

POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACES

1. COMMITMENT

SmartShift Logistics Solutions Private Limited (“**Company**”) is committed to create a work environment where every employee is treated with dignity, respect, and equality.

The Company is also committed to promote a work environment that is conducive to the professional growth of its employees and encourages equality in opportunity.

The Company shall not tolerate any form of sexual harassment of any employee at workplace(s) and is committed to take all necessary steps to ensure that its employees are not subjected to any form of harassment.

2. SCOPE AND PURPOSE

The objective of this policy (“**Policy**”) is to promote a workplace free from sexual harassment (includes protection from sexual harassment and right to work with dignity) on the basis of an individual’s race, color, religion, gender, sexual orientation, national origin, age, disability, marital status, parental status, political affiliation or any other basis protected by law.

Scope, Background & Purpose of this Policy:

- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**Act**”) (effective from 9 December 2013) is a legislation that seeks to protect women from sexual harassment at their place(s) of work;
- The Act provides protection against sexual harassment of women at workplace(s) and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto;
- The Act defines sexual harassment(s) at the workplace(s) and creates a mechanism for redressal of complaints thereunder and it also provides safeguards against false or malicious charges.

The Act is principally enacted for the protection of women at workplace(s) against any sexual harassment, but the Policy shall extend not just to the women but **mutatis mutandis** to the men/other genders as well.

The Policy will enable employees to operate within prescribed healthy work-related boundaries, to report instances of sexual misconduct / sexual harassment and to prevent/redress complaints of sexual harassment.

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The Policy is with respect to prevention, prohibition and redressal of sexual harassment which may arise in places not limited to geographical location viz. Company's offices / branches / workspaces / workplaces but also includes all such other places / locations (including transportation) where any employee has gone for fulfilling work commitments or for fulfilling other professional duties relating to work.

All “employees” defined under the Act viz., permanent, temporary, ad hoc, trainee, contract, daily wages, voluntary, probationers, apprentices, part time or working as consultants are covered by this Policy. Hereinafter, “employee” or “Employee” shall include male and female employees of the Company, and the definition of employee (as defined under the Act, shall also include the male employees of the Company). (Under the act definition of employee is only women and not men, however if you are making it all gender then we need to refer workplace harassment, along with POSH, same gender Female to female is part of the law, Male to Male, Female to Male is not yet in 2016 there was a note on the LGBT becoming part of it)

The Policy is applicable to all the complaints of sexual harassment by an employee against another employee,

- within company (office and site) premises or
- in / at official social events organized/ Sponsored/supported by the Company outside its premises or
- in any business trips and official travel or
- in any transportation provided by the Company for official work.

The Policy shall also be applicable in respect of all allegations of sexual harassment made by a third party / contractor / service provider / customer against an employee or made by an employee against a third party / contractor / service provider / customer if the sexual harassment is alleged to have taken place within the company premises.

For the sake of clarity, Policy is not applicable when both the alleged harasser and the aggrieved employee are third parties.

Where sexual harassment occurs to an employee as a result of an act by a third party/ party / contractor / service provider / customer while on official duty, Company will take all necessary and reasonable steps to assist the affected person in terms of support, redressal, corrective action and prevention of further occurrences.

The Central Internal Complaints Committee (“CICC”) is responsible to maintain, review and oversee this Policy. The Central committee is supported by all the branch committees. (This is important because law talks about having a separate committee office and branch wise)

3. DEFINITION OF SEXUAL HARASSMENT

For the purposes of this Policy, sexual harassment has traditionally been divided into two well-known forms:

Quid pro Quo

"**Quid Pro Quo**" literally means "**this for that**", when applying this to sexual harassment, it means seeking sexual favours or advances in exchange for work benefits such as promises of promotion, higher pay, advancements etc. This type of sexual harassment mostly holds an employee to ransom as his/her/their refusal to comply with a 'request' can be met with retaliatory action such as dismissal, demotion, memos, tarnished work record and difficult work conditions.

Hostile work environment

"**Hostile work environment**" is a less clear yet more pervasive form of sexual harassment. It commonly involves conditions of work or behaviour towards an employee, which makes it unbearable for him / her/ them to be there. While the employee is never promised, or denied anything in this context, unwelcome sexual harassment occurs simply because he / she / them is a man or a woman or a third Gender.

Some examples of behavior that constitute "Sexual Harassment" at the workplace:

- Making sexually suggestive remarks or innuendos,
- Serious or repeated offensive remarks, such as teasing related to a person's body or appearance,
- Offensive comments or jokes,
- Inappropriate questions, suggestions, or remarks about a person's sex life,
- Displaying sexist or other offensive pictures, posters, MMS, SMS, through any mode like WhatsApp, e-mails etc.,
- Intimidation, threats, and blackmails around sexual favours,
- Threats, intimidation, or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones,
- Unwelcome social invitations, with sexual overtones commonly understood as flirting, and
- Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.

4. KEY ELEMENTS OF WORKPLACE SEXUAL HARASSMENT

Sexual harassment means and includes the following, jointly or severally, directly or indirectly -

i. Acts amounting to Sexual Harassment whether directly or indirectly, include but are not limited to:

- a) Any unwelcome behavior with sexual undertones or an advance which has been directed against a man / woman either directly or indirectly. This unwelcome behavior could be in the form of physical contact and advances like sexually colored remarks, jokes, letters, phone calls, e-mail, SMS, social media posts and messages, gestures, showing pornography, stares, assault, molestation, stalking, sounds, display of pictures, signs, using offensive language.
- b) Any other unwelcome behavior, verbal or non-verbal communication or conduct of a sexual nature which offends a man's / woman's sensibilities and affects his / her performance.
- c) Any act, conduct by a person in authority or requests or demands for sexual favors, either explicitly or implicitly, in return for employment, promotion, or examination.
- d) Interference with work or creating an intimidating/hostile/offensive work environment.
- e) Entry into specific areas earmarked for male or female employees (as applicable), with the intent to commit mischief and harassment.
- f) Eve teasing, innuendos and taunts, physical confinement against a man's / woman's will and intrusion into his / her privacy.

ii. If the following circumstances, among other circumstances, occurs or is present in relation to or connected with any act or behavior of sexual harassment, then that act or behavior would also amount to sexual harassment. This includes:

- a) Implied or explicit promise of preferential treatment in employment.
- b) Implied or explicit threat of detrimental treatment in employment.
- c) Implied or explicit threat about present or future employment status.
- d) Interference with work or creating an intimidating/hostile/offensive work environment.
- e) Humiliating treatment likely to affect health and safety.

iii. This is an indicative and not an exhaustive list of possible forms of sexual harassment.

iv. Sexual harassment does not refer to normal conversation that all parties affected find acceptable. It does not refer to office relationships that are freely entered into without intimidation or coercion.

5. INTERNAL COMPLAINTS' COMMITTEE

The Company has formed, in accordance with the provisions of the Act, Central Internal Complaints' Committee ("Central Internal Complaints Committee" or "CICC"), the constitution of which is detailed in **Annexure A** to this Policy. The Company shall also form branch-wise Complaints' Committee ("BICC") which shall act in accordance with the directions of the Central Internal Complaints Committee and the details of which, shall be provided to the respective branch(es) from time to time.

Guidelines for composition of CICC:

- a) The CICC shall have four (4) members, nominated by the management of the Company.
- b) Of the total number of members, one half of the of the total members shall be women.
- c) CICC shall be headed by senior level woman employee of managerial cadre.
- d) Two members shall be representatives of the staff members.
- e) One member shall be a representative of an NGO.

Tenure of CICC members:

- a) A CICC member shall hold office for period not exceeding 3 years from the date of nomination.
- b) In the event of any proven complaint against any member of the CICC including the NGO representative, the concerned member shall be removed from the ICC and the vacancy shall be filled by a fresh nomination, within 15 days.
- c) Where the accused is a person who is senior to the Chairperson of the CICC under the hierarchy of the establishment, then for that particular case, the Chairperson shall be substituted on the ICC by another person senior in rank and status to the accused. Such an ad-hoc appointment shall be made by the Managing Director or by top level management.
- d) Any member of the CICC can request the Chairperson to conduct an emergency meeting by giving 48 hours' notice.
- e) The CICC shall have a permanent email id for employees to register their grievances, complaints or concerns online via email.

The CICC and BICC:

- Shall create and ensure a safe environment that is free of sexual harassment,
- Shall maintain an atmosphere of equality and gender justice,
- Shall publicize the Policy with the names, phone numbers and email ids of members of the CICC,
- Shall take notice of complaints of sexual harassment, conduct enquiries, provide assistance to a complainant,

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- May recommend penalties/action to be taken against any person found guilty of making false claims/complaints of sexual harassment,
- May recommend appropriate psychological, emotional and physical support (counselling, security and other assistance) to the aggrieved employee,
- May pass an interim relief order including orders to suspend the accused till conclusion of proceedings, or till such time it deems fit,
- Shall Keep all complaints of sexual harassment confidential,
- Shall deal with the complaints within the time frame prescribed,
- Shall meet once in every three months,
- May review the need for any actions related to the implementation of the policy,
- Shall review and discuss any complaints received,
- Shall investigate, redress, and coordinate the enquiry of complaints of sexual harassment received,
- Shall suggest the penalty for the substantiated or un - substantiated complaints,
- Shall review and finalize actions on complaints related to third parties,
- Shall prepare annual reports,
- Shall record minutes of every meeting in the Minutes Register,
- Notwithstanding the above, the BICC shall inform the CICC on all the actions above and take consent of the CICC before taking any action on the complaints, and
- Shall recommend to the concerned authorities follow-up action and to monitor the same.

Complaint Handling and Inquiry Process

- Step 1 – Written complaint shall be made to the CICC / BICC.
- Step 2 – CICC / BICC reviews and calls for meeting(s).
- Step 3 – If the complaint requires conciliation only, the CICC / BICC shall perform such conciliation.
- Step 4 – If then complaint requires investigation, the CICC / BICC shall order the investigation to be made.
- Step 5 – CICC / BICC will complete the investigation in three months from the date of ordering investigation.
- Step 6 – Basis the results, the CICC / BICC shall recommend the management to take appropriate action.
- Step 7 – In case of any action which require appeal, as per the provisions of the Act, it can be made to the District Committee (Collector's office).

6. PROCEDURE TO BE FOLLOWED BY THE CICC / BICC

Notwithstanding to any procedure of functions to be performed by the CICC / BICC, the CICC and BICC shall compulsorily follow the procedure, as laid down in the Act, in case of matters pertaining to women's sexual harassment at workplace(s) which shall include the following along with the other provisions, if any of the Act. In case of a conflict between the provisions of the Act and the Policy, the provisions of the Act shall prevail.

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- A written complaint must be filed by the female employee within 90 days of the date of incident. The CICC may for reasons to be recorded in writing, extend the time limit for a further period of 90 days, if in the opinion of the CICC, circumstances existed which prevented the aggrieved person from filing his/her/their complaint.
- Where the aggrieved employee is:
 - i. unable to make a complaint in writing, a member of the CICC shall render all reasonable assistance to the aggrieved employee to make him/her/their complaint in writing.
 - ii. (in case of a women) unable to make a complaint on account of her physical incapacity, a complaint may be filed by a relative or friend, or a co-worker, or an 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. is unable to make a complaint on account of his/her/their mental incapacity, a complaint may be filed by a relative or friend, or a special educator, or a qualified psychiatrist or psychologist, or the guardian, or the authority under whose care he/she is receiving treatment or care, or any person who has knowledge of the incident, jointly with any of the above.
 - iii. unable to make a complaint for any other reason, a complaint may be filed by any person who has knowledge of the incident, with his/her/their written consent.
 - iv. is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of his/her/their legal heir.
- The inquiry must be completed within 90 days.
- The inquiry report must be issued within 10 days from the date of completion of inquiry.
- The Company is required to act on the recommendations of the CICC / BICC within 60 days of receipt of inquiry report.
- Appeal against the action of the Company is allowed within 90 days of the date of recommendation. Appeal against the action of the Company can be made to a court of law or tribunal in case the aggrieved employee is a woman. Industrial courts as an appellate body under the Prevention of Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act (POSH), 2013, for those not satisfied with recommendations of internal committees / Local Committee.

Where the BICC / CICC arrives at a conclusion that the allegation against the respondent is malicious or is false or that the complainant has produced any forged or misleading document, it may recommend to the management to take appropriate action to prevent recurrence and action to dissuade others from raising such false complaints.

- a. Provided that a mere inability to substantiate a complaint or provide adequate
- b) proof need not attract action against the aggrieved employee.
- c) The malicious intent on part of the aggrieved employee shall be established only after an inquiry is conducted in accordance with the prescribed procedure.

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- d) The same policy is applicable to any witness who has given false evidence or
- e) produced any forged or misleading evidence.
- f) No detrimental action shall be taken against any witness to the proceedings unless it is proven upon due inquiry that such witness had given false statements with either malicious intent or knowing it to be false.

7. DISCIPLINARY MEASURES NON-CRIMINAL OFFENCE (WHEN IPC 354 A, B, C, D AND 509 ARE NOT APPLIED)

In case of the respondent being an employee of the Company, the CICC / BICC may recommend to the management of the Company action / disciplinary measures which may include:

- Written apology,
- Warning letters and taking a written bond of good conduct,
- Reprimand or censure,
- Undergoing counselling session at the cost of the perpetrator,
- Withdrawal of previous recognition awards,
- Suspension of service for a duration to be decided by CICC / BICC,
- Relocation, transfer and / or change of assignment,
- Loss of increment and withdrawal of any benefits,
- Demotion,
- Withholding promotion or pay rise / increments till such period mentioned,
- Dismissal or termination of service,
- Deduction of salary for compensation or any other disciplinary action, and
- Any other action deemed fit by the CICC / BICC.

In case of the respondent being a 'contractual employee' / outsider or visitor, the BICC / CICC may recommend:

- a. Termination of contractual services with the respondent agency or that the agency replaces the respondent,
- b. Warning and taking a written bond of good conduct from the respondent and the agency,
- c. Compel the respondent to pay a reasonable amount of compensation to the aggrieved employee, and
- d. necessary orders restricting, the respondent's entry into the premises and forewarn him/ her/them of criminal / legal action in case any trauma is caused to the aggrieved employee, then or thereafter, in addition to assisting the aggrieved employee to initiate action under the Indian Penal Code of 1860, or any other law for the time being in force.

The measures will be applicable to substantiated complaints or unsubstantiated complaints and the management shall provide all necessary assistance for effective implementation of the Policy.

Determination of damages / compensation shall be based on the following:

- a. Mental trauma, pain, suffering and emotional distress caused to the person.
- b. Loss in career opportunity due to incident of sexual harassment.
- c. Medical expenses incurred by the person for physical and psychiatric treatment.
- d. Income/ Financial Status of the Respondent.
- e. Feasibility of such payment in lump sum or in instalments.

8. HANDLING OF COMPLAINTS WITH THIRD PARTIES

- It is the intention of the organization to have a mechanism in place to address any complaints with or from third parties like vendors and customers.
- All employees who have contact with customers are expected to conduct themselves in a professional manner.
- Complaints received from any third parties will be handled according to the guidelines for grievance handling defined in the policy applicable to internal complaints.
- Handling of complaints against a third party will be discussed within the CICC / BICC and actions taken appropriate to the situation.

9. INTERIM MEASURES

The CICC / BICC may recommend to the Company, at the written request of the aggrieved employee, interim measures such as:

- Transfer of aggrieved employee or respondent to another workplace.
- Grant special leave of up to 3 months to the aggrieved employee. The leave granted to the aggrieved employee under this section shall be in addition to entitled leave.

Notwithstanding the above, the CICC and BICC shall compulsorily take the interim measures, as required under the Act, in case of matters pertaining to women's sexual harassment at workplace(s), which shall include the above along with the other provisions, if any of the Act. In case of a conflict between the provisions of the Act and the Policy, the provisions of the Act shall prevail.

10. COMPANY WILL

- Create a safe workplace.
- Sensitize all employees on the topic.
- Frame and display clear guidelines on sexual harassment and redressal process.
- Publish information on the Act and our Policy on the intranet.
- Conduct training / workshops at all levels.
- Create a dedicated email ID, for registration of complaints.

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- Publish information about CICC / BICC and redressal process on company premises.
- Hold regular meetings of CICC and write reports of such meetings.
- Act on recommendations of the CICC after the close of the inquiry of complaint.

A quorum of 3 members is required to be present for the proceedings to take place. The quorum shall include the Presiding Officer and at least two members, one of whom shall be a lady. (External member is mandatory in every investigation)

11. CONFIDENTIALITY

The Company understands that it is difficult for the aggrieved employee to come forward with a complaint of sexual harassment and recognizes the aggrieved employee's interest in keeping the matter confidential.

To protect the interests of the aggrieved employee, the accused person and others who may report incidents of sexual harassment, confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances.

12. ACCESS TO REPORTS AND DOCUMENTS

All records of complaints, including contents of meetings, results of investigations and other relevant material will be kept confidential by the Company (with the presiding officer in her drawer in lock and key) except where disclosure is required under disciplinary or other remedial processes.

13. PROTECTION TO COMPLAINANT / AGGRIEVED EMPLOYEE

The Company is committed to ensuring that no employee who brings forward a harassment concern is subject to any form of reprisal. Any reprisal will be subject to disciplinary action.

The Company will ensure that the aggrieved employee or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.

However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue) will be subject to disciplinary action.

14. CONCLUSION

In conclusion, the Company reiterates its commitment to providing its employees, a workplace free from harassment/ discrimination and where every employee is treated with dignity and respect.

This document shall be amended or altered to be in line with the Act and such amendments and or alterations shall be intimated to the Company employees.

ANNEXURE – A

CENTRAL INTERNAL COMPLAINTS' COMMITTEE

Name	Position in CICC	Company Designation (if any)	Contact Number	Email ID
Ms. Mary Mammen	Presiding Officer	Deputy General Manager	9821645669	mary.mammen@theporter.in
Ms. Shiwani Rath	IC Member	Quality Assurance Manager		shiwani.rath@theporter.in
Ms. Pallavi Sharma	IC Member	Data Engineering Manager		pallavi.sharma@theporter.in
Ms. Ruchi Sahay	IC Member	Senior Manager		ruchi.sahay@theporter.in
Mr. Sandeep Sule	IC Member	General Manager		sandeep@theporter.in
Mr. Rakesh Gopalani	IC Member	Deputy General Manager		rakesh@theporter.in
Mr. Anand Patkar	IC Member	Manager		anand.patkar@theporter.in
Dr. Medha	External Member – KalpHR	-		External Member

The details of Branch Internal Complaints' Committee shall be available with the respective city admins and also with Mr. Sandeep Sule (General Manager – HR and Administration).