

Tourism Finance Corporation of India Limited

Prevention of Sexual Harassment Policy

OBJECTIVE

Tourism Finance Corporation of India Limited (TFCI) is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender discrimination and harassment. TFCI treat each employee with respect and dignity and expect everyone to promote a sense of personal responsibility and ***do not tolerate any form of harassment or discrimination***. The Prevention of Sexual Harassment Policy intends to provide protection against sexual harassment and the prevention and redressal of complaints of sexual harassment and matters related to it.

SCOPE

All employees of TFCI are governed under this policy, including trainees, management trainees, apprentices, interns, full time employees both permanent and on probation and temporary employees who are appointed at any office of the company in India. This Policy comes into effect immediately.

Acts of sexual harassment are covered by law under the following sections:

- The Sexual Harassment of Women at Workplace Act (Prevention, Prohibition and Redressal) Act 2013 (Act)
- IPC Sections 292 294: Obscenity
- IPC Section 354: Criminal Force or Assault Intended to Outrage Modesty
- IPC Section 375: Rape
- IPC Section 509: Word, Gesture or Act Intended to Outrage Modesty
- Protection of Human Rights Act, 1993
- Remedies in Vishaka vs. State of Rajasthan are in addition to IPC. Vishaka requires the employer to give a police complaint where sexual harassment also amounts to an offence.

Note - It shall be the duty of the Company or any other responsible person in work places or other institutions to prevent or detect the commission of acts of sexual harassment by taking all steps required.

DEFINITIONS

- a) "Aggrieved Employee" means a person in relation to work place whether employed or not, who alleges to have been subject to any act of sexual harassment by the Respondent.
- b) "Company" means 'Tourism Finance Corporation of India Limited'.

- c) "Employee" means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wages basis, either directly or through an agent, including a contractor, with or without the knowledge of the Company, whether for remuneration or not, or working on a voluntary basis or whether the terms of employment are expressed or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;
- d) "Internal Committee" means a committee constituted by Company as per this policy.
- e) "Respondent" means a person against whom the aggrieved employee has made a complaint.
- f) "Sexual Harassment" includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:—
 - (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:—

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment ; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

The reasonable person standard is used to determine whether or not the conduct was offensive and what a reasonable person would have done. Further, it is important to note that whether harassment has occurred or not, does not depend on the intention of the people but on the experience of the aggrieved employee.

- g) "Workplace" includes all Company premises and shall also include any place visited by the employee arising out of or during the course of employment including transportation by the Company for undertaking such journey.

COMPOSITION OF INTERNAL COMMITTEE

A Committee has been constituted by the Management to consider and address complaints of sexual harassment. The sexual harassment policy derives its governance and action from the prescribed Act.

The members of the Internal Committee will be selected as laid down by Act:

- a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:
- b) 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;
- c) one member from amongst non-governmental organisations or associations committed to the cause of women or a 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 the period, not exceeding three years, from the date of their nomination as may be specified by the Company.

The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the Company, as may be prescribed.

Meeting frequency of the committee: Committee should meet within 7 working days of receiving the complaint. A minimum quorum of 3 members out of which at least 2 need to be women and the external representative is required to be present for the proceedings to take place.

Investigation Committee: The Internal Committee Representatives may form the Investigation Committee. This committee must have equal number of male and female representatives subject to the gender being investigated. Investigators are required to conduct a process towards fact finding and analysis.

ACTION AGAINST INTERNAL COMPLAINT COMMITTEE

Where the Presiding Officer or any Member of the internal committee

- a. Contravenes the provisions of the Act, Section 16
- b. Has been convicted for an offense or an inquiry into an offence under any law for the time being in force is pending against him/her
- c. He/she has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him.
- d. Has so abused his/her position as to render his continuance in office prejudicial to the public interest

Such Presiding Officer or Member as may be the case may be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions in Section 16.

COMPLAINT OF SEXUAL HARASSMENT

Following procedure will be adhered to for resolution of grievances related to sexual harassment:

1. Any employee who has sufficient reason to believe that s/he is being sexually harassed directly or indirectly may submit a complaint of the alleged incident to any representative of the Internal Committee. An employee can also address the complaint to his/ her Reporting Officer or HR team through e-mail, letter, in-person meeting or by contacting a HR team member or a member of the Internal Committee on mail or on phone. The complaint must be made within 3 months of the incident.
2. It would be mandatory for an employee to disclose his/her name while raising complaint. This is required to ensure authenticity of the complaint.
3. Employee(s) will be required to submit a written complaint to enable the Investigation Committee to initiate the investigation.
4. In case of a complaint filed by another person on behalf of the complainant (where the complainant is in confidence) the facts of the complaint will be assessed in order to determine whether a prima facie case of sexual harassment exists and whether intervention or some other assistance is required.
5. Any employee who has knowledge of any act of sexual harassment has taken place, or retaliation against a person who has reported sexual harassment, is required to report it to the Head – HR. Failure to report will result in appropriate disciplinary action.
 - a) Where the aggrieved employee is unable to make a complaint on account of her/his physical incapacity, a complaint may be filed by:
 - Relative or friend
 - Co-worker or
 - Any officer of the National Commission for Women or the State Women’s commission or
 - Any person who has knowledge of the incident with the written consent of the aggrieved employee.
 - b) Where the aggrieved employee is unable to make a complaint on account of his/her mental incapacity, a complaint may be filed by:
 - Relative or friend or
 - A special educator or
 - A qualified psychiatrist or psychologist
 - The guardian or authority under whose care s/he is receiving treatment or care; or

- Any person who has knowledge of the incident jointly with his/her relative or friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care s/he is receiving treatment or care.
- c) Where the aggrieved employee is for any other reason unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident with his/her written consent.
- d) Where the aggrieved employee is dead a complaint may be filed by any person who has knowledge of the incident, with the written consent of his/her legal heir.

MANNER OF INQUIRY INTO COMPLAINT

1. Subject to the provisions at the time of filing the complaint the complainant shall submit to the Internal Committee copy of the complaint along with supporting documents of the names and addresses of the witnesses.
2. On receipt of the complaint the Internal Committee shall send one of the copies received from the aggrieved employee to the respondent within a period of 7 days.
3. The respondent shall file his/her reply to the complaint along with his/her list of documents and names and addresses of witnesses within a period not exceeding ten working days from the date of the receipt of the complaint from the internal complaint committee.
4. The Internal Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
5. The Internal Committee will hold a meeting with the Complainant within 7 working days of the receipt of the complaint. Under no circumstances, confidentiality of the information can be shared with any non-entity to the investigation, except with the committee and related senior management team. Breach of confidentiality shall be treated as misconduct which will be punishable as per the disclosure clause.
6. The Internal committee may call upon any documents like e-mails, text messages (stored on handsets), mobile statements, credit card statements etc. which they deem can serve as documentary proofs.
7. The Internal Committee may, before initiating an enquiry at the request of the aggrieved employee take steps to settle the matter between him/her and the respondent through conciliation provided that no monetary settlement shall be made as a basis for conciliation
8. Where a settlement has been arrived at, the Internal Committee, shall record the settlement so arrived and take written consent on the same from both parties and record and share the same with action as specified or agreed.
9. The Internal Committee shall provide copies of the settlement to the aggrieved employee and the respondent.
10. In case there is no settlement arrived at the Internal Committee shall immediately proceed with the enquiry and communicate the same to the complainant and person against whom complaint is made.

11. At the first meeting, the Investigation Committee members shall hear the complainant and record the plaintiff's allegations. The complainant can also submit any corroborative material with a documentary proof, oral or written material, etc., to substantiate his / her complaint. If the complainant does not wish to divulge personally due to embarrassment of narration of event, any officer as representative of the plaintiff may act on the plaintiff's behalf for the purpose of recording the statement.
12. The Internal Committee shall have the right to terminate the inquiry proceedings or to give an ex parte decision on the complaint, if the complainant or respondent fails without sufficient cause to present herself or himself for three consecutive hearings convened by the Chairperson or 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.
13. 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 Internal Committee.
14. In conducting the inquiry, a minimum of three members of the Internal Committee including the Presiding Officer or Chairperson shall be present.
15. Thereafter, the person against whom complaint is made may be called for a deposition before the Internal Committee and an opportunity will be given to him / her to give an explanation, where after, an enquiry shall be conducted.
16. In the event, the complaint does not fall under the purview of Sexual Harassment or the complaint does not mean an offence of Sexual Harassment, the same would be routed through appropriate and alternate committee for their action.
17. Where the Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved employee or any other person making the complaint has made the complaint knowing it to be false or has produced any forged or misleading document, the Group Head - Human Resources may take action against the complainant in accordance with the Disciplinary action Policy of the organization.
18. The Internal Committee shall prepare and hand over the Statement of Allegation to the person against whom complaint is made and give him / her an opportunity to submit a written explanation if she / he so desires within 7 days from receipt of the statement.
19. If the Complainant or the person against whom complaint is made desires any witness(es) to be called, they shall communicate in writing to the Committee the names of witness(es) whom they propose to call.
20. If the Complainant desires to tender any documents by way of evidence before the Committee, he / she shall supply original copies of such documents. Similarly, if the person against whom complaint is made desires to tender any documents in evidence before the Committee he / she shall supply original copies of such documents. Both shall affix their signatures on the respective documents to certify these to be original copies.

21. The Internal Committee is required to review the authenticity of the documents/ evidence provided to them by either of the parties. They are also required to meet with the witnesses and record their statements. All these reports are to be submitted to the Internal Committee Representatives.
22. The Internal Committee shall review the investigation and thereupon make a conclusion as to whether or not disciplinary or corrective action is warranted. Total time period for the entire investigation should normally not exceed 1 month from the date on which the committee received the complaint.
23. Upon completion of investigation, a detailed report with findings & recommendation shall be prepared and submitted by the Internal Committee to the Chairman & Managing Director for final approval. The final decision will be communicated to the concerned employees by the Group Head – Human Resources or a member of the ICC
24. Where the Internal Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall be recommended and notified to the Group Head - Human Resources that no action is to be taken in the matter.

OTHER RELIEF TO COMPLAINANT DURING PENDENCY OF INQUIRY

1. During the Pendency of an Inquiry, on a written request made by the aggrieved employee, the Internal Committee may recommend the Head - HR to:
 - a) Restrain the respondent from reporting on the work performance of the aggrieved employee or writing his/her confidential report and assign the same to another manager.
This may include any of the below actions depending on recommendation
 - h) Transfer the aggrieved employee to any other workplace or
 - ii) Grant leave to the aggrieved employee up to a period of three months.
 - iii) Grant such other relief to the aggrieved employee as may be prescribed
 - iv) The leave granted to the aggrieved employee under this section shall be in addition to the leave to which s/he would otherwise be entitled to in his/her normal course of employment with the company.

The implementation of the above recommendations shall be reported to the Internal Committee
2. The documents pertaining to the investigation shall be maintained by the HR Department and should be securely stored for future reference; if any.

MANNER OF TAKING ACTION FOR SEXUAL HARASSMENT

Upon completion of investigation, a detailed report with recommendation shall be prepared and tabled by the Internal Committee Representatives to the Chairman/MD/WTD for final approval. The final decision will be communicated to the concerned employees. The disciplinary action initiated against the person(s) found guilty of action shall be final and binding.

Except in case where service rules exist where the Internal Committee arrives at the conclusion that the allegation against the respondent has been proved, The Committee may recommend to the action which may include as the case may be a written apology/ termination/ change of duty/ demotion / withholding of benefits and perks or promotion / written warning/ criminal suit or any other appropriate action as appropriate under the policy.

ACTION FOR FALSE OR MALICIOUS COMPLAINT OR FALSE EVIDENCE

Where the Internal Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved employee or any other person making the complaint has made the complaint knowing it to be false or the aggrieved employee or any other person making the complaint has produced any forged or misleading document, it may recommend to the as the case may be, to take actions against false evidence.

APPEAL

Any person aggrieved from the recommendations made by the Internal Committee or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the person. The appeal shall be preferred within 90 days of the recommendations.

PROHIBITION OF RETALIATION

Retaliation of any kind against anyone who is involved in the investigation of or in making an allegation of sexual harassment is prohibited and will result in disciplinary action against the retaliator, including termination of employment.

NON-DISCLOSURE OF THE COMPLAINT

- a. Notwithstanding the Right to Information Act 2005, the identity and address of the aggrieved employee, respondent and witness, any information relating to conciliation, enquiry and proceedings or recommendations of the Internal Committee as the case may be and the action taken by the Company shall not be disclosed, published, communicated or made known to the public, press and media in any manner
- b. Penalty for Contravention of Disclosure Clause: if any person contravenes the non-disclosure of the complaint or recommendations as may be the case, the Company shall take necessary action as per the act.

MISCELLANEOUS:

1. Action in terms of monetary punishment: If the Committee deems it suitable for any sum to be paid to the aggrieved employee, by the respondent, the sums shall be decided based on the following and after due ratification by the:

- a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved employee
 - b) the loss in the career opportunity due to the incident of sexual harassment
 - c) medical expenses incurred by the victim for physical or psychiatric treatment
 - d) the income and financial status of the respondent
 - e) feasibility of such payment in lump sum or in installments
2. Reporting of Investigation Committee: The committee of investigators will report into the Internal Committee Representatives. If required, it may seek assistance from any other department other than the department from where the complaint has been received.
 3. Grievance against any member of Investigation Committee / Internal Committee Representatives should be addressed to the Managing Director of the organization.
 4. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the Company shall take all necessary and reasonable steps to assist the affected person in terms of psychological, legal and financial support.
 5. In case the Internal Committee finds the degree of offence within the scope of the Indian Penal Code, then this fact shall be mentioned in its report and appropriate legal recourse shall be sought by the Management in such cases. The company should provide assistance to the employee to obtain legal recourse if required.
 6. The company will make appropriate arrangement to facilitate the investigation of the Internal Committee.

MIS AND REPORTING GUIDELINES

All investigations will be tracked and reported to the management team and all sensitivity with regards to investigations shall be adhered to and reasonable judgement shall be exercised on the disclosure of facts in each case. The reporting grid shall be as follows:

Sr.No.	Incident Category	Severity	Related dept. where the incident has occurred	Name of Investigating committee	Investigation start date	Current status	Detailed update	If completed Closure Date	Closure TAT

All cases which are not resolved via the internal governance mechanism due to the need for legal recourse shall also be tracked and reported by the Legal cell as per the progress made at regular intervals. This would be shared with the Management Assurance Committee periodically.

Sr.No.	Incident Category	Severity	Related dept. where the incident has occurred	Legal recourse initiation date	Detailed update	Case success status	If closed then status on the outcome	Resolution TAT	Case learning and recommendations to the internal governance committees

Preparation of Annual Report

The Annual Report which the Complaints Committee shall prepare shall have the following details and should be shared with

- a) Number of complaints of sexual harassment received in the year;
- b) Number of complaints disposed of during the year
- c) Number of case pending for more than 90 days
- d) Number of workshops or awareness programs against sexual harassment carried out;
- e) Nature of action taken by the Company
