

13.2 POLICY AGAINST SEXUAL & GENDER-BASED HARASSMENT

1. Objective:

The objective of this policy is to outline what conduct constitutes sexual and gender-based harassment. The policy will outline the organizational approach of the Centre for Wildlife Studies (CWS) to create and maintain a safe, inclusive, work environment, conducive for all personnel, free from sexual, gender-based, or sexuality-based harassment, discrimination, and in the event of such an occurrence, to enable a fair mechanism for dealing with such conduct as per the guidelines of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013.”

2. Definitions

- a. Sexual Harassment- Harassment of a staff consisting of any unwelcome, sexually determined behavior, whether directly, indirectly, by any male/ female in charge of the management or a male/ female co-staff, either individually, or in association with other persons, to exploit the sexuality of co-staff, to harass him/ her in a manner which prevents or impairs his/ her utilization of full benefits, facilities or opportunities, or any other behavior which is generally considered to be derogatory, “transphobic” and discriminatory against non-binary staffs. Sexual harassment includes any one or more of the following unwelcome acts or behaviours (whether directly, or by implication):
 - i. Physical contact and advances (including rape and attempt to rape);
 - ii. A demand or request for sexual favours;
 - iii. Making sexually-coloured remarks;
 - iv. Sending, displaying or showing of pornographic material in physical form or through any electronic media;
 - v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature
 - vi. Any other acts or omissions that are of like nature to the instances above

- vii. Unwelcome sexual advances, verbal or physical conduct of a sexual nature made, either explicitly or implicitly, in return for a term, or condition, of teaching/ guidance, employment, participation or evaluation of a person's engagement in any institutional activity.
- viii. Unwelcome sexual advances through letters, phone calls, SMSs, e-mails or any other communication mediums, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature, have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive environment.
- ix. Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person's wishes.
- x. Giving gifts or leaving objects that are sexually suggestive.
- xi. Forcible physical and/or inappropriate touch or molestation, eve teasing, innuendos and taunts, physical confinement against one's will.
- xii. Any act or conduct by a person in authority which denies or would deny equal opportunity in pursuit of education or career development, or otherwise make the environment at CWS hostile or intimidating at personal and/or professional levels.
- xiii. Cyber bullying- harassment or bullying of any person(s) through digital devices like computers, laptops, smartphones and tablets. It can occur over emails, social media, chat rooms and gaming platforms, where people can view and participate in the sharing of content. It comprises posting, sending or sharing negative, nasty or false information about another individual for causing humiliation and character assassination.
- xiv. The following circumstances related to the workplace also amount to sexual harassment:
 - Implied or explicit promise of preferential/ detrimental treatment
 - Implied or explicit threat about the present, or future, employment status, or projects/ assignments/ examination results/ interference with work
 - Creating a hostile, intimidating or an offensive work environment
 - Humiliating treatment likely to affect physical/ mental health or safety
 - Any unwelcome gesture having sexual overtones

- Ridiculing an individual on the basis of colour, region, religion, ethnicity, dress or physical appearance with a sexual connotation.
 - Inquiries into an individual's sexual experiences, sexual activities and sexual orientation
 - Breaching of confidentiality of sexual orientation
 - Unwelcome probing inquiries into a person's sexual orientation/identity
 - Systemic discrimination (from within the organization or by third party collaborators)
- b. Gender-based harassment: Any unwelcome conduct towards an individual, including slurs, taunts, name-calling, physical threats or sexual advances, based on their actual or perceived sex and/or gender is considered gender-based harassment. Instances like these which are motivated by an individual's gender, constitute harassment which is inherently discriminatory in nature.
- c. Sexual orientation: It is more than just an individual's status, it is an innate, immutable and non-negotiable personal characteristic that contributes to their core identity. CWS recognizes the vast spectrum of sexual orientations and combinations of gender and sexual orientation and accompanying pronouns. We also understand that all accompanying terminology is fluid and its appropriateness can vary over time, and depending on the local cultures and contexts. CWS accepts and respects every staff's identity and extends this policy to their protection, particularly in the event of receiving unequal treatment from fellow staff, external consultants, or collaborators.
- d. Homophobia and heterosexism: terms used to describe the prejudice pertaining to sexual orientation, based on the assumption that heterosexuality is superior/preferable/normal. This basis of negative treatment towards LGBTQIA+ individuals will not be tolerated at CWS.
- e. Homophobia= irrational aversion to, or hatred for, an LGBTQIA+ individual as a "homosexual". It is a hostile psychological state that can often lead to the expression of discrimination, harassment or violence.
- i. Heterosexism: refers to the assumption that everyone is heterosexual, and is often linked with homosexuality.

- ii. Transphobia: The irrational dislike, aversion to, hatred for, or prejudice against transgender or transsexual individuals.
- f. Employee- For the purpose of this Policy, CWS staffs will include all permanent, temporary, and contractual staffs hired by CWS, consultants, donors, NGO partners, interns, volunteers during volunteer work, vendors, and third-party service providers engaged by CWS for the rendering of any service or assistance towards CWS' activities.
- g. Workplace- for CWS staff, the main office in Bengaluru, field stations at various locations in India, any site that is purchased, rented, or used during the course of, or arising out of, employment at CWS, including paying guest accommodation, and hotels, at national and/ or international locations. It also includes vehicles hired for work, and time spent on travel during visits to, and from, the workplace. Under this Policy, the workplace includes restaurants and personal residences used to conduct work arising out of employment at CWS, including work from home.
- h. Complainant- Any person, including staff of CWS, who alleges to have been subjected to any sexual harassment (as defined by this Policy) by a staff (as defined above) of CWS at the CWS workplace.
- i. Defendant/ Offender- A person against whom a complaint is filed by a complainant, so long as the alleged offender is a staff of CWS.

3. Scope

CWS is committed to a **zero-tolerance** attitude against any kind of sexual harassment, or discrimination, on the basis of gender, individual identity, or sexual orientation (including staffs that self-identify as lesbian, gay, bisexual, trans, questioning, intersex, asexual, or other identities (LGBTQIA+), caused by any staff of CWS during their tenure at CWS, towards any person (including other CWS staff) they interact with on CWS' premises, or elsewhere, in India or abroad, that directly or indirectly harasses, disrupts or interferes with another's work performance, causes mental or physical trauma, or that creates an intimidating, offensive, or hostile work environment.

Action under this policy will be initiated in cases where any CWS staff is involved in any act, direct or indirect, that could be considered as sexual and/or gender-based harassment toward anyone, whether employed by CWS or not, inside or outside the organization premises, on or off CWS field locations/areas

of work, occurred during or beyond working hours but in the course of work or activities related to their employment at CWS.

In cases where a CWS staff is subjected to sexual or gender-based harassment by a third party who is not a CWS personnel, this policy mandates immediate action to protect the complainant and to provide all support to them to initiate action against the harasser, either through the appropriate policy of the concerned employer or, in cases where this is not possible, through the criminal justice system.

This policy is only applicable when both the aggrieved party and the alleged offender, or just the alleged offender are staff of CWS. It is not applicable when both the alleged aggrieved party and offender, or just the alleged aggrieved party, are third parties not employed in any manner by CWS.

In case the alleged offender is a person who is currently not employed by CWS or was employed for a very short-term (such as with service providers or vendors), CWS will provide every assistance to the alleged aggrieved party (so long as they are staffs of CWS, or were employed by CWS at the time of the alleged incident) to file a complaint with the alleged offender's organisation or other competent authority.

This Policy will also cover alleged instances of sexual harassment toward an ex-staff of CWS so long as the alleged offender is currently a staff of CWS.

Most cases of sexual harassment occur in private, so there may not be any eye-witness. Any inquiry conducted under this Policy might have to rely on circumstantial evidence and the written submissions and oral testimonies of the Complainant, the Defendant and witness(es), if any, as well as any documentary evidence. As it will not be a criminal investigation or a proceeding in a court of law, a strong probability, rather than 'proof beyond reasonable doubt', based on principles of natural justice, is enough to make a decision on the complaint.

The Policy provides for a mechanism and time-bound process for redressing any complaints of sexual harassment and steps to prevent such incidents from occurring. However, this can only be done on the basis

of a written complaint filed by the Complainant. CWS cannot act under this Policy without such a complaint.

4. Effective From:

This policy comes into effect from 13th May 2022.

5. Sexual Harassment: The Law and this Policy

- a. The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (hereinafter referred to as 'The Act') has laid down processes and procedures for resolution and prevention of sexual harassment enjoining employers by holding them responsible for providing a safe work environment for the staff. The application of the Act is to both the organised and unorganised work sectors and to those working part-time, on contract, or in a voluntary/honorary capacity. This policy is in sync with the guidelines and procedures laid down by the Act but also encompasses all aspects of sexual and gender-based harassment (as described in this Policy), majorly with the purpose of expressly prohibiting such harassment at CWS.
- b. Sexual harassment is an act of power, and a public violation of an individual's dignity that is often trivialized by labelling it an interpersonal transgression. The Act, in line with the Vishaka Judgement by the Hon'ble Supreme Court of India, has laid out that it is the duty of the employer or other responsible persons at workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. By also including the rights of all personnel who might self-identify as non-binary, including lesbian, gay, bisexual, trans, questioning, intersex, asexual, or other identities (LGBTQIA+), CWS endeavors to put in place adequate measures to ensure safety, security, dignity, rights and equality of all staff.
- c. Internal Committee (IC): The Act requires all workplaces with more than ten staffs to have in place a policy on the Prevention of Sexual Harassment (POSH) of women at workplace and to form an Internal Committee to investigate any complaints that might arise out of the implementation of such policy.

- Based on the guidelines given under The Act, the CWS Internal Committee shall consist of 5 members in total:
 - i. Presiding Officer/ Chair- Shall be a woman employed at a senior level at CWS.
 - ii. Internal Members- 3 internal members out of whom at least one would be a male member and one should ideally be a representative of the LGBTQIA+ community.
 - iii. External Member- 1 external member who is a person committed to the cause of prevention of sexual harassment.
- A list of current CWS-IC members will be available at all CWS premises that have more than 10 members living/ working there, as a poster displayed in a prominent position for all staff/ visitors to see and refer to. The list will also be circulated to all staff via email.
- Any new IC shall be registered with the Karnataka State Women's Commission, as per an order passed by the Commission.
- Powers of IC- The IC has the powers under law as equivalent to that of a Civil Court in the following matters:
 - i. Summoning and enforcing the attendance of any person and examining him/ her on oath
 - ii. Requiring the discovery and production of documents.
- The following guidelines shall be followed by the CWS-IC with regards to its constitution and working:
 - iii. The IC cannot advise or otherwise interfere in any matter pertaining to sexual or gender-based harassment as defined by the Policy outside of the formal complaint and inquiry process as outlined in this Policy.
 - iv. If an alleged aggrieved person wishes to utilise unofficial/ informal procedures outside of the protocols outlined in this Policy, such procedures shall not be dealt with by the IC. They shall be referred to Senior Management or the Executive Director.
 - v. No meeting of the IC can be held without at least 3/5 members (quorum) present, one of which must be the Chair of the IC and another should be a woman.

- vi. No member shall be part of IC for more than a period of 3 years. The only exception of extension in any member's tenure would be in case of an ongoing investigation, or if there are not enough senior women staff available to fill the required positions.
 - vii. All members of the IC shall be duty bound to treat each complaint, Complainant and/ or Defendant with utmost discretion, impartiality and seriousness, without any preformed bias, prejudices or opinions, instead relying solely on facts to come to a conclusion.
 - viii. The IC shall not at any time promise the Complainant, or provide them with a promise, of the kind or severity of punishment or recommendation to be undertaken against the Defendant. All recommendations will be made independently by the IC and communicated to the Complainant, Defendant and employer at the end of the inquiry process.
 - ix. In case the complaint is made against any member of the IC, or in case of any conflict of interest (e.g., the IC member is a supervisor of the Defendant) the said member will be excused from the IC for that particular investigation. In case they are found guilty of the charges brought forward, they shall be barred from serving on the IC for the appropriate duration to be decided by the other member of the IC.
 - x. For the implementation of this policy, the IC would file a final report of investigation conducted under this Policy to the Executive Director and CWS detailing necessary action and implementation.
 - xi. In case the complaint is against the Executive Director themselves, the complaint will be forwarded to the Local Committee set up under The Act for the District and will not be handled by CWS-IC.
- d. The procedure for the handling and redressal of any instances of sexual or gender-based harassment under this Policy will broadly follow those stipulated in The Act, but will specifically follow the timelines and guidelines laid down for the receipt of the complaint, investigation procedure and redressal for the same in The Act.

6. CWS Policy for Filing, Procedure and Redressal of Complaints

- Any alleged aggrieved person who has been allegedly harassed as per the definitions under this Policy, by the alleged offender, **must file a written complaint** with the CWS-IC at the earliest possible instance after the incident but no later than 03 (three) months after the incident or after the last incident in case of a series of incidents. This can be further extended to another 03 (three) months in exceptional circumstances by the IC, but in no case more than 06 (six) months.
- Where the aggrieved person is unable to make a complaint on account of his/her physical incapacity or on account of mental incapacity, a complaint may be filed by a relative, or friend, or co-worker, or an officer of the National Commission for Women, or State Women's Commission, or any person who has knowledge of the incident, with the written consent of the aggrieved person, jointly with his/ her relative, or friend, a special educator, a qualified psychiatrist, or psychologist, or the guardian, or authority under whose care he/ she is receiving treatment or care.
- Anonymous complaints will not be entertained (unless in exceptional circumstances) due to the inability to conduct a proper investigation of the alleged offence.
- The complaint must be made **only to the CWS-IC** and not to the management.
- Only cases of sexual or gender-based harassment as defined under this Policy, can be brought forward to the IC under this Policy. All other complaints must be filed under the respective policy or guidelines.
- The complaint can be made to any member of the CWS-IC.
- The complaint should include the following:
 - a. Details of the complainant, defendant, and witnesses
 - b. Details of the alleged incident(s) of sexual harassment which should include a description of the incident(s), specifying the act(s) the defendant is alleged to have committed, the date(s)/ time(s)/ venue(s) where the incident took place.
 - c. Any other information relevant to the complaint or which the complainant wishes to share with the IC in this context.
- Procedure for the IC on receiving a complaint-
 1. IC will take action only on the basis of any written complaint received from a complainant in accordance with this Policy, and does not have the power to take up cases on its own.

2. Once a member of the IC receives a complaint, they must inform the Chair of the IC immediately and send a copy of the same.
3. The staff is required to disclose his/her details to enable the Chair to contact them and take the matter forward. If the complainant approaches or writes anonymously, then it should be accompanied by evidence for the Chair to be able to initiate the process.
4. The Chair of the IC will proceed to determine whether the allegations made in the complaint fall under the purview of Sexual Harassment, preferably within 01 (one) working day from receipt of the complaint.
5. In the event the allegation does not fall under the purview of Sexual Harassment or the allegation does not constitute an offense of Sexual Harassment under this Policy, the Chair will record this finding with reasons and communicate the same to the complainant.
6. If the Chair of the IC determines that the allegations constitute an act of sexual harassment, she/ he will proceed to investigate the allegation with the assistance of the Complaints Committee.

Internal Enquiry Procedure-

- i. Once the IC decides to act on the complaint (within 01 (one) working days), it should send a copy of the complaint (and supporting documents) to the Defendant within 07 (seven) working days from the date of receipt of the complaint by the IC.
- ii. The Defendant shall have 10 (ten) working days from the date of receipt of the complaint from the IC to send his/her response to the complaint, along with any supporting documents, to the IC.
- iii. Neither the Defendant nor the Complainant shall communicate with each other independent of the IC once a Complaint has been received by the IC. Doing so will violate the impartiality and fairness of the procedures and will render the same void.
- iv. The IC shall share copies of the response, and supporting documents, received from the Defendant, with the complainant immediately.
- v. The IC will then proceed to call a meeting of the members to discuss the steps for the investigation.
- vi. The IC will call both the complainant and the Defendant, as well as their respective witnesses, to present their case, including statements and evidence, in front of the IC.

- vii. In such hearings, the complainant shall be required to present first, followed by the Defendant.
 - viii. The IC shall have the right to terminate the inquiry proceedings or to give ex-parte decision on the complaint if the Complainant or Defendant fails (without sufficient cause) to present herself or himself for three consecutive hearings convened by the Chair of the IC.
 - ix. Both parties will be allowed to cross examine/ question the other side and their witnesses through the IC.
 - x. During the pendency of the inquiry on a written request by the aggrieved, the IC may recommend transfer of the aggrieved or the respondent to any other workplace; or grant leave to the aggrieved up to a period of 03 (three) months which shall be in addition to the leave otherwise entitled. However, CWS is not obligated to provide any kind of assistance to the complainant until a formal complaint is made to the IC.
 - xi. The IC shall complete all its inquiry within 90 (ninety) days from the receipt of the complaint.
 - xii. Conciliation- IC, at the request of the aggrieved party, may take steps to settle the matter between the complainant and the Defendant through conciliation. Such conciliation cannot result in monetary settlement. All procedures under such conciliatory measures should be completed within the 90 (ninety) day period for completion of inquiry.
7. Report- The IC shall record and report its findings, in writing, to the employer, complainant and Defendant within 10 (ten) days from the completion of the inquiry. The report shall include the findings and conclusions of the IC regarding the complaint, as well as the recommendation as to action(s) to be taken by the employer. Once a report is submitted, no further investigation will be made by the IC on the complaint.
8. Recommendations- At the end of such inquiry, the IC needs to submit a recommendation to the employer, who is bound to implement such recommendations within 60 (sixty) days from receipt of the recommendation. Recommendations can include compensation to the complainant and/or punishment, in the form of disciplinary action, to the Defendant.

- The Management is also required to submit a report of implementation of the recommendations to the IC.
- Provision of Appeal- In case any party is not satisfied with the recommendations, they have the freedom to appeal in the court of law within 90 (ninety) days of such recommendations.
- *Malicious Complaint*- If the IC comes to a conclusion that the allegations made against the Defendant are malicious or have been made even after the knowledge of it being false, or has produced forged or misleading documents, it shall report the same to the employer. The employer is bound to take action against the person involved in such malice. Misuse of policy or Malicious Complaints will be dealt with as a disciplinary matter. However, every complaint that is not successful is not malicious.
- *Retaliation*- Any retaliation against an individual who has complained about sexual harassment (complainant), or retaliation against individuals for cooperating with an investigation of a harassment complaint, is similarly unlawful and will not be tolerated. No staff will be retaliated against in any way for complaining of harassment. All staff are duty bound to assist in investigative steps, staff's wholehearted participation shall be mandatory in this regard. Whistle-blowers shall be protected from exposure, retaliation or hostility.
- Compensation- The IC may, at its discretion, direct the provision of compensation (monetary or other benefits) to the complainant by either the Defendant or the employer. The determination of compensation shall be made on following grounds:
 - The mental trauma, pain, suffering and emotional distress caused to the complainant.
 - The loss in career opportunity.
 - Medical expenses incurred due to physical or psychiatric treatment.
 - Feasibility of such payment in lump sum or instalments.
 - Punishment- Since the sexual harassment is considered a misconduct, punishment for misconduct through disciplinary actions may apply, as per the recommendation of the IC.

7. Disciplinary Action

The disciplinary action that can be initiated against a Defendant, if found guilty, shall be commensurate with the nature and gravity of the offence. Such action shall include but not be limited to:

- a. Warning Letter
- b. Written apology from defendant
- c. Bond of good behaviour
- d. Transfer
- e. Debarring from supervisory duties
- f. Reduction in salary
- g. Forfeiture of staff benefits like increments, promotion, salary correction, etc.
- h. Cancellation of specific work assignment
- i. Suspension
- j. Dismissal

Provided further, that before any action is taken under this clause, the defendant shall be given an opportunity to show cause as to why the proposed action should not be taken against him/ her
The position of the offender and the criticality of the position occupied by the offender shall not be any hindrance to the disciplinary action taken against the offender.

8. Non-Disclosure or Publication

Any complaint, the identity of the aggrieved individual, respondents and witnesses, any information relating to conciliation, compensation, settlement, inquiry proceedings, recommendations and actions taken shall not be disclosed or published to the public, press and media in any manner.

9. Annual Report

The Chair of the IC will file an annual report with the respective District Officer, summarizing complaints and redressal of sexual harassment. The said report as well as all documents regarding Sexual Harassment complaints shall be in the custody of the Chair and will be termed as 'Strictly Confidential'.

10. Others

- a. Where sexual harassment occurs as a result of an act or omission by someone not employed by CWS or any third party or outsider, toward an staff of CWS, the Committee and CWS Management will

take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

- b. Partners will be advised/ requested to consider adopting suitable measures to ensure that guidelines laid down by this order are also observed by their organisations.

11. Criminal Proceedings

In the event of conduct outlined in the complaint amounts to a specific offence under the Indian Penal Code or under any other law in existence, the IC, shall recommend to the management to take appropriate action in making a complaint with the appropriate authority.

12. Conclusion

- a. The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of the law.
- b. The provisions of this policy shall not restrict the powers of the Management or the complainant to proceed against the alleged offender for any other misconduct or other legal remedies.
- c. The policy will be reviewed from time to time and revised to keep it up to date with changes in Indian legal laws, employment policies or lessons learnt. The process of review will also consult staff and seek advice externally.
- d. The Committee will minute all its meetings and proceedings and submit reports to the Executive Director.

In conclusion, CWS reiterates its commitment to being a **zero-tolerance zone** for any form of sexual or gender-based harassment and to providing its staff a workplace free from harassment/ discrimination and where every staff member is treated with dignity and respect.