

***POLICY ON PROTECTION OF WOMEN
AGAINST SEXUAL HARASSMENT AT
HOUSING DEVELOPMENT FINANCE
CORPORATION LIMITED***

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Housing Development Finance Corporation Limited (“HDFC”) was established in 1977 with the primary objective of meeting a social need of encouraging home ownership by providing long-term finance to households. Over the last three decades, HDFC has turned the concept of housing finance for the growing middle class in India into a world-class enterprise with excellent reputation for professionalism, integrity and impeccable service. Trust, integrity, transparency and professional service are the important pillars of the brand HDFC and most importantly, people - both employees and customers - are its brand ambassadors. Accordingly, it is quintessential that all employees are provided with a work atmosphere that is conducive and not exploitive on any count whether on caste, creed, sex, religion or culture with a zero-tolerance policy on account of any such discrimination. HDFC had thus, earned its reputation of being one of the best places to work for employees. HDFC, in accordance to its ethical conduct laid down the code of conduct (“Code of Conduct”) for all its employees and further had enunciated the policy on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“Act”) at workplace on 3rd November, 2008 much before the present legislation titled the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“Act”) was enacted.

1. CODE OF CONDUCT AT HDFC

In line with the ethos of HDFC, the Code of Conduct was laid down whereby each employee at HDFC is expected to conduct himself/herself in the most professional manner, maintain proper office decorum and treat others with respect, fairness and dignity. HDFC does not approve of discrimination in employment based on colour, race, religion, sex and is committed to provide a work environment that is transparent in its conduct, being fair and non-discriminatory. HDFC is committed to be a gender friendly workplace. This is in order to enhance equal opportunities for men and women, to prevent/stop/redress sexual harassment at workplace and to promote good employment practices.

The fundamental objective of this policy (“Policy”) is to set out guidelines to all employees with regard to prevention of sexual harassment at workplace and also to lay down the policy as applicable to HDFC in compliance with the statute. The policy provides a glimpse on the core issues addressed by the legislation and accordingly lays down the details of norms to be followed by HDFC in the eventuality of any occurrence of any contravention.

2. BACKGROUND OF INTERNATIONAL LAW RECOGNIZING SEXUAL HARASSMENT AT WORKPLACE

United Nations

General Assembly Resolution (48/104) on the Declaration on the Elimination of Violence Against Women defines violence against women to include sexual harassment, which is prohibited at work, in educational institutions, and elsewhere (Art. 2(b)), and encourages development of penal, civil or other administrative sanctions, as well as preventative

approaches to eliminate violence against women (Art. 4(d-f)). The Convention on the Elimination of all Forms of Discrimination against Women, 1979 (CEDAW) directs state parties to take appropriate measures to eliminate discrimination against women in all fields, specifically including equality under law, in governance and politics, the workplace, education, healthcare, and in other areas of public and social life. (Arts. 7-16). Moreover, the Beijing Platform for Action, recognizes sexual harassment as a form of violence against women and as a form of discrimination, and calls on multiple actors including government, employers, unions, and civil society to ensure that governments enact and enforce laws on sexual harassment and that employers develop anti-harassment policies and prevention strategies.

International Labor Organization (“ILO”)

The ILO Committee of Experts on the Application of Conventions and Recommendations has confirmed that sexual harassment is a form of sex discrimination covered by the Discrimination (Employment and Occupation) Convention (No. 111) of 1958. The ILO’s Indigenous and Tribal Peoples Convention (No. 169) also specifically prohibits sexual harassment in the workplace.

Indian Context

- The Supreme Court of India, in 1997, in the *Vishaka and others Vs. State of Rajasthan (AIR 1997 SC 3011)* (“**Vishaka Judgment**”), for the first time, acknowledged sexual harassment at the workplace as a human rights violation. In the Vishaka Judgment, the Hon’ble Supreme Court laid down guidelines for making it mandatory for every employer (both in the private and government sector) to provide a mechanism to redress grievances pertaining to workplace sexual harassment and enforce the right to gender equality of working women.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (“Rules”):

The Act has been enacted with the objective of providing women protection against sexual harassment at the workplace and for the prevention and redressal of complaints of sexual harassment. Sexual harassment is considered as a violation of the fundamental rights of a woman, which includes a right to a safe environment free from harassment.

Scope of the Act: The ambit of the Act is very wide and is applicable to the organized sector as well as the unorganized sector. In view of the wide definition of ‘workplace’, the Act, *inter alia*, applies to government bodies, private and public sector organizations, non-governmental organizations, organizations carrying on commercial, vocational, educational, entertainment, industrial, financial activities, hospitals and nursing homes, educational institutes, sports institutions and stadiums used for training individuals. As per the Act, a workplace also covers within its scope places visited by employees during the course of employment or for reasons arising out of employment - including

transportation provided by the employer for the purpose of commuting to and from the place of employment.

3. POLICY ON PREVENTION OF SEXUAL HARRASSMENT AT HDFC

In line with the Act, HDFC has set out the present policy (“**Policy**”) for prevention, prohibition and redressal of sexual harassment of women at workplace. Accordingly, no woman shall be subjected to sexual harassment at HDFC.

The Policy identifies what constitutes sexual harassment, establishes the Internal Committee (“**IC**”), identifies the processes to be followed by the IC and outlines the redressal mechanism in the face of any breach of Policy.

Any complaint received on account of sexual harassment will be dealt with utmost seriousness by HDFC and any one in breach of the Policy shall be strictly dealt with in terms of this Policy set out in lines of the Act and Rules framed thereunder.

3.1. DEFINITIONS

The following definitions are for the ease and understanding of the employees. The exact definitions are to be referred and interpreted from the Act.

3.1.1. Aggrieved Woman: means a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.

3.1.2. Employee: A person employed at the workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

3.1.3. Internal Committee: Consistent with the Supreme Court guidelines and the Act read with the Rules, HDFC has formed an internal committee (“**IC**”) which will manage the process of inquiry and redressal of sexual harassment complaints by women. The committee has been named as the ‘Internal Committee’. The Internal Committee is responsible for *interalia*:

- Investigating every formal written complaint of Sexual Harassment.
- Taking appropriate remedial measures to respond to any substantiated allegations of Sexual Harassment.
- Discouraging and preventing employment-related sexual harassment.

3.1.4. Respondent: A person against whom the Aggrieved Woman has made the complaint.

3.1.5. Sexual Harassment: It refers to behaviour that is unwelcome, personally offensive and that debilitates morale and, therefore, interferes with work effectiveness. It is a form of assault that can manifest itself in terms of physical or psychological acts. Sexual Harassment includes the following:

- (i) Physical contact and advances or a demand/request for sexual favours or making sexually coloured remarks/jokes or sexist remarks or showing pornography or any other unwelcome physical, verbal or non-verbal (through gestures, textual, graphic, electronic) conduct of sexual nature. This includes the following:
 - Obnoxious comments or utterances, innuendos and taunts that cause/are likely to cause embarrassment or awkwardness.
 - Leering, touching or brushing against any part of the body and any such unwelcome contact.
 - Stalking, making sounds or display of a nature with sexual overtures and communicating sexual remarks/jokes via telephone calls, letters, SMS, emails, and the like.
 - Forcible physical touch or molestation.
- (ii) A demand/request for sexual favours in return for a promise of work-related favours such as performance appraisals, promotions, transfers, salary increases and employment or any other form of reward or recognition. A demand/request for sexual favours with a threat of detrimental treatment in present /future employment status.
- (iii) Acts of a sexual behaviour which may arise out of coercion.
- (iv) Physical confinement against one's will and any other act likely to affect one's privacy. This includes any act or conduct by a person in authority and belonging to one sex which denies/would deny equal opportunity in pursuit of career development or otherwise make the environment at the workplace hostile/intimidating to a person, who belongs to the other sex, only on the ground of sex.
- (v) Intrusion into the private lives, etc. or that which may lead to hostile working conditions.
- (vi) Humiliating treatment likely to affect the health or safety of an employee.
- (vii) Any other acts or behaviours that outrage the modesty of a female employee.

In addition, the Act lays down 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 that may amount to sexual harassment:

- implied or explicit promise of preferential treatment in a woman's employment; or
- implied or explicit threat of detrimental treatment in a woman's employment; or
- implied or explicit threat about present or future employment status; or
- interference with a woman's work or creating an intimidating or offensive or hostile work environment for a woman; or
- Humiliating treatment likely to affect a woman's health or safety.

3.1.6. Workplace: In addition to the place of work, it extends to any place visited by the employee arising out of or during the course of employment and includes transportation provided by HDFC for undertaking such journey.

3.2. INTERNAL COMMITTEE

The Act read with the Rules require that the IC be set up comprising of:

- (i) a senior level woman employee of HDFC, as the presiding officer;
- (ii) two other employees committed to the cause of women or having legal knowledge or social work experience; and
- (iii) a member from a non-governmental organization or a person familiar with issues relating to sexual harassment.

Provided however, at least one half of the total members of the IC shall be women.

Accordingly, in compliance with the Act and the Rules, HDFC has constituted an IC at all its branches. To ensure confidentiality, a dedicated e-mail id <hdp@hdfc.com> has been created for employees, for sending sexual harassment related complaints. This e-mail id can be accessed only by members of the IC.

Any complaint that comes to the IC will be dealt with appropriately, sensitively and confidentially in the most judicious and un-biased manner within a certain defined time frame.

The members of the IC shall be entitled to fees or allowances as prescribed under the Act and the Rules made under the Act, from time to time.

3.3. RAISING A COMPLAINT

A written complaint must be filed by the Aggrieved Woman with the IC (of the concerned branch) within 3 months of occurrence of the incident alleged. This period can be further extended by a period of 3 months at the discretion of the IC in the event the circumstances were such which prevented the complainant from filing the complaint.

Where the Aggrieved Woman is not able to make a complaint on account of her physical incapacity, the following persons may file the complaint on behalf of her:

- Her relative or friend; or
- Her co-worker; or
- Any officer of the National Commission for Women or State Women's Commission; or
- Any person who has knowledge of the incident, with the written consent of the Aggrieved Woman.

In the event of death or mental incapacity of the Aggrieved Woman, the legal heirs of the Aggrieved Woman or such other persons as mentioned under the Act read with the Rules can make a com-plaint on her behalf.

The Aggrieved Woman is required to disclose her name, department, division and location she is working in, to enable the Internal Committee to contact her and take the matter forward.

The Aggrieved Woman shall submit 6 copies of the complaint to the concerned IC along with supporting documents and the names and addresses of the witnesses (if any). The IC shall forward a copy of the complaint to the Respondent within 7 working days and the Respondent shall file his reply along with supporting documents and the names and addresses of the witnesses (if any) within a period not exceeding 10 days from the date of receipt of the documents from the IC.

Conciliation: At the request of the Aggrieved Woman, the IC may allow conciliation of the complaint between Aggrieved Woman and Respondent. It may be noted here that monetary settlement shall not be the basis of such conciliation. Upon such settlement being arrived at by IC, it shall record such settlement and forward the same to HDFC.

3.4. INQUIRY INTO A COMPLAINT

The IC shall make inquiry into the complaint in accordance with the established principles of natural justice. The IC shall complete its inquiry within 90 days from receipt of complaint and an inquiry report shall be issued accordingly within the stipulated period.

The IC shall have the right to terminate the inquiry proceeding or give ex-parte decision on the complaint, if the Aggrieved Woman or the Respondent fails, without sufficient cause to present herself or himself for three consecutive hearings conveyed by the IC. Provided such termination or ex-parte order may not be passed without giving a notice in writing, 15 days in advance, to the party concerned.

No party shall be allowed to bring in any legal practitioner to represent them at any stage before the IC.

While conducting an inquiry, a minimum of three members of the IC including the presiding officer of the concerned IC shall be present while conducting the inquiry.

3.5. INTERIM RELIEFS

The IC is empowered to recommend to HDFC, at the request of the complainant, interim measures such as:

- (i) transfer of the Aggrieved Woman or the respondent to any other workplace;
- (ii) grant leave to the Aggrieved Woman up to a period of 3 months in addition to her regular statutory / contractual leave entitlement;
- (iii) restrain the respondent from reporting on the work performance of the Aggrieved Woman or writing her confidential report or assign the same to any other officer.

3.6. ACTION AFTER INQUIRY

On completion of the inquiry, the IC shall provide a report of its findings to the concerned parties within 10 days from the completion of the inquiry.

- a) **In the event the allegation is not proven:** The IC shall not recommend any action to be undertaken by HDFC.
- b) **In the event the allegation stands proven proved or the allegation is false, or malicious or false evidence has been submitted:**

If the allegation has been proved or the allegation is false or malicious, or false evidence has been submitted, the IC, shall recommend that HDFC should:

- (i) take appropriate action which may include withholding all/partial monetary and non monetary benefits but not limited to:
 - written apology;
 - warning;
 - reprimand or censure;
 - withholding of promotion;
 - withholding of pay rise or increments;
 - terminating the Respondent from service;
 - undergoing a counselling session or carrying out community service;
- (ii) Further, if allegation is proved, to deduct from the salary or wages of the Respondent, such sum as it may consider appropriate so as to compensate the Aggrieved Woman. The determination of amount of compensation to be paid to the Aggrieved Woman would be based on:

- mental, trauma, pain, suffering and emotional distress;
- medical expenses;
- income and financial status of the respondent;
- feasibility of payment; and
- the loss in the career opportunity due to the incident.

(iii) In case the IC finds the degree of offence coverable under the Indian Penal Code, 1860 the IC shall take appropriate action for making a police complaint.

Upon the recommendation received from the concerned IC, HDFC shall act within 60 days from the date of receipt of the report of the IC.

3.7. CONFIDENTIALITY / PROHIBITION OF PUBLICATION

The contents of the complaint, the identity and address of the Aggrieved Woman, Respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the IC, and the action taken by HDFC shall not be published, communicated, or made known to the public, press and media in any manner. HDFC shall be entitled to recover a sum of INR 5000 from any person who contravenes this condition. The Act also stipulates removal of the presiding officer in the eventuality of such publication.

However, information may be disseminated regarding the justice administered to any Aggrieved Woman of Sexual Harassment without disclosing the name, address, identity or any other particulars calculated to lead to identification of the Aggrieved Woman and witnesses.

All records of complaints, including contents of meetings, results of investigations and other relevant material will be kept confidential by HDFC except where disclosure is required under disciplinary or other remedial processes or under applicable laws.

3.8. ANNUAL REPORT

The IC shall prepare an annual report with details of number of complaints received, number of complaints disposed off during a given year, number of cases pending for more than 90 days, number of workshops or awareness programmes organized and nature of action taken by HDFC. The annual report shall be submitted to HDFC and the District Officer appointed by the State Government in this regard.

3.9. KEY DUTIES OF HDFC

Key duties of HDFC include:

- a) To constitute and provide facility to all the members of the IC for dealing with complaints of sexual harassment and conducting inquiry;
- b) To provide safe working environment for all;
- c) To display at a conspicuous place penal consequence of sexual harassment;
- d) To provide necessary support to the Aggrieved Woman if she chooses to file a criminal complaint under the Indian Penal Code 1860;
- e) To treat sexual harassment as a misconduct under the service rules;
- f) To monitor timely preparation and submission of an Annual Report by the IC;
- g) To conduct orientation programmes and seminars for the members of the IC; and
- h) Conduct workshops and employee awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and the Rules.
