of a tangible employment action, such as discharge, demotion or undesirable reassignment or other changes in employment or employment benefits.

In "hostile environment" cases, generally, a single incident does not create a "hostile environment." A hostile environment claim usually requires a showing of a pattern of offensive conduct; the more extreme the conduct, the less the need to show a repetitive series of incidents.

**Q: Is an employer liable if an employee is harassed?**

**A:** If an employer is aware of a hostile environment, and has not taken any appropriate action to correct the problem, then the employer may well be held liable for the harassment.

However, whether it was supervisors, co-workers, work partner or customers who created the hostile environment, if the employer is not made aware of the situation, the employer should not be held responsible for hostile environment harassment.

**Q: What are my responsibilities as an employee?**

**A:** All employees including Directors, Officers and consultants are required to comply with the rules of the organization prohibiting sexual harassment. More specifically you are required to refrain from sexually oriented behavior while interacting with other employees. It may be noted that the acts teasing, sporadic abusive utterances, occasional sexually colored jokes, could upset a person, even though it may not have been intentionally directed at him/her, and may not form a sexual harassment claim. If the censurable behavior you are engaging in, is upsetting someone, stop it immediately and refrain from future indulgences in such behavior. Additionally you are required to report all incidents of sexually oriented behavior that you are aware of, to the appropriate persons.

**Q: Can my employer retaliate against me for filing a complaint?**

**A:** It is unlawful for an employer to retaliate against someone who files a charge of discrimination, participates in an investigation, or opposes discriminatory practices.

**Q: Under what law is the Sexual Harassment Policy covered?**

**A:** The policy is based on the guidelines of "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

**"HCL Corporation Private Limited" reserves the right to alter, append or withdraw this policy either in part or in full based on management's discretion.**

# COMPLAINT PROCESS

