

Bangladesh Legal Aid and Services Trust (BLAST)

Sexual Harassment Elimination and Prevention Policy

Introduction:

Recently, according to the Guidelines contained in the judgment dated 14.05.2009 of the High Court Division of the Supreme Court of Bangladesh, 2009 in Writ Petition No. 5916/2008, it was directed as follows:

“In view of the inadequacy of safeguards against sexual abuse and harassment of women at work places and educational institutions whereby noble pledges of our Constitution made in so many articles to build up a society free from gender discrimination and characterized by gender equality are being undermined everyday in every sphere of life, we are inclined to issue certain directives in the form of guidelines as detailed below to be followed and observed at all work places and educational institutions till adequate and effective legislation is made in this field.¹”

BLAST adopted a Gender Policy on 06.2.2007 in order to achieve equality between men and women, and in the light of BLAST’s Service Rules, Policies and Guidelines. In view of the Guidelines of the Hon’ble High Court Division and in the current context, the Gender Policy has been reviewed, and the organization’s “Sexual Violence and Harassment Prevention and Protection Policy” shall hereby be treated as a part of the said Gender Policy and be effective immediately.

To make this Policy effective, a “Zero” tolerance approach will be adopted.

1) Scope:

This Policy shall be applicable to the persons who have contractual relations with BLAST including staff members, panel lawyers, consultants, advisors, fellows, interns and Panel Lawyers appointed to BLAST’s head office, unit offices at districts, clinics and partner organizations.

Provided that this Policy shall be enforceable upon the members of the Governing Committees at district and national levels

2) Aims and Objectives:

BLAST is committed to ensuring a pleasant, safe, harassment free and friendly working environment for all staff members, and the aims and objectives of this are as follows:

- a. To create awareness about sexual harassments and its demerits;
- b. To create awareness that sexual harassment is punishable offence.
- c. To initiate an effective mechanism for prevention and restrictions of Sexual Harassment at Organization

3) Duties of the Employer and Authority

¹ Policy – Sexual Violence and Harassment Elimination and Prevention, 2010

Since the Constitution of the People's Republic in several articles ensures gender equality, and since the Constitution ensures equal rights of women with men in all spheres of state and public life, it shall be the duty and responsibility of employers and other responsible persons to maintain effective mechanisms to prevent or deter the commission of offences of sexual abuse and harassment, and to provide effective measures for prosecution of the offences of sexual harassment resorting to all available legal and possible institutional steps.

4) Definitions:

i) Sexual Harassment includes -

- a. Unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances;
- b. Attempts or efforts to establish physical relation having sexual implication by abuse of administrative, authoritative or professional powers;
- c. Sexually coloured verbal representation;
- d. Demand or request for sexual favours;
- e. Showing pornography;
- f. Sexually coloured remark or gesture;
- g. Indecent gesture, teasing through abusive language, stalking, joking having sexual implication.
- h. Insult through letters, telephone calls, cell phone calls, SMS, e-mails, social media, photo, notice, cartoon, writing on chair-table, bench, notice board, walls of office, factory, classroom and washroom having sexual implication.
- i. Taking still or video photographs for the purpose of blackmailing and character assassination;
- j. Preventing participation in sports, cultural, organizational and academic activities on the ground of sex and/or for the purpose of sexual harassment;
- k. Making love proposal and exerting pressure or posing threats in case of refusal to love proposal;
- l. Attempt to establish sexual relation by intimidation, deception or false assurance.

Aforesaid conduct can be humiliating and may constitute a health and safety problem for the women at workplaces. Such conduct shall be deemed as discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment in various ways or when it creates a hostile environment at workplaces.

(ii) **Concerned Authority means:**

The authority of the Bangladesh Legal Aid and Services Trust which has powers to enforce disciplinary rules against misconduct.

(iii) **Disciplinary Rules means:**

Any Acts, Ordinances and any Rules adopted under any ordinance, as enacted/promulgated by the Government and any compatible Guidelines or Directions imposed by BLAST to ensure discipline within the organization.

(iv) In this Policy “woman” means:

A woman of any age as defined in the Nari o Shishu Nirjaton Domon Ain, 2000.

(v) The word “Complainant” shall mean

Women employee or staff member who has been victimized of sexual harassment and lodged complain under this Policy

5) To create awareness and public opinion:

- a) To create a safe environment and to deter and prevent gender discrimination, sexual harassment and violence in every work place of the organization, the employer/concerned authority shall give the utmost importance to awareness raising publications and campaign. To this end, orientations shall duly be arranged for all newly appointed employees, panel lawyers and interns, which shall be conducted by a women and for this reason the responsible team shall include a woman.
- b) If required, necessary counseling shall be arranged for any concerned person
- c) The relevant articles of the Constitution and statutory laws which provide for women’s rights shall published in simply language in the manner of notifications to build the awareness of all;
- d) Booklets shall be prepared and published setting out the provisions of the Constitution and statutory laws on gender equality and on sexual offences, and the guidelines for prevention of sexual harassment as delivered by the High Court;

6) Steps for Prevention:

Although the High Court Guidelines mention gender discrimination they do not give any directions regarding this. The organisation’s Gender Policy sets out various steps to remove gender discrimination.

The organisation’s employers, engaged employees and authority shall take effective measures to prevent sexual harassment. The following steps shall be taken to fulfill such duties:

- a) Taking extensive and effective measures to notify, publish and communicate the prohibitions on sexual violence and harassment contained in Clause 4 of this Policy.
- b) To extensively communicate the provisions on gender discrimination and sexual harassment contained in the constitution and statutory laws, and all offences regarding sexual violence and harassment;
- c) It must be ensured that the work environment is not hostile for women and the belief and confidence must be created among women employees of the organization that they are not in an unwelcome environment compared to their male co-workers.

7) Disciplinary Action:

According to clause 4 of this Policy, disciplinary action as per Clause 30 of HR Manual for BLAST, August 2015, shall be taken to prevent sexual violence and harassment.

8) Complaints:

The following procedure shall be followed as Complaint mechanism:

- a) Until the allegation is proved, the identity of the complainant and the accused person shall not be disclosed;
- b) The security of the complainant must be ensured by the concerned authority;
- c) The complaint may be lodged by the victim or through a relative, friend, lawyer by appearing in person or through post office, SMS and e-mail to complain@blast.org.bd
- d) The complainant may separately complain to a woman member of the Complaints Committee;
- e) A complain Box shall be preserved at a visible place in all offices of BLAST including Head Office, and the complainant may drop her complain into this Box. Provided that the Complain Box shall be opened and examined by any member of the complaint committee/responsible officer and if any complain found, the complaint shall be deemed as received on the date of receipt;
- f) The complaint may be filed to the Complaint Committee or to any member of the complaint committee as formed under Clause 9 of this Policy in writing or verbally. Provided that the verbal complaint shall be reduced into writing and be sent to the Member Secretary to the Committee by the person who received.

9) Complaint Committee:

- a) The concerned authority of the organization shall constitute a Complaint Committee to receive complaints, conduct investigations and to make recommendations;
- b) The Complaints Committee shall be comprised of a minimum of 5 members of whom the majority shall be women. If possible, the head of the Committee shall be a woman;
- c) A minimum of two members of the Complaints Committee shall be from outside the organization, and from any organisation which works on gender and sexual violence;
- d) The Complaints Committee shall present an annual report regarding the implementation of this Policy to the Organization and the Organization shall submit the report to the Government in due process
- e) The names, e-mail IDs and addresses of the members of the Committee shall be displayed in a visible place of Head Office and other local offices of BLAST.

10) Working Procedures of the Complaints Committee:

Generally, any complaint must be submitted to the Complaints Committee within 30 working days from the date of occurrence. Failing to file complaint within stipulated time, shall require explanation of delay. To verify the truth of the complaint, the Committee shall:

- a) In cases of minor harassment, the Complaint Committee shall with the consent of both parties resolve the complaint and shall send a report to the concerned authority of the organisation regarding this matter;

- b) In every other case, the Complaints Committee shall investigate the matter;
- c) The Complaints Committee shall have powers to give notice to both parties and to the witnesses by registered post, courier service or e-mail, to conduct hearings, to collect information and evidence and to examine all relevant documents.
- d) In case of such complaints, in addition to oral testimony, other circumstantial testimony shall also be given importance. The concerned authority of the organization shall be bound to provide all kinds of support to the Complaints committee at its request for its effective functioning. The Complaints Committee shall ensure the anonymity of the identities of the complainant(s) and witnesses. The identities of the persons against whom the complaints have been filed shall be kept unpublished until the guilt is proved during investigations. When taking the oral evidence of the complainant(s), demeaning, insulting and harassing questions shall be refrained from.
- e) The testimony shall be recorded in camera;
- f) If the complainant wants to withdraw the complaint or stop the investigation, then the reason behind this has to be investigated and mentioned to find out the reason for this and mention it in the report.
- g) The Complaints Committee shall submit their investigation report along their recommendations to the concerned authority of the organization within 30 days. If necessary the time limit of 30 working days may be increased to 60 working days.
- h) If it is proved that the a false complaint has been intentionally filed, then the Complaints Committee shall recommend to the concerned authority of the organization that appropriate action be taken against the complainant(s).
- i) The Complaints Committee shall make its decisions in accordance with the opinion of the majority of its members.

11) Punishment

The concerned authority may temporarily dismiss the accused person (except for interns and panel lawyers). In the case of interns and panel lawyers, according to the recommendation of the Complaints Committee, the concerned authority may suspend or cancel the internship, and may remove the lawyer from the panel. If the accusation of sexual harassment is proved against the accused person, then the concerned authority shall treat the matter as misconduct, and according to the disciplinary rules of the organization shall take suitable action within 30 days, and/or if the said complaint is considered an offence under the Penal Code or any other prevailing law, then it shall send the matter to the appropriate Court or Tribunal.

This Policy shall be complied with and monitored at all levels within BLAST, until any appropriate law is enacted.

Approved at the meeting of the Board of Trustees: 29 December 2015 (Amended)