

POLICY AGAINST SEXUAL & GENDER-BASED HARASSMENT

Objective:

The objective of this policy is to outline what conduct constitutes sexual and gender-based harassment. The policy will outline the organizational approach of the Earth Focus Foundation to create and maintain a safe, inclusive, work environment, conducive for all personnel, free from sexual, gender-based, or sexuality-based harassment, discrimination, and in the event of such an occurrence, to enable a fair mechanism for dealing with such conduct as per the guidelines of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013.”

Definitions

- 1) Sexual Harassment- Harassment of a staff consisting of any unwelcome, sexually determined behavior, whether directly, indirectly, by any male/ female in charge of the management or a male/ female co-staff, either individually, or in association with other persons, to exploit the sexuality of co-staff, to harass him/ her in a manner which prevents or impairs his/ her utilization of full benefits, facilities or opportunities, or any other behavior which is generally considered to be derogatory, “transphobic” and discriminatory against non-binary staffs. Sexual harassment includes any one or more of the following unwelcome acts or behaviours (whether directly, or by implication):
 - Physical contact and advances (including rape and attempt to rape)
 - A demand or request for sexual favours
 - Making sexually-coloured remarks
 - Sending, displaying or showing of pornographic material in physical form or through any electronic media
 - Any other unwelcome physical, verbal or non-verbal conduct of sexual nature
 - Any other acts or omissions that are of like nature to the instances above Unwelcome sexual advances, verbal or physical conduct of a sexual nature made, either explicitly or implicitly, in return for a term, or condition, of teaching/ guidance, employment, participation or evaluation of a person’s engagement in any institutional activity.
 - Unwelcome sexual advances through letters, phone calls, SMSs, e-mails or any other communication mediums, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature, have the purpose or effect of interfering with an individual’s performance or of creating an intimidating, hostile or offensive environment.
 - Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person’s wishes.

- Giving gifts or leaving objects that are sexually suggestive.
 - Forcible physical and/or inappropriate touch or molestation, eve teasing, innuendos and taunts, physical confinement against one's will.
 - Any act or conduct by a person in authority which denies or would deny equal opportunity in pursuit of education or career development, or otherwise make the environment at Earth Focus hostile or intimidating at personal and/or professional levels.
 - Cyber bullying- harassment or bullying of any person(s) through digital devices like computers, laptops, smartphones and tablets.
 - It can occur over emails, social media, chat rooms and gaming platforms, where people can view and participate in the sharing of content.
 - It comprises posting, sending or sharing negative, nasty or false information about another individual for causing humiliation and character assassination.
 - The following circumstances related to the workplace also amount to sexual harassment:
 - Implied or explicit promise of preferential/ detrimental treatment
 - Implied or explicit threat about the present, or future, employment status, or projects/ assignments/ examination results/ interference with work Creating a hostile, intimidating or an offensive work environment Humiliating treatment likely to affect physical/ mental health or safety
 - Any unwelcome gesture having sexual overtones
 - Ridiculing an individual on the basis of colour, region, religion, ethnicity, dress or physical appearance with a sexual connotation.
 - Inquiries into an individual's sexual experiences, sexual activities and sexual orientation
 - Breaching of confidentiality of sexual orientation Unwelcome probing inquiries into a person's sexual orientation/identity
 - Systemic discrimination(from within the organization or by third party collaborators)
- 2) Gender-based harassment: Any unwelcome conduct towards an individual, including slurs, taunts, name-calling, physical threats or sexual advances, based on their actual or perceived sex and/or gender is considered gender-based harassment. Instances like these which are motivated by an individual's gender, constitute harassment which is inherently discriminatory in nature.
- 3) Sexual orientation: It is more than just an individual's status, it is an innate, immutable and non-negotiable personal characteristic that contributes to their core identity. Earth Focus recognizes the vast spectrum of sexual orientations and combinations of gender and sexual orientation and accompanying pronouns. We also understand that all accompanying terminology is fluid and its appropriateness can vary over time, and depending on the local

- 4) cultures and contexts. Earth Focus accepts and respects every staff's identity and extends this policy to their protection, particularly in the event of receiving unequal treatment from fellow staff, external consultants, or collaborators.
- 5) Homophobia and heterosexism: terms used to describe the prejudice pertaining to sexual orientation, based on the assumption that heterosexuality is superior/preferable/normal. This basis of negative treatment towards LGBTQIA+ individuals will not be tolerated at Earth Focus.
- 6) Homophobia= irrational aversion to, or hatred for, an LGBTQIA+ individual as a "homosexual". It is a hostile psychological state that can often lead to the expression of discrimination, harassment or violence.
- 7) Heterosexism: refers to the assumption that everyone is heterosexual, and is often linked with homosexuality.
- 8) Transphobia: The irrational dislike, aversion to, hatred for, or prejudice against transgender or transsexual individuals.
- 9) Employee- For the purpose of this Policy, Earth Focus staffs will include all permanent, temporary, and contractual staffs hired by Earth Focus, consultants, donors, NGO partners, interns, volunteers during volunteer work, vendors, and third-party service providers engaged by Earth Focus for the rendering of any service or assistance towards Earth Focus's activities.
- 10) Workplace- for Earth Focus staff, the main office in Nagpur, Mukki and any other office / field locations in India. field stations at various locations in India, any site that is purchased, rented, or used during the course of, or arising out of, employment at Earth Focus, including paying guest accommodation, and hotels, at national and/ or international locations. It also includes vehicles hired for work, and time spent on travel during visits to, and from, the workplace. Under this Policy, the workplace includes restaurants and personal residences used to conduct work arising out of employment at Earth Focus, including work from home.
- 11) Complainant- Any person, including staff of Earth Focus, who alleges to have been subjected to any sexual harassment (as defined by this Policy) by a staff (as defined above) of Earth Focus at the Earth Focus workplace.
- 12) Defendant/ Offender- A person against whom a complaint is filed by a complainant, so long as the alleged offender is a staff of Earth Focus.

Scope

Earth Focus is deeply committed to maintaining a zero-tolerance stance against all forms of sexual harassment or discrimination based on gender, individual identity, or sexual orientation, including individuals who identify as lesbian, gay, bisexual, trans, questioning, intersex, asexual, or as other identities within the LGBTQIA+ spectrum. This commitment extends to any actions by Earth Focus staff members during their tenure at the organization, whether directed towards fellow Earth Focus staff members or anyone they interact with on Earth Focus premises or elsewhere, both in India and abroad. Such actions, whether direct or indirect, should not only be construed as sexual or gender-based harassment but also as any behavior that disrupts, interferes with work performance, causes mental or physical distress, or creates an intimidating, offensive, or hostile work environment.

Under this policy, actions will be taken if any Earth Focus staff member engages in conduct that could be categorized as sexual and/or gender-based harassment towards anyone, regardless of whether they are employed by Earth Focus, both inside or outside the organization's premises, on or off Earth Focus field locations or work areas, during or outside regular working hours but in the context of their employment with Earth Focus.

In situations where an Earth Focus staff member is subjected to sexual or gender-based harassment by a third party who is not an Earth Focus employee, this policy mandates immediate action to safeguard the complainant and offer full support to help them pursue action against the harasser, either through the relevant policies of the third party's employer or, if that's not feasible, through the criminal justice system.

This policy applies only when either the aggrieved party or the alleged offender, or solely the alleged offender, are Earth Focus staff members. It does not apply when both the aggrieved party and the offender, or solely the aggrieved party, are third parties not employed by Earth Focus.

If the alleged offender is a person who is not currently employed by Earth Focus or was employed for a brief period (such as service providers or vendors), Earth Focus will provide comprehensive assistance to the alleged aggrieved party (provided they are Earth Focus staff members or were employed by Earth Focus at the time of the alleged incident) to file a complaint with the alleged offender's organization or the relevant competent authority.

This Policy also extends to cover allegations of sexual harassment directed at former Earth Focus staff members, as long as the alleged offender is currently an Earth Focus staff member.

It is important to note that many instances of sexual harassment occur in private settings where there may be no eyewitnesses. Consequently, any inquiries conducted under this Policy may rely on circumstantial evidence, as well as written submissions and oral testimonies from the Complainant, Defendant, and any witnesses, if available, along with any documentary evidence. This process will not constitute a criminal investigation or legal proceedings in a court of law; instead, decisions regarding the complaint will be made based on a strong probability, rather than the standard of 'proof beyond reasonable doubt,' in accordance with principles of natural justice.

The Policy establishes a mechanism and a time-bound process for addressing complaints of sexual harassment and includes measures to prevent such incidents from occurring. However, it is crucial to emphasize that Earth Focus can only take action under this Policy upon receiving a written complaint from the Complainant. No action can be initiated without such a formal complaint.

Effective From:

This policy became effective on August 10, 2019.

Sexual Harassment: The Law and this Policy

Policy Alignment with The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (hereinafter referred to as "The Act") has established comprehensive processes and procedures for the resolution and prevention of sexual harassment, holding employers accountable for fostering a safe work environment for their staff. This Act is applicable to both organized and unorganized work sectors, encompassing individuals working part-time, on a contractual basis, or in voluntary/honorary roles. Our policy not only aligns with the guidelines and procedures mandated by The Act but also extends to cover all forms of sexual and gender-based harassment, as elaborated in this Policy. The primary objective is to explicitly prohibit such forms of harassment at Earth Focus.

Sexual harassment is fundamentally an abuse of power and a blatant violation of an individual's dignity, often downplayed by categorizing it as an interpersonal transgression. In line with the Vishaka Judgement delivered by the Honorable Supreme Court of India, The Act emphasizes

that it is the duty of employers and responsible individuals in workplaces and institutions to prevent and deter acts of sexual harassment. It is their responsibility to establish procedures for

resolving, settling, or prosecuting such acts by taking all necessary steps. By encompassing the rights of all personnel, including those who identify as non-binary, such as lesbian, gay, bisexual, trans, questioning, intersex, asexual, or other identities (LGBTQIA+), Earth Focus is committed to implementing comprehensive measures to ensure the safety, security, dignity, rights, and equality of all staff.

Internal Committee (IC): The Act mandates that workplaces with more than ten staff members establish a policy for the Prevention of Sexual Harassment (POSH) of women at the workplace and form an Internal Committee to investigate any complaints arising from the implementation of this policy.

In accordance with the Act's guidelines, Earth Focus's Internal Committee shall consist of a total of five members:

- **Presiding Officer/Chair:** A senior-level female employee at Earth Focus.
- **Internal Members:** Three internal members, including at least one male member and ideally one representative from the LGBTQIA+ community.
- **External Member:** One external member dedicated to preventing sexual harassment.

A list of current Earth Focus IC members will be prominently displayed at all Earth Focus premises with more than ten staff members living or working there. It will also be circulated to all staff members via email. Any new IC will be registered with the Maharashtra State Commission for Woman, as mandated by the Commission.

Powers of IC: The IC possesses powers under the law equivalent to those of a Civil Court in the following matters:

- Summoning and compelling the attendance of any person for examination under oath.
- Requesting the disclosure and production of documents.

The following guidelines govern the constitution and operation of the Earth Focus IC:

- The IC cannot advise or interfere in any matter related to sexual or gender-based harassment, as defined by the Policy, outside of the formal complaint and inquiry process outlined in this Policy.
- If an alleged aggrieved person wishes to pursue unofficial or informal procedures not specified in this Policy, the IC will not handle these procedures. Instead, they will be referred to Senior Management or the Executive Director.

- A quorum of at least three out of five members, including the IC Chair and a female member, is required to hold any IC meeting.
- No IC member may serve for more than three years unless there is an ongoing investigation or an insufficient number of senior female staff members available to fill the required positions.
- All IC members are obligated to treat each complaint, Complainant, and Defendant with the utmost discretion, impartiality, and seriousness, devoid of any preconceived biases, prejudices, or opinions. The decision-making process will rely solely on facts.
- The IC cannot make promises to the Complainant regarding the type or severity of punishment or recommendations to be taken against the Defendant. All recommendations will be independently formulated by the IC and communicated to the Complainant, Defendant, and employer upon the conclusion of the inquiry process.
- In cases where a complaint is made against an IC member or a conflict of interest arises (e.g., the IC member is the Defendant's supervisor), that member will be excluded from the IC for that specific investigation. If found guilty of the charges, they will be barred from serving on the IC for a duration determined by the other IC members.
- To implement this policy, the IC will submit a final investigation report to the Executive Director and Earth Focus, outlining the necessary actions and implementation.
- If a complaint is filed against the Executive Director, it will be forwarded to the Local Committee established under The Act for the District and will not be handled by Earth Focus-IC.
- The procedures for handling and redressing instances of sexual or gender-based harassment under this Policy will generally follow those stipulated in The Act, with specific adherence to the timelines and guidelines outlined in The Act for receiving complaints, conducting investigations, and achieving resolution.

Earth Focus Policy for Filing, Procedure and Redressal of Complaints

Any individual who believes they have been subjected to harassment, as defined by this Policy, by the alleged offender, must file a written complaint with the Earth Focus-IC as soon as possible following the incident but no later than 03 (three) months after the incident or the last incident in the case of a series of incidents. This timeframe may be extended to an additional 03 (three) months in exceptional circumstances by the IC, but not beyond 06 (six) months.

In cases where the aggrieved person is unable to file a complaint due to physical or mental incapacity, a complaint may be filed by a relative, friend, co-worker, or an officer of the National Commission for Women, State Women's Commission, or any person with knowledge of the incident. This can be done with the written consent of the aggrieved person, jointly with their relative, friend, a special educator, a qualified psychiatrist, psychologist, guardian, or authority responsible for their care.

Anonymous complaints will generally not be accepted, unless exceptional circumstances exist that warrant consideration, as they hinder a proper investigation.

Complaints must be submitted exclusively to the Earth Focus-IC and not to the management. Only cases falling under the definitions of sexual or gender-based harassment as specified in this Policy can be brought to the IC. All other complaints must be filed under the relevant policy or guidelines.

The complaint should include the following information:

- Details of the complainant, defendant, and witnesses.
- Details of the alleged incident(s) of sexual harassment, including a description of the incident(s), the specific actions the defendant is alleged to have taken, and the date(s)/ time(s)/ venue(s) where the incident(s) occurred.
- Any other information relevant to the complaint or that the complainant wishes to share with the IC in this context.

Procedure for the IC on receiving a complaint-

Internal Inquiry Procedure

- Once the IC decides to act on the complaint (within 01 (one) working day), a copy of the complaint (along with supporting documents) should be sent to the Defendant within 07 (seven) working days from the IC's receipt of the complaint.
- The Defendant will have 10 (ten) working days from receiving the complaint from the IC to respond to the complaint, providing any supporting documents.
- Neither the Defendant nor the Complainant may communicate with each other directly once a Complaint has been received by the IC. Any such communication would jeopardize the impartiality and fairness of the procedures.
- The IC will promptly share copies of the Defendant's response and supporting documents with the complainant.
- The IC will then convene a meeting of its members to discuss the steps for the investigation.
- Both the complainant and the Defendant, along with their respective witnesses, will be called upon by the IC to present their case, including statements and evidence.
- During these hearings, the complainant will present their case first, followed by the Defendant.
- The IC has the authority to terminate the inquiry proceedings or render an ex-parte decision on the complaint if the Complainant or Defendant fails (without sufficient cause) to appear for three consecutive hearings convened by the IC.

- Both parties will be allowed to cross-examine/question each other and their witnesses through the IC.
- While the inquiry is ongoing, the IC may recommend actions such as transferring the aggrieved party or the respondent to another workplace, or granting the aggrieved party adequate leave if necessary, and approved by the IC.. However, Earth Focus is not obliged to provide any assistance to the complainant until a formal complaint is filed with the IC.
- The IC must complete its inquiry within 90 (ninety) days from receiving the complaint.

Conciliation

- At the request of the aggrieved party, the IC may attempt to settle the matter between the complainant and the Defendant through conciliation. However, monetary settlements are not permissible. All procedures under conciliatory measures should be completed within the 90 (ninety) day period stipulated for inquiry completion.

Report

- The IC will record and report its findings in writing to the employer, complainant, and Defendant within 10 (ten) days of completing the inquiry. The report will include the IC's findings and conclusions regarding the complaint, as well as recommendations for actions to be taken by the employer. Once a report is submitted, no further investigation will be conducted by the IC.
- The employer is obligated to implement the recommendations within 60 (sixty) days of receiving them. Recommendations can include compensation to the complainant and/or disciplinary action against the Defendant.
- The management is also required to submit a report detailing the implementation of the recommendations to the IC.

Provision of Appeal

- If any party is dissatisfied with the recommendations, they have the option to appeal within 90 (ninety) days in a court of law.

Malicious Complaint

- If the IC concludes that the allegations against the Defendant are malicious or have been made knowingly false, or are supported by forged or misleading documents, they will report this to the employer. The employer is obliged to take action against the person responsible for such malice. Misuse of the policy or malicious complaints will be treated as a disciplinary matter. However, it's important to note that not every unsuccessful complaint is considered malicious.

Retaliation

- Retaliation against an individual who has reported sexual harassment (the complainant) or individuals who cooperate with a harassment investigation is unlawful and will not be tolerated. No staff member will face retaliation of any kind for reporting harassment. All staff members are obligated to assist in the investigative process, and their wholehearted participation is mandatory in this regard. Whistle-blowers will be protected from exposure, retaliation, or hostility.

Punishment

- Sexual harassment is considered misconduct, and disciplinary actions may apply if the Defendant is found guilty. The disciplinary action will be commensurate with the nature and severity of the offense. Possible disciplinary actions include but are not limited to warning

Continuation of Procedures and Policy

- The proceedings outlined in this policy will not be delayed or postponed solely because the complainant is pursuing legal action against the accused under any other applicable law.
- This policy does not limit the authority of the management or the complainant to take action against the alleged offender for any other misconduct or pursue other legal remedies.

Policy Review and Conclusion

- The policy will be subject to periodic review to ensure its alignment with changes in Indian legal laws, employment policies, or lessons learned. The review process will involve consulting with staff and seeking external advice.
- The Committee responsible for implementing this policy will keep minutes of all its meetings and proceedings and submit reports to the Executive Director.
- In conclusion, Earth Focus reaffirms its commitment to maintaining a zero-tolerance stance against any form of sexual or gender-based harassment. The organization is dedicated to providing its staff with a workplace that is free from harassment and discrimination, where every staff member is treated with dignity and respect.

This concludes the text of the policy you provided. If you have any more questions or need further assistance, please feel free to ask.

POSH Committee:

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