

POLICY AGAINST SEXUAL HARASSMENT

I. Mandate against Sexual Harassment:

Screenwriters Association (hereafter referred to as SWA) is steadfast in its commitment to providing a safe and gender inclusive working environment, along with robust complaint redressal mechanisms for all its employees and affiliates. Moreover, a trade union with more than 27,000 members (and growing), SWA stands as a strong advocate of safer workplaces free from any form of sexual/gender-based harassment/ discrimination, specifically in media and entertainment industry. Condemning any and all acts of sexual harassment, SWA **reserves the right** to take punitive action against any of its members found guilty of such act/behaviour.

Sexual harassment and gender-based discrimination at workplace is a violation of a person's fundamental right to equality under articles 14 and 15 of the Constitution of India, and is against the spirit of Article 21 of the Constitution of India, which espouses the basic right to livelihood for all Indian citizens. As per Article 3.c) of SWA's constitution, one of its primary aims and objectives is "To secure and safeguard the interests, rights and privileges of its members in all matters relating to their professional engagement and working conditions." SWA's policy against sexual harassment reflects the association's absolute commitment to safeguarding the dignity of each of its members.

Raising awareness about the issues surrounding gender, facilitating conversations and widely disseminating the rights and obligations laid down by the law, SWA seeks to empower all its members in terms of recognizing, refusing to tolerate, and speaking up against sexual harassment at their respective workplaces.

Additionally, trade unions like SWA can play a major role in advising and supporting a survivor, and help them route their complaint through proper channel, as workplaces in media and entertainment industry tend to be largely unorganized. The location of work is often unconventional, there may or may not be a clearly defined employer-employee relationship, and at times no grievance mechanism is in place for a victim of sexual harassment to take recourse to. Support from one's trade union in such scenarios is invaluable.

To challenge the culture of silence that normalizes sexual harassment and isolates the victim, it is vital to build solidarity of people who uphold the dignity and equality of all genders. Towards that end, SWA will endeavour to collaborate with other trade unions, associations, production houses, and other establishments where SWA members may be employed/engaged for work, to facilitate gender related conversations, raise awareness, and function as a pressure group. The larger goal is to not only safeguard the interests of our members, but to effect an industry-wide positive change to ensure safe workplaces for all persons employed in media and entertainment.

Lastly, as a trade union of writers and storytellers, it behoves on us to take an honest look at our stories and the kind culture they are promoting. Considering the vast outreach of audio-visual media and its power to influence popular opinion, how we represent genders and sexual violence in our stories, has a far-reaching significance. Hence, SWA will strive to promote a more nuanced and sensitive portrayal of genders on screen as a step towards gender equality.

II. The Policy:

This is SWA's Policy Against Sexual Harassment (hereafter referred to as "Policy"), formulated as per THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL)

ACT 2013 (hereafter referred to as "Act").

Handbook on Sexual Harassment at Workplace released by Ministry of Women and Child Development states: “Vishakha established that international standards/law could serve to expand the scope of India’s Constitutional guarantees and fill in the gaps wherever they exist.” Using this as the basis of interpreting and implementing the Act, the Policy covers a wider spectrum of sexual harassment and deal with issues in consonance with the peculiarities of being a trade union. Consequently, the Policy is gender neutral; and applies to all employees (as defined in section 2.D.4) and members of SWA.

An Internal Committee (IC) will be constituted as per the Act to implement this Policy. However, in cases where the statutory powers of IC are not applicable, IC will function as a Disciplinary Committee Against Sexual Harassment (DCASH). While the Act is the sole basis for outlining mechanisms of the IC, policies of DCASH will additionally take into account SWA’s constitution as well as recommendations of International Labour Organisation vis-a-vis role of a trade union in matters of sexual harassment at workplace.

III. Internal Committee (IC)

A. Objectives:

1. Compliance with the Sexual Harassment of Women at Workplace (PPR) Act, 2013 in letter and spirit.
2. To make SWA a gender friendly and safe workplace for all its employees, members, and visitors.
3. To raise awareness amongst its employees and members regarding issues concerning gender sensitivity and sexual harassment.
4. To advocate for establishment of systems or mechanisms to address sexual harassment at all workplaces where SWA members may be employed.

5. To educate and sensitize our members about gender stereotyping, sexism, depiction of sexual violence and other gender related issues in screenwriting.

B. Responsibilities:

1. IC will meet on a regular basis (every three months) to organize programs for prevention and prohibition of sexual harassment, as well as to discuss any matter pertinent to its objectives. Additional meetings could be held as necessary to deal with issues or complaints that may arise.

2. IC will organize and conduct workshops, seminars, conferences, discussion sessions etc. for its employees and members to fulfil its objectives.

3. IC will accept and redress/seek to redress complaints regarding /sexual harassment and recommend appropriate action wherever applicable. Further, IC will also do follow-ups as and when required.

4. With respect to complaints of sexual harassment, IC will maintain strict confidentiality.

5. IC will liaise with other trade unions, associations, production houses, and any other establishments where SWA members may be employed/engaged for work to ensure safe working environs for all members

6. IC will periodically review and update the policy to reflect amendments in law

C. Constitution:

1. It is the duty of General Secretary to re-constitute the IC immediately after the election, and no later than a month after the first meeting of newly elected Executive Committee (Hereafter referred to as EC).

2. The tenure of IC will be same as the tenure of EC, that is, two years, unless the EC gets dissolved prematurely. In that case, a new IC will be constituted as per 1.
3. Committee shall comprise of a minimum of 5 members, wherein more than 50% of members are women; as outlined below:

No.	Member	Eligibility
1	Presiding Officer	A woman working as Staff/ Consultant or EC Member committed to the cause of women/ having legal knowledge/ experience in social work.
2	Members (minimum 2)	Staff/ EC members (men/women) committed to the cause of women/ having legal knowledge/ experience in social work
3	Legal Advisor	SWA's legal officer will be de-facto member of the IC
4	External Member	A person from amongst associations/ NGOs committed to the cause of women, with extensive experience in matters of Sexual Harassment

D. Definitions:

1. Sexual Harassment: Is a SUBJECTIVE experience, defined by the IMPACT on the Complainant, notwithstanding intentions behind the actions of the Respondent.
 - a) Sexual Harassment is defined as any one or more of the following unwelcome acts or behaviour, whether direct or implied:

- (1) Any unwanted physical contact and advances
 - (2) Any demand or request for sexual favours
 - (3) Making sexually coloured remarks
 - (4) Showing or sharing pornography through any means of communication
 - (5) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- b) The following circumstances, in context of actions mentioned in a) can also amount to Sexual Harassment:
- (1) implied or explicit promise of preferential treatment in employment;
 - (2) implied or explicit threat of detrimental treatment in employment;
 - (3) implied or explicit threat about present or future employment status;
 - (4) interference with work or creating an intimidating or offensive or hostile work environment;
 - (5) humiliating treatment likely to affect the lady employee's health or safety
2. Workplace: Workplace is defined as (but not restricted to) any of the following:
- a) SWA office premises
 - b) Venues of SWA conferences/ events/ workshops/ seminars/ screenings/ festivals/ functions
 - c) Extended Workplace: Any place visited by Complainant/Respondent arising out of or during the course of employment/professional engagement with SWA including Offices, studios, shooting locations, hotels, cafes, restaurants, libraries, parks, coworking spaces, residences and dwellings, or premises thereof.
 - d) Transportation provided by SWA.

- e) Digital/communication space: professional phone calls, messages, emails, social media interactions
 - f) The above list is only indicative and cannot be construed as exhaustive.
3. Employer: General Secretary of SWA.
 4. Employee: Any person employed by SWA directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise. Their terms of employment can be express or implied. This includes, but is not limited to:
 - (1) Office staff
 - (2) Consultants
 - (3) EC members
 - (4) Co-opted members of EC sub-committee
 - (5) Registration Officers
 - b) Volunteers/ Guests/ Speakers /Invitees at any SWA event/ conference/ Seminar workshop/ screening/ festival/ function
 - c) Professionals engaged by SWA in any capacity for any duration
 5. Complainant: In relation to a workplace, any woman, of any age/sexual orientation directly or indirectly related to SWA, who alleges to have been subjected to an act of Sexual Harassment by the Respondent
 6. Respondent: Any person against whom a complaint of sexual harassment has been made by the Complainant

E. Duties of Employer:

1. Provide a safe working environment in the organization, both within the office and at various events and activities of SWA.
2. Constitute the IC as per the Policy through a written order.

3. Prominently display penal consequences of sexual harassment, along with details of the IC and its contact information through all channels available.
4. Provide necessary facilities and assistance to the IC for effective disposal of its responsibilities.
5. Organize awareness programs for employees and members at regular intervals.
6. Ensure IC members are trained in both skill and capacity
7. Support a woman employee who is harassed by an outside person, to lodge a complaint at the relevant workplace and/or under IPC, if she wishes so.
8. Treat sexual harassment as misconduct in the constitution of SWA.
9. Monitor timely submission of reports and act on the recommendations of the IC within 60 days from receipt of the Enquiry Report.

IV. Redress Procedures for IC:

A. Receiving the Complaint

1. An aggrieved woman can make a complaint to IC via email or written/typed document within 90 days from the date of the incident, and in case of a series of incidents, within a period of 90 days from the date of the last incident of sexual harassment.
2. If a woman is unable to submit a written complaint, IC shall provide necessary assistance to record her complaint in writing.
3. If the aggrieved woman is unable to file complaint, anyone who has knowledge of the incidence can file a complaint with her written consent. Additionally, if the aggrieved woman is physically or mentally incapable of giving a written consent, persons with a significant personal/professional relationship with the woman (e.g. her legal heir,

relative, friend, coworker, special educator, qualified psychiatrist/psychologist, guardian etc.) can make a complaint on her behalf.

4. The period of 90 days can be relaxed/waived if the committee finds valid reason to endorse the delay in filing the complaint.

B. Acknowledgement and Initial Assessment by IC:

1. Upon receiving a written complaint, send an acknowledgement to the Complainant and seek an in-person interview complaint.

2. Assess the complaint to check whether the Respondent's conduct falls within the definition of Sexual Harassment at Workplace as defined by the Policy hereinabove.

a) In the first meeting with the Complainant, record the Complainant's detailed statement, and discuss options of Formal Resolution and Conciliation.

b) The choice of a formal process rests with the Complainant even if the person responsible for managing the complaint believes that this can be resolved through an informal process.

c) Before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the Complainant to opt for the formal route. At no point, the IC will advise the Complainant to resolve the matter directly with the Respondent.

d) Conciliation may include counselling, educating, orienting, or warning the Respondent to promptly stop the unwelcome behaviour or appointing a neutral person to act as a conciliator between the parties to resolve the complaint through conciliation.

e) When the Complainant opts for formal resolution, she should be made aware of the inquiry procedure.

3. With Complainant's consent, send a copy of the complaint to the Respondent within **seven days**. The Respondent will have an opportunity to respond to the complaint in writing within **ten days** thereafter.

4. Provide Complainant with any specific assistance they may require, such as counselling, addressing health related concerns or sanctioning of leave (up to 3 months).

C. Interviews:

1. The Internal Committee shall have same powers as vested in Civil Court such as summoning and enforcing the attendance of any person and examining him/her on oath, requiring the discovery of production of documents, any other matter prescribed.
2. Interviews should be conducted with each person separately and in confidence. The Complainant and the Respondent should not be brought face to face with each other.
3. Both parties shall be given ample opportunity for presenting themselves, following the principles of natural justice.
4. Proper record of each interview must be maintained. At the end of each interview, the person interviewed should date and sign their statement in front of the committee.

D. Finding and Recommendation:

1. Finding: Based on all the information obtained during interviews, IC must arrive at a finding of whether the complaint is proved, not proved or false.
2. Recommendations: Based on its findings, IC shall then make appropriate recommendations which may include:
 - a) Where IC is unable to prove the complaint, it shall recommend no action.
 - b) Where IC upholds the Complaint, it may recommend disciplinary action / penalty which may include
 - (1) Counselling,
 - (2) a written apology, reprimand, warning, censure

- (3) Withholding promotion/ pay raise/ increment
- (4) Termination/a warning to terminate.

c) IC may also recommend financial damages to the Complainant.

While deciding the amount they shall take into consideration:

- (1) Mental trauma, pain, suffering and emotional distress caused;
- (2) Medical expenses incurred;
- (3) Loss of career opportunity;
- (4) Income and financial status of the Respondent.

3. Additional Recommendations: IC can also give additional recommendations to the employer in order to address the underlying factors contributing to sexual harassment at the workplace.

E. Report: An inquiry must be completed within 90 days and a final report submitted to the General Secretary within ten days thereafter.

Such report will also be made available to the concerned parties. The report must include:

1. A description of the different aspects of the complaint
2. A description of the process followed
3. A description of the background information and documents that support or refute each aspect of the complaint
4. An analysis of the information obtained
5. Findings as stated above
6. Recommendations.

F. Monitoring: The General Secretary is obliged to act on the recommendations of IC within 60 days.

1. A reminder for compliance report shall be sent to the General Secretary 50 days after submission of recommendations.
2. If no compliance report is received from the General Secretary within 60 days, the matter will be raised in the next EC meeting.

G. Appeal: Any person not satisfied with the findings or recommendations of IC or non-implementation of the recommendations, may appeal in an appropriate court or tribunal **within 90 days**.

H. False or Malicious complaint: The mere inability to substantiate a complaint or provide adequate proof will not attract any action against the Complainant. However, making a false or malicious complaint or producing a forged or misleading document will be treated as an offence and may attract disciplinary action, including counselling, written apology, warning, and reprimand.

I. Timelines as per the Act

1	Submission of Complaint	Within 3 months of the last incident
2	Notice to the Respondent	Within 7 days of receiving copy of the complaint
3	Completion of Inquiry	Within 90 days
4	Submission of Report by IC to General Secretary	Within 10 days of completion of the inquiry
5	Implementation of Recommendations	Within 60 days
6	Appeal	Within 90 days of the recommendations

V. Disciplinary Committee against Sexual Harassment (DCASH)

A. Objectives:

1. To seek redressal of complaints of sexual harassment that are outside the purview of IC

2. To guide and support SWA members file complaints of sexual harassment with appropriate authorities other than SWA's IC

B. Constitution of the Committee:

1. A **three-member** DCASH will be constituted from among the members of IC, when
 - a) Neither the Complainant nor the Respondent can be considered an employee of SWA, as per the definition in section II. B. 4; AND
 - b) SWA cannot be construed as the 'workplace' where the said incident occurred, as per the definition in section II. B. 2; AND
 - c) Either the Complainant or the Respondent is a member of SWA, irrespective of their genders.

OR

- a) The Complainant is not a woman; AND
 - b) Either the Complainant or the Respondent can be considered an employee of SWA, as per the definition in section II. B. 4; AND
 - c) SWA can be construed as the 'workplace' where the said incident occurred, as per the definition in section II. B. 2.
2. If the Complainant identifies as a male, gender non confirming, queer or, transgender then the committee must have at least one member from that category / identity.
 3. Additionally, SWA's legal advisor will be a de-facto member of the DCASH.
 4. The DCASH will be responsible for redressal of a particular complaint, after which it shall be dissolved.

C. Definitions:

1. Sexual Harassment: Is a SUBJECTIVE experience, defined by the IMPACT on the Complainant, notwithstanding intentions behind the actions of the Respondent.

a) Sexual Harassment is defined as any one or more of the following unwelcome acts or behaviour, whether direct or implied:

- (1) Any unwanted physical contact and advances
- (2) Any demand or request for sexual favours
- (3) Making sexually coloured remarks
- (4) Showing or sharing pornography through any means of communication
- (5) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

b) The following circumstances, in context of actions mentioned in a) can also amount to Sexual Harassment:

- (1) implied or explicit promise of preferential treatment in employment;
- (2) implied or explicit threat of detrimental treatment in employment;
- (3) implied or explicit threat about present or future employment status;
- (4) interference with work or creating an intimidating or offensive or hostile work environment;
- (5) humiliating treatment likely to affect the lady employee's health or safety

2. Workplace: Workplace is defined as the organization/production house/ establishment, in relation to which the Complainant and Respondent came in contact in professional capacity. The said incident may have occurred at any place visited by Complainant/Respondent arising out of or during the course of employment/professional engagement with the Workplace, including

- a) Offices, studios, shooting locations, hotels, cafes, restaurants, libraries, parks, coworking spaces, residences and dwellings, or premises thereof.

- b) Transportation provided by the Workplace.
- c) Digital/communication space: professional phone calls, messages, emails, social media interactions etc.

The above list is only indicative and cannot be construed as exhaustive.

- 3. Employer:
 - a) In relation to the Workplace, the head of the department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit OR
 - b) Any person (whether contractual or not) responsible for the management, supervision and control of the Workplace not covered under clause a).
- 4. Complainant: A member or employee of SWA (as defined in section II. B. 4, irrespective of their gender), who alleges to have been subjected to an act of Sexual Harassment by the Respondent
- 5. Respondent: Any person against whom a complaint of sexual harassment has been made by the Complainant

D. Redress Procedures:

- 1. For the sake of simplicity, the mode of accepting complaints will be same for both IC and DCASH.
- 2. If the Respondent is an employee of SWA, the procedure of redressal will be same as described in section IV.A to section IV.G.
- 3. If the Respondent is not an employee but a member of SWA, the procedure of redressal will be same as described in section IV.A to section IV., except the recommended punishments will pertain to their SWA membership, which may include a written apology, warning, monetary fine, temporary suspension of membership, and permanent cancellation of membership.

4. If the Respondent is not related to SWA, following actions may be taken:

- a) Identifying the appropriate Workplace and guiding the Complainant to file a complaint with their IC.
- b) Corresponding with the appropriate Workplace to ensure the complaint is acknowledged and redressed as per legal provisions.
- c) In case no such workplace can be established, the Complainant can be guided to file a complaint with the appropriate Local Committee/ Police / other pertinent authority.

5. In all of the above cases, IC shall make an effort to offer support to the Complainant concerning their physical and mental health and well-being, if needed.

E. Appeal: Any person not satisfied with the findings or recommendations of the DCASH may appeal to EC **within 90 days**. The EC may, at its discretion, form a separate appellate committee to resolve the matter.