

# **CHILD PROTECTION AND SAFEGUARDING POLICY**

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## I. POLICY STATEMENT

The Tech Mahindra Foundation [herein after referred to as the Foundation] recognises children as change agents and strives to work towards building an environment where all children are able to grow and develop to their full potential and contribute to the society as productive citizens.

Following its vision of “Empowerment through Education”, the Foundation aspires to promote the best interests of all children in all its endeavours. Recognising children as equal citizens and cognizant of their vulnerable position as well as the barriers to their growth and development, the Foundation strives towards fostering a child sensitive culture in its work and among the people and communities it engages with.

One of the most challenging impediments to children’s holistic development is child abuse. Violence against children is prevalent throughout the world in all societies in varying degrees taking different forms and manifestations. This includes physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment and sexual abuse. Even though, children are the most vulnerable groups in society, they are not a homogenous group. Some are at greater risk than others due to, for example, reasons of gender, sexual orientation, ethnic origin, disability, age or illness. Through its work, the Foundation engages with many such children who face multiple risks and require greater attention.

It is in this light that the Foundation has formulated its Child Protection and Safeguarding Policy [**herein after referred to as the CPS Policy**], which seeks to protect and safeguard all persons below the age of 18 years who form an integral part of the Foundation’s vision, mission and work.

The Foundation is aware that the primary legislative framework guiding child protection in India is comprised of the Juvenile Justice (Care and Protection of Children) Act [JJ Act], 2015 and the Protection of Children from Sexual Offences [POCSO] Act, 2012 and these cast certain legal obligations on individuals, groups and organizations like ours.

Both the laws apply to all persons who have not completed the age of 18 years.

- Under Section 75 of the JJ Act, assault, abandonment, abuse, exposure or wilful neglect of a child by a person having the actual charge of, or control over such child is a punishable offence.
- Under Section 21 of the POCSO Act, there is a legal duty upon any person, organization, company or institution to report the commission or apprehension of commission of any sexual offence committed against a child to the local police or the Special Juvenile Police Unit. Omission to do the same warrants a criminal penalty of fine or imprisonment.

- In addition to domestic legislation, India is also a signatory to the UNCRC, CEDAW and other international legal instruments, which clearly lay down the need to protect and prevent all forms of violence and abuse against children.

This policy is in keeping with the goals and objectives of the Foundation as also its commitment to safeguarding children and their rights and the ethical, moral and legal obligations that govern the Foundation in this regard.

Over the years, the Foundation has spearheaded several initiatives directed towards training, educating and skilling children. As a result of this, a vast number of Foundation's employees (including employees of partner organizations) work with children on a daily basis (in the capacity of teachers, project heads, trainers, etc.). This makes it all the more imperative for all employees and implementing partners to recognise their duty towards protecting and safeguarding children from any emotional or physical harm or violence, and their duty to report any suspected or known incident of abuse or violence against children.

The Foundation therefore aims to work towards ensuring that its team, partners and associates follow certain norms and ethical guidelines in their professional and personal capacities while dealing with children; that they do not violate child rights, or are party to any such act which indicates exploitation and violation of child rights; that they take necessary measures to prevent child abuse; that child abuse does not go unreported; and, that children are able to find help and seek appropriate redressal and protection when needed.

All employees (as defined in this policy), partners, visitors and associates are encouraged to sign this policy and make an express commitment to protect children from all forms of abuse.

Partners are particularly encouraged to bring their policies in line with the Foundation's policy, adapting to their local contexts and situations.

The aim of the present policy is thus:

- (a) Preventing child abuse in all work situations;
- (b) Strategic guidance on how to protect children;
- (c) Improving co-operation between the Foundation and other partner organizations in their work with children and safeguarding children;

- (d) Develop a clear understanding of functions, duties, responsibilities, liabilities, and key tasks that all stakeholders must undertake to fulfil their duties and obligations; and
- (e) Establish and promote norms and good practices that make organizations working with and for children, child safe and child sensitive.

At the heart of any work on empowering children and youth is risk identification, risk assessment and risk management. This implies being ready with a checklist catering to varying situations that involve engagement with children and between children. Strengthening planning and monitoring of activities with the help of such checklists as also reporting on implementation of this policy is therefore as critical in the Foundation's view as having a policy in place.

## II. GUIDING PRINCIPLES

The following principles shall guide the Foundation and its work, decision-making and interactions with children:

<b>Principle of Dignity and Worth</b>	Children are human beings and autonomous right-holders who shall be treated with the same dignity, respect and worth accorded to adults.
<b>Principle of Best Interest</b>	All decisions regarding a child shall be guided by the principle of best interest of the child. This shall be the primary consideration during decision-making pertaining to children, and guiding questions shall be whether the decision can help the child fulfil his/her rights and needs or, the decision does not result in violation or denial of other basic rights.
<b>Principle of Safety</b>	All measures shall be taken to ensure that children are safe, and are not subjected to any harm, abuse or maltreatment in all settings while in contact with the Foundation or its employees.
<b>Principle of Participation</b>	Every child shall have the right to be heard and to participate in matters affecting/impacting their life. The Foundation recognises the importance of putting in place mechanisms and processes in line with this principle. Children's views shall be given due consideration in accordance with their age, maturity and evolving capacities.
<b>Principle of Equality, NonDiscrimination and NonStigmatization</b>	All children shall be treated equally and there shall be no discrimination or stigmatization against any child on grounds of sex, caste, religion and ethnicity, place of birth or disability. The Foundation shall, through all its programmes and activities ensure that all children receive equal opportunities and are able to access the same without barriers that hinder such opportunities.

<b>Confidentiality</b>	Children's right to privacy and confidentiality shall be protected in cases of abuse and in accordance with law.
<b>Child centred planning and implementation</b>	Planning and implementation of programmes for children and this policy shall be guided by a child centred approach and strategies.
<b>Good governance, accountability and responsibility</b>	An efficient and effective child protection system requires transparent management and decision making, accountable and responsible individuals and institutions. Making this policy and reports on its implementation available in public domain is one such measure.

### III. SCOPE AND APPLICABILITY

This policy extends to all children whether participating in the Foundation's projects and activities or otherwise reported to have been abused at any of the locations from where the work of the Foundation is carried out.

In matters involving employees and visitors of the Foundation and work locations directly under the supervision and control of the Foundation, the direct obligation shall lie with the Foundation, while in those involving employees and visitors of the implementing partners or work locations under

supervision and control of the partner organization, the direct responsibility shall lie with the concerned implementing partner.

Varied obligations are laid down for all persons directly employed or contracted by the Foundation, including consultants, interns, volunteers, service providers and visitors. The policy seeks to cover their interactions with children in the course of carrying out their duties/responsibilities, whether at the Foundation's project locations and office premises or, at any other location from where the work of the Foundation is being carried out, including external locations used by children associated with the Foundation's programmes and activities.

The policy is also applicable to varied situations involving a person other than an employee of the Foundation, where a report or complaint is received against such person for subjecting a child to emotional, sexual or physical harm or maltreatment in any of the Foundation's work locations.

In all situations illustrated below, the Foundation and its implementing partners will have an obligation to act and provide redress through their respective child protection policies and mechanisms, as may be applicable.

#### *Illustrations:*

- a. Child protection violation by an employee of the Foundation located or placed in, or working out of a premise owned or rented by the implementing partner.
- b. Violation by an employee (including volunteer or intern) visiting a project location in the course of tasks assigned to them, even if such location is owned or rented by the implementing partner.
- c. Visitors in any of the premises used by the Foundation for its programmes.
- d. All academies and training centres run by the Foundation, directly or through an implementing partner.
- e. All residential facilities for students and teachers or other employees associated with the Foundation's programmes implemented directly or through an implementing partner.
- f. All exposure visits or educational trips in the course of meeting the objectives of the Foundation's programmes.
- g. Day trips, picnics, sight-seeing or any other kind of recreational or work activity involving children associated with the Foundation's programmes.
- h. Transport provided to children during the course of activities related to the Foundation's programmes.
- i. All visits made to children's homes in furtherance of the objectives of the Foundation's programmes.

While the protective scope of the POCSO Act, 2012 casts a responsibility on every individual to report sexual offences against children, and failure to do so will be every individual's responsibility, the Foundation takes upon itself the responsibility to spread awareness in this regard among all its employees, partners, service providers, interns, volunteers, children and the communities served by the Foundation.

The protective scope of the present policy covers a range of child protection violations defined as child abuse in this policy and explained through a Glossary on Child Abuse appended to the policy as Appendix 1.

#### **IV. DEFINITIONS**

For the purposes of this policy, the words defined here under shall mean and be understood and applied as follows:

- (i) **Child** means any person below the age of 18 years.
- (ii) **Children with Disabilities** includes children with physical or intellectual disabilities or both, requiring special support and services.
- (iii) **Vulnerable Children** means children facing social, economic, physical, psychological, intellectual and such other barriers that impede their holistic growth and development as also their safety and security, and includes, but is not limited to the following:
  - (a) Girl children in all situations
  - (b) Children of the third gender

- (c) Children with physical and/or intellectual disabilities (particularly girls with physical disabilities from marginalised communities)
- (d) Children coming from troubled homes/families or disturbed areas *This is not an exhaustive list. Children can have specific individual vulnerabilities that are not included above.*
- (iv) **Child Rights** means the rights of any person below the age of eighteen years of age as recognised in the Constitution of India and the UN Convention on the Rights of the Child [UNCRC] and Indian Constitution.
- (v) **Child Abuse** means all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power. A Glossary of terms that would help understand child abuse in detail is appended as Appendix 1.
- (vi) **Child Protection Violation** means any action or inaction that amounts to a violation of this policy.
- (vii) **Child-sensitive** means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child.
- (viii) **Aggrieved child** means any person below the age of eighteen years who has faced or is under threat of 'child abuse' as defined in this policy and who is –
  - (a) associated with the Foundation and/or its programmes carried out directly or through its implementing partners; or
  - (b) visiting the premises used by the Foundation or its implementing partners for their programmes and operations.
- (ix) **Complainant** refers to an aggrieved child or a person acting on behalf of an aggrieved child, or a person having knowledge of an incident of child abuse as defined in this policy and who is willing to file a complaint with the Child Protection Focal Person (CPFP) nominated under this policy.
- (x) **Best Interests of the Child**<sup>1</sup> means ensuring children the full and effective enjoyment of their rights; respecting their human dignity and their right to express themselves freely and be heard in matters concerning and affecting them; and ensuring procedural guarantees and safeguards while arriving at decisions concerning them, keeping in mind their individual characteristics and circumstances, evolving capacities, physical, emotional, cognitive and social development.

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<sup>1</sup> UN Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) [CRC/C/GC/14]. Available at: [https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf)

*Best interest of the child is a right, a principle and a rule of procedure implying –*

- *that it is the right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision;*
- *that in matters requiring interpretation of rules and policies, the interpretation which most effectively serves the child's best interests shall be chosen;*
- *that decision-making processes involving them includes an evaluation of the possible impact (positive or negative) of the decision on the child and follows all procedural guarantees to ensure balancing of rights and protections.*

**Illustrations:**

- (a) Preservation of the family environment may conflict with the need to protect the child from the risk of violence or abuse by parents. In such situations, different elements will have to be weighed against each other in order to find the solution that is in the best interests of the child.
  - (b) There might be situations where "protection" factors affecting a child (e.g. which may imply limitation or restriction of rights) need to be assessed in relation to *measures of "empowerment" (which implies full exercise of rights without restriction)*. In such situations, the age and maturity of the child should guide the balancing of the elements. The physical, emotional, cognitive and social development of the child should be taken into account to assess the level of maturity of the child.
- (xi) Accused** refers to the person against whom the aggrieved child or person acting on behalf of the aggrieved child has made a complaint under this policy, and where the accused is a minor, shall include the representative of such minor.
- (xii) Abetment:** Any person is said to abet child abuse as defined in this policy if they:
- instigate child abuse by wilful misrepresentation, or wilful concealment of a material fact which a person is bound to disclose, or voluntarily cause or try to cause such a violation; or
  - conspire through an agreement to cause child abuse, and their act or omission results in the violation agreed upon; or
  - intentionally aid child abuse by doing an act which facilitates the commission of such violation, including receiving, harbouring, employing, transporting a child by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position, abuse of vulnerability of the child or giving or receiving of payments or benefits.



**(xiii) Employee** is defined as –

“a person employed at any workplace 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, employees of the Foundation shall include persons such as-*

- ✦ *Faculty, permanent or ad-hoc or guest faculty conducting trainings for any of the Foundation’s programmes or initiatives;*
- ✦ *Housekeeping, kitchen, security and other support staff, whether employed directly or indirectly, by the Foundation;*
- ✦ *Such other persons as may be hired or employed or entering into an implied or explicit agreement with the Foundation*

**(xiv) 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.

**(xv) 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.

**(xvi) Support person** is a person other than a legal practitioner or a witness, who provides assistance, emotional support and reassurance to the aggrieved child and is trusted by or acceptable to the child. A support person can include an adult person from the child’s family/school/training centre/academy, or a person with expertise in social work/psychology/gender/child rights/human rights, enlisted by the Foundation to provide such assistance.

**(xvii) 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.

- (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 projects;
  - (ii) visits to students and/or their parent(s)/guardian(s) 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) any location of retreat, meeting, picnic, conference, official trip or team lunch/dinner organised by the Foundation or a representative or an employee of the Foundation for work purposes;
  - (vi) guest houses, hotels and other residential locations used for work purposes by the Foundation;
  - (vii) any location used for 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 subclause (a) and (b) of this clause.

## V. PREVENTION

The Foundation shall undertake various preventive measures for protecting and safeguarding children associated with its programmes or visiting its offices or other work locations, and encourages its implementing partners to do the same.

### The Non-negotiables

#### (1) Staff Recruitment and Orientation

Services for children at all levels shall be provided by skilled and professional staff, adhering to an ethical and professional code of conduct.

The Foundation shall thus undertake certain non-negotiable child safeguarding measures while appointing new staff and orienting them on this policy. These would include, but are not limited to:

- (i) Ensuring that every person under an employment or service contract with the Foundation, submits a self-declaration /affidavit stating that the person does not hold any criminal record;
- (ii) Seeking reference from previous employer while considering the candidate for appointment;
- (iii) Processing a police verification of all newly appointed staff upon recruitment and updating it periodically;
- (iv) Signing the CPS Policy of the Foundation as part of the employment/service contract.

## **(2) Training and Sensitization**

- (i) To ensure last-mile compliance of the Foundation's CPS Policy, regular orientation and sensitization trainings shall be conducted with employees, partners and children associated with the Foundation's programmes.
- (ii) All possible support shall be provided by the Foundation to its partner organizations for carrying out similar training and sensitization programmes for their employees, service providers, children and families associated with them through programmes and activities of the Foundation.
- (iii) Orientation on the CPS Policy along with a written brief from the Supervisor for all new recruits shall be held at the earliest and no later than 6 months from the date of joining.
- (iv) A written record shall be maintained of the orientation sessions and trainings held and attended by all employees as well as those organised for or supported by the Foundation for its partners.
- (v) The aim and objective of such trainings will be to -
  - (a) Strengthen capacity of all employees at all work locations of the Foundation to help them safeguard and manage this CPS Policy and strengthen its implementation;
  - (b) Strengthen their insights about what constitutes child abuse and child protection violation, how to identify signs of abuse and reporting abuse;
  - (c) Build their capacities on crisis management and dealing with emergencies;
  - (d) Deepen their perspective about national and international laws and regulations, particularly those aimed at eliminating corporal punishment, guidelines for recording of evidence of vulnerable persons in criminal matters, the POCSO Act, 2012 and the JJ Act, 2015;
  - (e) Help them understand and internalise their responsibilities towards children, conduct and procedures to be followed to ensure child protection.

### (3) Code of Conduct

#### **(i) For all Employees and Implementing Partners**

All employees of the Foundation and its implementing partners are expected to-

- ✓ Be affectionate, caring and understanding of the requirements and needs of children; ✓  
Treat children with respect;
- ✓ Contribute to creating a safe, nurturing and empowering environment for children;
- ✓ Take children's beliefs and concerns seriously and foster their personal development;
- ✓ Be responsive in case any special need of the child arises such as health issues or emotional support;
- ✓ Be aware of behaviour and avoid actions or behaviours that could be perceived by others as child exploitation and abuse;
- ✓ Encourage children to talk to their teachers and share their fears and concerns or report abuse without any apprehension;
- ✓ Immediately report any suspicious behaviour or suspected occurrence of abuse;
- ✓ Refrain from concealing or abetting incidents of child abuse;
- ✓ Report to the police all incidents of sexual offences as it is mandatory under Section 19 of the POCSO Act, 2012;
- ✓ Have a sense of accountability, in order to deter any poor practice or potentially abusive behaviour;
- ✓ Follow the "two adult rule" as far as possible, which means making sure that whenever individual interaction, training, education or medical treatment is taking place in the course of or as a result of activities under any project run by the Foundation, directly or through its implementing partners, another adult employee is present or nearby, so that both can be seen by the second adult employee;
- ✓ Obtain consent from the child's parent(s)/guardian(s) whenever individual consultation or treatment is necessary, and inform another adult employee, preferably the immediate supervisor, of when and where it will take place;
- ✓ Respect children's human dignity and their need to be protected at all times when taking photographs, filming or writing reports for public relations work. In particular, this also applies to handling personal data with care and requiring that this is also respected by third parties who receive information about children from or associated with the programmes of the Foundation, implemented directly or through partner organizations; and
- ✓ Refrain from smoking or consuming alcoholic drinks while on project premises or in the presence of children.

It is NOT appropriate to -

- X Spend excessive time alone with children away from others.
- X Physically assault or physically abuse the child.
- X Use language that is discriminatory, abusive or hurtful to the child.
- X Act in ways intended to shame, humiliate, belittle or degrade children, or otherwise perpetrate any form of emotional abuse or discrimination, or show differential treatment or favour for

particular children to the exclusion of others.

- X Develop relationships with the child that could in any way be deemed exploitative or abusive.
- X Ask for a favour or service that could be viewed as abusive or exploitative towards children.
- X Hug, pat, kiss or touch a child in any manner that is inappropriate or culturally insensitive.
- X Take personal photographs with children.
- X Store obscene / pornographic material (photographs, video clips) on their mobile phones and/or show them to children.
- X Create text or digital images and/or collect, seek, browse, download, promote, exchange or distribute material in any electronic or printed form depicting children in obscene or indecent or sexually explicit manner.
- X Use computers, mobile phones, video cameras, cameras or social media to exploit or harass children, or access child exploitation material through any medium.
- X Use corporal punishment on children.
- X Behave physically in a manner which is inappropriate or sexually provocative.
- X Invite unaccompanied children into private residences, unless they are at immediate risk of injury or in physical danger.
- X Share the same room and/or bed with children when on educational trips.
- X Do things for children of a personal nature that they can otherwise do for themselves, which includes accompanying child for using toilet, bathing, changing clothes.
- X Condone and/or participate in behaviour of children that is illegal, unsafe or abusive.
- X Tolerate or facilitate illegal, dangerous or abusive conduct toward children.

### **(ii) For visitors**

#### **Before the visit:**

- (a) Please contact the Foundation and/or its implementing partner well in advance so that everyone involved on location can be informed about the visit and the visitors can receive a few helpful tips for their visit.
- (b) Establish one point of contact at the place of planned visit to get information about the place and to make other arrangements instead of contacting several persons every now and then.
- (c) Let this person know exactly when you will be travelling and how many people will be arriving.
- (d) The visit should be tailored to the children's general day-to-day routine so that it is not a disruption.

#### **During the Visit:**

- (a) Permission for visits is mandatory from the person in-charge of the premises.
- (b) Visitors must make an entry into the entry register with date, incoming and outgoing time and contact number of the visitor, and follow the security checks and other required norms.

- (c) As far as possible, interaction with children should be held in the presence of a staff member, unless it is a visit made for the purposes of counselling/psychotherapy or investigation into a case of abuse. Even in such exceptional situations, interactions with children should be held in such a manner that the child and the person interacting with the child are visible to another person, though not audible, since the situation would require maintaining confidentiality of the information shared by the child. This is required for legal reasons related to liability. It is important to avoid anything that may become a cause for unpleasant suspicion, even if the concerns prove to be unfounded.
- (e) Refrain from hugging, patting, kissing or touching a child in any manner that is inappropriate or culturally insensitive.
- (f) Refrain from photography/videography without necessary permissions and written consent from children's parent(s)/guardian(s) and the manager at the project/office location.
- (g) Even if photography or videography is permitted, it is important to respect the child's personal rights by not posting any photos online after the visit.
- (h) Refrain from giving money or gifts to children or their families. An alternative to individual gifts could be holding a small party or donating some equipment to the project or articles of use so that all children in the project can enjoy.
- (i) At the same time, refrain from directly entertaining any requests from any employee for donations or money as a rule. If you wish to make a donation to the project, write to the Foundation or the management of the implementing organization, as the case may be.
- (j) Refrain from smoking or consuming alcoholic drinks while on project premises or in the presence of children.
- (k) Respect children's religious and cultural beliefs.
- (l) As far as possible, wear clothing that is appropriate for the place of visit and cultural setting and avoid drawing any unnecessary attention to your personal wealth by what you wear (such as expensive jewellery) or by spending conspicuous amounts of money.

#### **(4) Infrastructural Compliances**

Premises used by children are mandated to meet certain infrastructural compliances, which may include, but are not limited to the following:

- (i) Installation of Children's Suggestion and Complaint Boxes in all offices and project locations.
- (ii) Installation of CCTV cameras in all conspicuous places in the project locations, particularly in common areas where frequent interface between children, staff and visitors takes place, and in residential facilities set up as part of the Foundation's programme, provided that the CCTV camera installation does not undermine the right to privacy, dignity and self-respect of the child.

- (iii) A medical room with trained staff, basic first aid facilities and an oxygen cylinder.
- (iv) Fire extinguishers in all offices and locations as per a needs assessment carried out in this regard.
- (v) Separate washrooms for girls and boys, keeping in mind age segregation. Age groups: 6-12; 12-15; 15-18: should ideally have different washrooms for children. Where this is not feasible due to infrastructural constraints, there should be at least two separate ones for girls and boys; one common bathroom for all should be avoided.
- (vi) Special washrooms for children with disabilities, keeping in mind age and gender segregation.
- (vii) Separate residential facilities for boys and girls with separate facilities for children of different age groups.
- (viii) Special aids and appliances for children with disabilities which facilitate and promote their safety and security.
- (ix) Well-lit corridors/bathrooms and halls with power back up.
- (x) Provisions for a 'one way phone with direct line to 1098' made available in all residential facilities either in the dormitory or near the bathroom, in an area which is easily accessible to children and installed in a manner that makes it easy to use by children of varied age groups, including children with disabilities.

#### **(5) Awareness Generation**

- (i) The Foundation takes upon itself the critical role of spreading awareness on child protection issues, existing laws and obligations of its employees and partners under this policy.
- (ii) It shall undertake measures to spread such awareness directly as also through the mechanisms it has created under this policy for dealing with child abuse.
- (iii) The Foundation also expects all employees and partners to promote such awareness through their actions and various platforms they can use while carrying out their work.
- (iv) Some of the measures that the Foundation shall undertake include -
  - (a) Display Boards in prominent areas in all offices and project locations highlighting various aspects of this policy, the Do's and Don'ts and rules for employees and visitors;
  - (b) Pictorial Display of what constitutes child abuse;
  - (c) Creation and dissemination of IEC materials for use of children in a language and medium of communication used and understood by them;

- (d) Dissemination of information regarding CFPs and CPCs, their location, names of members with contact details.
- (e) Information Board with important contacts and their details.
- (f) Use of the Children's Day, Women's Day, International Day of Persons with Disabilities (IDPD), World Day on Prevention of Child Abuse and such other important dates or events organised by the Foundation and its implementing partners to disseminate information regarding this policy.

#### **(6) Communication Standards**

Communication and messaging is what brings recognition to the Foundation's commitment to child protection and hence shall be guided by the following standards:

- (i) All media content, including publicity materials and reports relating to the Foundation's programmes involving children rests on the values of respect and equality, preserving the dignity of children and protecting their identity.
- (ii) Children are portrayed as multi-faceted individuals with a diverse range of potentials.
- (iii) Reducing children to a victim or other stereotypical role is avoided.
- (iv) Before creating media or publicity content, all the affected children are informed in an easy to understand way of its intended purpose and use.
- (v) Pseudonyms are always used for children unless stating the child's name is in that child's best interest and consent has been obtained from the child and his or her parent(s) or guardian(s).
- (vi) The use of pictures saved in the Foundation's database is also based on the standards described above, namely that publication must always conform to child protection principles and standards [even if a subsequent declaration of consent can no longer be obtained from the concerned child or her/his parent(s)/guardian(s)].

#### **(7) Children's Participation**

- (i) The Foundation encourages all its project managers and partners to constitute a Children's Committee in all educational and residential facilities under the programmes of the Foundation in order to enlist their participation in matters affecting their life.
- (ii) This Committee shall be re-constituted every four months in a manner that maximum children find an opportunity to participate in the committee on a rotational basis.



- (iii) The in-charge of such facilities should facilitate the setting up of such Committees and encourage children to develop their own rules of procedure.
- (iv) Minutes of the meetings of such Committees must be maintained by children and annual or performance reports of programmes involving children must contain a section on Children's Committees and their work.

## **(8) Risk Assessment**

- (i) In order to ensure total safety, all activities with children shall be well planned to minimise the scope for risks. Such planning must get reflected in the work plans prepared by all managers, supervisors and staff, particularly those managing, supervising and teaching children associated with the Foundation's programmes.
- (ii) Managers, supervisors and staff are thus encouraged to develop at least some risk assessment tools or a checklist to be followed, keeping in mind the wide variety of activities undertaken and planned in the course of implementation of the Foundation's programmes.
- (iii) In the overall, risk assessments may cover the following situations:
  - (a) Risk assessment when an activity requires children to stay in contact with the staff beyond the official hours such as after school, for extra coaching or some other after school activity;
  - (b) Risk assessment regarding group dynamics, when children of different age groups or gender, or socio-cultural and economic background are together as a group, addressing issues such as size of group, duration of group activity, seating arrangement, comfort levels, etc.;
  - (c) Risk assessment for programmes involving adolescent girls and boys;
  - (d) Risk assessment for programmes involving children with intersectional disabilities (disability intersectionality) - for example, girls who come from backward castes/classes with physical disabilities;
  - (e) Risk assessment when children and youth are expected to perform before an audience or take part in cultural programmes, games, competitions and other events;
  - (f) Risk assessments when children and youth are to be photographed or have to participate in a documentary or film;
  - (g) Risk assessment with respect to curriculum and content, keeping in mind age appropriateness, cultural sensitivity, contextual relevance, and messaging;
  - (h) Infrastructure related risk assessments covering in particular, programme venue and logistics, boarding and lodging for residential programmes;
  - (i) Technology related risk assessments if children are required to use mobiles and internet for some activity.

- (iv) Planning Activities at external locations must take care of the following aspects –
- (a) As a good practice, all activities to be undertaken at external locations, including travel and accommodation, shall be planned well in advance and as far as possible, in consultation with children’s parent(s)/guardian(s).
  - (b) Ensure that external locations chosen for any programme activity involving children are comfortable spaces with necessary measures in place to deal with emergencies.
  - (c) If external locations are institutions to be visited by children, ensure that the institution has a child protection policy in place or a written agreement is signed with the institution requiring them to follow the policy of the Foundation.

An illustrative check list for risk assessment in case of activities planned at external locations could include, and is not limited to, the following:

- (a) As a good practice, all activities to be undertaken at external locations, including travel and accommodation, shall be planned well in advance and as far as possible, in consultation with children’s parent(s)/guardian(s).
- (b) Ensure that external locations chosen for any programme activity involving children are comfortable spaces with necessary measures in place to deal with emergencies.
- (c) If external locations are institutions to be visited by children, ensure that the institution has a child protection policy in place or a written agreement is signed with the institution requiring them to follow the policy of the Foundation.
- (d) An illustrative check list for risk assessment in case of activities planned at external locations could include, and is not limited to, the following:
  - Suitability of location or venue
  - Selection of competent workers, contractors
  - Construction of stages, tents, etc. with standard safety measures
  - Safety standards with respect to use of equipment by children
  - Transport strategies and plan
  - Arrangements for fire, first-aid contingencies and major incidents
  - Access issues pertaining to children with disabilities
  - Entry, exit and other timelines are clear and known to all
  - Identification and awareness among all regarding key decision-making staff who can be approached when needed
  - Awareness among all regarding alerting procedures
  - Identification of and awareness among all regarding meeting points on completion of the activity or in case of an emergency.

**(9) Rules for Requisite Permissions and Consent**

- (i) Requisite permissions shall be taken from the parent(s)/guardian(s) in the following situations –
- For photographing or video-graphing children and using their photographs or videos, even if such use is for giving them public recognition for their achievements
  - Children’s participation in activities that involves their movement outside of the premises used for their education or residence under the programmes of the Foundation
- (ii) It must be ascertained that all pictures, recordings or interviews are carried out in presence of staff members by trained professional(s), who is/are also required to sign a copy of this policy before undertaking the assignment.
- (iii) While taking permission from parent(s)/guardian(s) for activities undertaken in external locations, information shall also be sought on any dietary restrictions, food allergies or specific medical requirements of children.
- (iv) In case of activities undertaken at external locations, parent(s)/guardian(s) shall be informed about the purpose of the activity, logistic details, expectations from the child, benefits of participation as also the risks involved, if any.
- The consent forms shall -
- list complete details of the activity, date, time, use of the product or skill on social media and websites;
  - be available and filled in local language and read out to the person signing for the child before it is signed;
- (v) Hard copies of the consent form shall be retained in office along with the list of child participants and produced for verification as and when required. [A sample copy of consent forms is appended for reference as Appendix 2.]

## VI. PROTECTION

- (1) In striving towards creating a culture of zero tolerance for child abuse, the Foundation shall take every possible measure to encourage its employees, children and their communities to report abuse.
- (2) Necessary measures will also be taken to address suspected and known cases of child abuse brought to the Foundation's knowledge without delay.
- (3) Ignorance or lack of knowledge with respect to a suspected or known case of child abuse covered under this policy shall not preclude the Foundation from the mandate and obligations of the present policy and absolve it of all responsibilities arising therefrom.

### *(i) In case of medical emergency*

- (a) The child must be provided first aid and/or accompanied to the nearest dispensary or hospital depending on the seriousness of the injury.
  - (b) The staff must intimate their immediate supervisor, who shall then report to the manager concerned.
  - (c) Immediate communication must be established with parent(s)/guardian(s) or family members of the child and all details shared with them.
  - (d) The child must be dropped back home after treatment.
  - (e) Regular follow up should be done by the concerned staff member.
  - (f) The responsible staff shall be required to furnish a written report on the safety of children at the end of the event.
  - (g) In case of a medical emergency during an outstation educational trip, the accompanying staff of the same sex as that of the child requiring care, may share the same room with the child but not the same bed, and inform the concerned supervisor about the need, or if possible, make alternative arrangements or, keeping in mind safety of all children, ensure that there are other children of the same sex also sharing the room.
- (4) For ensuring protection, the following areas will receive particular attention:

### *(i) General Crisis Management*

- (a) Strict care shall be taken to ensure safety and security of children.
- (b) In case of any emergency or mishap immediate measures shall be taken following the principle of best interest of the child.

All staff in project locations, academies, schools and training centres run by the Foundation are required to maintain and be aware of a list of the following authorities, institutions and individuals to be approached in the event of an emergency to ensure immediate care, treatment and protection for children:

- Hospitals
- Shelters
- Police stations, particularly the Special Juvenile Police Units set up in all districts
- Local ChildLine organization
- CPCs set up under this policy
- Senior management of the Foundation and/ or the concerned implementing partner organization
- District Child Protection Unit and its staff
- Child Welfare Committees in their district
- Chairperson and Members of the State Commission for Protection of Child Rights or Women's Commission
- NGOs
- District Magistrate /Collector

***(ii) In the event of an incident of child abuse***

- (a) The Policy casts an obligation on all employees who have an apprehension or knowledge that a child protection violation or child abuse has been committed, to report the same quickly and swiftly and seek redressal as per the mechanisms and procedures established under this policy.
- (b) Partners are encouraged to meet their reporting obligations and put reporting and redressal mechanisms in place, and as far as possible, in line with this policy.
- (c) A child may disclose an incident of abuse or maltreatment to an employee or to the Child Protection Focal Person (CPFP) nominated under this policy. Such persons must ensure that they show support to the child throughout the disclosure phase.
- (d) The following Do's and Don'ts should be kept in mind during a child's disclosure:
  - Listen to what is being said without displaying shock or disbelief or being judgmental.
  - Acknowledge how difficult it must have been to talk and reassure the child that they did nothing wrong and that whatever is shared by the child is being taken seriously.

- Let the child know that it is important to share the information with some people who need to know in order to find her/him necessary protection and relief, but do not ask the child to repeat what they have told you to another member of staff, unless absolutely necessary.
- Do not interrogate or investigate the child.
- Let the child explain in his or her own words what happened.
- Do not ask leading questions; instead ask if there is anything more that the child would like to tell and is perhaps missing out.
- Use a language of communication that is appropriate to their age, understanding and preference. This is especially important for children with disabilities and for children whose preferred language is not the language of the person they are communicating with. In such cases, it is imperative that such person takes such child to any person or teacher in a position to talk to such child.
- It is important that all incidents of child abuse are brought before the CPC without delay.

(5) Reporting Requirements -

- (i) All reports of a suspected or known case of child abuse, or threat of abuse to a child shall be made to the concerned CPFP nominated under this policy.
- (ii) If the abuse amounts to an offence under the POCSO Act, 2012, it must be reported directly to the nearest Police Station or Special Juvenile Police Unit, along with a report to the concerned CPFP.
- (iii) Any of the following can report an incident of suspected or known abuse under this policy:
  - (a) The aggrieved child or her or his parent(s)/guardian(s) may directly report;
  - (b) An employee who suspects/has an apprehension or knowledge that a child has been abused or is under threat of abuse has an obligation to report;
  - (c) A report may be made in good faith by a visitor having knowledge of a case of child abuse.
  - (d)
- (iv) A report may be made orally or in writing.

- (v) It is the duty of the CPFP to reduce all oral reports into writing as told by the person making such report, read them out to the person making such report and obtain their signature.
- (vi) Where the person making a report to the CPFP requests anonymity, the same shall be maintained, but no such report shall be converted into a formal complaint unless the concerned CPFP has personally interacted with the concerned child, obtained the child's version and consent of such child's parent(s)/guardian(s) to proceed with a formal complaint as per the procedure laid down under this policy.

Provided that the consent of parent(s)/guardian(s) shall not be required if the incident amounts to an offence under the POCSO Act, 2012.

## VII. REDRESSAL

### Redressal Mechanism

- (i) The Foundation shall establish the following redressal mechanisms and encourage its partners to do the same:
  - (a) Child Protection Focal Person (CPFP) in all offices and project locations, including all training and educational facilities set up for implementation of the programmes of the Foundation, for receiving reports and filing a formal complaint.
  - (b) Child Protection Committee (CPC) in the head office for receiving formal complaints, initiating and concluding inquiries with appropriate findings and recommendations for action.
  - (c) Internal Task Force (ITF) for conducting an inquiry instituted by the CPC in the location from where an incident is reported.
- (ii) In the event of a complaint against any CPFP or member of the CPC, a complaint shall be made directly to the Foundation for necessary action, following due process and principles of natural justice.
- (iii) Complaint against a Member of the ITF shall be made to the CPC for necessary inquiry and action in accordance with due process and principles of natural justice.

### (2) Formal Complaint

- (i) Upon receiving a report of an incident of child abuse or disclosure by a child, a formal complaint shall be filed by the concerned CPFP with the CPC constituted under this policy, stating the facts and circumstances of the case, the child's version and consent of the child's parent(s)/guardian(s) to proceed with a formal complaint under this policy;

Provided that in a case amounting to an offence under the POCSO Act, 2012, the consent of the child's parent(s)/guardian(s) is immaterial;

The child's version shall be recorded or obtained in writing, as far as possible, in the child's own

- (i) words and in the language of communication used by the child.

Provided that where the child's version is recorded by the CPFP, the same shall be read out to the child and her or his parent(s)/guardian(s) or an accompanying adult trusted by the child, and signature of such parent(s)/guardian(s) or trusted adult obtained on the recorded version.

- (ii) While recording the child's version, where necessary, special assistance and use of translators and interpreters may be taken by the CPFP, particularly in the case of children with disabilities and a separate written report from such expert shall also form part of the formal complaint.
- (iii) Where it is not a case of offence under the POCSO Act, 2012, and the parent(s)/guardian(s) of the aggrieved child refuse to file a formal complaint under this policy, a written refusal shall be obtained from such parent(s)/guardian(s), clearly stating that they take the sole responsibility for any criminal action that may lie against them for non-compliance with existing laws for the time being in force.

Provided that the import and consequences of non-reporting and provisions regarding abetment are explained to such parent(s)/guardian(s) and the fact of explaining and informing the parent(s)/guardian(s) forms part of the signed refusal letter obtained from them.

- (i) words and in the language of communication used by the child.

Provided that where the child's version is recorded by the CPFP, the same shall be read out to the child and her or his parent(s)/guardian(s) or an accompanying adult trusted by the child, and signature of such parent(s)/guardian(s) or trusted adult obtained on the recorded version.

- (ii) While recording the child's version, where necessary, special assistance and use of translators and interpreters may be taken by the CPFP, particularly in the case of children with disabilities and a separate written report from such expert shall also form part of the formal complaint.
- (iii) Where it is not a case of offence under the POCSO Act, 2012, and the parent(s)/guardian(s) of the aggrieved child refuse to file a formal complaint under this policy, a written refusal shall be obtained from such parent(s)/guardian(s), clearly stating that they take the sole responsibility for any criminal action that may lie against them for non-compliance with existing laws for the time being in force.

Provided that the import and consequences of non-reporting and provisions regarding abetment are explained to such parent(s)/guardian(s) and the fact of explaining and informing the parent(s)/guardian(s) forms part of the signed refusal letter obtained from them.



- (iv) The discretion to proceed with a formal complaint in the absence of the consent of parent(s)/guardian(s) or on request for anonymity by the person reporting the incident, shall lie with the CPFP, who shall be guided by the principle of best interest of the child at all times and record reasons for not making a formal complaint in writing.
- (v) In the event of deciding on not to proceed with a formal complaint, the CPFP shall prepare a closure report stating the information received and steps taken to ascertain such information from the concerned child, and attach a signed copy of the refusal of parent(s)/guardian(s) to proceed with the matter, and send such closure report to the CPC constituted under this policy.

Any Member of the CPC constituted under this policy may also take suo moto cognizance of a suspected case of child abuse brought to their knowledge, provided that a preliminary report is called for from the concerned CPFP containing the child's version, vulnerability of the child and consent of the child's parent(s)/guardian(s) to proceed with a formal complaint, before initiating further action.

### **(3) Child Protection Focal Persons (CPFP) (i)**

#### ***Nomination***

- (a) A CPFP shall be nominated in every office and project location, including all training and educational institutes where the programmes of the Foundation are carried out.

#### ***(ii) Criteria for Nomination***

- (a) A CPFP shall be a woman employee who is committed to the cause of children and with experience in social work, or psychology, or sociology, or having legal knowledge.

#### ***(iii) Tenure and Term***

- (a) A CPFP shall have a tenure of three years, which shall constitute one term.
- (b) No CPFP shall be nominated for two consecutive terms.
- (c)

#### ***(iv) Removal and Grounds for Disqualification***

A CPFP shall be removed by the Foundation from such position on one or more of the following grounds: contravention of the Policy or the mandated legal provisions;

- (v) has been convicted or is being tried for an offence under any law for the time being in force;
- (vi) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him;
- (vii) has abused her/his position as to render her/his continuance in office prejudicial to the objects of the present policy and public interest;
- (viii) has more than three complaints against her/him pertaining to her/his role and functioning as the CPFP;

**(ix) Role and Responsibilities**

**(x) A CPFP shall be responsible for the following**

- (a) Receiving a report of child abuse and filing a formal complaint in that regard with the CPC constituted under this policy and as per the procedure for formal complaint laid down under this policy;
- (b) Preparing a list of agencies, organizations and individuals providing different kinds of referral and support services with a background check on their credibility, and seeking approval from the Foundation for using their services;
- (c) Ensuring relief and crisis management at any stage of the matter, on its own assessment of circumstances of the child, or on a request from the ITF, or a direction from the CPC, till the matter is concluded and even thereafter. This shall include counselling, medical assistance, reasonable assistance to the person for purposes of filing a written complaint, referral to agencies approved by the Foundation for various support services, as may be required by the child;

Making information about enlisted and approved agencies, organizations and individuals

- (i) available to children in the project locations under the jurisdiction of a CPFP;
- (ii) Ensuring that such a list is displayed in all prominent places in the project locations under the jurisdiction of a CPFP; and
- (iii) Following the code of conduct and other policy standards and guidelines.

**(4) Constitution of Child Protection Committee (CPC)**

- (i) The Foundation shall constitute a Child Protection Committee (CPC) at its head office to receive all formal complaints, institute and conclude an inquiry and make recommendations to the Foundation for action against the accused, where such accused is found guilty of having committed an act of child abuse as defined under this policy.
- (ii) A person designated as the “Secretary” shall be provided by the Foundation to the CPC for secretarial assistance required to organise the meetings of the CPC, send and receive all official communication, prepare necessary reports for and on behalf of the CPC and document the meetings of the CPC.
- (iii) The structure and functions of the CPC are as follows:

**(5) Composition of the CPC**

<b>Presiding Officer</b>	There shall be one presiding officer, preferably a woman employee other than an employee in a supervisory position, and preferably someone who has experience in child-rights or issues relating to children.
<b>Internal</b>	There shall be at least 4 members nominated from amongst the

**(a) Tenure and Term of Members of the CPC**

The tenure of CPC members (including the Presiding Officer) shall not be more than three years, which shall constitute one term.

A Member of CPC may be nominated for two consecutive terms, unless disqualified for re-nomination on grounds of removal for CPC Members laid down under this policy.

**(b) Disqualification and Removal of Members of the CPC**

A Member of the CPC shall be removed by the Foundation from such position on one or more of 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 her/him;
- (iv) has abused her/his positions as to render her/his continuance in office prejudicial to the objects of the present policy and public interest;
- (v) has more than three complaints against her/him pertaining to her/his role and functioning as a member of the CPC.

**(c) Functions of the CPC**

- (i) Receive formal complaints from the CPFPP pertaining to any form of child abuse as defined under this policy;
- (ii) Take suo moto cognizance of incidents of child abuse brought to the notice of the Committee;
- (iii) Report all complaints pertaining to an offence under the POCSO Act, 2012 to the nearest Special Juvenile Police Unit/ Police Station, without delay and within 24 hours as mandated in law;

**(1) Constitution of the Internal Task Force (ITF)**

- (i) On receipt of a formal complaint of child abuse under this policy, the CPC shall immediately constitute an Internal Task Force (ITF) to inquire into the alleged incident.
- (ii) Whenever an ITF is constituted to inquire into a complaint, the Foundation shall make arrangements for ensuring secretarial assistance to the ITF for organising its meetings and proceedings, venue and other logistics for the meetings, sending and receiving all official communication on behalf of the ITF, documenting its proceedings and preparing reports.
- (iii) The ITF shall comprise of at least three members as follows:

- (a) A woman employee of the Foundation other than an employee in a supervisory position, nominated as the Presiding Officer,

Provided that such woman employee shall be a person employed in the project location from where the incident is reported,

Provided further that, the reported incident does not allege involvement of such woman employee in any manner whatsoever;

- (b) An employee directly working with children in any project location;
- (c) An external member from an NGO or an academic institution with experience in child rights, or social work, or psychology, or having knowledge of law.

## **(2) Constitution of the Internal Task Force (ITF)**

- (i) On receipt of a formal complaint of child abuse under this policy, the CPC shall immediately constitute an Internal Task Force (ITF) to inquire into the alleged incident.
- (ii) Whenever an ITF is constituted to inquire into a complaint, the Foundation shall make arrangements for ensuring secretarial assistance to the ITF for organising its meetings and proceedings, venue and other logistics for the meetings, sending and receiving all official communication on behalf of the ITF, documenting its proceedings and preparing reports.
- (iii) The ITF shall comprise of at least three members as follows:
  - (a) A woman employee of the Foundation other than an employee in a supervisory position, nominated as the Presiding Officer, Provided that such woman employee shall be a person employed in the project location from where the incident is reported, Provided further that, the reported incident does not allege involvement of such woman employee in any manner whatsoever;
  - (b) An employee directly working with children in any project location;
  - (c) An external member from an NGO or an academic institution with experience in child rights, or social work, or psychology, or having knowledge of law.

## **(3) Inquiry by the Internal Task Force (ITF)**

- (i) The ITF shall complete its inquiry into a complaint and submit the inquiry report to the CPC within sixty (60) working days from the date of receipt of a copy of the formal complaint from the CPC, along with necessary documents in support thereof.
- (ii) To initiate the inquiry, the ITF shall convene a meeting as soon as it receives a formal complaint from the CPC, but not later than seven working days.
- (iii) The ITF shall peruse the complaint and plan its inquiry process accordingly.
- (iv) The ITF shall, within seven working days of having convened its first meeting pertaining to the complaint, interact with the child separately to record the child's version of the alleged incident, make an assessment of any immediate support required by the child, including protection needs, explain to the child and her/his parent(s)/guardian(s) the process of inquiry to be followed as well as the possible remedies, and seek additional supporting material as well as list of witnesses, if any.
- (v) The interaction with the child shall be at a place and time convenient to the child.

- (vi) During all its interactions with the child, it is imperative for the ITF members to demonstrate sensitivity and receptivity, and understand the child's predicament.
- (vii) If any emergency support is required, the ITF shall immediately arrange for the same through the CPFP concerned.
- (viii) In case of children with disabilities, the ITF must be even more careful and sensitive to ensure that the process is comfortable and accessible for such child. In such cases, the ITF shall, through the CPFP, provide a special support person for the child who will take care of all emotional and psychological needs of the child and also function as an interpreter for the purpose of inquiry.
- (ix) A support person of child's choice as defined under this policy, shall be made available to the child during the process of inquiry.
- (x) Where a child is unable to present their case and is found to be incompetent to be subjected to the process of inquiry, the child may be allowed representation through her/his parent(s)/guardian(s) or an adult trusted by the child, including the support person provided to the child.
- (xi) The ITF shall convene its second meeting soon after its first interaction with the child and no later than two working days thereafter to decide on the witnesses that may be called, and seek help of the child's support person to collect the address and contact details of such witnesses.
- (xii) The nature of allegations shall be communicated by the ITF in writing to the accused within seven (7) working days of its interaction with the child, along with a copy of the formal complaint received from the CPC, seeking from the accused a written reply along with supporting material and list of witnesses, if any, and their contact details.
- (xiii) Where the allegation is against another child, such child shall also be provided the services of a support person of their choice and may be allowed to present her/his case through her/his parent(s)/guardian(s) or an adult trusted by the child, including the support person provided to such child.
- (xiv) A copy of the written reply submitted by the accused shall be given to the child through her/his parent(s)/guardian(s) or support person.
- (xv) A date and place for hearing both parties and their witnesses in person shall be communicated to them in writing along with the procedure that will be followed by the ITF, the rights and responsibilities of both parties and the rules they ought to follow.
- (xvi) Both parties and their witnesses, if any, shall be given equal opportunity to be heard and to present their case, provided that in no circumstance shall the child have to face direct questioning by the accused or come face-to-face with the accused, and the ITF shall have the right to disallow questions that it may find irrelevant or undesirable.
- (xvii) No facts or questions casting aspersions on the child's character or suggesting child's consent shall be allowed by the ITF.
- (xviii) Identification of the accused by the child shall be carried out in such a manner that the child is able to see the accused but the accused cannot see the child, and the child does not feel intimidated.

- (xix) The ITF will not be precluded from taking cognizance of any new fact, or evidence which may arise during the pendency of the inquiry proceedings.
  - (xx) The ITF may call any person to appear as a witness, if in the opinion it is so required for the purpose of the inquiry.
  - (xxi) The ITF 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 accused.
  - (xxii) Opportunity to produce any additional material or statement of any witness, which could not be submitted earlier, may be allowed to either party within such extended time as the ITF deems appropriate.
  - (xxiii) The ITF must maintain and ensure complete confidentiality and privacy of the child throughout the inquiry.
- 
- (i) The ITF shall have the right to terminate the inquiry proceedings or give an ex-parte decision if the child or the accused fail, without sufficient cause, to present themselves for three consecutive hearings convened by the ITF.
  - (ii) No termination or ex-parte decision shall take place without giving a notice in writing, at least fifteen (15) days in advance to the party concerned.
  - (iii) Upon completion of inquiry, the ITF shall provide the inquiry report based on its findings, including all material and evidence collected by it, to the CPC within a period of seven (7) working days from the date of completion of such inquiry.
  - (iv) The ITF, in its inquiry report, may arrive at any of the following conclusions substantiated with supporting evidence and reasons in writing:
    - (a) The fact of abuse and allegations stand proven against the accused beyond reasonable doubt.
    - (b) The allegations against the accused cannot be proven beyond reasonable doubt.
    - (c) The complaint is devoid of any truth, or has been frivolously instituted.
  - (v) A complete record of proceedings of the ITF shall be maintained in writing by the Secretary made available to the ITF.

#### **(1) Disposal by the CPC**

- (i) On receiving the inquiry report from the ITF, the CPC shall, at the earliest and not later than seven (7) working days from the date of receipt of such report, convene a meeting to review the inquiry report of the ITF and arrive at its final decision and recommendations within fifteen (15) working days from the date of such meeting.
- (ii) One or more meetings may be convened to conclude the inquiry and prepare a final report with recommendations to be carried out by the Foundation.
- (iii) Upon consideration of the material on record and the inquiry report of the ITF, if more than two-thirds of the members of the CPC conclude that–

- (a) the abuse was carried out by the accused and the allegations stand proven beyond reasonable doubt, a finding clearly stating so and holding the accused guilty for the act of abuse in question shall be made in writing with reasons, and a Final Report containing such finding and recommendations for action to be taken by the Foundation shall be prepared and sent to the Foundation within seven (7) working days of arriving at such conclusion.
- (iv) the allegations against the accused cannot be proven beyond reasonable doubt, a Closure Report shall be prepared by the CPC with reasons for arriving at such conclusion in writing and sent to the Foundation within seven (7) working days of arriving at such conclusion.
- (v) If, upon a review of the inquiry report submitted by the ITF, more than two-thirds of the members of the CPC are unable to arrive at any conclusion and feel the need to call for any additional documents or material from either party, the same shall be communicated to the ITF along with a timeline for the ITF to get back to the CPC with the necessary documents and materials.
- (vi) The CPC may, after receiving from the ITF all the additional documents and materials called for, make a final conclusion regarding the allegations against the accused, and  
  
depending on such conclusion, either submit a Final Report to the Foundation or a Closure Report, as the case may be within seven (7) working days of arriving at the conclusion.
- (vii) A copy of the Final Report or the Closure Report, as the case may be, shall also be sent to the parties concerned within seven (7) working days from the date of arriving at the final conclusion.

## **(2) Interim Reliefs/Remedies**

- (i) At the request of the aggrieved child, or the CPFP, or ITF, the CPC may at any stage after a formal complaint is filed and till the CPC concludes its report, recommend to the Foundation to provide interim relief such as:
  - (a) Suspension or transfer of the accused to any other workplace;
  - (b) Granting leave to the aggrieved child up to a period of one month or such period as may be recommended by the doctor attending to the child, whichever is less;
  - (c) Assistance to cover up for the academic loss, if any;
  - (d) Monetary relief to the child for medical or psychological care and treatment resulting from the abuse;
  - (e) Restraining the accused from establishing any contact with the aggrieved child or a family member of the aggrieved child, a witness, friend or relative of such child;
  - (f) Assistance for filing a police complaint;
  - (g) Such other specific interim measures that may be required for the personal safety and for safeguarding the dignity of the aggrieved child, including police protection, if so required.



- (ii) A compliance report on the recommendations made to the Foundation for provision of interim relief shall be called for by the CPC.
- (iii) In the event of disobedience, defiance or violation of such interim orders by the accused brought to the notice of the CPC, the CPC shall call upon the accused to provide an explanation.
- (iv) If, for reasons recorded in writing, the CPC is not satisfied with the explanation provided by the accused for disobeying or violating an order of interim relief, the CPC has the power to close and/or strike off the defence of the accused and pass its final decision.

### **(3) Punishment, Compensation and Other Relief(s)**

- (i) The Foundation shall act upon the recommendation(s) of the CPC within sixty (60) days of receipt of the Final Report of the Committee.
- (ii) Once the CPC has adjudicated and arrived at a decision that the accused has indulged in an act which constitutes child abuse as defined under this policy, it shall recommend one or more of the following punishments:
  - (a) Action against the accused as per the service rules of the Foundation;
  - (b) Barring any interaction, meeting or communication with the child or the child's family members in any manner whatsoever, or coming anywhere near the child;
  - (c) Written apology and undertaking from the person held guilty that such person shall refrain from harming any child and subjecting a child to any form of abuse;
  - (d) Written warning and admonishment;
  - (e) Withholding of promotion or pay rise or increments;
  - (f) Demotion;
  - (g) Suspension from service for a specified duration;
  - (h) Termination of service/employment contract;
  - (i) Individual or group counselling sessions;
  - (j) Community service;
  - (k) Fine to be deposited with the Foundation (as recommended).
- (iii) In addition, the CPC may pass orders requiring the person held guilty to compensate the aggrieved child in any of the following manner:
  - (a) Monetary compensation for the child as per the quantum determined by the CPC on the basis of the extent, nature and gravity of harm caused to the child, and the socio-economic circumstances of the aggrieved child and the accused;
  - (b) Payment of the child's fee for education or extra coaching up to a certain specified duration;
  - (c) Payment of the full or a specified percentage of the cost incurred or likely to be incurred on the child's medical treatment, including counselling or psychotherapy;
  - (d) Payment of the cost incurred by the aggrieved child and her/his family members and witnesses for participating in the inquiry proceedings.



- (iv) The CPC may also recommend to the Foundation to compensate the child for the harm and suffering and its inability to ensure protection of the child within its premises or premises used for the Foundation's work in the following manner:
  - (a) Monetary compensation for the child as per the quantum determined by the CPC on the basis of the extent, nature and gravity of harm caused to the child;
- (4)** An appeal may be preferred by -
  - (i) the aggrieved child (through her/his parent(s)/guardian(s)) with respect to non-implementation of the recommendations made by the CPC, or
  - (ii) by the aggrieved child or person acting on behalf of such child, or person held guilty (through her/his parent(s)/guardian(s) if such person is a minor) against the recommendations of the CPC.
- (5)** In the case of an employee of the Foundation held guilty, all appeals 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 the Board of Directors of the Foundation.
- (6)** The appeal shall be preferred by either party within a period of sixty (60) days of receipt of the Final Report of CPC by the parties.
- (7)** All appeals made before the Board of Directors of the Foundation shall be disposed within ninety (90) days from the date of filing such appeal in writing

## **VIII. PRIVACY AND CONFIDENTIALITY**

- (1) Secrecy and confidentiality of the aggrieved child or an accused who is a minor, and the proceedings, shall be observed by all persons.
- (2) Disclosure of the contents of the complaint; information that leads to disclosure of identity and addresses of the aggrieved child, or accused, or the person held guilty and witnesses; any information relating to the proceedings and recommendations of the CPC is strictly prohibited and liable to a fine of INR 5,000/-, to be deposited with the Foundation.

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

## **IX. MONITORING, REVIEW & ACCOUNTABILITY**

- (1) The policy will be implemented and reviewed by the HR department of the Foundation from time to time.
- (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) It shall be the duty of the Foundation to monitor the implementation of this policy on a quarterly basis.
- (5) The Annual Report of the Foundation shall include a report on the implementation of this policy, covering the following aspects:
  - (i) Number of complaints received in the year
  - (ii) Number of complaints disposed of during the year
  - (iii) Number of cases pending for more than ninety (90) days
  - (iv) Number of trainings conducted
  - (v) Number of workshops and awareness programmes carried out
  - (vi) Nature of action taken by the Foundation
  - (vii) Number of partners having a child protection and safeguarding policy in line with the policy of the Foundation
  - (viii) Number of partners amending their policies to bring them in line with the Foundation's policy

## **X. ADDITIONAL DUTIES OF THE FOUNDATION**

The Foundation shall, in addition to whatever is listed above –

- (1) Provide services of translators, interpreters, special educators, support persons and such other experts as may be required by the CPFP or the ITF for the purposes of filing a formal complaint or completion of inquiry;
- (2) Provide assistance to the aggrieved child and her/his parent(s)/guardian(s) if she/he chooses to file a criminal complaint against the accused or a recommendation is made in this regard by the CPC;
- (3) Provide necessary facilities and resources, including secretarial assistance to the ITFs and the CPC to conduct their proceedings;
- (4) Assist in securing the attendance of the accused and witnesses before the ITF;
- (5) Share with the CPC, necessary information pertaining to the accused as available in official records of the Foundation;
- (6) Ensure that the curriculum for all students includes a module on safety and security of children and touches upon issues pertaining to consent and sexuality;

- (7) Ensure that the present policy is translated into all operational languages which are used for official communication at different project locations;
- (8) Collaborate with child rights organizations, mental health and legal experts in addressing cases of child protection violation, making referrals where needed and seeking their support and advise from time to time in order to strengthen the implementation of this policy;
- (9) Conduct an Annual Needs-Assessment by conducting an annual survey within the organization asking all employees about their experience;
- (10) 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 Child Protection and Safeguarding Policy.

## **XI. DUTIES OF PARTNER ORGANIZATIONS**

- (1) All partner organizations must have a written Child Protection Policy in place.
- (2) As far as possible and in keeping with their local context, the provisions of the Foundation's policy shall be incorporated and included by the partner organizations in their internal policies.
- (3) All partner organizations of the Foundation shall, through a formal agreement, agree to promote and implement their child protection policy or adopt/adapt the policy of the Foundation, and make it known to all their employees, service providers, visitors and other associates.
- (4) All partner organizations have the responsibility to disseminate, circulate and publish their child protection policy as also this policy in all work locations.

## **ACRONYMS**

CCTV	Closed Circuit Television
CEDAW	Convention on Elimination of all forms of Discrimination against Women
CPC	Child Protection Committee
CPFP	Child Protection Focal Person
CPS	Child Protection and Safeguarding
HR	Human Resources
IDPD	International Day of Persons with Disabilities
IEC	Information and Communication
ITF	Internal Task Force
JJ Act	Juvenile Justice (Care and Protection of Children) Act
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
POCSO	Protection of Children from Sexual Offences
UNCRC	United Nations Convention on the Rights of the Child

## APPENDIX 1

### CHILD ABUSE GLOSSARY

- (i) **Child Maltreatment** is the physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.
- (ii) **Child Sexual Abuse** is use of a child by a person for sexual gratification of self or others, irrespective of child's willingness, consent or participation, which may or may not involve physical contact and is in violation of the laws for the time being in force.

#### Explanation:

*For the purpose of this policy, all offences defined under the POCSO Act, 2012 constitute child sexual abuse. The relevant sections are:*

- *Penetrative Sexual Assault or Aggravated Penetrative Sexual Assault (Section 3 and Section 5)*
- *Sexual Assault or Aggravated Sexual Assault (Section 7 and 10)*
- *Sexual Harassment (Section 11)*
- *Use of a Child for Pornographic Purposes (Section 13)*
- *Storage of child pornography for commercial purposes (Section 15)*

*Further details regarding the provisions of the law are appended at Appendix*

- (iii) **Corporal Punishment** means subjecting a child to physical punishment for the purpose of correction or disciplining, and involves the deliberate infliction of physical pain that may cause discomfort, insult, humiliation, physical and mental injury and even death.
- (iv) **Emotional Abuse** is the persistent emotional maltreatment of a child such as to cause an adverse effect on the emotional health and development of the child.

#### Explanation:

*Emotional abuse refers to failure of a caregiver or any other person in a position to care for the child, to provide an appropriate and supportive environment for healthy emotional and psychological development of a child and includes, but is not limited to the following: restricting a child's movement, denigration, ridicule, threats and intimidation, discrimination, rejection, insult and humiliation, isolating or ignoring the child, belittling the child's abilities and achievements, and other non-physical forms of hostile treatment.*

**Exploitation** consists of the commercial or other use of the child through activities that the child performs for the benefit of a third party. These activities include exploitative child labour and child prostitution as well as any other activity that leads to the economic exploitation of the child, that is to the disadvantage of the child's physical or mental welfare, that prevents the child from receiving an education or damages the child's moral and psycho-social development.

- (v) **Harm** is any detrimental effect on a child's physical, psychological, or emotional wellbeing, which may be caused by abuse or exploitation, whether intended or unintended.
- (vi) **Neglect refers to the failure of a parent or a caregiver to provide for the basic needs of the child**, despite the parent or caregiver being in a position to do so.

*Explanation<sup>2</sup>:*

*Neglect usually occurs without an intention to harm but eventually leads to harm that amounts to abuse. Neglect can be physical, educational, emotional or medical.*

*Physical neglect - includes not providing adequate food, or clothing, or shelter, or supervision and protection from potential harm. It may include abandonment.*

*Educational neglect – includes failure to provide appropriate schooling or special educational needs, allowing excessive truancies.*

*Emotional or Psychological neglect – includes failure to provide affection or love or other kinds of emotional support, never attending to the child,*

*Medical Neglect - includes failure to ensure that a child receives appropriate care or needed treatment in matters affecting the child's physical or mental health.*

- (vii) **Physical Abuse** means acts which cause/result in infliction of physical injury, and/or actual physical harm, or which have the potential of causing such injury or harm.
- (viii) **Violence against a child** refers to anything which individuals, groups, institutions or organizations do or fail to do, intentionally or unintentionally, which either results in or has a high likelihood of resulting in actual or potential harm to the child's wellbeing, dignity and survival and development, and includes all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, emotional ill-treatment or psychological violence, sexual abuse and exploitation, harassment, and commercial or other exploitation of a child.

## APPENDIX 2 Consent Forms

### Consent Form for Parent(s)/Guardian(s) (Permission for participation of his/her child in the events and use of photographs)

<sup>2</sup> Ministry of Women and Child Development, Government of India, Study on Child Abuse: India 2007. Available at:

I \_\_\_\_\_ resident of \_\_\_\_\_ am the \_\_\_\_\_ (put down relationship with the child, such as father/ mother/ guardian) of the child whose name is \_\_\_\_\_.

I am duly competent to represent and provide the following consent on his/ her behalf.

I acknowledge that a member of \_\_\_\_\_ (Name of the Organization) has explained the purpose of the proposed interview/ proposed event/ proposed film/ proposed product.

I agree to my child participating in the event/interview/filming that is being organized by \_\_\_\_\_ (Name of the Organization).

I allow the organization to use some or all parts of the media products/contribution coming out of the event/interview/photographs/film as follows. I have given permission for the

- Complete use of photographs and my child's name in the products
- Limited use of photographs in the products. Specify limitation \_\_\_\_\_
- Limited use of my child's name and other details. Specify limitation \_\_\_\_\_

Date:

Signature/Thumb Impression:

In case the child's parent(s)/guardian(s) is/are unable to read or write, the content of the consent form shall be read out to them by an independent person, who shall also affix her/his signature after obtaining the thumb impression of the child's parent(s)/guardian(s).

#### Instructions for team members:

Before getting the consent form signed by parent(s)/guardian(s), project team/staff shall explain to the family:

- The objective of the event/interview/filming;
- The process of participation/interview/filming;
- That both the child and his/her parent(s)/guardian(s) are required to agree to the child's participation in the event/interview/filming;
- That in all outdoor activities of children, the responsibility to pick them up from their homes and drop them back safely will be of the organization or project staff.

#### **Guidelines for Project Team/Staff**

- Before participation of children in programmes at any level, making research, survey on children or photography, obtaining consent from the child or a parent or guardian of the child will be a must. As part of this, it must be clearly explained how the photograph or film or report will be used.
- Take consent of the child before taking the photographs.
- Ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive.
- Ensure the risk assessment before a public performance of the children. The risk assessment includes accidents, misbehaviour and danger.
- Ensure all the necessary arrangements (such as drinking water, meals or refreshments, medical facilities etc.) are in place before taking the children for outdoor activities.
- For all outdoor activities of children, one of the project staff will be given responsibility to pick them up from their homes and drop them back safely and it shall be the responsibility of the organization to share the name of such staff with the child and his/her parent(s)/guardian(s) prior to the event.
- Outside visitors will be permitted to meet the children with prior knowledge and agreement of children and in the presence of their parent(s)/guardian(s) or a teacher.

#### **Consent Form for the Child (Permission for participation and use of name/ photographs)**

I \_\_\_\_\_ resident of \_\_\_\_\_ acknowledge that a member of the \_\_\_\_\_ has explained the purpose of the proposed interview/ proposed event/ proposed film/proposed product.

I agree to my participation in the event/interview/filming that is being organized by \_\_\_\_\_ in the intervention area.

I allow the organization to use some or all parts of the media products/contribution coming out of the event/ interview/ photographs/ film as follows. I have given permission for the

- Complete use of photographs and my name in the products
- Limited use of photographs in the products. Specify limitation \_\_\_\_\_
- Limited use of my name and other details. Specify limitation \_\_\_\_\_

Date:

Signature/Thumb Impression:

In case the child is unable to read or write, the content of the consent form shall be read out to the child by an independent person, who shall also affix her/his signature after obtaining the thumb impression of the child.

**Instructions for Project Team/Staff:**

Before getting the consent form signed by the child, the project team/staff shall explain to the child:

- The objective of the event/interview/filming;
- The process of participation/interview/filming;
- That both the child and his/her parent(s)/guardian(s) are required to agree to the child's participation in the event/interview/filming.

**Guidelines for Project Team/Staff**

- Before participation of community members in programmes at any level, making research, survey on children or photography, obtaining consent from them is a must. As part of this it must be clearly explained how the photograph or film or report will be used.
- Take consent of child and his/her parent(s) / guardian(s) in writing before taking the photographs.
- Ensure photographs, films, videos and DVDs present the child and her/his community member(s) in a dignified and respectful manner and not in a vulnerable or submissive manner.



## APPENDIX 3

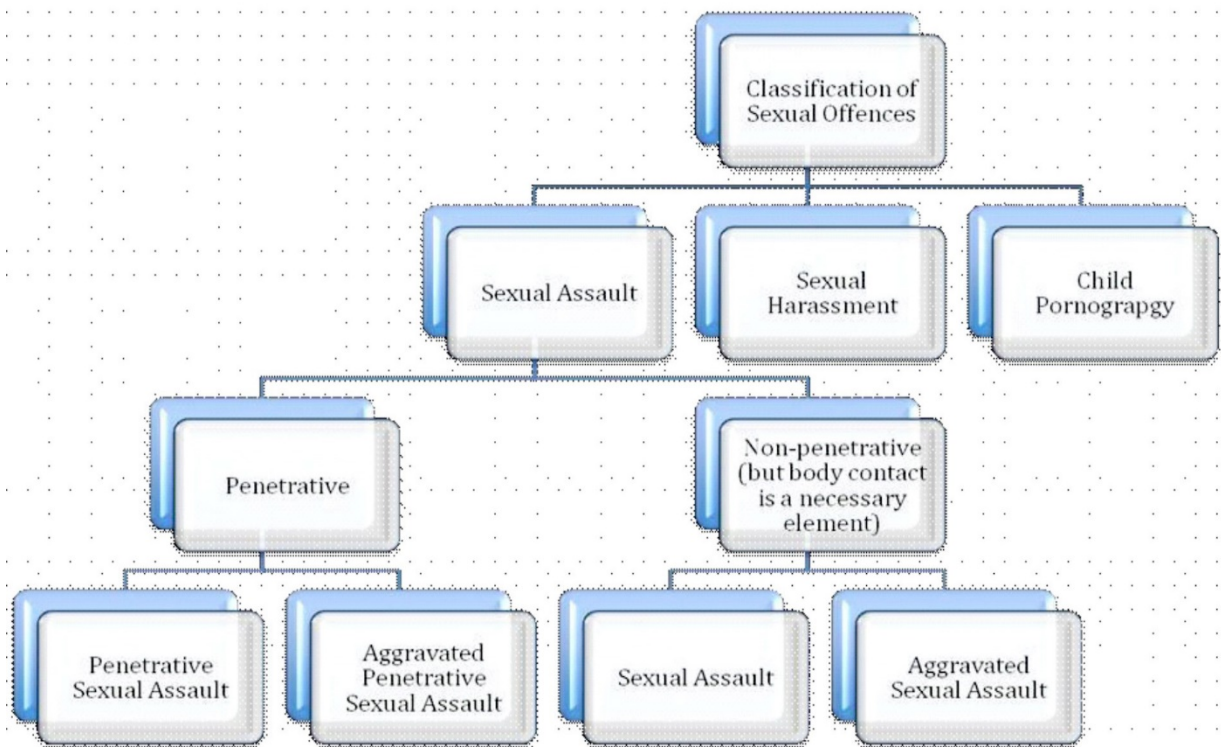
### UNDERSTANDING THE POCSO ACT

#### Salient Features of the Act

- Children are defined as persons below the age of 18 years.
- The law is gender neutral i.e. the law recognises that the victims and the perpetrators can be both girls and boys.
- It raises the age of sexual consent to 18 years by making all sexual activity with a child a statutory sexual offence.
- The POCSO Act broadens the understanding of rape from mere peno-vaginal penetration to other forms of penetration of a private part into different parts of the body of a child and penetration to any extent.
- The POCSO Act broadens the understanding of rape from mere peno-vaginal penetration to other forms of penetration of a private part into different parts of the body of a child and penetration to any extent.
- The law recognizes that sexual abuse may or may not involve bodily contact. It categorizes the offences into 'sexual assault' and 'sexual harassment'.
- Reporting is mandatory under the law for everybody, and the law includes a penal provision for non-reporting.
- The law requires privacy and confidentiality of the victims to be protected.
- It provides for constitution of special courts and special public prosecutors to deal with offences listed under the Act.
- Children are entitled to receive special support in the form of supports persons and victim compensation.
- Children are also entitled to legal representation by a lawyer of their choice.

#### Types of sexual violence and abuse covered under the POCSO Act

- A. Penetrative Sexual Assault [Section 3 and 4]
- B. Aggravated Penetrative Sexual Assault [Section 5 and 6]
- C. Sexual Assault [Section 7 and 8]
- D. Aggravated Sexual Assault [Section 9 and 10]
- E. Sexual Harassment [Section 11 and 12]
- F. Child Pornography [Section 13 and 14]
- G. Storage of Child Pornography [Section 15]



#### Other Offences under the Act

- Abetment of an offence under the Act [Section 16 and 17]
- Attempt to commit any offence under the Act or cause such offence to be committed [Section 18] Failure of all adults to report or failure of the police to record an offence [Section 21 (1), (2) and (3)]
- Filing a false complaint or giving false information, except when done by a child [Section 22 (1), (2) and (3)]
- Failure of any media or a studio or photographic facility to protect the privacy, dignity and confidentiality of victims [Section 23 (3) and (4)]

#### Points to Remember -

- **Section 42** of the POCSO Act makes it clear that for an **act or omission that constitutes an offence** under this Act as well as under any other law in force, the punishment shall be that which is greater in degree.

### **Special Courts [Section 28 and 34 of the POCSO Act]**

A Court of Sessions is to be designated as a Special Court [Section 28(1)] to try the following cases:

- Offences under the POCSO Act [Section 28(1)],
- Other offences that the accused may be charged with in the same trial [Section 28(2)]
- Offences under Section 67 B of the Information Technology Act [Section 28(3)], and Age determination of the accused that may arise before such court in the course of its proceedings [Section 34(2)].

Where Children's Courts have been notified under the Commissions for Protection of Child Rights Act, such courts are to also function as the Special Courts under the POCSO Act.

Any other Special Court set up for similar purposes under any other law may also be designated as a Special Court to try offences under the POCSO Act. For example, the Special Court set up under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act can be designated as a Special Court under the POCSO Act also.

### **Special Public Prosecutors [Section 32 of the POCSO Act]**

For conducting a prosecution in a case registered under the POCSO Act, the state government is required to provide Special Public Prosecutors with minimum 7 years' experience as an advocate to every Special Court.

### **Rights of the victims**

- 1. *Right to receive assistance of various experts pre-trial and during trial [Section 38 of POCSO Act and Rules 2 and 3 and 4(7) of POCSO Rules]***

An **‘Expert’** includes a person trained in mental health, medicine, child development or other related discipline, who may be required to facilitate communication with a child whose ability to communicate has been affected by trauma, disability or any other vulnerability.

Under the Integrated Child protection Scheme (ICPS) of the Central Government, District Child Protection Units (DCPUs) are set up in every district. These DCPUs are supposed to maintain a list of such experts with their contacts and make such list available to the Special Juvenile Police Units set up in every district under the Juvenile Justice (Care and Protection of Children) Act, 2015 to deal with crimes relating to children, local police, Magistrates or Special Courts under the POCSO Act.

The experts include:

- **Translator and Interpreter** for children who speak their regional language or mother tongue or a local dialect, which is not the language understood by the court, or children with disabilities.
  
- **Special educator** for children with special needs, which include challenges with learning and communication, emotional and behavioural disorders, physical disabilities, and developmental disorders
  
- **Person familiar with the manner of communication of the child**, which includes a parent/guardian or family member of a child or any person trusted by the child, who is familiar with the child’s unique manner of communication, and whose presence may be required for more effective communication with the child.
  
- **Mental health expert** to provide psychotherapy and help reduce the trauma experienced by the victim child.
  
- **Support person** assigned by a Child Welfare Committee to assist the child through the process of investigation and trial.

#### **Role of Child Welfare Committee**

The Child Welfare Committee can provide the assistance of a support person to a victim [Rule 4(7) of POCSO Rules].

Not ALL child victims are to be produced before the Child Welfare Committee by the police. Rule 4(3) of POCSO Rules clarifies that **only the following child victims of sexual crimes are to be produced before the Child Welfare Committee:**

- (i) a child who has been abused or is likely to be abused by a person living in the same household as the child or a child's family member
- (ii) a child living in a child care institution and without parental support (iii) a child without any home or parental support

### **1. Right to legal representation by a lawyer of one's choice [Section 40]**

The family or guardian of a child victim has the right to take assistance of a legal counsel of their choice or from the Legal Services Authority.

### **Other Enabling provisions under the POCSO Act**

### **2. Burden of proof [Section 29 of the POCSO Act]**

Under section 29 of the POCSO Act, there is a presumption that the accused committed the offence and the burden to prove the innocence is upon the accused. Only if this burden is discharged by the accused would the prosecution be obliged to lead rest of the evidence to prove its case.

#### **● Presumption of culpable mental state [Section 30 of the POCSO Act] -**

Section 30 of the POCSO Act presumes existence of “culpable mental state” on the part of the accused for committing the offence he/she is charged for.

The presumption includes presumption as to the existence of motive, intention, knowledge etc. and can be rebutted by the accused.

Under Section 30 (2) of the Act, a fact must be proved, like in all criminal prosecutions, beyond reasonable doubt.

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