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## **PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT**


### **1. PURPOSE**

In compliance with the mandate of the Hon'ble Supreme Court's judgement in the case of Vishaka & Ors Vs. State of Rajasthan & Ors and under the **“Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013”** and **“Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Rules, 2013”**, each employer should be committed to provide to all its employees, equal opportunity and harassment free workplace not withstanding race, caste, religion, colour, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability, as the case may be.

Thus, in order to create such a safe and conducive work environment, especially for women employees, the Prevention of Sexual Harassment (POSH) policy is being framed, in line with the provisions of the prevailing Act and Rules. The main objective of the policy is to provide our women employees, a workplace, free from harassment / discrimination and to treat them with dignity and respect. Further, it also emphasises on prevention, prohibition and redressal of complaints of sexual harassment and matters related to it at Brakes India Private Limited (BIPL).

This is Zero-tolerance Policy against Sexual Harassment, incorporating the rules and procedures as mandated in the act. This policy should encourage employees to come forward to report any sexual misconduct, without any fear of retribution and with an assurance that the complaint will be taken seriously and an unbiased inquiry will be conducted.

This Policy has been framed in accordance with provisions of the Act and the Rules framed there under. Accordingly, while the policy covers all the key aspects of the Act, for any further clarification and / or in-case of conflict between Policy and Act , the reference should always be made to the act and the provision of the act should prevail over the policy.

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## 2. SCOPE

This policy applies to all categories of women employees working at BIPL including permanent and temporary employees, contractual / outsourced employees / person employed on adhoc or daily wage basis, either directly or through an agent or individuals coming to the workplace for any purpose, but not limited to visitors, vendors, contractual

resources and applies to any alleged act of sexual harassment against women at workplace, whether incident has occurred during or beyond office hours in workplace. The sexual harassment will not be tolerated, if engaged in by clients or by suppliers or any other business associates.

The workplace includes all offices and premises of BIPL ( across PAN India), all office related activities performed at any other site away from office premises, any social, business or other functions where the conduct or comments may have an adverse impact on the workplace or workplace relations. It also includes any place visited by employee arising out of or during the course of employment including transportation provided by the employer for undertaking the journey.

## 3. DEFINITION:

### 3.1 “Sexual Harassment” (as defined under section 2(n) of the Act)

Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: -

- Physical contact and advances; or
- A demand or request for sexual favors; or
- Making sexually colored remarks; or remarks of a sexual nature about a person’s clothing or body; or
- Showing pornography, making or posting sexual pranks, sexual teasing, sexual jokes, sexual demeaning or offensive pictures, cartoons or other materials through email, SMS, MMS etc.; or
- Forcible physical touch or molestation; innuendos and taunts, physical confinement against one’s will and any other act to impinge upon one’s privacy; or
- Any other unwelcome physical, verbal, or non-verbal conduct of sexual nature.

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It may also occur between a BIPL employee and someone that employee deals within the course of his or her work who is not employed by the BIPL

### 3.2 “Workplace”(In addition to what is defined in SCOPE should also include)

In addition to the place of work (Corporate office/ Branch offices, Factories) it should also include any place where the aggrieved woman or the respondent visits in connection with his / her work, during the course of and / or arising out of employment /contract / engagement with BIPL including transportation provided for undertaking such a journey.

### 3.3 “Employee” means

a person employed at a 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 expressed or implied and includes a co- worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

### 3.4 “Aggrieved Woman”

In relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

### 3.5 “Respondent”

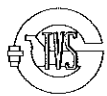
A person against whom a complaint of sexual harassment has been made by the aggrieved women.

### 3.6 “Internal Committee” (Henceforth known as IC):

A 5 – 9 Member Committee formed under this policy to investigate complaints of sexual harassment referred to it and make appropriate recommendations to the relevant management team.

### 3.7 “Employer” means

A person responsible for management , supervision, and control of the workplace.

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#### 4. INTERNAL COMMITTEE (As per the provisions of section 4 of the Act)

##### 4.1. Constitution of the sexual harassment complaints committee:

To prevent instances of sexual harassment and to receive an effectively deal with complaints pertaining to such cases, Internal committee (IC) shall be constituted (by an order in writing) at BIPL (Applies to Site / locations).


The IC should consist of the following members to be nominated by the employer, namely: -

- A Presiding officer who should be a women employed at senior level at workplace from amongst the employees, who shall hold the office for such period, not exceeding three years from the date of their nomination;
- One External from amongst non-governmental organization or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment who shall be paid such fees or allowances for holding the proceedings of the IC, by the employer, as may be prescribed;
- At least half of the total members so nominated should be women.

The IC is responsible for: -

- Receiving complaints of sexual harassment at workplace;
- Initiating and conducting inquiry as per the established procedure;
- Submitting reports of its findings and recommendations with the management team;
- Follow-up with the employer in implementing appropriate action within 60 days;
- Maintaining strict confidentiality throughout the process as per established guidelines; and
- Submitting annual reports in the prescribed format as per Annexure 4.1.1

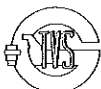
BU Heads / Corp HR / IR Head will constitute this committee and the names of the committee members (as per Annexure 4.1.2) will be communicated to employees' through appropriate means or any visible and accessible medium.

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## 4.2. Redressal Mechanism:

### 4.2.1 Complaint Procedure:

- Any Aggrieved Women (Complainant) may lodge a complaint of sexual harassment against any other employee to any of the IC members.
- All complaints should be lodged in writing or through digital (email) and this will be dealt with utmost confidence by the IC members.
- The complaints should be lodged within 3 months (90 days) from the date of incident / last incident of the alleged incident. The committee can extend the timeline by another 3 months for reasons recorded in writing, if satisfied that these reasons prevented the lodging of the complaint within the said period.
- If the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by - (a) her legal heir, relative or friend; or (b) her co-worker or (c) any person who has knowledge of the incident, with the written consent of the aggrieved woman.
- The Presiding Officer of the committee should, within 7 working days of the receipt of such a complaint, personally meet or designate a member of the complaints committee to meet the employee who has made the complaint and record the statements made at such meeting. During this meeting the employee is also expected to present any corroborative material / evidence to substantiate the complaint.
- After the meeting with the complainant, and on satisfaction of the existence of a prima facie case of Sexual Harassment, the IC should send one copy of the complaint to the respondent within 7 working days.
- Respondent will be given an opportunity to respond with all supportive documents within ten working days from the date of receipt of the complaint.

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#### **4.2.2 Resolution through Conciliation:**

- The Internal Committee may, before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation, provided that no monetary settlement should be made as a basis of conciliation.

#### **4.2.3 Resolution through Inquiry:**

- The Internal Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- No Legal practitioner can represent any party at any stage of the inquiry procedure.
- In conducting the inquiry, a minimum of 3 IC members including the Presiding officer should be present.
- The Internal Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if complainant or respondent respectively is absent for 3 consecutive hearings. 15 days written notice is to be given to the party before termination of enquiry or ex-parte order.
- After having heard both the parties, the IC should thoroughly investigate (meet the complainant, enquire into evidence provided, meet the witnesses, consult with experts etc.) the complaint and make a report of its findings within the next two weeks. This report will be submitted to the steering committee / Management Team within ten days from the date of completion of the inquiry.
- In case the complaint of sexual harassment is proven to be true, the accused person (Respondent) will be subject to strict disciplinary action, up to and including termination of employment.
- In case the complaint registered is found to be frivolous or false or was made with a mischievous intention, the complainant will be liable to face strict disciplinary action up to and including termination of employment.
- Any employee who is a part of the investigations should not be victimized or subject to any unfavourable treatment.
- The victims of sexual harassment will have the option to seek her own transfer.

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- Nothing in these guidelines should be taken in any way as a limitation on the powers of the Management Team to decide what disciplinary action(s) is appropriate under given circumstances.

#### **4.3. Action during pendency of inquiry**

During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee may recommend to the employer to-

- (a) transfer the aggrieved woman or the respondent to any other workplace; or
- (b) grant leave to the aggrieved woman up to a period of three months; or
- (c) grant such other relief to the aggrieved woman as may be prescribed.

The leave granted to the aggrieved woman under this section should be in addition to the leave she would be otherwise entitled.

#### **4.4. Appeal procedure:**


Any party not satisfied or further aggrieved by the implementation or non- implementation of recommendations made, may appeal to the appellate authority in accordance with the Act, within 90 days of the recommendations being communicated.

#### **4.5. Disciplinary action**

Disciplinary action may be in the form of:

- Warning and written apology and bond of good behaviour
- Debarring from supervision duties
- Denial of re-employment / extension
- Stopping of increment / promotion
- Reverting / demotion
- Suspension / Dismissal

Any other punishment may be warranted by the case.

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#### **4.6. Criminal Proceedings:**

In case the committee finds the degree of offence coverable under the Indian Penal Code, then this fact should be mentioned in its report and appropriate action should be initiated by the employer, for making a Police Complaint. Under the Indian Penal Code (IPC), the newly introduced Section (S.354A) which deals with Sexual Harassment has made this a 'cognizable offense' i.e. a person charged with Sexual Harassment may be arrested without a warrant. The organization should provide necessary documents towards the same.

#### **4.7. Considerations while preparing Inquiry report:**

While preparing the findings / recommendations, the following are considered:


- Whether the language used (written or spoken), visual material or physical behaviour was of sexual or derogatory nature.
- Whether the allegations or events follow logically and reasonably from the evidence.
- Credibility of complainant, respondent, witnesses and evidence.
- Both parties have been given an opportunity of being heard.
- A copy of the proceedings were made available to both parties enabling them to make representation against the findings.

The detailed mechanism of the complaint and action to be taken by the IC are laid down under the Sections 10 & 11 of the Act. Further the procedure to be followed while conducting Inquiry into a Complaint have been laid down under Sections 12 to 18 of the Act.

#### **4.8. Confidentiality:**

The identity of the complainant, respondent, witnesses, statements and other evidence obtained in the course of inquiry process, recommendation of the committees, action taken by the employer are considered as confidential materials, and should not be published or made known to the public or media.



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Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the act.

## **Section 17 - Penalty for publication or making known contents of complaint and inquiry proceedings.**

### **4.9 Action to be taken after Inquiry**

#### **4.9.1 Complaint unsubstantiated**

Where the committee arrives at the conclusion that the allegation against the respondent has not been proved, it recommends to the employer that no action is required to be taken in this matter. Further, the committee ensures that both parties understand that the matter has been fully investigated, that the matter is now concluded, and neither will be disadvantaged within the Company.

#### **4.9.2 Complaint substantiated**

Where the committee arrives at the conclusion that the allegation against the respondent has been proved, it recommends to the employer to take necessary action for sexual harassment as misconduct, in accordance with the applicable service rules and policies, and this may include:

- i. Counselling
- ii. Censure or reprimand
- iii. Apology to be tendered by respondent
- iv. Written warning
- v. Withholding promotion and / or increments
- vi. Suspension
- vii. Termination
- viii. Or any other action that the employer may deem fit

The Company is required to act upon the recommendations within 60 days and confirm to the committee. Post implementation of the actions, the committee should follow up to ascertain whether the solution is working satisfactorily and if no victimization of either party is occurring.

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#### **4.9.3 Malicious Allegations (Section 14 of the Act)**

Where the committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the

complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person making the complaint.

While deciding malicious intent, the committee should consider that mere inability to substantiate a complaint need not mean malicious intent. Malicious intent should be clearly established through a separate inquiry.

### **5. RESPONSIBILITY**

#### **5.1 Section 19 - Duties of employer**

Every employer should:

- Provide a safe working environment at the workplace which should include safety from the persons coming into contact at the workplace;
- Display at any conspicuous place in the workplace the name and contact details of the IC members.
- Organise workshops and awareness programs at regular intervals for sensitising the employees with the provisions of the Act and orientation programs for the members of the IC as may be prescribed;
- Provide assistance to the women if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.

### **6. Documentation**

- Attendance of the periodical POSH Training Sessions (every quarter) to be recorded at each BI site.
- MOM of IC committee meeting (Every Quarter) to be recorded at each BI site.

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## 7. IC Member Acceptance and Confidentiality Agreement

Annexure – 7.1 , to be acknowledged by the respective IC member appointed across all locations of BI.

## 8. Annual Report (Sections 21 to 23 of the Act)

As per the provisions laid down under Section 21 & 22 of the Act and Rule 14 of the "Sexual Harassment of Women at Workplace (Prevention, prohibition and Redressal) Rule, 2013", the IC shall in each calendar year prepare an annual report, giving the following details and submit the same to the employer and District Officer.

- Number of complaints of sexual harassment received in the year;
- Number of complaints disposed off during the year;
- Number of cases pending for more than 90 days;
- Number of workshops or awareness programme against sexual harassment carried out;
- Nature of action taken by the employer or District Officer.

## 9. Modifications & Review of the Policy

BI reserves the right to modify and review the provisions of the policy, so as to comply with applicable legal requirements, changes made in the Act by the Government, Internal Policies or otherwise with a view to revise the provisions of this Policy to the extent deemed necessary by BI from time to time. Any such changes or modifications may be shared by BI to its employees.

In case of any discrepancy in Policy, the provisions of relevant Act / Rules should prevail.



Issued by: VP (HR)



Approved by : Director (Corp Affairs & HR)