



# **BMW Industries Ltd.**

## **GUIDELINES ON THE BMWIL WOMEN'S CELL/COMMITTEE FOR DEALING WITH SEXUAL HARRASSMENT**

### **BACKGROUND**

According to the Constitution of India, Right to Equality is a Fundamental Right that includes the right to equality before law, prohibition of discrimination and equality of opportunities in matters of public employment. Equality between men and women, right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement and provision of just and humane conditions for work and maternity relief, are important Directive Principles of State Policy.

### **OBJECTIVES**

Following are the objectives of the BMWIL Women Cell/Committee (WC):

1. Prevent gender discrimination and sexual harassment, by promoting gender amity amongst all employees.
2. Make recommendations to the Director for changes/elaborations in the Rules, Standing orders and Bye-Laws etc, to make them gender just and to lay down procedures for the prohibition, resolution, settlement and prosecution of acts of sexual harassment by and of employees.
3. Deal with cases of sexual harassment, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment.
4. Recommend appropriate punitive action against the guilty party to the Director.

### **DEFINITIONS**

#### **Gender discrimination**

Sexual differences are biological differences and gender differences are socially and culturally constructed. Sexism is an attitude or mindset, which justifies male control over women, headship for the man and subordination for women, and such attitude often justifies discrimination and violence against women. It restricts perception of dignity and worth of women, denies their contribution to society, and makes their rights and opportunities conditional, resulting in their vulnerability.

#### **Sexual harassment**

According to the Supreme Court Judgment, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implications), such as the following:

- Physical contact and advances
- A demand or request for sexual favours
- Showing pornography
- Any other unwelcome, physical, verbal or non-verbal conduct of sexual nature.

According to the Code of Conduct at Work Place prepared by the National Commission for Women in 1998, sexual harassment includes such unwelcome sexually determined behaviour by any person either individually or in association with other persons or by any person in authority, whether directly or by implications, such as the following:

- Eve Teasing
- Unsavoury remarks
- Jokes causing or likely to cause awkwardness or embarrassment
- Innuendos and taunts
- Gender based insults or sexist remarks
- Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls) and the like
- Touching or brushing against any part of the body and the like
- Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings
- Forcible physical touch or molestation and
- Physical confinement against one's will and any other act likely to violate one's privacy

**Gender sensitivity** is awareness and insight into the state of other sex, with reference to historical roots of sexist stereotyping, discrimination and violence. It leads to empathy, which is the expression of placing credence on what women feel and experience.

**Gender justice** is ensuring sexual equity and equality, non-hierarchy and non-discrimination, and protective safeguards.

**Employee** means any person employed by the Company, project staff and persons appointed in temporary, part-time, honorary, visiting, ad-hoc or casual capacity.

**Victim** – Complainant

**Accused** - Alleged Perpetrator

#### **Deal with Cases of Gender Discrimination/Sexual Harassment**

- Deal with complaints of gender discrimination/sexual harassment and make an inquiry into the case.
- Provide support services to the victimized and recommend early action to the Director to ensure termination of the harassment with immediate effect, Consult a lawyer, doctor and/or a counsellor, as the need may be,
- Refer the victim to a lawyer, doctor and/or a counsellor, as the need may be and submit a report to the Director, recommending appropriate punitive action against the accused if found guilty; and
- Provide information/consultation to anyone who wants to discuss issues relating to gender discrimination/sexual harassment whether a complaint has been lodged or not.
- Follow the Complaint redressal procedure (as described below)

## COMPLAINT REDRESSAL PROCEDURE

### Procedure for the Complaint

- a) A complaint of gender discrimination/sexual harassment may be lodged with any member of WC in writing by the complainant.
- b) Under special circumstances an individual, who may be a friend/colleague /teacher/parent of the complainant, may make a written complaint on behalf of the complainant.
- c) A written complaint to the WC may be addressed to the Convenor of the WC.

If a written complaint is made to the Director, Managing Director, Plant head or any of the employees, the complaint shall be forwarded to the Convenor of the WC.

### Immediate Action

- ✓ The member of the WC, to whom the complaint has been made, should immediately provide initial support and consultation to the victim.
- ✓ On receipt of the written complaint, the BMWIL WC shall initially try to resolve the dispute through informal discussions. However, if the dispute cannot be resolved through such means, an Inquiry Committee shall be set up by the BMWIL WC Convenor preferably within the next ten working days.
- ✓ The Inquiry Committee thus set up will consist of at least three persons. At least 50% members of this Committee shall be women. The Inquiry Committee will be headed by a woman and/or will have one outside member (preferably a member of NGO).
- ✓ During the pending inquiry, the complainant shall be protected against the accused.

### Procedure for Redressal

- If there is a prima facie case against the accused, the WC may recommend immediate suspension till the person is proved innocent or the issue is settled.
- Efforts must be made to resolve the dispute through counselling.
- Whenever appropriate, the WC will refer the victim (complainant) to a lawyer to lodge a complaint with the concerned police station.
- The victims of sexual harassment should have the option to seek transfer of the perpetrator or her own transfer.
- The WC may submit its report to the Director within eight weeks after the date of receipt of the complaint. In case the inquiry has to be extended beyond this period, the Convenor of the WC shall give the reasons for the delay in writing to the complainant.
- The Director may discuss his/her plan of punitive action against the guilty party with the WC and then implement it within fifteen working days.
- A copy of the Director's order (or an action taken report) of the punitive action to the perpetrator may be given to the complainant/victim.
- The complainant shall have the right to appeal to the Chairperson of the Governing Board if she/he is not satisfied by the action taken by the Director.
- Nothing in these guidelines shall preclude anybody from simultaneously lodging a complaint with the police in respect of any act amounting to an offence under the law.

**PUNITIVE ACTION**

An employee guilty of sexual harassment shall be liable to give a written apology to the victim and dismissal from service.

**CONFIDENTIALITY**

The Company understands that it is difficult for the victim to come forward with a complaint of sexual harassment and recognizes the victim's interest in keeping the matter confidential. To protect the interests of the victim, the accused person and others who may report incidents of sexual harassment, confidentiality will be maintained throughout any investigatory process to the extent practicable and appropriate under the circumstances.

**PROTECTION TO COMPLAINANT / VICTIM**

The Company is committed to ensuring that no employee who brings forward a harassment concern is subject to any form of reprisal. Any reprisal will be subject to disciplinary action. The Company will ensure that victim or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue) will be subject to disciplinary action.

**COMPLAIN AGAINST COMMITTEE MEMBER**

Where it is found, subject to the satisfaction of other members, that a complain has been filed against any of the members of the Committee for the above mentioned charges, then, that accused member shall not have any influence whatsoever in decision making related to that matter. However, the vacuum so created in the Committee shall be filled by the Compliance officer of the Company. However, the selection of the Compliance officer shall be at the sole discretion of the other members of the Committee.

**CONSTITUTION OF THE WOMEN'S CELL/COMMITTEE**

In this regard, a Committee of following three persons has been constituted and all women employees, who have a reason to believe that they have been sexually harassed, may approach the same for redressal of their grievances.

Ms Amisha Rohatgi (Manager - HR, BMWIL) - *Chairperson*  
Mr. Harsh Kumar Bansal (Managing Director, BMWIL) - *Member*  
Ms. Alka Kadel Dutta (Manager – Project Accounts, BMWIL) - *Member*

However, subject to facts and circumstances that may exist in due course, the constitution of the Committee may be revised, subject to a condition that the minimum strength of Women members in the Committees shall not fall below 50% of the total strength of the Committee.

**All sexual harassment cases sister concerns of the Company will initially be referred to BMWIL women Cell/Committee only.**

If complainant is not satisfied with the punitive action taken by the Company, then she is free to go further to civil society.

The policy is issued with the approval of the Board of Directors and subject to amendment and/or revision from time to time as may be necessary. Copy of this Policy will also be hosted on the Company's website and thus will be available thereon for access by all concerned.

On behalf of the Board of Directors



Harsh Kumar Bansal  
Managing Director

Kolkata  
29<sup>th</sup> May, 2015