

# NCAER's POLICY ON GENDER EQUALITY AND PREVENTION OF SEXUAL HARASSMENT

## ***NCAER's Equality Statement***

*The National Council of Applied Economic Research (NCAER) is India's oldest, independent, non-profit, economic policy research think tank. We have pursued independent research and worked closely with governments and industry since our inception in 1956, providing empirical evidence, data, and analysis that is so compelling that it drives policy and programme change that transforms the lives of people who live in poverty and empowers them and all others to change their lives for the better.*

*At NCAER, we value academic integrity, scientific inquiry, public service and a workplace that is diverse, safe, inclusive, and rewarding for all staff. We are committed to a work environment where all persons are valued irrespective of rank or age, and are encouraged to achieve their fullest personal and professional growth. We make every effort to ensure equal professional treatment for our staff, whether at NCAER or outside. We do not tolerate any form of misconduct or discrimination on the basis of age, religion, caste, sex, gender, or sexual orientation.*

NCAER has framed this policy ("Gender Policy") to promote a safe and secure work environment, where no person, female, male, or transgender, is subjected to sexual harassment, and to further its values of equality, dignity, and inclusion, as enshrined in its Equality Statement. The Gender Policy follows the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* ("the Act"), and the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013* ("Rules").<sup>1</sup> Though the Act and Rules protect only women and is not gender-neutral, NCAER's Gender Policy lays out the policies and procedures to prevent, prohibit and deter sexual harassment of both women and men at NCAER. It outlines the procedure for redressing complaints of such harassment.

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<sup>1</sup> NCAER's Gender Policy is for the protection of its employees from sexual harassment at the workplace, and is in addition, and not in derogation, to the existing laws of India relating to sexual harassment and other applicable laws.

## I. DEFINITIONS

**‘Act’** refers to the *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013*.

**‘Applicable law’** means all current and future applicable laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directives in force in the Republic of India.

**‘Aggrieved Person’** means a person who alleges to have been subjected to sexual harassment.

**‘Complainant’** refers to a person who has been authorized in writing by the aggrieved person to file a complaint under this Gender Policy.

**‘Employee’** means any short-term employee, regular employee, consultant, intern, or contract worker hired by NCAER.

**‘Employer’** refers to the National Council of Applied Economic Research or NCAER.

**‘Incident(s)’** refers to the act(s) of sexual harassment that the Aggrieved Person alleges they were subjected to.

**‘Rules’** refers to the *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Rules, 2013*.

**‘Sexual harassment’** includes any one or more of the following unwelcome acts or behaviours, whether actual or by implication:

1. unwelcome physical contact or advance; or
2. a demand or request for sexual favours; or
3. making sexually coloured remarks; or
4. showing or sharing pornography; or
5. any other unwelcome physical, verbal, non-verbal or electronic conduct of a sexual nature.

In addition, the following circumstances if they occur, or are present in relation to, or connected with, any act or behaviour of sexual harassment, may also amount to sexual harassment:

- a. implied or explicit promise of preferential treatment in employment; or
- b. implied or explicit threat of detrimental treatment in employment; or
- c. implied or explicit threat about present or future employment status; or
- d. interference with work or creating an intimidating, or offensive, or hostile, work environment;
- e. humiliating treatment likely to affect the employee’s health or safety.

**‘Respondent’** means the person against whom the Aggrieved Person has made a complaint of sexual harassment.

**‘Workplace’** includes NCAER’s premises located at NCAER India Centre, 11 Indraprastha Estate, New Delhi 110002, and, in the course of her/his employment, any other premises visited or used by an employee or while traveling to such premises using transportation provided by NCAER.

## II. SCOPE

This NCAER Gender Policy is binding on:

1. all employees of NCAER; and
2. any other person present at NCAER, or in the workplace, including vendors and visitors.

## III. GENDER COMMITTEE & ITS COMPOSITION

This Gender Policy provides continuing policy and procedural guidance to all NCAER employees and the NCAER Gender Committee and reaffirms the protections afforded to all NCAER staff.

1. In accordance with the Act, the NCAER Gender Committee (also called an Internal Committee in the Act) comprises the following members who are appointed by the Director General of NCAER:

Presiding Officer (Chair)	A senior woman NCAER employee
Members	Not less than two members from among NCAER employees
External member	From an NGO or institution committed to the cause of women or gender equality, a lawyer, or a person familiar with issues related to sexual harassment

- a. At least half the members of the Gender Committee should be women.
  - b. The initial term of members should not extend beyond three years from the date of her/his appointment. Members may be reappointed.
  - c. The quorum for conducting an inquiry will be three members, including the Chair. Attendance may be in person or through video or audio conferencing. In the absence of the Chair, the NCAER Director General may appoint any other member as the Acting Chair.
2. The current membership of the Gender Committee and its term is listed in Annex 1.
  3. The external member will be entitled to the reimbursement of travel costs, where applicable, in connection with the proceedings of the Gender Committee.

4. A member may be removed from the Gender Committee by the NCAER Director General for reasons prescribed in the Act.<sup>2</sup>
5. If a member of the Gender Committee is unable to discharge her/his functions under this Gender Policy, she/he will immediately communicate this in writing to the NCAER Director General.
6. In the event that a member is no longer able to fulfil her/his duties on the Gender Committee or is disqualified, a new member will be appointed in her/his place by the NCAER Director General without delay and in accordance with this Gender Policy.
7. The Secretary of the Gender Committee will be NCAER's HR Head or Acting Head. She/he will maintain all records of the Gender Committee, ensuring that they remain fully confidential and accessible only to those with the written authority to have access, such authority to be provided by the NCAER Director General.

#### **IV. POWERS AND FUNCTIONS OF THE COMMITTEE**

To implement the Gender Policy, the Gender Committee will have the following powers and functions:

1. To receive, process, make appropriate inquiry into and dispose of after due consideration, and with suitable recommendations for action, complaints of sexual harassment, filed by an Aggrieved Person or a Complainant.
2. To keep complete and accurate records of any complaint, its investigation and resolution. Such records will be overseen by the Chair of the Gender Committee and maintained by the Secretary of the Gender Committee.
3. To provide, in every financial year, an Annual Report of its activities to the Director General of NCAER. This annual report should contain the following information:
  - a. number of complaints of sexual harassment, if any, received in the year;
  - b. number of complaints resolved in the year;
  - c. number of cases pending for more than 90 days;
  - d. nature of the action(s) taken by NCAER;
  - e. number and short descriptions of workshops or awareness programmes on sexual harassment and women's safety carried out at NCAER.
4. To do all such acts and things as may be necessary to carry out the objectives of this Gender Policy.

#### **V. GENDER COMMITTEE PROCEDURES FOR COMPLAINT, CONCILIATION, INQUIRY & FINDINGS**

##### **A. COMPLAINT SUBMISSION**

1. A complaint may be filed by the Aggrieved Person or, in the event that the Aggrieved Person is unable to do so for any reason, by a Complainant.

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<sup>2</sup> A member may be removed from the Gender Committee if the member: (a) contravenes the confidentiality requirements of the Gender Policy; (b) has a pending disciplinary proceeding or conviction for offence; or (c) has abused her/his position in the judgment of the NCAER Director General.

2. An Aggrieved Person or a Complainant is encouraged to make a written complaint upon the occurrence of an incident, or a series of incidents, or bring them to the attention of any Member of the Gender Committee.
3. An Aggrieved Person or a Complainant may make a complaint in writing within 90 days from the date of the alleged incident, and in case of a series of incidents, from the date of last incident. An extension may be granted by the Gender Committee for another 90 days in case it is so convinced in response to an application for an extension in writing.
4. The complaint should contain the following information:
  - a. the Aggrieved Person's name, and, if applicable, the Complainant's name;
  - b. the Respondent's or Respondents' name(s);
  - c. alleged facts in relation to incident(s), including, if available, date, time, and location;
  - d. circumstances preceding and following the incident;
  - e. whether the Aggrieved Person asked the Respondent to desist from the unwelcome act(s);
  - f. list of witnesses, if any;
  - g. any other supporting documents or materials in whatever physical or digital format, including relevant emails, screenshots of text or social media messages, call details, photographs, and recordings; and
  - h. the reasons for delay in filing the complaint, if any.
5. Six signed copies of the complaint are required to be filed with the Chair, who should confidentially circulate copies among other Members, simultaneously provide a copy to the NCAER Director General, and have one original signed copy filed with the Secretary of the Gender Committee.
6. If a complaint is received by a Member of the Gender Committee, the complaint will be sent to the Chair immediately, and in any case no later than 24 hours from its receipt.
7. After distributing copies of the complaint to Members, the Chair will convene a meeting of the Gender Committee without delay to commence the complaint redress process.
8. Upon receipt of the complaint, the Gender Committee will give one copy of the complaint to the Respondent no later than seven days from such receipt. The Respondent will then be required to file a reply to the complaint along with a list of witnesses and other supporting documents within ten days from the receipt of the document by her/him. The Respondent, the Aggrieved person and the Complainant, as the case may be, and any witnesses, will be informed in writing of the date, time and venue of the inquiry proceedings at least 72 hours in advance of the start of such proceedings.

## **B. CONCILIATION**

1. Consistent with the Act, the Gender Committee may, before commencing an inquiry into any complaint, and at the behest of the Aggrieved Person, take steps to settle the matter through conciliation, provided that a monetary settlement is not the basis for such conciliation.

2. If a settlement is reached between the Aggrieved Person and the Respondent, its details will be recorded by the Gender Committee, with copies co-signed by each party being distributed to the parties, filed with the Secretary of the Gender Committee, and shared with the NCAER Director General.
3. In case of any such settlement, no further inquiry into the complaint will be conducted by the Gender Committee.
4. If the Aggrieved Person informs the Gender Committee that the Respondent has not complied with any terms or condition of the settlement arrived at under this Clause V-B, the Gender Committee will conduct an inquiry into the same matter.

### **C. INQUIRY**

1. In the absence of a settlement through conciliation and when the Respondent is an employee of NCAER, the Gender Committee will carry out an internal inquiry promptly and thoroughly and in accordance with the principles of natural justice.
2. The Chair will convene such number of meetings as are required to fully and fairly deal with the complaint.
3. In conducting the inquiry, a minimum of three Members of the Gender Committee including the Chair, will be present, in person or through digital media, at all times.
4. The Aggrieved Person and the Respondent will both be accorded a full and fair hearing with reasonable opportunity to present their respective cases. This includes the granting of interim relief to the Aggrieved Person, as prescribed in the Act, if requested for in writing. Interim relief may also be in the form of counselling sessions for the Aggrieved Person to help cope with the trauma of the Incident.
5. If the Aggrieved Person does not wish to depose personally, a statement in writing may be accepted by the Gender Committee.
6. Neither party will be allowed to bring in a legal practitioner to represent her/him at any stage of the proceedings before the Gender Committee. However, both parties are permitted to bring one friend or colleague each for support and/or advice during the proceedings. Additionally, witnesses may be called by each party.
7. All statements made orally in meetings convened by the Gender Committee by any person in relation to the inquiry will be made under oath and will be recorded in writing and signed by the person making the statement.
8. Every employee is required to respond to the queries of the Gender Committee honestly and present the facts in an objective and unbiased manner. Deliberately withholding information or providing incorrect facts will be deemed misconduct and will be dealt with accordingly.
9. Due care will be taken by the Gender Committee to ensure that the Aggrieved Person, the Complainant, the Respondent, any witnesses or other persons connected to the Incident or the inquiry, are not intimidated, victimized or discriminated against and are able to truthfully attest to the facts.
10. There will be no reprisal or retaliation against anyone that complains or reports an instance of sexual harassment merely because of their *bona fide* belief that there has been a violation of NCAER's Gender Policy. Such a person will be protected even if the allegation is not proved.
11. Strict disciplinary action will be recommended if any complaints of retaliatory behaviour or intimidation are found to have merit.

12. The Gender Committee has the right to terminate the inquiry proceedings, or to give an ex-parte decision on the complaint, if the Aggrieved Person or the Complainant, as the case may be, or the Respondent, fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chair, provided that such termination or ex-parte order may not be passed without giving a 15 calendar days advance notice in writing to the concerned party.
13. The Gender Committee will complete the inquiry within 90 days from the date on which the complaint was received by the Chair, except for reasons that the Gender Committee will provide in writing to the NCAER Director General prior to the 90-day limit.

#### **D. FINDINGS**

1. Based on the inquiry, the Gender Committee will come to a finding preferably unanimously, but if not, then on the basis of a majority vote, with the Chair being given an extra casting vote if necessary.
2. The Gender Committee will submit a written report of its findings and recommendations to the Director General of NCAER no later than 24 hours from the conclusion of the inquiry and thereafter share the findings with the Aggrieved Person and the Respondent within 10 days from the date of conclusion of the inquiry.
3. NCAER will act upon the recommendations of the Gender Committee within 60 days of the receipt of the written report.
4. An appeal to the Director General against the recommendations of the Gender Committee by the Aggrieved Party or the Respondent is allowed within 30 days of the date of its recommendations. Failing settlement of this appeal, a further appeal is allowed within 90 days of the original date of the Gender Committee's recommendations and will be in accordance with the guidelines for settlement of disputes in the appealing party's employment contract.

## **VI. MANNER OF TAKING ACTION AGAINST THE RESPONDENT**

1. Following the inquiry, if the complaint is found to be genuine by the Gender Committee, it will recommend to the NCAER Director General appropriate action against the Respondent, which may include the one or more of the following:
  - a. a written apology;
  - b. a warning;
  - c. directing payment of compensation to the Aggrieved person;
  - d. a reprimand or censure;
  - e. withholding of promotion;
  - f. withholding of pay rise or increments;
  - g. terminating the Respondent from service;
  - h. undergoing counselling sessions or carrying out community service;
  - i. In appropriate cases, the initiation of a criminal complaint.

## **VII. PENALTY FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE**

1. When the Gender Committee arrives at a finding that the allegation against the Respondent is malicious, or the Aggrieved Person and/or the Complainant and/or any witness has made the complaint or provided evidence knowing it to be false, or the Aggrieved Person and/or the Complainant and/or any witness has produced any forged or misleading document or materials, it may then recommend to the NCAER Director General to take prompt action against such person(s) in accordance with the provisions of Section VI of this Gender Policy and of the Act.
2. No action will be recommended against the Aggrieved Person, and/or the Complainant and/or any witness, due to a mere inability to substantiate the complaint or provide adequate proof. Action against the Aggrieved Person and/or the Complainant and/or any witness, will be recommended only after an inquiry by the Gender Committee/Employer reasonably proves that the complaint was made with malicious intent.

## **VIII. CONFIDENTIALITY**

1. To protect the confidentiality of all complaints and inquiries, the Members of the Gender Committee will sign a non-disclosure agreement with NCAER: this Gender Policy will be attached to each non-disclosure agreement and made an integral part of it.
2. All records of complaints, including minutes of meetings, records of every inquiry proceedings, names of the involved parties, details pertaining to the conciliation settlement if any, findings and recommendations of the Gender Committee, actions taken by NCAER, and other related information, in any form, will be kept confidential by the Gender Committee and NCAER, and will be disclosed only to the extent required by Applicable Law.

## **IX. RESPONSIBILITIES OF NCAER**

1. NCAER will
  - a. extend assistance to the aggrieved person if she/he chooses to file a complaint in relation to any act of sexual harassment; or
  - b. extend assistance in initiating action against the Respondent under the Indian Penal Code, 1860 or any other applicable law if appropriate.
2. If an employee is subjected to sexual harassment in the workplace by a third party Respondent who is not an employee of NCAER, NCAER will take the necessary action to address such employee's grievance and provide support, including but not limited to extending assistance to the employee if she/he chooses to file a complaint against the Respondent under the Indian Penal Code, 1860, or any other applicable law.



3. NCAER will organize workshops and awareness programmes for sensitising all employees and conduct orientation programmes to help the Gender Committee function better.
4. NCAER will communicate this Gender Policy to all employees and conspicuously display this Gender Policy and the consequences of violating this Gender Policy and the Act.
5. This Gender Policy will be considered as an integral part of the internal policies of NCAER and the number of complaints, if any, and their resolution will be reported in NCAER's Annual Report.

### **Annex 1**

#### **Members of the NCAER Gender Committee**

**March 1, 2021 to February 29, 2024**

Dr Poonam Munjal	Professor	<b>Chair</b>
Dr Saurabh Bandyopadhyay	Senior Fellow	Member
Dr Laxmi Joshi	Fellow	Member
Dr Debasis Barik	Fellow	Member
Dr Charu Jain	Fellow	Member
Ms Akansha Dubey	Lawyer	External Member
Ms Sudesh Bala	Executive Assistant	Member

Mr Girish C Khulbe, Acting HR Head, will be the Secretary to the Gender Committee