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	PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE AND GENDER POLICY		
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I. POLICY STATEMENT

Tech Mahindra Foundation (TMF) considers its moral, ethical and legal obligations with utmost seriousness and thus respects the mandate of law through this policy, which shall henceforth be called and known as the Foundation’s “**Prevention of Sexual Harassment at Workplace and Gender Policy**” [herein after referred to as the **POSH PLUS Policy**].

The Foundation is committed to providing a secure and enabling work environment to all its employees and associates, a place of work that is gender sensitive and recognizes the role of men, women and the third gender as equal players, agents and leaders of change in their families, communities, workplace and society.

The objectives of this policy are:

- (a) To espouse the cause of the right to equality and right to dignified livelihood;
- (b) To foster a social, physical and psychological environment that will enable employees to work productively; and
- (c) To strive for gender justice at both institutional and programmatic level.

The Foundation is aware that –


- (a) Workplace sexual harassment is a form of gender discrimination which violates a person’s fundamental right to equality and right to life, guaranteed under Articles 14, 15 and 21 of the Constitution of India.
- (b) The mandate of protection and prevention, delineated in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 [hereinafter referred to as the POSH Act], extends to all organizations which employ/work with women.

The present policy is not only compliant with the POSH Act and Rules 2013, but a step forward in recognizing and addressing vulnerabilities of all genders. To that extent the policy is gender neutral.

It also covers varied situations through a wide definition of what constitutes “gender”, “sexual harassment”, “workplace”, “employee”, who can be an “aggrieved person” and such other terms that are integral to the implementation of the policy and its objectives.

The policy prohibits sexual harassment at workplace. The policy requires all employees/partners and associates of the Foundation to be sensitive to cultural differences, and cognizant of their behaviour towards others they interact with at the workplace or in a work situation. Recognising cultural diversity and varied sensitivities of people, the policy promotes no tolerance for acts and behaviour that are unnecessary and would, to a rational mind, reasonably amount to transcending the boundaries of cordiality expected in an official or work set up.

At the same time, making a false complaint of sexual harassment or providing false information regarding a complaint is treated as a misuse of the policy requiring appropriate action.

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Redress mechanisms and procedures are prescribed to facilitate reporting and redress of any act of sexual harassment or related retaliation against or by any employee, partner, or person associated with the Foundation in the course of work or employment.

The Foundation will promptly investigate all complaints and take appropriate action, up to and including termination of employment.

The redress mechanisms and procedures detailed are in line with and within the ambit of all applicable regulations regarding sexual harassment at workplace.

To ensure effective and swift redressal of every complaint of sexual harassment received by the Foundation directly or through its various offices and projects, Internal Complaints Committees (ICCs) shall be established in all work locations where there are more than 25 employees. In work locations where there are less than 25 employees, Internal Sub-Committees (ISCs) shall be constituted by the concerned ICC on a case by case basis.

The policy also seeks to ensure that all implementing partners of the Foundation commit to follow the Foundation’s policy and adapt it to their local contexts with similar mechanisms and procedures to prevent sexual harassment at workplace and deal with complaints, if any.

The Foundation is also committed to effective dissemination of this policy. All managers are required to ensure that they themselves, as well as their team, including new employees, partners, service providers, beneficiaries of projects and other associates are aware of the Policy and are encouraged to adhere to it.

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The Foundation recognizes the need to review its policies from time to time to address new and emerging developments and demands from an organization of repute such as the Foundation.


Policy such as the present one is thus an ever-evolving document and shall remain applicable unless revised. Accordingly, this policy and its subsequent revisions shall be dated and notified to all employees, partners, associates of the Foundation in writing and form part of their contracts and agreements with the Foundation.

II. APPLICABILITY

This policy extends to all employees of the Foundation, including those employed on regular, temporary, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, for remuneration or not, and those working on a voluntary basis, with or without express or implied terms of employment.

In addition to the above, this policy also extends to those who are not employees of the Foundation but may be affected in the course of any activity related to the work of the Foundation or carried out within the premises used for execution of the Foundation’s work or day-to-day operations.

These could include project beneficiaries, customers, visitors, vendors, suppliers, external consultants, parents/guardians of children, training experts, NGO staff, government officials (who are in contact with employees/workers from the Foundation), teachers, interns, volunteers, candidates participating in job interviews and recruitment process, etc.

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III. SCOPE

The scope of this policy extends to various locations defined as “workplace” in the present policy and includes all offices, branches, departments, units and project locations of the Foundation as well as external locations used for the purposes of work carried out by the Foundation, including implementation of the Foundation’s programmes and initiatives.

IV. DEFINITIONS

The following definitions shall be used, understood and applied for the purposes of this policy:


- (1) **Aggrieved Person:** An “aggrieved person” in relation to a workplace is a person (woman/man/third gender) or group of persons of any age, who –
- (a) being an employee of the Foundation, alleges to have been subjected to any act of sexual harassment by another person associated with the Foundation through an employment/service contract or partnership agreement;
 - (b) being an employee of the Foundation, alleges to have been subjected to any act of sexual harassment during the course of tasks carried out in furtherance of the employment/service contract, by another person not associated with the Foundation;
 - (c) not being an employee of the Foundation, alleges to have been subjected to any act of sexual harassment by a person associated with the Foundation under an employment/service contract or partnership agreement, in the course of performance of his/her duty.

Explanation:

For the purpose of the present policy, it is not essential for an aggrieved person to be an employee of the Foundation.

The present policy includes and extends to any person/customer/client who is visiting the Foundation/interacting with the Foundation’s employees or partners for work-related purposes/reasons. Such a person can also claim protection under the present policy.

- (2) **Complainant:** Complainant shall mean an aggrieved person, or a person having knowledge of the incident and consent of the aggrieved person to file a complaint, or the legal heir of a deceased aggrieved person.
- (3) **Gender:** Gender includes men, women and the third gender and refers to the social attributes and opportunities associated with being male, female or the third gender, as well as the relationships between and among them.
- (4) **Gender Equality:** Gender equality refers to the equal rights, responsibilities and opportunities of women, men, girls, boys and persons of the third gender, and creation of equal conditions for realization of their rights, visibility, empowerment and full participation in all spheres of public and private life, recognising the similarities and the differences between them and the roles they play, their interests and needs.

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- (5) **Employee:** An employee shall have the same meaning and import as assigned to it under Section 2(f) of the POSH Act, 2013 and is thus defined as –

“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 express or implied, and includes a co-worker, a contract worker, probationer, trainee, apprentice, intern, volunteer or called by any other such name”

Explanation:

For the purposes of the present policy, this would include employees of the Foundation and its partners.

Faculty, permanent or ad-hoc or guest faculty conducting trainings for any of the Foundation’s programmes or initiatives is also included within the ambit/scope of the term “employee” for the purpose of the present policy.

Housekeeping, kitchen, security and other support staff, whether employed directly or indirectly, by the Foundation are also employees for the purposes of present policy.

In other words, this includes anyone hired or employed or entering into an implied or explicit agreement with the Foundation or its partner organization/NGO associated with the Foundation to further the Foundation’s work.

- (6) **Employer:** Employer shall refer to the principal employer which means any person or Board or Committee of a workplace who -


- (a) is responsible for the management, supervision and control of the Foundation’s work and the workplace, including formulation and administration of policies in this regard, and
- (b) is discharging contractual obligations with respect to his or her employees.

- (7) **Employment:** Employment refers to an express or implied contract between two parties, where one party agrees to render certain services to another party in lieu of remuneration or otherwise as per the terms and conditions agreed upon.

- (8) **Respondent:** Respondent means a person against whom the aggrieved person or a person acting on behalf of the aggrieved person has made a complaint under this policy.

- (9) **Sexual Harassment:** Includes and is not limited to any one or more of the following unwelcome acts and behaviour (direct or implied) against an individual or group of individuals:

- (a) Physical contact and advances of sexual nature;
- (b) Demand or request for sexual favours;
- (c) Making sexually coloured remarks;
- (d) Showing pornography;

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- (e) Communications or invitations of sexual nature or import;
- (f) Any other unwelcome sexually determined behaviour or acts, including physical, verbal or non-verbal conduct of a sexual nature;

Provided that such acts or behaviour as listed in sub-clause (a) to (f) of this clause, entail or lead to any one or more of the following situations:

- (i) Implied or explicit promise of preferential treatment in their employment;
- (ii) Implied or explicit threat of detrimental treatment in their employment;
- (iii) Implied or explicit threat about their present or future employment status;
- (iv) Creating an intimidating or offensive or hostile work environment for them;
- (v) Any other form of intimidation or threat that interferes with their work or performance;
- (vi) Humiliating treatment to a person or someone close to or related to such person, which is likely to affect their health or safety;
- (vii) Outrage of their modesty.

Explanation:

For the purposes of the present policy, an act includes a deliberate action or omission.

Creating a hostile work environment as a consequence of or in pursuance of sexual harassment would include:


- *Marginalisation or social ostracization at work;*
- *Giving extra work or compelling a person to work more; not letting a person take a holiday from work; forcing someone to be present at work at odd/late hours;*
- *Threats of self-harm or harm to the person(s) at work or someone close to or related to such person, blackmail and use of such other means that cause discomfort to a person and affects their work performance.*

(10) Support Person: A support person is a person other than a legal practitioner or a witness, who provides assistance, emotional support and reassurance to the complainant or the respondent, is trusted by them or acceptable to them, and can include a person from their family or workplace, or a person with expertise in social work, psychology, gender or human rights.

(11) Workplace: Workplace refers to the following:

- (a) All locations used for execution of work relating to the Foundation, including all its offices and project locations,

Provided that such locations include the entire premises and precincts from where the work is being carried out, including store house, laboratories, classrooms, toilets, corridors, play grounds, parks and such other physical space that forms part of the premises.

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- (b) Any external location visited by a person due to or during the course of employment/service contract with the Foundation, or in pursuance of an activity carried out under the programmes and initiatives of the Foundation.

This includes and is not limited to the following situations:

- (i) all exposure visits made for training and teaching related to the Foundation's work or projects;
- (ii) visits to students and/or their parents/guardians at their homes;
- (iii) any travel/visit to a vulnerable or obscure area/location in the course of work or implementation of tasks relating to the Foundation's work;
- (iv) all premises of schools/training centres (vocational or otherwise) that are part of the Foundation's programmes and initiatives;
- (v) all premises and location(s) of partner organizations/NGOs and other corporate and legal entities associated with the Foundation;
- (vi) any location of retreat, meeting, picnic, conference, official trip or team lunch/dinner organized by the Foundation or a representative or an employee of the Foundation for work purposes;
- (vii) guest houses, hotels and other residential locations used for work purposes;
- (viii) locations of other Companies/entities used in furtherance of an employment/service contract or for participation in events and tasks directly relating to the Foundation's programmes and initiatives.

- (c) Any mode of transport provided by the Foundation (or a representative of the Foundation) for undertaking a journey to and from the locations aforementioned in sub-clause (a) and (b) of this clause.

V. COMPLAINTS COMMITTEE

In pursuance of the mandate under the POSH Act 2013, every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee (ICC)" to receive, hear and redress any and all complaints pertaining to sexual harassment at workplace.


The law also mandates constitution of an ICC in all offices or administrative units of the workplace, wherever located.

(1) Constitution of the 'Internal Complaints Committee (ICC)' and 'Internal Sub-Committees (ISC)'

For the purposes of this policy and in pursuance of the mandate under the POSH Act 2013, one 'Internal Complaints Committee' (ICC) shall be set up by the Foundation in every work location having 25 or more employees.

The ICCs shall act as the mechanism of the Foundation for prevention and redressal of complaints of sexual harassment at any workplace falling within their specified scope and ensure implementation of the present policy in such workplace.

In addition, in all work locations where there are less than 25 employees, an ISC shall be constituted by the ICC at the head office on a case by case basis.

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ISCs shall conduct inquiries into all complaints forwarded to them by the ICC at the head office, and submit the inquiry report with appropriate recommendations to such ICC for further decision.

A. Composition of the ICC:

(a) The ICC shall comprise of the following members to be nominated by the Foundation's Board of Directors/CEO through an official circular/notification in this regard:

- (i) A Presiding officer, who shall be a woman employed at a senior level from amongst the employees of the Foundation in the concerned work location;
- (ii) Two members from amongst employees other than those in a supervisory role and preferably committed to the cause of women or who have had experience in social work or have legal knowledge; and
- (iii) Two external members from amongst non-governmental organizations or associations committed to the cause of women, or persons familiar with the issues relating to gender and/or sexual harassment.

Provided that at least one-half of the total members so nominated shall be women and all members of the ICC are persons of demonstrated credibility.

- (b) All members shall be provided training by the employer on the present policy, the POSH Act, POSH Rules and their roles and responsibilities within one week of constitution the ICC.
- (c) The external members shall be paid by the Foundation such fees or allowances for participating in the proceedings of the ICC as may be prescribed in the notification/circular regarding constitution of the ICC.


B. Composition of the ISC:

(a) The ISC shall comprise of the following members nominated by the ICC at the head office through an official circular/notification in this regard:

- (i) A Presiding officer who shall be a woman employed from amongst the employees of the Foundation engaged at the specified work location;
- (ii) One member from amongst employees engaged at the specified work location other than those in a supervisory role and preferably committed to the cause of women or who have had experience in social work or have legal knowledge; and
- (iii) One external member from ICC at the head office.

Provided that at least one-half of the total members so nominated shall be women and all members of the ISC are persons of demonstrated credibility.

(b) All members shall be provided a copy of the present policy, the POSH Act, POSH Rules and clear Terms of Reference within one week of constitution the ISC.

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C. Term of Members of the ICC and ISC:

- (a) Every Member of the ICC shall hold office for a period not exceeding three years from the date of their nomination, as specified by the employer through an official circular/notice regarding constitution of the ICC;

Provided that no member shall be nominated for more than two consecutive terms.

- (b) Every Member of the ISC shall hold office till the inquiry into the complaint forwarded to them is concluded.

- (c) A member of ICC or ISC who has been removed as per the provisions of this policy shall not be eligible for re-nomination.


D. Removal or Disqualification of Members of ICC and ISC:

A Member of the ICC and ISC may stand disqualified and be removed on the following grounds:

- (i) contravention of the Policy or the mandated legal provisions;
- (ii) has been convicted or is being tried for an offence under any law for the time being in force;
- (iii) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him;
- (iv) has abused her/his position so as to render her/his continuance in office prejudicial to the objects of the present policy and public interest;
- (v) has failed to attend three consecutive meetings/proceedings of the ICC or ISC, as the case may be.

E. Powers and Functions of the ICC:

- (a) The ICC shall have the powers to initiate conciliation at the request of the complainant or aggrieved person.
- (b) In the absence of request for conciliation or failure to arrive at a settlement through the conciliation process, the ICC shall conduct an inquiry into complaints of sexual harassment at any workplace within its specified scope, in accordance with the procedure laid down in the present policy.
- (c) Where a conciliation process is undertaken by the ISC constituted by the ICC at the head office, such ICC shall receive a report from the concerned ISC in this regard and take the final decision to treat the complaint as disposed, requiring no further inquiry.
- (d) The ICC shall be the body responsible for implementation of the present policy, with powers and functions that include, but are not limited to:
- (i) receiving complaints regarding sexual harassment at workplace or any other violation of the present policy;
 - (ii) facilitating measures required for providing quick and responsive crisis management, counselling and mediation;
 - (iii) ensuring services of translators, interpreters, special educators, support persons and such other experts as may be required for the purposes of inquiry;

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- (iv) convening meetings of the ICC in order to arrive at a final decision pertaining to a complaint;
- (v) reviewing all reports received from the ISC;
- (vi) passing necessary orders against the respondent;
- (vii) submitting to the Foundation every inquiry report with suitable recommendations for action;
- (viii) planning and conducting gender sensitization and awareness programmes on sexual harassment at workplace;
- (ix) development of awareness materials;
- (x) seeking compliance on directions required to be followed by the employer;
- (xi) preparation of an annual report highlighting activities undertaken, number of complaints received, time taken for completion of inquiry, pendency and compliance of recommendations made or orders/directions passed.

(e) The ICC shall receive a complaint and take action thereon, notwithstanding any civil or criminal complaint pending against the respondent under any other law in force on the same facts and circumstances as placed before the ICC.

(f) For the purpose of concluding an inquiry the ICC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit, namely:

- (i) summoning and enforcing the attendance of any person and examining them on oath;
- (ii) requiring the discovery and production of documents; and
- (iii) making available services of translators, interpreters, special educators, support persons and such other experts as may be required for the purposes of inquiry;
- (iv) taking evidence on record; and
- (v) deciding on the nature and quantum of penalty and such other relief(s) that may be recommended for action.

F. Powers and Functions of the ISC:


(a) Where an ISC is constituted to inquire into a complaint forwarded by the ICC at the head office, such ISC shall have the powers to initiate conciliation at the request of the complainant or aggrieved person.

(b) Submit to the ICC at the head office, reports of all processes carried out by the ISC, including report of the conciliation process and its outcome or otherwise, the report of its inquiry with findings and recommendations.

(c) In the absence of request for conciliation or failure to arrive at a settlement through the conciliation process, the ISC shall conduct an inquiry into the complaint in accordance with the procedure laid down under the present policy.

(d) For the purpose of making an inquiry the ISC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit, namely:

- (i) summoning and enforcing the attendance of any person and examining them on oath;
- (ii) requiring the discovery and production of documents; and


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(iii) taking evidence on record.

- (e) Other powers and functions of the ISC include and are not limited to the following:
- (i) ensuring quick and responsive crisis management, counselling and mediation, as and when required;
 - (ii) submitting to the ICC at the head office, every inquiry report with findings and suitable recommendations for finalisation;
 - (iii) preparing and submitting quarterly reports to the ICC at the head office regarding status of inquiries undertaken by the ISC.

G. Functioning of ICC and ISC

- (a) The ICCs and ISCs shall develop their own rules of functioning, in addition to what is laid down in the present policy in order to address matters such as the frequency of meetings, ordinary and emergency meetings, code of conduct, format for recording proceedings, internal communication, and other matters incidental to the functioning of the ICC or ISC, as the case may be.
- (b) The Foundation shall designate an employee as the Secretary to the ICC or ISC, as the case may be, to provide secretarial assistance for purposes such as –
- (i) inter and intra-committee communication;
 - (ii) convening meetings/proceedings of the ICC or ISC, as the case may be;
 - (iii) make at least six copies of the complaint received by the ICC, and more if so required, for circulation among the members of ICC and the ISC;
 - (iv) ensuring attendance of the complainant and the respondent or such other witnesses as may be required for the purposes of inquiry;
 - (v) recording minutes of all meetings and proceedings;
 - (vi) maintenance of files and records;
 - (vii) book keeping and accounts related to expenditure incurred by the ICC or ISC in carrying out its functions;
 - (viii) contacting and arranging translators, interpreters, special educators, support persons and such other experts as may be required by the ICC or ISC for the purposes of inquiry;
 - (ix) and such other tasks as may be necessary for smooth functioning of the ICC and ISCs.
- (c) The quorum for all meetings of the ICC and ISC shall be two-third of all members. In the absence of quorum, the meeting shall stand adjourned.
- (d) In the event of adjournment of a meeting, the next meeting shall be held within seven days from the date of adjournment, excluding holidays.
- (e) The Secretary designated for the ICC and ISCs shall inform all members of the ICC or concerned ISC, as the case may be, about the ordinary meetings and agenda in writing through email and telephonic communication at least seven days prior to the date of such meeting.

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- (f) An emergency meeting may be called by the Presiding Officer at the request of any member of the ICC or ISC, as the case may be, or on Suo moto cognizance of matters requiring immediate attention.
- (g) All decisions pertaining to a complaint and inquiry shall be finalised in a meeting of the ICC.
- (h) All final decisions shall be passed by a simple majority of those present and voting in the meetings.
- (i) All minutes of meetings and proceedings of the ICC and ISC shall be duly signed by the members present for the meetings and proceedings.
- (j) Every member of the ICC and ISC shall have the power to get their dissenting opinion recorded in writing.

VI. COMPLAINT & REDRESSAL MECHANISM

(1) Time Frame:

- (a) Any aggrieved person may file a written complaint within three (3) months from the date of incident,

Provided that in the event of several incidents involving the same respondent, the complaint may be filed within a period of three (3) months from the date of the last incident;


Provided further that in case of an ex-employee of the Foundation, the complaint may be filed within six (6) months from the date of incident or the date of last incident, as the case may be.

- (b) The ICC may, with reasons recorded in writing, entertain a complaint filed after the expiry of the time period laid down under sub-clause 1(a) of this clause if sufficient cause is demonstrated by the complainant for the delay in filing the complaint and the ICC is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Filing of a Complaint:

- (a) A complaint may be made telephonically or filed in writing through letter or email
 - (i) A complaint may be made to the Presiding Officer or any other Member of the ICC having jurisdiction;

Provided that in the event of an incident taking place in a location where no ICC is constituted, the aggrieved person may file a complaint to the Presiding Officer or any other Member of the ICC at the head office.

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- (ii) If the aggrieved person is unable to make a complaint in writing due to any reason, the Presiding Officer or any Member of the ICC shall render all reasonable assistance to the person for purposes of filing a written complaint.
- (iii) If the aggrieved person, on account of physical or mental incapacity or death, is unable to make the complaint, any heir, friend, relative, or co-worker can file the complaint on their behalf.
- (iv) Complaints received by a member other than the Presiding Officer of the ICC, shall be forwarded by such member to the Presiding Officer directly and within twenty-four hours of receipt of such complaint.
- (v) As far as possible, all complaints should be accompanied by all supporting material, evidence, statements, and transcripts that would form part of the complaint, or submitted on a subsequent date as conveyed to the aggrieved person or complainant on behalf of such person.
- (vi) The Presiding Officer shall immediately write to the designated Secretary, to convene an ordinary or emergency meeting as may be required, following the rules of procedure for meetings of ICC laid down in the present policy.


(3) Conciliation:

- (a) On receiving a complaint, it shall be the duty of the ICC or the ISC, as the case may be, to inform the complainant about the provision for conciliation as an alternative to inquiry and the procedure for conciliation.
- (b) Where a request is made by the aggrieved person or the complainant for conciliation, the ICC or the ISC, as the case may be, shall initiate and conclude the conciliation proceedings before initiating an inquiry.
- (c) The ICC or ISC, as the case may be, shall take steps to settle the matter between such person and the respondent through conciliation,

Provided that no monetary settlement shall be made as a basis of conciliation,

Provided further that no undue influence or pressure of any kind is used on the complainant or the aggrieved person or respondent to arrive at a settlement between them.

- (d) The ICC or ISC, as the case may be, on a request by the complainant, may ensure that the respondent and the complainant are not placed in a situation where they may face each other and yet receive the opportunity to communicate with each other (e.g. ensuring different entry and exit points, separate waiting area, holding hearings in a manner that they sit in adjacent rooms but do not come face to face and can still communicate with each other).
- (e) Where a settlement has been arrived at, the ICC or ISC, as the case may be, shall ensure that the settlement has been signed by both parties.

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- (f) It shall be the responsibility of the ICC or ISC, as the case may be, to document and record in writing the process followed for conciliation as well as the settlement arrived at.
- (g) Where a settlement is arrived at from a conciliation process carried out by the ICC or the ISC, as the case may be, the ICC alone shall have the power to treat the complaint as disposed, requiring no further inquiry, and forward a copy of the settlement signed by both parties to the complainant, the respondent and the Foundation..
- (h) Where no settlement is arrived at between the parties, the ICC or the ISC, as the case may be, shall within seven working days of concluding the conciliation proceedings, conduct an inquiry in accordance with the procedures laid down in the present policy.


(4) Inquiry into Complaint:

- (a) A minimum of two-third of all members including the Presiding Officer and one external member of the ICC or ISC, as the case may be, shall be present for conducting the inquiry.
- (b) The ICC or ISC, as the case may be, shall conduct the inquiry in accordance with the principles of natural justice, and arrive at recommendations after carefully and meticulously reviewing all the evidence and statements.
- (c) The ICC or ISC, as the case may be, shall do everything necessary to ensure a fair hearing of the complaint including the protection and safety of the complainant and other witnesses in the hearing.
- (d) The ICC or ISC, as the case may be, shall conduct the inquiry in the following manner:

(i) Acknowledgement of Written Complaint with supporting documents and statement of witnesses

- As soon as a complaint is received by the ICC/forwarded to the ISC, the Presiding Officer shall convene a meeting of all members of the ICC or ISC, as the case may be, through the designated Secretary of the Committee.
- The complaint along with all accompanying documents and statement of witnesses shall be shared with all members of the ICC or ISC, as the case may be, and perused in a meeting held in this regard, to check if any other documents are required from the complainant.
- The ICC or ISC, as the case may be, shall ask the complainant to prepare a detailed statement of incidents/allegations with timeline if possible, and submit a copy of such statement within seven working days of receiving a communication in this regard from the ICC or ISC, as the case may be.
- If the aggrieved person desires to be accompanied by a friend or support person, the name of such person shall be communicated to the ICC or ISC, as the case may be, along with the names and contact details of witnesses. Such friend or support person shall only have the status of an observer.


(ii) Notice to the Respondent and Submission of Response in writing

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- The ICC or ISC, as the case may be, shall send a copy of the complaint to the respondent within seven days of receipt of the same.
- A copy of the statement of allegations, supporting materials and documents and statement of witnesses received from the complainant shall also be shared with the respondent as soon as they are received by the ICC or ISC, as the case may be, but not later than seven working days of such receipt.
- The ICC or ISC, as the case may be, shall ask the respondent to place his/her written response along with the supporting material, and list of witnesses and their contact details, within a period not exceeding seven working days from the date of receipt of copy of the complaint by the respondent.

(iii) Reasonable Opportunity for the Complainant and the Respondent to present their case

- Upon receiving the written response and supporting material and list of witnesses from the respondent, the ICC or ISC, as the case may be, shall share a copy of the same with the complainant.
- The ICC or ISC, as the case may be, shall communicate to the complainant and the respondent a date for appearance in person before the ICC or ISC, as the case may be, subject to modification as per convenience of the complainant, respondent and the ICC/ISC Members.
- The ICC or ISC, as the case may be, shall, through its Secretary, give three days (72 hours) advance notice to the complainant, the respondent, and their respective witnesses before a hearing is convened, by personal service or email as well as mobile text messaging.
- 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 ICC or ISC, as the case may be.
- The ICC or ISC, as the case may be, will provide an opportunity to both parties and their respective witnesses, for an oral hearing.
- The ICC or ISC, as the case may be, shall, at the request of the complainant or the respondent and where it feels necessary, provide services of translators, interpreters, special educators, support persons other than legal practitioners, and such other experts for the purposes of fair hearing.
- The ICC or ISC, as the case may be, shall hear and duly record the statements of the complainant, the respondent, and any other person that the parties concerned may wish to examine.

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- Any new and additional documents and materials submitted by any party in the course of the inquiry may be shared with the other party concerned, within such time as the Committee deems appropriate.

(iv) Proceedings

- The ICC or ISC, as the case may be, will not be precluded from taking cognizance of any new fact, or evidence which may arise, during the pendency of the inquiry proceedings, relating to the complaint.
- The ICC or ISC, as the case may be, may call any person to appear as a witness, if it is of the opinion that it is so required for the conduct of the inquiry.
- The ICC or ISC, as the case may be, may call for any documents pertaining to the complaint, which it may consider to be relevant, including any earlier complaint that may have been filed against the respondent.
- During the inquiry, the complainant and the respondent may be given an opportunity to produce any additional material or statement of any witnesses, which could not be submitted earlier, within such extended time as the Committee deems appropriate.
- The ICC or ISC, as the case may be, shall have the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive.
- The ICC or ISC, as the case may be, shall have the right to summon the aggrieved person, the respondent, and/or any witnesses for the purpose of recording any supplementary testimony and/or clarifications, if considered necessary.
- The ICC or ISC, as the case may be, on a request made by the complainant or a witness, may ensure that the respondent and the complainant or the witness, as the case may be, are not placed in a situation where they may face each other and yet receive the opportunity to hear and question each other (e.g. ensuring different entry and exit points, separate waiting area, holding hearings in a manner that they sit in adjacent rooms but do not come face to face and can still hear and question each other).
- Video and/or audio recording may be used for recording all hearings on obtaining written consent of the complainant, respondent and their witnesses.

(v) Ex-parte or Recommend Termination of Proceedings

- The ICC shall have the right to terminate the inquiry proceedings or give an ex-parte decision if the complainant or the respondent fail, without sufficient cause, to present themselves for three consecutive hearings convened by the ICC.

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- No termination or ex-parte decision will take place without giving a notice in writing, at least fifteen (15) days in advance to the party concerned.
- Where an inquiry is conducted by an ISC constituted by the ICC at the head office, it may recommend termination of proceedings to such ICC if it comes to the conclusion that the complaint is devoid of any truth, or has been frivolously instituted.
- The ICC at the head office shall take the final decision on the recommendation made by the ISC for termination of proceedings.

(vi) Completion of Inquiry by ICC

- The ICC shall complete its investigation and prepare an inquiry report within ninety (90) days of receiving the complaint, or where it forwards a complaint to the ISC for purposes of inquiry, within one month of receiving the inquiry report from such ISC.
- The ICC shall, in its Report, make a determination regarding the validity of the allegations of harassment.
- Where the ICC arrives at the conclusion that the allegation against the respondent has not been proved as per its inquiry, it shall recommend to the Foundation that no action is required to be taken in the matter.
- Where the ICC arrives at the conclusion that the allegation against the respondent has been proven, it shall recommend the Foundation to take appropriate action for sexual harassment.
- ICC shall make available a copy of the Final Report to the concerned parties within ten (10) working days of finalising its report.
- A copy of the Final Report containing findings of the inquiry and recommendations shall also be sent to the Foundation within ten (10) working days.

(vii) Completion of inquiry by ISC

- The ISC shall complete its investigation and prepare an inquiry report within ninety (90) days of receiving the complaint from the ICC at the head office.
- Upon completion of inquiry, the ISC shall provide the inquiry report of its investigation, findings and recommendations, including all material and evidence collected by it to the ICC at the head office within a period of ten (10) days from the date of completion of such inquiry.
- Where the ISC arrives at the conclusion that the allegation against the respondent has not been proven, it shall recommend to the ICC at the head office that no action is required to be taken in the matter.
- Where the ISC arrives at the conclusion that the allegation against the respondent has been proven, it shall recommend to the ICC at the head office to take appropriate action for sexual harassment.
- The ICC at the head office shall review the inquiry report of the ISC within ten (10) days of the receipt of such report for finalisation.
- Upon consideration of the material on record and the inquiry report of the ISC, if more than two-thirds of the members of the ICC at the head office differ from the

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conclusion of the ISC, the ICC shall, after hearing the complainant and respondent in person, record its reasons to differ and take consequent action accordingly.


- After hearing both parties and carefully reviewing all the evidence and material on record, the ICC at the head office will arrive at its final decision and recommendations.
- The ICC at the head office shall pass orders clearly stating whether it accepted or rejected the inquiry report of the ISC and the reasons therefor.

(vii) Inquiry Report when an ISC has been constituted

- The ICC at the head office shall finalise its Report within seven (7) days of accepting the inquiry report submitted by the ISC, or, in case it rejects the inquiry report of the ISC, within fifteen (15) days of passing the order of rejection.
- The ICC at the head office shall, in its Final Report, make a determination regarding the validity of the allegations of harassment.
- If it is determined that the harassment has not occurred, the ICC at the head office shall recommend to the Foundation that no action is required to be taken in this matter.
- If it is determined that harassment has occurred, suitable recommendations shall be made for the Foundation to act upon at the earliest after receiving a copy of the Final Report of the ICC at the head office.
- ICC at the head office shall make available a copy of its Finalised Report to the concerned parties within ten (10) working days of finalising the report.
- A copy of the Final Report containing findings of the inquiry and recommendations shall also be sent by the ICC at the head office to the Foundation within ten (10) working days.

VII. INTERIM RELIEF

- (a) At the request of the complainant, the ICC or ISC as the case may be, may recommend to the employer to provide interim relief such as:
- (i) transfer of the complainant or the respondent to any other workplace;
 - (ii) granting leave to the complainant up to a period of three (3) months in addition to their regular statutory/contractual leave entitlement, ;
 - (iii) restrain the respondent from reporting on the work performance of the complainant;
 - (iv) restrain the respondent from contacting the complainant or their witnesses in any manner whatsoever;
 - (v) monetary relief to the aggrieved person for medical or psychological care and treatment resulting from the sexual harassment;
 - (vi) such other specific interim measures that may be required for the personal safety and for safeguarding the dignity of the complainant, including assisting the complainant in seeking police protection or filing a criminal complaint


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Provided that the leave granted to the aggrieved person shall be in addition to the leave he/she would be entitled to otherwise if the case is proved.

- (b) The ICC or ISC, as the case may be, shall call for a compliance report on the recommendations made to the employer for provision of interim relief.
- (c) In the event of disobedience, defiance or violation of such interim orders by the respondent brought to the notice of the ICC or ISC, as the case may be, the respective ICC or ISC shall call upon the respondent to provide an explanation.
- (d) If, for reasons recorded in writing, the ICC or ISC, as the case may be, is not satisfied with the explanation provided by the respondent for disobeying or violating an order of interim relief, the respective ICC or ISC has the power to close and/or strike off the defence of the respondent and pass the final orders.

VIII. PUNISHMENT, COMPENSATION AND OTHER RELIEF

- (a) The Foundation shall act upon the recommendation of the ICC within sixty (60) days of receipt of the report of the ICC.
- (b) Once the ICC has adjudicated and arrived at a decision that the respondent has indulged in an act of sexual harassment, it may recommend one or more of the following punishments:
 - (i) Action for sexual harassment as a misconduct as per the provisions under the service rules of the organization; or
 - (ii) If the organization does not have service rules, disciplinary action including written apology, warning, reprimand, censure, withholding of promotion or pay rise or increments, demotion, suspension, terminating the respondent from service, making orders for undergoing a counselling session or carrying out community service or payment of fine as determined by the ICC;
 - (iii) In addition to punishment, the ICC may admonish and/or prohibit the respondent from harassing the victim in any manner including, but not limited to, prohibition from communicating with her/him in any manner such as phones, messages, electronic means, physical or other means for a specified period;
 - (iv) The ICC can also direct the respondent to pay compensation to the aggrieved person. The quantum of compensation payable shall be determined on the basis of:
 - the mental trauma, pain, suffering and emotional distress caused to the person;
 - the loss in career opportunity due to the incident of sexual harassment;
 - medical expenses incurred by the complainant for physical/psychiatric treatment;
 - the income and status of the respondent;
 - feasibility of such payment in lump sum or in instalments

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- (v) The ICC may also recommend to the Foundation to restore any lost terms, conditions or benefits of employment to the aggrieved person.
- (vi) The ICC, as it deems fit, may recommend the Foundation and/or the complainant to file a criminal complaint.

IX. FRIVOLOUS COMPLAINTS


- (a) Where the ICC has reason to believe that the inquiry proceedings should be terminated on grounds of the complaint being frivolous, it shall conclude its findings in this regard with reasons in writing and appropriate recommendations for action by the Foundation.
- (b) Where the ISC recommends termination of inquiry proceedings on grounds of the complaint being frivolous, the ICC at the head office shall review the recommendation of the ISC and conclude its findings in this regard in its Final Report with reasons in writing and appropriate recommendations for action by the Foundation.
- (c) If it is determined by the ICC that the complaint is false or malicious, or the aggrieved person or any other person making the complaint has produced any forged or misleading document(s), the ICC shall recommend to the Foundation any of the following:
 - (i) no action is required to be taken in the matter;
 - (ii) disciplinary action may be taken against the complaint in accordance with the service rules of the organization;
 - (iii) where the organization does not have service rules, the Foundation may take disciplinary action such as written apology, warning, reprimand, censure, withholding of promotion or pay rise or increments, demotion, suspension, terminating the complainant from service, undergoing a counselling session, carrying out community service, or reimbursing the cost incurred by the respondent and his/her witnesses for taking part in the proceedings instituted against the respondent.

X. APPEAL

- (1) An appeal may be preferred by –
 - (a) the complainant or the respondent with respect to the recommendations of the ICC
 - (b) the complainant with respect to non-implementation of recommendations made by the ICC
- (2) All appeals permissible under this clause may be filed before the court or tribunal specified in the service rules applicable to the said person or, where no such service rules exist, before an appellate authority notified under clause (a) of Section 2 Section of The Industrial Employment (Standing Orders) Act, 1946.
- (3) The appeal shall be preferred by either party within a period of ninety days of receipt of the Final Report of ICC by the parties.

XI. PRIVACY AND CONFIDENTIALITY

- (a) All persons participating in the inquiry proceedings conducted by the ICC/ISC, shall observe secrecy and confidentiality of the proceedings.

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- (b) Disclosure of the contents of the complaint; identity and addresses of the complainant, respondent, witnesses; any information relating to conciliation and inquiry proceedings; recommendations of the ICC or ISC and the action taken is strictly prohibited and liable to punishment,

Provided that dissemination of information pertaining to the justice that has been secured to an aggrieved person, without disclosing the name, address, identity or any other particulars which could result in the identification of such person or witnesses may be permitted in writing by the ICC as part of its final report.

- (c) Breach of duty to protect privacy and confidentiality of parties as well as the proceedings and reports of the ISC and ICC is punishable in accordance with the provisions of the service rules applicable to the said person, or where no such service rules exist, a fine of INR 5,000.
- (d) Any violation of confidentiality of these proceedings by any party can result in penalty being imposed by the ICC, which it may consider appropriate.


XII. POLICY IMPLEMENTATION AND REVIEW

- (1) The policy will be implemented and reviewed by the HR department of the Foundation.
- (2) All other policies of the Foundation having a bearing on the implementation of this policy shall be revised accordingly.
- (3) The Foundation reserves the right to amend, abrogate, modify, rescind / reinstate the entire policy or any part of it at any time.
- (4) The Annual Report of the Foundation shall include a report on the implementation of this policy, covering the following aspects:
- (a) Number of complaints of sexual harassment at workplace received in the year
 - (b) Number of complaints disposed of during the year
 - (c) Number of cases pending inquiry for more than the prescribed time
 - (d) Number of trainings conducted
 - (e) Number of workshops and awareness programmes carried out
 - (f) Nature of action taken by the Foundation
 - (g) Number of partners having a policy against sexual harassment at workplace in line with the policy of the Foundation


XIII. DUTIES OF THE FOUNDATION

The Foundation shall –

- (i) provide a safe working environment to all its employees;
- (ii) ensure that concerns about sexual harassment don't become an excuse for discrimination;

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- (iii) constitute the "Internal Complaints Committee (ICC)" as per this policy and display at any conspicuous places in the workplace as well as upload on its website, details regarding the members of these committees with their contact numbers;
- (iv) make public the details of members of the ISC constituted by the ICC at the head office;
- (v) ensure publicity and circulation of the present policy in all offices/branches/project locations of the Foundation;
- (vi) develop and display IEC materials on the present policy and its provisions in a simple and local language, particularly highlighting what constitutes sexual harassment at workplace, who can file a complaint and how, the mechanism for grievance redressal, and action that may be taken if sexual harassment at workplace is determined;
- (vii) develop special and accessible IEC materials to reach out to people with disabilities;
- (viii) take appropriate measures for deepening the understanding and analysis of all relevant stakeholders (employees, project partners and beneficiaries) on gender equality and non-discrimination, empowerment, social protection, consent, abuse, safeguarding the rights of women, children, youth and persons with disabilities, etc.
- (ix) organize workshops and awareness programmes at regular intervals for sensitizing employees on the provisions of the Policy as also existing laws for protection of women and children;
- (x) include training on this policy in the induction programme for all employees;
- (xi) organise training and sensitisation programmes for all members of the ICC within one week of constitution of these committees and once in six months subsequently.
- (xii) provide necessary facilities and resources, including secretarial assistance to the ICC and all ISCs constituted under the present policy for dealing with the complaint and conducting an inquiry;
 - (i) assist in securing the attendance of respondent and witnesses before the ISC or ICC, as the case may be;
 - (ii) make available any such information to the ICC or an ISC as it may require during the course of the inquiry;
 - (iii) provide services of translators, interpreters, special educators, support persons and such other experts as may be called for by the ICC or ISC for the purposes of inquiry;
 - (iv) provide assistance to the complainant if she/he chooses to file a criminal complaint against the respondent and a recommendation is made in this regard by the ICC;
 - (v) cause to initiate action under the Indian Penal Code or any other law for the time being in force if the aggrieved person so desires and a recommendation is made by the ICC in this regard, and where the perpetrator is not an employee, partner or associate in the workplace at which the incident of sexual harassment took place;
 - (vi) treat sexual harassment as misconduct under the service rules and disciplinary policy of the Foundation and initiate action for such misconduct;
 - (vii) monitor the timely submission of reports by the ICC to the Foundation;
 - (viii) install CCTV cameras in all conspicuous places, including kitchen, store, corridors, outside restrooms and such other common and shared spaces in all work locations and offices;
 - (ix) as far as possible, ensure separate and disabled-friendly restrooms for men, women and third gender in all offices/project locations/schools/training centres. Some possible measures, where space is a constraint, could be arranging separate portable toilets, using affordable restroom lock systems such as tooshlights that indicate when the restroom is in use and when it is vacant, etc.

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- (x) ensure that all partner organizations have a written policy against sexual harassment at workplace in line with the policy of the Foundation;
- (xi) ensure that all contractual agreements and MoUs require the parties entering into a contract with the Foundation to sign an agreement to abide by the Foundation’s POSH PLUS policy relating to gender and prevention of sexual harassment at workplace.
- (xii) conduct an Annual Needs-Assessment by conducting an annual survey within the organization asking all employees about their experience;
- (xiii) prepare and include a report on the implementation of the policy in the Annual Report of the Foundation and share the same with the Board of Directors and partners.

XIV. DUTIES OF PARTNER ORGANIZATIONS

- (i) All liabilities, duties and responsibilities of Foundation under the present policy, extend to partner organizations.
- (ii) All partner organizations must have a written policy in place to address sexual harassment at workplace in line with the policy of the Foundation, adapted to their specific context.
- (iii) While adapting the Foundation’s policies to their local contexts, it is imperative for partner organizations to ensure that the standards and procedures laid down in the POSH Act, 2013 are complied with.
- (iv) Partner organizations shall, through a formal agreement, promote and implement such policies and ensure that they are made known to all their employees, service providers, visitors and other associates.
- (v) All partner organizations have the responsibility to disseminate, circulate and publish their policies against sexual harassment at workplace in all their project and work locations.


XV. DUTIES OF EMPLOYEES

All employees must understand that an allegation of sexual harassment or gender discrimination is a grave violation that will be taken up seriously and not tolerated.

In addition to the Code of Conduct applicable to all employees, the following Do’s and Don’ts must guide their actions and behaviour at all times:

Do’s

- (i) Know the Foundation’s “Prevention of Sexual Harassment at Workplace and Gender Policy” or the POSH PLUS Policy as it may be commonly referred to.
- (ii) Familiarise yourself with the provisions of various laws for protection of women and children and your rights and responsibilities under the civil and criminal laws applicable to all citizens.
- (iii) Be alert and ready to help if a person is seeking help.
- (iv) Be aware of one’s own behaviour, particularly what may be perceived as inappropriate to a reasonable mind and avoid the same.
- (v) Be aware of cultural sensitivities.

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- (vi) Learn and internalise that it is wrong to assume that some people, particularly some women like being 'teased' and their "silence" or "no" means a "yes".
- (vii) Say "NO" if asked to go to places, do things or participate in situations that make you uncomfortable.
- (viii) Trust your instincts. Walk away from uncomfortable situations.
- (ix) Say "NO" to offensive behaviour as soon as it occurs.
- (x) Learn to report and encourage reporting as a norm.
- (xi) Understand that the way a woman or a person of the third gender dresses up does not make them deserving of sexual harassment.
- (xii) Understand that harassing women is not a proof of masculinity and make the same known to your colleagues, friends and family.
- (xiii) Remember that an unwanted and abusive display of power can undermine the self-confidence of a person and make them feel angry and resentful.
- (xiv) Maintain confidentiality regarding any aspect of an inquiry to which they or a co-worker may be party to.

Don'ts

- (i) Do not indulge in or encourage any of the following:

(a) Verbal harassment:


- Sexually suggestive comments or comments on physical attributes and appearance.
- Offensive language that insults or demeans a colleague, using terms of endearment.
- Singing or humming vulgar songs.
- Requests for sexual favours, sexual advances, coerced acts of a sexual nature.
- Requests for dates or repeated pressure for social contact.
- Discussing sexual activities, sexual prowess or intruding on the privacy of others.
- Sexually coloured propositions, insults or threats.

(b) Non-verbal harassment:

- Offensive gestures, staring, leering or whistling with the intention to discomfort another.
- Even if not directly done to a particular individual, uttering a word, making a gesture or exhibiting any object with the intention that such word, gesture, or object be heard or seen by others.
- Sounds, gestures, display of offensive books, pictures, cartoons, magazines, calendars or derogatory written materials at one's workplace.
- Showing or mailing pornographic posters, internet sites, cartoons, drawings.
- Watching pornographic material during work hours in presence of another person, causing discomfort to others
- Suggestive letters, phone calls, SMS, electronic instant messaging or e-mail messages.

(c) Physical harassment:

- Physical contact or advances.

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- Intentional touching of the body, e.g. hugs, kisses, brushing, fondling, pinching etc. that make others uncomfortable.
- Any displays of affection that makes others uncomfortable or are inappropriate at the workplace.

This is only an indicative list of basic Do's and Don'ts and is in no way intended to be construed as an exhaustive list.

- (ii) Refrain from taking discriminatory actions or decisions which are contrary to the spirit of this policy.
- (iii) Refrain from trivialising harassment as a light hearted joke or teasing.
- (iv) Refrain from making false complaints or misusing the policy.

ACRONYMS

CCTV	Closed-Circuit Television
CEO	Chief Executive Officer
HR	Human Resource
ICC	Internal Complaints Committee
IEC	Information and Communication
ISC	Internal Sub-Committee
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
POSH	Prevention of Sexual Harassment
SMS	Short Message Service
UT	Union Territory

TECH MAHINDRA FOUNDATION