

Standard Operating Procedure for Sexual Harassment at Workplace

1. Objective

- a. Create a conducive and safe working environment in the Dzongkhag Administration.
- b. Respond and provide timely and effective assistance to civil servants who face sexual and workplace harassment.
- c. Have zero tolerance to all forms of sexual harassment at the workplace.
- d. Enhance awareness and understanding on sexual harassment at workplace.

2. Scope

- a. The service shall extend to all civil servants working under the Dzongkhag Administration, Trashigang.
- b. The term “workplace” shall include not only to the specific location where work is being performed but also locations where work-related business may be conducted such as work related social activities, conferences and trainings, official business travel/events, etc.

3. Legal Provisions

- a. The Article 9(17) of the Constitution of the Kingdom of Bhutan 2008 states that “The State shall endeavour to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres”.
- b. The Sections 205 and 206 of the Penal Code of Bhutan 2004, “a defendant shall be guilty of sexual harassment, if the defendant makes unwelcome physical, verbal or non-verbal abuse of sexual nature,” and the offence of sexual harassment is a petty misdemeanor. Sexual harassment includes staring or leering, unwelcome touching, suggestive comments, taunts, insults or jokes, displaying pornographic images, sending sexually explicit emails or text messages, and repeated sexual or romantic requests. It also includes behaviors such as sexual assault, stalking or indecent exposure. Both men and women can be targets or perpetrators of sexual harassment.
- c. The Civil Service Act of Bhutan 2010, Section 38 (g) states that “a civil servant shall not engage in sexual harassment”;
- d. The Bhutan Civil Service Rules and Regulations (BCSR) 2018, section 3.3.14 defines sexual harassment as an “unwelcome verbal, visual, or physical conduct of a sexual nature that affects working conditions or creates a hostile working environment”.

4. Types of Sexual Harassment

- i. **Verbal or written:** This includes inappropriate sexual comments about clothing, personal behavior or a person’s body;
 - a. Narrating sexual or sex-based inappropriate jokes and anecdotes,
 - b. Sending unwanted suggestive letters, notes or e-mails,

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- c. Requesting sexual favors, making sexual innuendos or repeatedly asking someone out,
 - d. Inquiring about someone's sexual history or sexual orientation,
 - e. Making derogatory remarks about a person's sexual orientation or gender identity,
 - f. Scattering rumors about a person's sexuality,
 - g. Taunting such as calling someone indecent names based on gender ,
 - h. When a person looks or comments on someone else's body in a way that makes that person feel uncomfortable,
 - i. When a person asks another person about his or her romantic experiences.
- ii. Physical**
- a. Blocking a person's physical movement,
 - b. Inappropriate and unwanted touching of a person and/or their clothing,
 - c. Other inappropriate touching including kissing, hugging, patting, stroking or rubbing,
 - d. Purposefully brushing up against another person,
 - e. When a person stands too close to another person and talks in an intimate way.
- iii. Non-verbal:**
- a. Looking a person's body up and down,
 - b. Whistling or staring in a sexually suggestive or offensive manner,
 - c. Offensive gestures or facial expressions of a sexual nature,
 - d. Following a person,
 - e. Making inappropriate sexual gestures.
- iv. Visual:**
- a. Sharing posters, drawings, pictures, screensavers or emails that are of sexual nature,
 - b. Sharing sexually inappropriate images or videos, such as pornography with co-workers,
 - c. Displaying inappropriate sexual images or posters at the workplace
- 5. Committee and their responsibilities**
- a. The Wellbeing Committee shall receive the case and follow the procedure mentioned in this SOP.
 - b. The Well-being Committee shall study the case and submit recommendations to the Dzongkhag HRC.
 - c. The Dzongkhag HRC shall provide a decision on the case. However, the complainant may appeal to a higher authority or a court of law if not satisfied with the decision.

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6. Filing of workplace sexual harassment complaint:

- i. A civil servant or an individual on behalf of a civil servant shall lodge a complaint on workplace sexual harassment in person or through Google form complain in the Dzongkhag's website to the Chairperson of the Wellbeing Committee;
- ii. The complaint shall contain;
 - a. Full name, address and contact information of the complainant.
 - b. Name and address of the perpetrator, name of the agency, and a narration of the acts of harassment and relevant material/facts to support the complaint, if any.
 - c. Anonymous complaints shall be assessed and validated before further actions are taken.

7. Conduct of complaint enquiry

Step 1:

- i. When a complaint is received, the Wellbeing Committee shall obtain and record a full, step-by-step account of the incidents. The record of all details of the discussion shall be kept confidential;
- ii. The Wellbeing Committee shall inform the alleged perpetrator, in writing of the sexual harassment complaint and direct him/her to submit an explanation on the complaint within 5 working days;
- iii. On verification and assessment of the complaint, the Wellbeing Committee if convinced that a prima facie case exists, shall register the case;
- iv. The Wellbeing Committee may dismiss the case when the alleged perpetrator's explanation proves beyond reasonable doubt that the complaint is without basis.

Step 2:

- i. The Wellbeing committee shall submit to the Dzongkhag HRC when it is convinced that no decision can be taken without further investigation;
- ii. The Dzongkhag HRC shall direct Wellbeing Committee or form an investigation committee to investigate and execute the fact findings and submit to the Committee;
- iii. The investigation, shall be conducted in an objective, fair and equitable manner.

Step 3: The Wellbeing Committee or the Investigation Committee shall:

- i. Interview all those directly concerned and witnesses separately;
- ii. Keep records of the interviews and investigation;
- iii. Make a determination as to whether there is sufficient evidence that an incident/incidents of sexual harassment as defined has occurred;

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- iv. Determine whether incidents were frequent or was happening for the first time and also determine if there are other victims;
- v. On completion of the investigation, the report shall be submitted to the Dzongkhag HRC and a copy to a civil servant under investigation.

Step 4: The Dzongkhag HRC shall:

- i. On receipt of the report allow the alleged perpetrator to respond to any concerns raised by the Wellbeing Committee or the Investigation Committee;
- ii. Where a respondent fails to answer questions or fails to submit any justifications on the investigation report, the Dzongkhag HRC shall make a decision based on the evidence available;
- iii. On establishing the facts based on investigation report and the evidence, the Dzongkhag HRC shall assess the nature of the misconduct and determine the breach of Civil Service laws and other relevant laws of the Kingdom;
- iv. If there is prima facie case of misconduct, the Dzongkhag HRC may recommend appropriate penalty as per BCSR or refer to relevant agency as per the law.

Step 5. Appeal

- a. A civil servant who is not satisfied with the decision of the Dzongkhag HRC shall appeal to the RCSC or a Court of Law within 10 working days from the receipt of the decision.
- b. The complainant may submit an appeal to higher authorities or a Court of law, if not satisfied with the decision.