



# Policy for Prevention, Prohibition & Redressal of Sexual Harassment

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## FORTIS HEALTHCARE LTD

### OBJECTIVE

A significant part of an organization's success is based upon maintaining and developing an environment where its employees can work in a friendly and productive atmosphere. We at Fortis are committed<sup>1</sup> to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment. The purpose of this policy is to promote and encourage respect and dignity for our colleagues and others and to evolve a mechanism for prohibition, prevention and redressal of sexual harassment cases and other acts of gender based violence, thereby upholding the commitment of the company to provide a safe environment free from gender based discrimination.

### SCOPE

This policy applies to all individuals<sup>2</sup> who are employed/ engaged for work in regular, temporary, ad-hoc or daily wages basis, either directly or through an agent including a or

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<sup>1</sup> Code of Conduct Principles

Principle 2: We will respect, obey and assist the law of the land and internal Corporate Policies in letter and in spirit.

Principle 3: We will respect human rights, dignity and legitimate interests of all individuals directly and indirectly associated with us.

Principle 4: We will provide a safe and healthy work and business environment to all persons directly and indirectly associated with us.

<sup>2</sup> Reference to Section 2 (f) of the Act for definition of 'employee'

contractor, with or without the knowledge of the Company, whether for remuneration or not working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes co-worker, a contract worker, probationer, trainee, apprentice at any hospitals/nursing home/business locations/offices of the Fortis Group. This would also include acts as mentioned above committed by patients and their attendants, vendors and other customers against Fortis employees.

It covers sexual harassment committed on, as well as outside the company premises, in which employees/other stake-holders may find themselves in connection with their employment/company services.

This applies equally to relations between superior and subordinates as well as between peers

This is equally applicable to sexual harassment

- Either way between opposite genders
- Between members of the same gender

## DEFINITION

1. 'Sexual Harassment' includes any unwelcome sexually determined behavior, direct or by implication and includes physical contact and advances, a demand or request for sexual favors, sexually coloured remarks, showing pornography or obscene material, any other unwelcome, objectionable or physical, verbal or non-verbal conduct of a sexual nature.
2. In addition to clause 1 above, 'Sexual Harassment' shall mean and include, but is not limited to the following:
  - 2.1. When unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature are made, either explicitly or implicitly.
  - 2.2. When unwelcome sexual advances and verbal, non-verbal, or physical conduct such as loaded comments, remarks or jokes, letters, phone calls, short media services (SMS), multimedia services (MMS) or e-mail, gestures, showing of pornography, lurid stares,

physical contact or molestation, sounds or display of a derogatory nature, have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive environment.

- 2.3. When any form of sexual assault is committed where a person uses, the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against that person's will;
- 2.4. Any conduct of a sexual nature that interferes with work or creates an intimidating or offensive or hostile work environment and/or which could cause health and safety problems to a particular employee; and
- 2.5. When any such conduct as referred to in clauses 2.1 to 2.4 above is committed by a third party, or outsider in relation to an employee of Fortis, or vice versa at the workplace.

The following circumstances, among other circumstances, if it occurs or is present in relation too, or connected with any act or behavior, may amount to sexual harassment<sup>3</sup>:

- Implied or overt promise of preferential treatment in employment; or
- Implied or overt threat of detrimental treatment in employment; or
- Implied or overt threat about present or future employment status; or
- Interferes with work or creating an intimidating or offensive or hostile work environment; or
- Humiliating treatment likely to affect health or safety.

The interpretation of sexual harassment referred above is non – exhaustive and Fortis has the final authority to determine whether or not a particular case amounts to Sexual Harassment.

**Disciplinary Authority** will be as defined in the Consequence Management Policy of the company.

## PROHIBITION & PREVENTION OF SEXUAL HARASSMENT

All individuals to whom this policy is applicable are strictly **Prohibited** from committing an act(s) of sexual harassment.

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<sup>3</sup> Reference to Sec. 2 (n) and Sec. 3 of the Act.

Fortis will take such steps as are reasonable and prudent to ensure:

- the **Maintenance** of a healthy working environment that enables employees to work without fear of prejudice, gender bias and in specific the prevention of sexual harassment at the work place
- the **Prevention** of any kind of further harassment, coercion or intimidation, by way of retaliation for reporting an incident or participating in an investigation or proceeding concerning sexual harassment.
- A timely and appropriate **Response** to reports of sexual harassment and sexual abuse and for administering appropriate disciplinary measures when a violation is found to have occurred as provided by this policy.

Efforts in support of the above objectives may include circulating / displaying the applicable policy and other relevant information to all employees including to all new joiners.

Organizing workshops, trainings and awareness programs at regular intervals for sensitizing the employees with the provisions of the Act and orientation programs for the members of the Internal Committee/s in the manner as may be prescribed.

## CONSTITUTION OF AN INTERNAL COMPLAINTS COMMITTEE

All Hospitals & Offices of Fortis will constitute a unit wise committee to be known as the "Internal Complaints Committee"<sup>4</sup>. The Internal Complaints Committee shall be constituted at all Hospitals & Offices.

The members of the committee will be decided by **Fortis (CPO in Corporate Office / CPO & FD in units)** from time to time. Such members will be nominated for a period not exceeding **three years**. Any replacements will have to be authorized by Fortis (through the **CPO in Corporate Office / CPO & FD in the units**).

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<sup>4</sup> Reference to Sec. 4 of the Act Re. constitution of the ICC.



The Internal Complaints Committee shall consist of five (5) members with the majority of its members being women.

- Not less than two members of the Internal Complaints Committee, shall be amongst employees committed to the cause of woman or who have experience in social work or have legal knowledge
- At least one member shall be an independent party (the “Independent Member”), familiar with the issues relating to sexual harassment, appointed from amongst non-governmental organizations or associations committed to the cause of women who shall be identified and appointed by Fortis upon terms acceptable to such person and Fortis.
- At the hospital, it would be preferable to have a representative of the nursing community as a member of the Internal Complaints Committee.

The order constituting the Internal Complaints Committee along with the names of the persons who are on the Internal Complaints Committee, from time to time, along with their contact telephone numbers and other details shall be made available on the Fortis intranet, or at such conspicuous place in the workplace accessible to all Fortis employees.

The chairperson of the Internal Complaints Committee shall be one of the women members (‘Chairperson’), to be nominated by the members of the Internal Complaints Committee and shall be a senior level employee of Fortis.

**The prime objective of the ICC would be to uphold the Fortis Principles under the Code of Conduct (see sub note page 1) and to ensure an effective intervention and timely handling of the matters falling under this Policy.**

## REDRESSAL PROCEDURES

### Initiation of complaint<sup>5</sup>

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<sup>5</sup> Reference to Sec. 9 of the Act.

- Any employee, who has a complaint of Sexual Harassment (the aggrieved”) in the course of employment with Fortis, shall report the same to any member of the Internal Complaints Committee and / or send a written complaint as early as possible and not later than 3 months from the occurrence of the event along with relevant details except with the specific permission of ICC under recorded reasons. In the event the ICC feels appropriate opportunity may be provided to the aggrieved with a view to understand the exact tonality of the complaint before initiating the disciplinary process. Such complaint shall be received and processed in the strictest of confidence. The person(s) accused of an act of Sexual Harassment shall be referred to as “Respondent”.
- Where the perpetrator is not an employee in the workplace at which the incident of sexual harassment took place and the act of Sexual Harassment amounts to a specific offence under the IPC or under any other applicable law, Fortis shall initiate appropriate action in accordance with law by lodging a complaint with the appropriate authority.
- After receipt of complaint the enquiry shall start latest by seventh day.

### **Processing of Complaint**

- Every complaint received by the Internal Complaints Committee shall be shared with all the members of the Internal Complaints Committee except where the Chairperson feels that the complaint is of minor nature and can be disposed whilst maintaining a record of the same. In all other cases the chairperson shall then proceed to call a meeting of the Internal Complaints Committee. The aggrieved and the respondent shall be heard at this meeting and the Internal Complaints Committee shall record the facts based on such hearing.

In case any member of the Internal Complaints Committee or anyone involved in the investigation of the complaint, has a conflict (as explained infra) for that complaint, he/she shall disclose the same to the Internal Complaints Committee at the first available opportunity not beyond five working days from the date of circulation of the complaint by the chairperson and excuse himself/herself from the Internal Complaints Committee and such conflicted member shall not participate any further in the proceedings in that particular complaint. The Internal Complaints Committee shall write to the senior management for a substitution of such member or a person for the concerned complaint.

Provided further that such member shall continue to be bound by the obligation to retain complete confidentiality with respect to his/her knowledge of the facts of the complaint case.

The person so nominated by the Fortis shall participate in all meetings of that particular complaint and shall have all such powers and responsibilities as referred to under this Policy.

For the sake of clarity, a “conflict”, as referred to herein shall be deemed to have arisen, if the member of the Internal Complaints Committee happens to be the immediate supervisor or directly reports to or is a relative of the aggrieved or the respondent and/or any other person involved for the purpose of providing the case of either side to the complaint.

- In the event the Internal Complaints Committee, on a prima facie appreciation of the facts recorded, finds that there is no act of sexual harassment committed, it may dismiss the complaint after recording its reasons in writing for doing so.
  
- In the event the complaint is against:
  - Any member of the Internal Complaints Committee; or
  - Any relative(s) of any of the members of the Internal Complaints Committee

Then such member shall cease to be a member of the Internal Complaints Committee for the purposes of dealing with that particular complaint. Fortis may nominate a new member for dealing with that particular complaint. The person so nominated shall participate in all meetings.

## CONCILIATION

Notwithstanding anything contained in this policy, the aggrieved may request in writing to the Internal Complaints Committee for conciliation<sup>6</sup> at any stage of proceedings.

Upon receiving such a request, the Internal Complaints Committee, in its sole discretion, shall take steps to settle the dispute between the respondent and the aggrieved in an amicable manner through conciliation. If the dispute is settled through conciliation, the Internal

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<sup>6</sup> Reference to Sec. 10 of the Act.



Complaints Committee shall record the settlement so arrived and forward the same to the parties (aggrieved and respondent) and to Fortis for taking such action as may be specified in the recommendation.

In case, the dispute is not settled through conciliation, the Internal Complaints Committee shall investigate the complaint in a manner as stated in the policy.

## ENQUIRY

- The Internal Complaints Committee shall investigate the complaint and provide its report. The chairperson shall preside over the investigation and shall document all proceedings of the Internal Complaints Committee.
- The minimum quorum of the Internal Complaints committee shall be at least 3 members for conducting the enquiry including the Chairperson.
- The Internal Complaints Committee shall follow the principles of natural justice in all its proceedings and shall as far as possible maintain confidentiality of the identity of the aggrieved, the respondent /s and any witness.
- A copy of the complaint as received by the Internal Complaints Committee shall be given to the respondent. The respondent shall be required to submit a response to the complaint and to indicate whether the accused wishes to examine any witnesses or furnish any evidence. The respondent shall keep all matters, including any document provided as confidential.
- Upon receipt of the respondent's response, the Internal Complaints Committee shall conduct a hearing where both the aggrieved and the respondent shall be heard in person. While the ICC, upon a written application citing cogent reasons, by either the aggrieved or the respondent, might agree to allow a co-worker / colleague from the same office premises to represent the applicant, however, under no circumstances a request to bring in a Counsel / Advocate or any outsider for the purposes of representation of either party, shall be entertained. The Internal Complaints Committee shall notify the respondent and aggrieved (as well as witnesses, if any) of the time and venue of the hearing in advance. The aggrieved and the respondent shall also have the right to lead evidence and to cross-examine witnesses.

- In the event the respondent is not present in person at a hearing of the Internal Complaints Committee, the hearing shall be adjourned to a date not later than three (3) business days from the date of the original hearing. The hearing shall be conducted on such adjourned date irrespective of whether the respondent is present or not. Provided that nothing contained herein shall preclude the Internal Complaints Committee from adjourning such hearing for a longer period subject to recording its reasons for such adjournment.
- All employees shall extend fullest co-operation to the Internal Complaints Committee and any failure to co-operate, or giving wrong or misleading information, or withholding information shall be a violation of this policy and shall be dealt with appropriately by Fortis.
- In the investigation of the complaint the Internal Complaints Committee shall have such powers including to:
  - Summon and ensure the attendance of any person and to examine him under oath
  - Require the production of documents

Fortis will assist in securing the attendance of such respondents and witnesses and in providing such information as may be required by it having regard to the investigation of the complaint.

- Anytime during the enquiry or the investigation, the internal complaints committee may require the respondent not to attend work and /or not to perform all or any of his /her duties of employment, or assign different duties. The respondent shall remain bound by all the duties of employment unless Fortis has released the respondent expressly in writing from any such duties.
- During the pendency of an enquiry on the request of aggrieved employee, the Internal Complaints Committee may recommend to Fortis for:
  - Transfer of the aggrieved employee to any other workplace
  - Grant leave upto a period of three months if the aggrieved employee is a woman. The leave granted shall be in addition to the leave she is otherwise entitled for
  - Grant such other relief to the aggrieved woman as may be prescribed.



An aggrieved may withdraw a case filed before the Committee any time after filing and during the process of the investigation. In such a case the aggrieved shall state in writing the reasons for withdrawal of the complaint and append his/her signature to the statement.

The enquiry shall be completed within a period of 60<sup>7</sup> days. In case it cannot be done, extension for increasing the time period should be sought from Fortis by giving specific reasons.

On the completion of the enquiry, the Internal Complaints Committee shall provide a written report of its findings to Fortis and parties within 10 days from the completion of the enquiry.

The Report shall include a summary of the proceedings and the evidence adduced by the parties (the "Report"). All members of the Internal Complaints Committee shall sign the said report. In case all members of the Internal Complaints Committee are unavailable or do not sign the report, the remaining members shall be authorized to do the same and make a note therein about the members who have been unable to sign the report. When the Committee arrives at a conclusion that allegations against the respondent have not been proved, it shall recommend that no action is required to be taken in the matter.

When the Committee arrives at a conclusion that allegations against the respondent have been proved, it shall recommend to the employer to take such appropriate action/s for sexual harassment, as may be appropriate in a matter in accordance with the provisions of the Consequence Management Policy of the Company. The disciplinary authority will act on the report of the Internal Complaints Committee within 30<sup>8</sup> days of its receipt.

#### **False or Malicious Complaints and False Evidence**

When the Committee concludes that the allegations are false and malicious, it can recommend to Fortis to take action against the aggrieved for making such a complaint.

When the Committee concludes that witness has given false evidence, or produced forged or misleading documents, it can recommend to Fortis for taking action against such witness employee.

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<sup>7</sup> Reference to Sec. 11 (4) of the Act. A shorter period has been recommended within Fortis.

<sup>8</sup> Reference Sec. 13(4) of the Act. A shorter period has been recommended for Fortis.



However, the mere inability to substantiate a complaint or provide adequate proof would not be deemed adequate to attract action against the aggrieved complainant. Malicious intent or falsehood shall need to be established by enquiry before action is recommended.

## CONFIDENTIALITY AND PROTECTION AGAINST VICTIMIZATION

Fortis recognizes that confidentiality<sup>9</sup> of all matters relating to alleged acts of Sexual Harassment is of paramount importance. The Internal Complaints Committee and other individuals responsible for the implementation of the policy will respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible.

Fortis shall ensure that a complainant and /or a witness and /or an aggrieved shall not be subject to any unfavorable treatment whatsoever as a result of their participation in such proceedings and shall maintain confidentiality at all times.

## SUBMISSION OF ANNUAL REPORT

The Committee shall in each calendar year prepare an annual report<sup>10</sup> and submit the same to Fortis and the District Officer in the prescribed format.

Fortis shall include details of cases filed, if any, and their disposal in the Annual Report of the organization<sup>11</sup>.

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<sup>9</sup> Reference to Sec. 16 of the Act.

<sup>10</sup> Reference to Sec. 21 of the Act.

<sup>11</sup> Reference to Sec. 22 of the Act.