

Alliance Francaise de Jaipur

Policy on Protection of Children from Sexual Offences (POCSO)

POCSO Policy	Version: 1	No: HR/ POCSO/ 2015/001
Supersedes: Nil	Approved on:	Approved by:

Introduction

Alliance Francaise de Jaipur (hereafter referred to as AF Jaipur) recognizes children as change agents and strives to work towards providing an environment where all children are able to grow, develop to their full potential and contribute to the society as productive citizens.

AF- Jaipur aspires to promote the best interests of children in all its endeavors. Recognizing children as equal citizens and being cognizant of their vulnerable position, AF- Jaipur strives towards fostering a child sensitive culture in its work place and as well as with the people and communities it engages with. AF- Jaipur strictly observes an organization wide child protection policy.

AF- Jaipur is aware that the primary legislative framework guiding child protection in India is comprised of the Juvenile Justice (Care and Protection of Children) Act [JJ Act], 2015 and the Protection of Children from Sexual Offences [POCSO] Act, 2012 and these cast certain legal obligations on individuals, groups and organizations like AF- Jaipur

It is in this light AF- Jaipur has formulated its **Policy on Protection of Children from Sexual Offences (POCSO)** which seeks to protect and safeguard all persons below the age of 18 years who are students at AF- Jaipur or service seekers of AF- Jaipur. While forming the policy cognizance has been taken of Section 75 of the JJ Act and the POCSO Act of 2012

The policy seeks to:

- Create a physically, mentally, psychologically and technologically safe environment for children who are the beneficiaries of the services of AF-

Jaipur

- Eliminate harm to children arising from its infrastructure, superstructure, constituent personnel, procedures, work-style as well as insensitivities, or lack of knowledge and skills on the part of all those who are responsible to directly interact with the children or indirectly affect their well-being and safety.
- Making adequately and repeatedly known to the concerned staff and adult students the need to protect children from specific contents of different forms of media including virtual media, which could potentially harm the children by publicizing the facial and other identity of the child.
- Institute procedures that prevent, identify/detect, report, facilitate early and fearless reporting, investigate into, and take corrective action against incidences of child assault/ maltreatment/ exploitation be it physical, sexual or in any other form.
- Interface with external agencies & service providers: Take adequate care to ensure that the background of the children associated with AF- Jaipur is not used to discriminate against them or to deny justice and lawful protection to them, when they come in contact with external agencies and service providers.
- Encourage child participation wherever possible and appropriate.
- Periodically monitor Child protection policies and procedures.
- Promote the best interests of children at all times. In case of any lawful conflict of interest between the staff, visiting professionals, visitors, volunteers, contractors, suppliers etc and children; the interest of the organization will be committed to protect the best interests of the children.

Various standard operating procedures (SOPs), specific protocols and guidelines as defined hereafter are to be referred to by all staff, adult students, visiting professional/experts, members, volunteers, contractors, suppliers, and other visitors. The Director will ensure that the various SOPs, protocols and guidelines are made available to all staff members and adult students for reference vis-à-vis practicing the child protection policy.

Any care giving and supervisory staff that may come in contact with the children is to be adequately informed and oriented with respect to their responsibilities vis-à-vis the protection of the children.

Guiding Principles

The following principles shall guide AF- Jaipur and its work, decision-making and interactions with children:

Principle of Dignity and Worth	Children are human beings and autonomous right-holders who shall be treated with the same dignity, respect and worth accorded to adults.
Principle of Best Interest	All decisions regarding a child shall be guided by the principle of best interest of the child. This shall be the primary consideration during decision-making pertaining to children, and guiding questions shall be whether the decision can help the child fulfill his/her rights and needs or, the decision does not result in violation or denial of other basic rights.
Principle of Safety	All measures shall be taken to ensure that children are safe, and are not subjected to any harm, abuse or maltreatment in all settings while in contact with the AF- Jaipur or its employees/ adult students/ visitors/ service providers/ members/ part time teachers etc
Principle of Participation	Every child shall have the right to be heard and to participate in matters affecting/impacting their life. AF- Jaipur recognizes the importance of putting in place mechanisms and processes in line with this principle. Children's views shall be given due consideration in accordance with their age, maturity and evolving capacities.
Principle of Equality, Non Discrimination and Non Stigmatization	All children shall be treated equally and there shall be no discrimination or stigmatization against any child on grounds of sex, caste, religion and ethnicity, place of birth or disability. AF- Jaipur through its activities shall ensure that all children receive equal opportunities and are able to access the same without barriers that hinder such opportunities.
Confidentiality	Children's right to privacy and confidentiality shall be protected in cases of abuse and in accordance with law.

Child centered planning and implementation	Planning and implementation of programmes for children and this policy shall be guided by a child centered approach and strategies.
Good governance, accountability and responsibility	An efficient and effective child protection system requires transparent management and decision making, accountable and responsible individual and institutions. Placing this in public domain is one such measure.

Applicability and Scope of the Policy

This policy extends to all children whether studying with AF- Jaipur or involved in its activities or otherwise reported to have been abused at any of the location of AF- Jaipur as may exist from time to time

In matters involving employees, professionals, adult students, visiting professional/experts, members, volunteers, contractors, suppliers, and other visitors of AF- Jaipur in the work locations directly under the supervision and control of AF- Jaipur, the direct obligation shall lie with AF- Jaipur

Varied obligations are laid down for all staff members, adult students, part time teachers, professionals, consultants, interns, volunteers, service providers, contractors, and visitors. The policy seeks to cover their interactions with children in the course of carrying out their duties/responsibilities, whether at AF- Jaipur's locations or at any other location from where the work of the AF- Jaipur is being carried out, including external locations used by children associated with the AF- Jaipur's activities.

While the protective scope of the POCSO Act, 2012 casts a responsibility on every individual to report sexual offences against children, and failure to do so will be every individual's responsibility, AF- Jaipur takes upon itself the responsibility to spread awareness in this regard among all its staff members, adult students, professionals, part time teachers, consultants, interns, volunteers, service providers, contractors, and visitors.

All staff members and adult students of AF- Jaipur are required to fill the 'Form for Code of Conduct on Child Protection' and 'Self Disclosure Form' as furnished in Enclosures 1 and 2 along with this policy

Definitions:

- **Child** means any person below the age of 18 years. This is to strictly include even those children who are 17 years 11 months and 29 days old.
- **Children with Disabilities include** children with physical or intellectual disabilities or both, requiring special support and services.
- **Vulnerable Children means** children facing social, economic, physical, psychological, and intellectual and such other barriers that impede their holistic growth and development as also their safety and security, and includes, but is not limited to the following:

- ✓ Girl children in all situations
- ✓ Children of non male-non female gender
- ✓ Children with physical and/or intellectual disabilities (particularly girls with physical disabilities from marginalized communities)
- ✓ Children coming from troubled homes/families or disturbed areas.

This is not an exhaustive list. Children can have specific individual vulnerabilities that are not included above.

- **Child Rights** means the rights of any person below the age of eighteen years of age as recognized in the Constitution of India.
- **Child Abuse** means all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power. A Glossary of terms that would help understand child abuse in detail is appended as Appendix 1.
- **Child Protection Violation** means any action or inaction that amounts to a violation of this policy.
- **Child-sensitive** means any behavior, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child.

- **Aggrieved child** means any person below the age of eighteen years who has faced or is under threat of ‘child abuse’ as defined in this policy and who is –
 - ✓ Associated with AF- Jaipur and its programmes carried out directly or through its implementing partners
 - ✓ Visiting the premises of AF- Jaipur or its implementing partners for their programmes.

- **Complainant** refers to an aggrieved child or a person acting on behalf of an aggrieved child, or a person having knowledge of an incident of child abuse as defined in this policy and who is willing to file a complaint with the Child Protection Focal Person (CPFP- defined hereafter) nominated under this policy.
- **Child Protection Focal Person (CPFP)**- a designated official in all offices of AF- Jaipur, for receiving reports and filing a formal complaint
- **Child Protection Committee (CPC)** - A committee at the Head office for receiving formal complaints, initiating and concluding inquiries with appropriate findings and recommendations for action.
- **Internal Task Force (ITF)** – A committee for conducting an inquiry instituted by the CPC in the location from where an incident is reported.

- **Best Interests of the Child** means ensuring children the full and effective enjoyment of their rights; respecting their human dignity and their right to express themselves freely and be heard in matters concerning and affecting them; and ensuring procedural guarantees and safeguards while arriving at decisions concerning them, keeping in mind their individual characteristics and circumstances, evolving capacities, physical, emotional, cognitive and social development.

- **Accused** refers to the person against whom the aggrieved child or person acting on behalf of the aggrieved child has made a complaint under this policy, and where the accused is a minor, shall include the representative of such minor.

- **Abetment:** Any person is said to abet child abuse as defined in this

policy if they:

- ✓ instigate child abuse by willful misrepresentation, or willful concealment of a material fact which a person is bound to disclose, or voluntarily cause or try to cause such a violation
 - ✓ conspire through an agreement to cause child abuse, and their act or omission results in the violation agreed upon
 - ✓ intentionally aid child abuse by doing an act which facilitates the commission of such violation, including receiving, harboring, employing, transporting a child by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position, abuse of vulnerability of the child or giving or receiving of payments or benefits.
- **Employee** : “ A person employed at any workplace on full time, part time, regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied, and includes a co-worker, a contract worker, professional, probationer, trainee, apprentice, intern, volunteer or called by any other such name”
 - **Student**: A person enrolled with AF- Jaipur for perusing any course which may be full time, part time, or through distance learning.
 - **Employer/ Management** -Person responsible for managing, supervising and controlling the workplace including but not restricted to the Director or officials as may be designated from time to time.
 - **Support person** is a person other than a legal practitioner or a witness, who provides assistance, emotional support and reassurance to the aggrieved child and is trusted by or acceptable to the child. A support person can include an adult person from the child’s family/school/training center/academy, or a person with expertise in social work/psychology/gender/child rights/human rights, enlisted by AF- Jaipur to provide such assistance.
 - **Workplace**: In addition to AF- Jaipur premises it shall also include any place where the aggrieved person or the respondent visits in connection with their work or studies, during the course of and/or arising out of employment/ contract/ studies

Preventive Measures

AF- Jaipur shall undertake various non-negotiable preventive measures for protecting and safeguarding children studying at AF- Jaipur, associated with it for activities or visiting its work locations.

Staff Recruitment / Admission of Adult Students

Services for children at all levels shall be carried out by skilled and professional staff, adhering to an ethical and professional code of conduct.

AF- Jaipur shall undertake certain non-negotiable child safeguarding measures while appointing new staff as well as at the time of admitting new adult students and orienting them on this policy. These would include, but are not limited to:

- ✓ Ensuring that every person under an employment / service contract/ professional/ adult student with AF- Jaipur, submits a self-declaration /affidavit stating that the person does not hold any criminal record
- ✓ Seeking reference from previous employer/ relevant academic institute while considering the candidate for appointment/admission for staff and students respectively.
- ✓ Signing the POCSO Policy of AF- Jaipur in acceptance of having gone through it and having accepted to adhere to the same.
- ✓ Staff and adult students who disclose that they have been convicted of any offence relating to children and young people; and/or disciplinary action or sanction relating to children; and/or other offences, will not be permitted to work or study in AF- Jaipur

Training and Sensitization

To ensure compliance to AF- Jaipur's POCSO Policy, sensitization trainings shall be conducted for staff members, professionals, students and others associated with AF- Jaipur at least once a year

Orientation on the POCSO Policy for all new adult students/ new recruits/ newly hired professionals shall be held at the earliest and no later than 3 months from the date of joining.

Written records shall be maintained of the orientation sessions and trainings held and attended by all employees, students as well as those organized by AF- Jaipur for society at large

The aim and objective of such trainings will be to -

- ✓ Strengthen capacity of all staff, professionals and adult students of AF- Jaipur to help them safeguard and manage this POCSO Policy and strengthen its implementation
- ✓ Strengthen their insights about what constitutes child abuse and child protection, violation, how to identify signs of abuse and reporting abuse
- ✓ Build their capacities on crisis management and dealing with emergencies
- ✓ Deepen their perspective about laws and regulations, particularly those aimed at eliminating corporal punishment, guidelines for recording of evidence of vulnerable persons in criminal matters, the POCSO Act, 2012 and the JJ Act, 2015
- ✓ Help them understand and internalize their responsibilities towards children, conduct and procedures to be followed to ensure child protection.

Infrastructural Compliances

Premises used by children are mandated to meet certain infrastructural compliances, which may include, but are not limited to the following:

- ✓ Installation of Suggestion and Complaint Boxes for children in the workspace
- ✓ Installation of CCTV cameras in all conspicuous places where frequent interface between children, staff, adult students and visitors takes place, provided that the CCTV camera installation does not undermine the right to privacy, dignity and self- respect of the child.
- ✓ Medical facilities with basic first aid.
- ✓ Fire extinguishers at the workspace as per a needs assessment carried out in this regard.
- ✓ Separate washrooms for girls and boys.
- ✓ Special washrooms for children with disabilities, keeping in mind age and gender segregation, if the infrastructure permits
- ✓ Special aids and appliances for children with disabilities which facilitate and promote their safety and security.
- ✓ Well-lit corridors/bathrooms and halls.
- ✓ Provisions for a phone with direct line to 1098 installed in a manner that makes it easy to use by children of varied age groups, including children with disabilities.

Awareness Generation

AF- Jaipur takes upon itself the critical role of spreading awareness on child protection issues, existing laws and obligations of its employees, adult students and society at large under this policy.

It shall undertake measures to spread such awareness directly as also through the mechanisms it has created under this policy for dealing with child abuse.

AF- Jaipur also expects all employees, professionals and adult students to promote such awareness through their actions and various platforms they

can use while carrying out their work.

Some of the measures that AF- Jaipur shall undertake include -

- ✓ Display information, on notice boards and prominent areas like canteen, highlighting various aspects of this policy, the Do's and Don'ts and rules for employees, adult students and visitors.
- ✓ Pictorial Display of what constitutes child abuse
- ✓ Dissemination of materials for use of children in a language and medium of communication used and understood by them;
- ✓ Dissemination of information regarding CPFs and CPCs, their location, names of members with contact details.
- ✓ Use events organized by AF- Jaipur to disseminate information regarding this policy.

Communication Standards

Communication and messaging is what brings recognition to AF- Jaipur's commitment to child protection and hence shall be guided by the following standards:

- ✓ All media content and publicity materials of AF- Jaipur involving children, rests on the values of respect and equality, preserving the dignity of children and protecting their identity.
- ✓ Children are portrayed as multi-faceted individuals with a diverse range of potentials.
- ✓ Reducing children to a victim or other stereotypical role is avoided.
- ✓ Before creating media or publicity content, all the affected children are informed in an easy to understand way of its intended purpose and use.

- ✓ Stating the child's name in public platforms/ social media should have consent of the child and his or her parent(s) or guardian(s). Publication must always conform to child protection principles and standards

Children's Participation

AF- Jaipur encourages all its staff members to constitute a Children's Committee in order to enlist their participation in matters affecting their life.

This Committee shall be re-constituted every session/ as deemed fit by the Director in a manner that maximum children find an opportunity to participate in the committee on a rotational basis.

An in charge staff member should facilitate the setting up of such Committees and encourage children to develop their own rules of procedure.

Minutes of the meetings of such Committees must be maintained by children and annual or performance reports of programmes involving children must contain a section on Children's Committees and their work.

Risk Assessment

In order to ensure total safety, all activities with children shall be well planned to minimize the scope for risks.

Staff members dealing with children are encouraged to develop some risk assessment tools or a checklist to be followed. Risk assessments checklist may cover some of the following situations:

- ✓ Risk assessment when an activity requires children to stay in contact with the staff beyond the hours meant for the classes
- ✓ Risk assessment regarding group dynamics, when children of different age groups or gender, or socio-cultural and economic background are together as a group, addressing issues such as size of group, duration of group activity, seating arrangement, comfort levels, etc
- ✓ Risk assessment for programmes involving adolescent girls and boys;
- ✓ Risk assessment for programmes involving

children with intersectional disabilities (disability intersectionality) - for example, girls who come from backward castes/classes with physical disabilities;

- ✓ Risk assessment when children and youth are expected to perform before an audience or take part in cultural programmes, games, competitions and other events;
- ✓ Risk assessments when children and youth are to be photographed or filmed
- ✓ Risk assessment with respect to curriculum and content, keeping in mind age appropriateness, cultural sensitivity, contextual relevance, and messaging
- ✓ Technology related risk assessments if children are required to use mobiles and internet for some activity.

Rules for Requisite Permissions and Consent

Requisite permissions shall be taken from the parent(s)/guardian(s) in the following situations –

- ✓ For photographing or video-graphing children and using their photographs or videos, even if such use is for giving them public recognition for their achievements
- ✓ Children's participation in activities that involves their movement outside of the premises for the courses provided by AF- Jaipur
- ✓ It must be ascertained that all pictures, recordings or interviews are carried out in presence of staff members by trained professional(s), who is/are also required to sign a copy of this policy before undertaking the assignment.
- ✓ Hard copies of the consent form shall be retained in office along with the list of child participants and produced for verification as and when required. (Sample copies of consent forms are furnished in Enclosure 4 and 5)

Mitigation Measures

In striving towards creating a culture of zero tolerance for child abuse AF- Jaipur shall take every possible measure to encourage its employees, professionals, adult students, children and their communities to report abuse.

Necessary measures will also be taken to address suspected and known cases of child abuse brought to the AF- Jaipur's knowledge without delay.

Ignorance or lack of knowledge with respect to a suspected or known case of child abuse covered under this policy shall not preclude AF- Jaipur from the mandate and obligations of the present policy and absolve it of all responsibilities arising therefrom.

In case of medical emergency:

- ✓ The child must be provided first aid and/or accompanied to the nearest dispensary or hospital depending on the seriousness of the injury.
- ✓ The staff must intimate the Academic/ Course Coordinator who in turn shall inform the Director.
- ✓ Immediate communication must be established with parent(s)/guardian(s) or family members of the child and all details shared with them.
- ✓ The child must be dropped back home after treatment.
- ✓ Regular follow up should be done by the concerned staff member.
- ✓ The responsible staff shall be required to furnish a written report on the safety of children at the end of the event.

General Crisis Management

Strict care shall be taken to ensure safety and security of children. In case of any emergency or mishap immediate measures shall be taken following the principle of best interest of the child.

All staff members must be made aware of a list of the following authorities, institutions and individuals to be approached in the event of an emergency to ensure immediate care, treatment and protection for children:

- ✓ Nearby Hospitals
- ✓ Police stations, particularly the Special Juvenile Police Units

- ✓ Local Child Help Organizations
- ✓ CPCs set up under this policy
- ✓ Director and Academic Coordinator of AF- Jaipur
- ✓ Children Welfare Bodies/ Committees
- ✓ NGOs working for the cause of children
- ✓ District Magistrate /Collector

In the event of an incident of child abuse

The Policy casts an obligation on all staff members, professionals and adult students who have an apprehension or knowledge that a child protection violation or child abuse has been committed, to report the same quickly and swiftly and seek redressal as per the mechanisms and procedures established under this policy.

A child may disclose an incident of abuse or maltreatment to an employee, adult student or to the Child Protection Focal Person (CPFP) nominated under this policy. Such persons must ensure that they show support to the child throughout the disclosure phase.

The following do's and Don'ts should be kept in mind during a child's disclosure:

- ✓ Listen to what is being said without displaying shock or disbelief or being judgmental.
- ✓ Acknowledge how difficult it must have been to talk and reassure the child that they did nothing wrong and that whatever is shared by the child is being taken seriously.
- ✓ Let the child know that it is important to share the information with some people who need to know in order to find her/him necessary protection and relief, but do not ask the child to repeat what they have told you to another member of staff, unless absolutely necessary.
- ✓ Do not interrogate or investigate the child.
- ✓ Let the child explain in his or her own words what happened.
- ✓ Do not ask leading questions; instead ask if there is anything more that the child would like to tell and is perhaps missing out.

- ✓ Use a language of communication that is appropriate to their age, understanding and preference. This is especially important for children with disabilities and for children whose preferred language is not the language of the person they are communicating with. In such cases, it is imperative that such person takes such child to any person or teacher in a position to talk to such child.
- ✓ It is important that all incidents of child abuse are brought before the CPC without delay.

Reporting Requirements -

All reports of a suspected or known case of child abuse or threat of abuse to a child shall be made to the concerned CPFNP nominated under this policy.

If the abuse amounts to an offence under the POCSO Act, 2012, (Furnished in Appendix 2) it must be reported directly to the nearest Police Station or Special Juvenile Police Unit, along with a report to the concerned CPFNP.

Any of the following can report an incident of suspected or known abuse under this policy:

- ✓ The aggrieved child or her or his parent(s)/guardian(s) may directly report;
- ✓ An employee who suspects/has an apprehension or knowledge that a child has been abused or is under threat of abuse has an obligation to report;
- ✓ A report may be made in good faith by a visitor having knowledge of a case of child abuse.

A report may be made orally or in writing. It is the duty of the CPFNP to reduce all oral reports into writing as told by the person making such report, read them out to the person making such report and obtain their signature.

Where the person making a report to the CPFNP requests anonymity, the same shall be maintained, but no such report shall be converted into a formal complaint unless the concerned CPFNP has personally interacted with the concerned child, obtained the child's version and consent of such child's parent(s)/guardian(s) to proceed with a formal complaint as per the procedure laid down under this policy.

Redressal Mechanism

AF- Jaipur shall establish the following redressal mechanism

- ✓ Establish Redressal Committees:
 - Child Protection Focal Person (CPFP) in all offices for receiving reports and filing a formal complaint.
 - Child Protection Committee (CPC) in the head office for receiving formal complaints, initiating and concluding inquiries with appropriate findings and recommendations for action.
 - Internal Task Force (ITF) for conducting an inquiry instituted by the CPC in the location from where an incident is reported.
- ✓ In the event of a complaint against any CPFP or member of the CPC, a complaint shall be made directly to the Director for necessary action, following due process and principles of natural justice.
- ✓ Complaint against a Member of the ITF shall be made to the CPC for necessary inquiry and action in accordance with due process and principles of natural justice.

Formal Complaint

Upon receiving a report of an incident of child abuse or disclosure by a child, a formal complaint shall be filed by the concerned CPFP with the CPC constituted under this policy, stating the facts and circumstances of the case, the child's version and consent of the child's parent(s)/guardian(s) to proceed with a formal complaint under this policy;

Provided that in a case amounting to an offence under the POCSO Act, 2012, the consent of the child's parent(s)/guardian(s) is immaterial;

The child's version shall be recorded or obtained in writing, as far as possible

- ✓ In child's own words and in the language of communication used by the child.

Provided that where the child's version is recorded by the

CPFP, the same shall be read out to the child and her or his parent(s)/guardian(s) or an accompanying adult trusted by the child, and signature of such parent(s)/guardian(s) or trusted adult obtained on the recorded version.

- ✓ While recording the child's version, where necessary, special assistance and use of translators and interpreters may be taken by the CPFP, particularly in the case of children with disabilities and a separate written report from such expert shall also form part of the formal complaint.
- ✓ Where it is not a case of offence under the POCSO Act, 2012, and the parent(s)/guardian(s) of the aggrieved child refuse to file a formal complaint under this policy, a written refusal shall be obtained from such parent(s)/guardian(s), clearly stating that they take the sole responsibility for any criminal action that may lie against them for non-compliance with existing laws for the time being in force.

Provided that the importance and consequences of non-reporting and provisions regarding abetment are explained to such parent(s)/guardian(s) and the fact of explaining and informing the parent(s)/guardian(s) forms part of the signed refusal letter obtained from them.

- ✓ The discretion to proceed with a formal complaint in the absence of the consent of parent(s)/guardian(s) or on request for anonymity by the person reporting the incident, shall lie with the CPFP, who shall be guided by the principle of best interest of the child at all times and record reasons for not making a formal complaint in writing.
- ✓ In the event of deciding on not to proceed with a formal complaint, the CPFP shall prepare a closure report stating the information received and steps taken to ascertain such information from the concerned child, and attach a signed copy of the refusal of parent(s)/guardian(s) to proceed with the matter, and send such closure report to the CPC constituted under this policy.

Any Member of the CPC constituted under this policy may also take suo moto cognizance of a suspected case of child abuse brought to their knowledge, provided that a preliminary report is called for from the concerned CPFPP containing the child's version, vulnerability of the child and consent of the child's parent(s)/guardian(s) to proceed with a formal complaint, before initiating further action.

Child Protection Focal Persons (CPFPP)

Nomination

- ✓ A CPFPP shall be nominated by the Director in every office AF-Jaipur is operating from

Criteria for Nomination

- ✓ A CPFPP shall be a woman employee who is committed to the cause of children and with experience in social work, or psychology, or sociology, or having legal knowledge.

Tenure and Term

- ✓ A CPFPP shall have a tenure of three years, which shall constitute one term.
- ✓ No CPFPP shall be nominated for two consecutive terms.

Removal and Grounds for Disqualification

A CPFPP shall be removed by AF- Jaipur from such position on one or more of the following grounds:

- ✓ Acting in contravention of the Policy or the mandated legal provisions
- ✓ Has been convicted or is being tried for an offence under any law for the time being in force
- ✓ Has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against them
- ✓ Has abused their position as to render their continuance in office prejudicial to the objects of the present policy and public interest;
- ✓ Has more than three complaints against her/him pertaining to her/his role and functioning as the CPFPP;

Roles and Responsibilities

A CFPF shall be responsible for the following

- ✓ Receiving a report of child abuse and filing a formal complaint in that regard with the CPC constituted under this policy and as per the procedure for formal complaint laid down under this policy;
- ✓ Preparing a list of agencies, organizations and individuals providing different kinds of referral and support services with a background check on their credibility, and seeking approval from the Director for using their services;
- ✓ Ensuring relief and crisis management at any stage of the matter, on its own assessment of circumstances of the child, or on a request from the ITF, or a direction from the CPC, till the matter is concluded and even thereafter. This shall include counseling, medical assistance, reasonable assistance to the person for purposes of filing a written complaint, referral to agencies approved by the AF- Jaipur for various support services, as may be required by the child;
- ✓ Making information about enlisted and approved agencies, organizations and individuals available to children at locations under the jurisdiction of a CFPF;
- ✓ Ensuring that such a list is displayed in all prominent places in the office locations under the jurisdiction of a CFPF
- ✓ Following the code of conduct and other policy standards and guidelines.

Constitution of Child Protection Committee (CPC)

The Director shall constitute a Child Protection Committee (CPC) at its head office to receive all formal complaints, institute and conclude an inquiry and make recommendations to the Director for action against the accused, where such accused is found guilty of having committed an act of child abuse as defined under this policy.

A person designated as the “Secretary” shall be provided by the Director to the CPC for secretarial assistance required to organize the meetings of the CPC, send and receive all official communication, prepare necessary reports for and on behalf of the CPC and document the meetings of the CPC.

The structure and functions of the CPC are as follows:

Composition of the CPC

- ✓ The CPC shall consist of one presiding officer (CPO), preferably a woman employee who has experience in child-rights or issues relating to children.
- ✓ Four members of whom at least one should be a woman and another an expert on matters related to children

Tenure and Term of Members of the CPC

- ✓ The tenure of CPC members (including the Presiding Officer-CPO) shall not be more than three years, which shall constitute one term.
- ✓ A Member of CPC may be nominated for two consecutive terms, unless disqualified for re-nomination on grounds of removal for CPC Members laid down under this policy.

Disqualification and Removal of Members of the CPC

A Member of the CPC shall be removed by AF- Jaipur from such position on one or more of the following grounds:

- ✓ Contravention of the Policy or the mandated legal provisions;
- ✓ Has been convicted or is being tried for an offence under any law for the time being in force
- ✓ Has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against her/him
- ✓ Has abused her/his positions as to render her/his continuance in office prejudicial to the objects of the present policy and public interest
- ✓ Has more than three complaints against her/him pertaining to her/his role and functioning as a member of the CPC.

Functions of the CPC

- ✓ Receive formal complaints from the CPFPP pertaining to any form of child abuse as defined under this policy;

- ✓ Take suo moto cognizance of incidents of child abuse brought to the notice of the Committee;
- ✓ Conduct investigations and enquiry and make reports thereof
- ✓ Report all complaints pertaining to an offence under the POCSO Act, 2012 to the nearest Special Juvenile Police Unit/ Police Station, without delay and within 24 hours as mandated in law;
- ✓ Child Protection Officer (CPO) will administer a questionnaire (Enclosure-3) to all existing AF- Jaipur's employees (full time and part time or any other nature) and adult students once in a month and maintain records thereof.
- ✓ Make recommendations to the Director to initiate action as per service rules against an accused.

Constitution of the Internal Task Force (ITF)

On receipt of a formal complaint of child abuse under this policy, the CPC shall immediately constitute an Internal Task Force (ITF) to inquire into the alleged incident.

Whenever an ITF is constituted to inquire into a complaint, the Director shall make arrangements for ensuring secretarial assistance to the ITF for organizing its meetings and proceedings, venue and other logistics for the meetings, sending and receiving all official communication on behalf of the ITF, documenting its proceedings and preparing reports.

The ITF shall comprise of at least three members as follows:

- ✓ A woman employee of AF- Jaipur nominated as the Presiding Officer,
 - Provided that such woman employee shall be a person employed in the location from where the incident is reported,
 - Provided further that, the reported incident does not allege involvement of such woman employee in any manner whatsoever
- ✓ An employee directly working with children in any location;
- ✓ An external member from an NGO or an academic institution with experience in child rights, or social work, or psychology, or having knowledge of law.

Inquiry by the Internal Task Force (ITF)

- ✓ The ITF shall complete its inquiry into a complaint and submit the inquiry report to the CPC within sixty (60) working days from the date of receipt of a copy of the formal complaint from the CPC, along with necessary documents in support thereof.
- ✓ To initiate the inquiry, the ITF shall convene a meeting as soon as it receives a formal complaint from the CPC, but not later than seven working days.
- ✓ The ITF shall peruse the complaint and plan its inquiry process accordingly.
- ✓ The ITF shall, within seven working days of having convened its first meeting pertaining to the complaint, interact with the child separately to record the child's version of the alleged incident, make an assessment of any immediate support required by the child, including protection needs, explain to the child and parent(s)/guardian(s) the process of inquiry to be followed as well as the possible remedies, and seek additional supporting material as well as list of witnesses, if any.
- ✓ The interaction with the child shall be at a place and time convenient to the child.
- ✓ During all its interactions with the child, it is imperative for the ITF members to demonstrate sensitivity and receptivity, and understand the child's predicament.
- ✓ If any emergency support is required, the ITF shall immediately arrange for the same through the CPFP concerned.
- ✓ In case of children with disabilities, the ITF must be even more careful and sensitive to ensure that the process is comfortable and accessible for such child. In such cases, the ITF shall, through the CPFP, provide a special support person for the child who will take care of all emotional and psychological needs of the child and also function as an interpreter for the purpose of inquiry.
- ✓ A support person of child's choice as defined under this policy, shall be made available to the child during the process of inquiry.
- ✓ Where a child is unable to present their case and is found to be incompetent to be subjected to the process of inquiry, the child may be allowed representation through her/his parent(s)/guardian(s) or an adult trusted by the child, including the support person provided to the child.
- ✓ The ITF shall convene its second meeting soon after its first interaction with the child and no later than two working days

thereafter to decide on the witnesses that may be called, and seek help of the child's support person to collect the address and contact details of such witnesses.

- ✓ The nature of allegations shall be communicated by the ITF in writing to the accused within seven (7) working days of its interaction with the child, along with a copy of the formal complaint received from the CPC, seeking from the accused a written reply along with supporting material and list of witnesses, if any, and their contact details.
- ✓ Where the allegation is against another child, such child shall also be provided the services of a support person of their choice and may be allowed to present her/his case through her/his parent(s)/guardian(s) or an adult trusted by the child, including the support person provided to such child.
- ✓ A copy of the written reply submitted by the accused shall be given to the child through her/his parent(s)/guardian(s) or support person.
- ✓ A date and place for hearing both parties and their witnesses in person shall be communicated to them in writing along with the procedure that will be followed by the ITF, the rights and responsibilities of both parties and the rules they ought to follow.
- ✓ Both parties and their witnesses, if any, shall be given equal opportunity to be heard and to present their case, provided that in no circumstance shall the child have to face direct questioning by the accused or come face-to-face with the accused, and the ITF shall have the right to disallow questions that it may find irrelevant or undesirable.
- ✓ No facts or questions casting aspersions on the child's character or suggesting child's consent shall be allowed by the ITF.
- ✓ Identification of the accused by the child shall be carried out in such a manner that the child is able to see the accused but the accused cannot see the child, and the child does not feel intimidated.
- ✓ The ITF will not be precluded from taking cognizance of any new fact, or evidence which may arise during the pendency of the inquiry proceedings.
- ✓ The ITF may call any person to appear as a witness, if in the opinion it is so required for the purpose of the inquiry.
- ✓ The ITF may call for any documents pertaining to the complaint, which it may consider to be relevant, including any earlier complaint that may have been filed against the accused.
- ✓ Opportunity to produce any additional material or statement of any witness, which could not be submitted earlier, may be allowed to either party within such extended time as the ITF deems appropriate.

- ✓ The ITF must maintain and ensure complete confidentiality and privacy of the child throughout the inquiry.
- ✓ The ITF shall have the right to terminate the inquiry proceedings or give an ex-parte decision if the child or the accused fail, without sufficient cause, to present themselves for three consecutive hearings convened by the ITF.
- ✓ No termination or ex-parte decision shall take place without giving a notice in writing, at least fifteen (15) days in advance to the party concerned.
- ✓ Upon completion of inquiry, the ITF shall provide the inquiry report based on its findings, including all material and evidence collected by it, to the CPC within a period of seven (7) working days from the date of completion of such inquiry.
- ✓ The ITF, in its inquiry report, may arrive at any of the following conclusions substantiated with supporting evidence and reasons in writing:
 - The fact of abuse and allegations stand proven against the accused beyond reasonable doubt.
 - The allegations against the accused cannot be proven beyond reasonable doubt.
 - The complaint is devoid of any truth, or has been frivolously instituted.

A complete record of proceedings of the ITF shall be maintained in writing by the Secretary made available to the ITF.

Disposal by the CPC

- ✓ On receiving the inquiry report from the ITF, the CPC shall, at the earliest and not later than seven (7) working days from the date of receipt of such report, convene a meeting to review the inquiry report of the ITF and arrive at its final decision and recommendations within fifteen (15) working days from the date of such meeting.
- ✓ One or more meetings may be convened to conclude the inquiry and prepare a final report with recommendations to be carried out by the Director.
- ✓ Upon consideration of the material on record and the inquiry report of the ITF, if more than two-thirds of the members of the CPC conclude that—

- the abuse was carried out by the accused and the allegations stand proven beyond reasonable doubt, a finding clearly stating so and holding the accused guilty for the act of abuse in question shall be made in writing with reasons, and a Final Report containing such finding and recommendations for action to be taken by the Director shall be prepared and sent to the Director within seven (7) working days of arriving at such conclusion.
- The allegations against the accused cannot be proven beyond reasonable doubt; a Closure Report shall be prepared by the CPC with reasons for arriving at such conclusion in writing and sent to the Director within seven (7) working days of arriving at such conclusion.
- If, upon a review of the inquiry report submitted by the ITF, more than two-thirds of the members of the CPC are unable to arrive at any conclusion and feel the need to call for any additional documents or material from either party, the same shall be communicated to the ITF along with a timeline for the ITF to get back to the CPC with the necessary documents and materials.
- The CPC may, after receiving from the ITF all the additional documents and materials called for, make a final conclusion regarding the allegations against the accused, and depending on such conclusion, either submit a Final Report to the Director or a Closure Report, as the case may be within seven (7) working days of arriving at the conclusion.
- A copy of the Final Report or the Closure Report, as the case may be, shall also be sent to the parties concerned within seven (7) working days from the date of arriving at the final conclusion.

Interim Reliefs/Remedies

At the request of the aggrieved child, or the CPF, or ITF, the CPC may at any stage after a formal complaint is filed and till the CPC concludes its

report, recommend to the Director to provide interim relief such as:

- ✓ Suspension of the accused or transfer to any other workplace in case of an employee / not permitted to attend classes in case of an adult student
- ✓ Granting leave to the aggrieved child up to a period of one month or such period as may be recommended by the doctor attending to the child, whichever is less/ facilitating online classes
- ✓ Assistance to cover up for the academic loss, if any;
- ✓ Monetary relief to the child for medical or psychological care and treatment resulting from the abuse;
- ✓ Restraining the accused from establishing any contact with the aggrieved child or a family member of the aggrieved child, a witness, friend or relative of such child;
- ✓ Assistance for filing a police complaint;
- ✓ Such other specific interim measures that may be required for the personal safety and for safeguarding the dignity of the aggrieved child, including police protection, if so required.

A compliance report on the recommendations made to the Director for provision of interim relief shall be called for by the CPC.

In the event of disobedience, defiance or violation of such interim orders by the accused is brought to the notice of the CPC, the CPC shall call upon the accused to provide an explanation. If, for reasons recorded in writing, the CPC is not satisfied with the explanation provided by the accused for disobeying or violating an order of interim relief, the CPC has the power to close and/or strike off the defense of the accused and pass its final decision.

Punishment, Compensation and Other Relief(s)

The Director shall act upon the recommendation(s) of the CPC within sixty (60) days of receipt of the Final Report of the Committee.

Once the CPC has adjudicated and arrived at a decision that the accused has indulged in an act which constitutes child abuse as defined under this policy, it shall recommend one or more of the following punishments:

For Staff members and Professionals

Punishment could include, but not be limited to, some or all of the following (as may be applicable)

- ✓ Action against the accused as per the service rules of AF- Jaipur
- ✓ Barring any interaction, meeting or communication with the child or the child's family members in any manner whatsoever, or coming anywhere near the child;
- ✓ Written apology and undertaking from the person held guilty that such person shall refrain from harming any child and subjecting a child to any form of abuse;
- ✓ Written warning and censure,
- ✓ Withholding of increments;
- ✓ Withholding of non-statutory benefits

- ✓ Suspension from service
- ✓ Termination/ Dismissal of service/employment contract;
- ✓ Action under IPC and the Act
- ✓ Fine to be deposited with the AF- Jaipur (as recommended).
- ✓ Any other action as may be deemed fit by the Management

For Students

Punishment could include, but not be limited to, some or all of the following

- ✓ Disciplinary action such as warning/ reprimand,
- ✓ Barring any interaction, meeting or communication with the child or the child's family members in any manner whatsoever, or coming anywhere near the child;
- ✓ Written apology and undertaking from the person held guilty that such person shall refrain from harming any child and subjecting a child to any form of abuse;
- ✓ Not being allowed to attend classes for some duration of the term
 - ✓ Shift to other section/class
 - ✓ Not being allowed to attend classes for the entire term

- ✓ Not being allowed to appear in exams for the term,
- ✓ Rustication,
- ✓ Cancellation of admission,
- ✓ Not permitted to seek admission in any other course even in future,
- ✓ Not be given a character certificate,
- ✓ Withholding a diploma/ degree conducted by AF- Jaipur
- ✓ Action under IPC and the Act
- ✓ Any other action as may be deemed fit by Management

In addition, the CPC may pass orders requiring the person held guilty to compensate the aggrieved child in any of the following manner:

- ✓ Monetary compensation for the child as per the quantum determined by the CPC on the basis of the extent, nature and gravity of harm caused to the child, and the socio-economic circumstances of the aggrieved child and the accused;
- ✓ Payment of the child's fee for education or extra coaching up to a certain specific duration;
- ✓ Payment of the full or a specified percentage of the cost incurred or likely to be incurred on the child's medical treatment, including counseling or psychotherapy;
- ✓ Payment of the cost incurred by the aggrieved child and her/his family members and witnesses for participating in the inquiry proceedings.
- ✓ The CPC should take cognizance of the paying capacity of the accused and may decide on instalments for payment.

The CPC may also recommend AF- Jaipur to compensate the child for the harm and suffering and its inability to ensure protection of the child within its premises following manner:

- ✓ Monetary compensation for the child as per the quantum determined by the CPC on the basis of the extent, nature and gravity of harm caused to the child;

Punishment for Visitors, Service Providers, Members, Outsiders
Could include, but not be limited to, some or all of the following

- ✓ Action under IPC and the Act

- ✓ Written apology and undertaking from the person held guilty that such person shall refrain from harming any child and subjecting a child to any form of abuse;
- ✓ Letter communicating misconduct to their place of education, employment, residence
- ✓ Declaring the campus as out of bonds for them
- ✓ Bar on appearing in any interview, undertaking any academic course
- ✓ Withdrawal of right to provide any services to AF- Jaipur,
- ✓ Withdrawal of right to manage and enterprise in the premises of AF- Jaipur ,
- ✓ Withdrawal of membership
- ✓ Any other action as may be deemed fit by the Management

Appeal

An appeal may be preferred by -

- ✓ the aggrieved child (through her/his parent(s)/guardian(s)) with respect to non-implementation of the recommendations made by the CPC, or
- ✓ by the aggrieved child or person acting on behalf of such child, or person held guilty (through her/his parent(s)/guardian(s) if such person is a minor) against the recommendations of the CPC.

In the case of an employee/ adult student of AF- Jaipur held guilty, all appeals may be made before The Board/ Committee of AF- Jaipur or be filed before the court or tribunal specified in the service rules applicable to the said person. The appeal shall be preferred by either party within a period of sixty (60) days of receipt of the Final Report of CPC by the parties.

All appeals made before The Board/Committee of AF- Jaipur shall be disposed within ninety (90) days from the date of filing such appeal in writing

Privacy and confidentiality

Secrecy and confidentiality of the aggrieved child or an accused who is a minor, and the proceedings, shall be observed by all persons.

Disclosure of the contents of the complaint; information that leads to disclosure of identity and addresses of the aggrieved child, or accused, or the person held guilty and witnesses; any information relating to the proceedings

and recommendations of the CPC is strictly prohibited and liable to a fine of INR 5,000/- to be deposited with AF- Jaipur

Provided that dissemination of information pertaining to the justice that has been secured to an aggrieved child, without disclosing the name, address, identity or any other particulars which could result in the identification of such child or child witnesses, may be permitted in writing by the CPC as part of its final report.

Monitoring, Review and Accountability

The policy will be implemented and reviewed by the Director of AF- Jaipur from time to time.

All other policies of AF- Jaipur having a bearing on the implementation of this policy shall be revised accordingly.

It shall be the duty of the Director to monitor the implementation of this policy on a quarterly basis.

The Annual Report of AF- Jaipur shall include a report on the implementation of this policy, covering the following aspects:

- ✓ Number of complaints received in the year
- ✓ Number of complaints disposed of during the year
- ✓ Number of cases pending for more than ninety (90) days
- ✓ Number of trainings conducted
- ✓ Number of workshops and awareness programmes carried out
- ✓ Nature of action taken by AF- Jaipur

Additional Duties of AF- Jaipur

AF- Jaipur shall, in addition to whatever is listed above –

- ✓ Provide services of translators, interpreters, special educators, support persons and such other experts as may be required by the CFPF or the ITF for the purposes of filing a formal complaint or completion of inquiry
- ✓ Provide assistance to the aggrieved child and her/his parent(s)/guardian(s) if she/he chooses to file a criminal complaint against the accused or a recommendation is made in this regard by the CPC

- ✓ Provide necessary facilities and resources, including secretarial assistance to the ITFs and the CPC to conduct their proceedings
- ✓ Assist in securing the attendance of the accused and witnesses before the ITF
- ✓ Share with the CPC, necessary information pertaining to the accused as available in official records
- ✓ Ensure that the present policy is translated into all operational languages which are used for official communication

- ✓ Collaborate with child rights organizations, mental health and legal experts in addressing cases of child protection violation, making referrals where needed and seeking their support and advise from time to time in order to strengthen the implementation of this policy;

- ✓ Ensure that all contractual agreements and MoUs require the parties entering into a contract with AF- Jaipur to sign an agreement to abide by the AF- Jaipur's POCSO policy

If person responsible for managing, supervising and controlling the workplace including but not restricted to the Director or officials as may be designated from time to time is an accused, then they shall be treated as any other employee. A 'respondent' in such a scenario shall not be eligible to exercise their authorities / initiate action/ take decisions. In such a situation all authorities , decision making powers and powers to initiate action/ lead operations shall lie with the President of the Board/ Committee and its decision shall be upheld. It is expected that the President of the Board/ Committee shall consult other members of the Board/ Committee on such matters

If a diplomat or an expat senior official working on an embassy linked contract for AF- Jaipur (may include but not be limited to Director) is an accused, the matter will be referred to the concerned Embassy. Course of action as decided by the Embassy whether or not in consultation with Ministry of External Affairs shall be followed, while having the concurrence of the Board/ Committee. This clause over rides the clause mentioned above with respect to the treatment meted to Director or officials as may be designated from time to time, being an aggrieved or a respondent.

If a member of the Board/ Committee is a respondent, then a majority vote of the Board/Committee shall decide the course of action while adhering to the principles of POCSO and the Act

The Management shall be within its rights to amend, moderate, abrogate, rescind/ reinstate the entire policy or any part of it any time. In case of disputes, the 'Act' and/or rules of IPC shall prevail.

APPENDIX 1

CHILD ABUSE GLOSSARY

- **Child Maltreatment** is the physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.
- **Child Sexual Abuse** is use of a child by a person for sexual gratification of self or others, irrespective of child's willingness, consent or participation, which may or may not involve physical contact and is in violation of the laws for the time being in force

For the purpose of this policy, all offences defined under the POCSO Act, 2012 constitute child sexual abuse. The relevant sections are:

- Penetrative Sexual Assault or Aggravated Penetrative Sexual Assault (Section 3 and Section 5)
 - Sexual Assault or Aggravated Sexual Assault (Section 7 and 10)
 - Sexual Harassment (Section 11)
 - Use of a Child for Pornographic Purposes (Section 13)
 - Storage of child pornography for commercial purposes (Section 15)
-
- **Corporal Punishment** means subjecting a child to physical punishment for the purpose of correction or disciplining, and involves the deliberate infliction of physical pain that may cause discomfort, insult, humiliation, physical and mental injury and even death.
 - **Emotional Abuse** is the persistent emotional maltreatment of a child such as to cause an adverse effect on the emotional health and development of the child.
 - **Exploitation** consists of the commercial or other use of the child through activities that the child performs for the benefit of a third party. These activities include exploitative child labour and child prostitution

as well as any other activity that leads to the economic exploitation of the child, that is to the disadvantage of the child's physical or mental welfare, that prevents the child from receiving an education or damages the child's moral and psycho- social development.

- **Harm** is any detrimental effect on a child's physical, psychological, or emotional wellbeing, which may be caused by abuse or exploitation, whether intended or unintended.
- **Neglect** refers to the failure of a parent or a caregiver to provide for the basic needs of the child, despite the parent or caregiver being in a position to do so.
- **Physical Abuse** means acts which cause/result in infliction of physical injury, and/or actual physical harm, or which have the potential of causing such injury or harm.
- **Violence against a child** refers to anything which individuals, groups, institutions or organizations do or fail to do, intentionally or unintentionally, which either results in or has a high likelihood of resulting in actual or potential harm to the child's wellbeing, dignity and survival and development, and includes all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, emotional ill-treatment or psychological violence, sexual abuse and exploitation, harassment, and commercial or other exploitation of a child.

APPENDIX 2

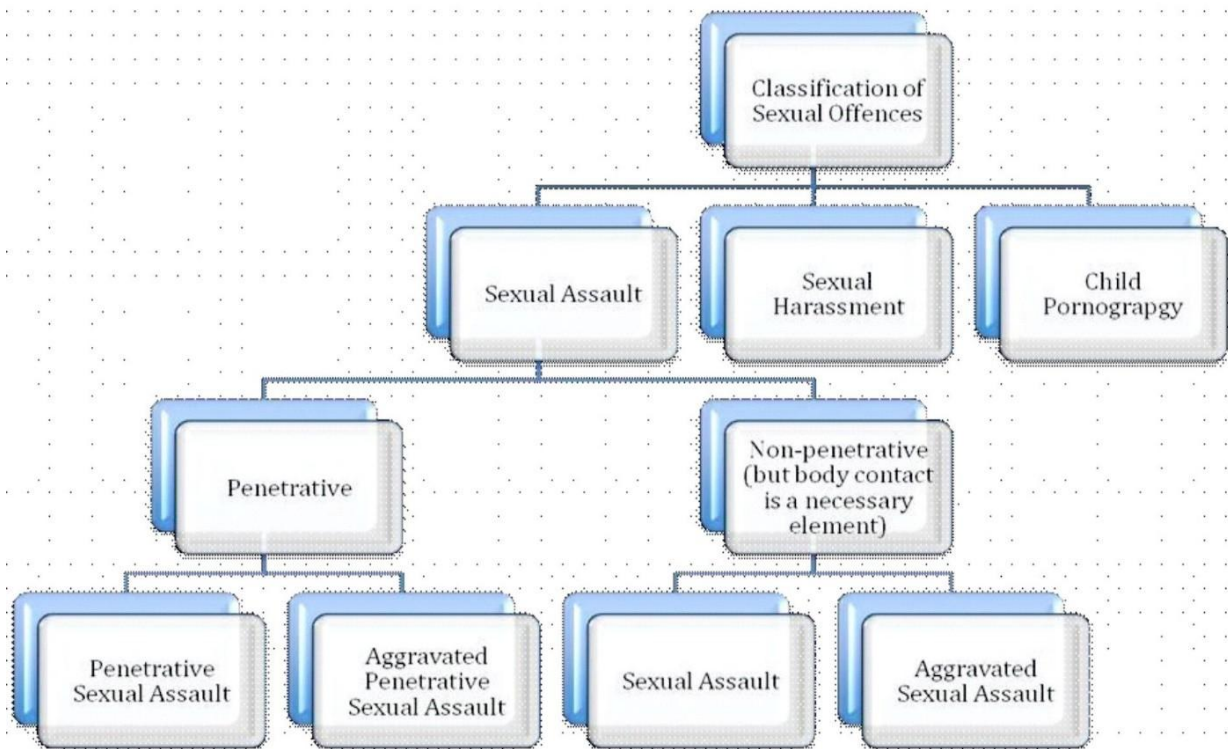
UNDERSTANDING THE POCSO ACT

Salient Features of the Act

- Children are defined as persons below the age of 18 years.
- The law is gender neutral i.e. the law recognizes that the victims and the perpetrators can be of any sex.
- It raises the age of sexual consent to 18 years by making all sexual activity with a child a statutory sexual offence.
- The POCSO Act broadens the understanding of rape from mere peno-vaginal penetration to other forms of penetration of a private part into different parts of the body of a child and penetration to any extent.
- The law recognizes that sexual abuse may or may not involve bodily contact. It categorizes the offences into 'sexual assault' and 'sexual harassment'.
- Reporting is mandatory under the law for everybody, and the law includes a penal provision for non-reporting.
- The law requires privacy and confidentiality of the victims to be protected.
- It provides for constitution of special courts and special public prosecutors to deal with offences listed under the Act.
- Children are entitled to receive special support in the form of support persons and victim compensation.
- Children are also entitled to legal representation by a lawyer of their choice.

Types of sexual violence and abuse covered under the POCSO Act

- A. Penetrative Sexual Assault [Section 3 and 4]
- B. Aggravated Penetrative Sexual Assault [Section 5 and 6]
- C. Sexual Assault [Section 7 and 8]
- D. Aggravated Sexual Assault [Section 9 and 10]
- E. Sexual Harassment [Section 11 and 12]
- F. Child Pornography [Section 13 and 14]
- G. Storage of Child Pornography [Section 15]



Other Offences under the Act

- Abetment of an offence under the Act [Section 16 and 17]
- Attempt to commit any offence under the Act or cause such offence to be committed [Section 18] Failure of all adults to report or failure of the police to record an offence [Section 21 (1), (2) and(3)]
- Filing a false complaint or giving false information, except when done by a child [Section 22 (1), (2) and (3)]
- Failure of any media or a studio or photographic facility to protect the privacy, dignity and confidentiality of victims [Section 23 (3) and (4)]

Points to Remember -

- Section 42 of the POCSO Act makes it clear that for an act or omission that constitutes an offence under this Act as well as under any other law in force, the punishment shall be that which is greater in degree.

Special Courts [Section 28 and 34 of the POCSO Act]

A Court of Sessions is to be designated as a Special Court [Section 28(1)] to try the following cases:

- Offences under the POCSO Act [Section 28(1)],
- Other offences that the accused may be charged with in the same trial [Section 28(2)]
- Offences under Section 67 B of the Information Technology Act [Section 28(3)], and Age determination of the accused that may arise before such court in the course of its proceedings [Section 34(2)].

Where Children's Courts have been notified under the Commissions for Protection of Child Rights Act, such courts are to also function as the Special Courts under the POCSO Act.

Any other Special Court set up for similar purposes under any other law may also be designated as a Special Court to try offences under the POCSO Act. For example, the Special Court set up under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act can be designated as a Special Court under the POCSO Act also.

Special Public Prosecutors [Section 32 of the POCSO Act]

For conducting a prosecution in a case registered under the POCSO Act, the state government is required to provide Special Public Prosecutors with minimum 7 years' experience as an advocate to every Special Court.

Rights of the victims

1. Right to receive assistance of various experts pre-trial and during trial [Section 38 of POCSO Act and Rules 2 and 3 and 4(7) of POCSO Rules]

Under the Integrated Child protection Scheme (ICPS) of the Central Government, District Child Protection Units (DCPUs) are set up in every district. These DCPUs are supposed to maintain a list of such experts with their contacts and make such list available to the Special Juvenile Police Units set up in every district under the Juvenile Justice (Care and Protection of Children) Act, 2015 to deal with crimes relating to children, local police, Magistrates or Special Courts under the POCSO Act.

The experts include:

- **Translator and Interpreter** for children who speak their regional language or mother tongue or a local dialect, which is not the language understood by the court, or children with disabilities.
- **Special educator** for children with special needs, which include challenges with learning and communication, emotional and behavioral disorders, physical disabilities, and developmental disorders.
- **Person familiar with the manner of communication of the child**, which includes a parent/guardian or family member of a child or any person trusted by the child, who is familiar with the child's unique manner of communication, and whose presence may be required for more effective communication with the child.
- **Mental health expert** to provide psychotherapy and help reduce the trauma experienced by the victim child.
- **Support person** assigned by a Child Welfare Committee to assist the child through the process of investigation and trial.

Role of Child Welfare Committee

The Child Welfare Committee can provide the assistance of a support person to a victim [Rule 4(7) of POCSO Rules].

Not ALL child victims are to be produced before the Child Welfare Committee by the police. Rule 4(3) of POCSO Rules clarifies that only the following child victims of sexual crimes are to be produced before the Child Welfare Committee:

- (i) a child who has been abused or is likely to be abused by a person living in the same household as the child or a child's family member
- (ii) a child living in a child care institution and without parental support
- (iii) a child without any home or parental support

1. Right to legal representation by a lawyer of one's choice [Section 40]

The family or guardian of a child victim has the right to take assistance of a legal counsel of their choice or from the Legal Services Authority. Other Enabling provisions under the POCSO Act

2. Burden of proof [Section 29 of the POCSO Act]

Under section 29 of the POCSO Act, there is a presumption that the accused committed the offence and the burden to prove the innocence is upon the accused. Only if this burden is discharged by the accused would the prosecution be obliged to lead rest of the evidence to prove its case.

Presumption of culpable mental state [Section 30 of the POCSO Act] -

Section 30 of the POCSO Act presumes existence of “culpable mental state” on the part of the accused for committing the offence he/she is charged for.

The presumption includes presumption as to the existence of motive, intention, knowledge etc. and can be rebutted by the accused.

Under Section 30 (2) of the Act, a fact must be proved, like in all criminal prosecutions, beyond reasonable doubt.

ENCLOSURES

Enclosure -1 Form for Code of Conduct on Child Protection

I, -----, engaged /admitted by AF- Jaipur, agree that while working / studying with AF- Jaipur, I will:

- treat children with respect regardless of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, sexual orientation, or other status;
- not use language or gestures towards children that are inappropriate, harassing, sexually provocative, abusive, demeaning, belittling, or culturally inappropriate;
- be a good role model – I will not smoke, drink alcohol, take drugs, and consume paan / ghutka / misri in the presence of the children.
- respect the surroundings – I will not indulge in littering, spitting, defacing plants and the physical environment in any way.
- not engage children in any form of sexual activity or acts, including paying for sexual services or acts;
- wherever possible, ensure that another adult is present when working in the proximity of children;
- not invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger;
- use technology such as computers, mobile phones, or video and digital cameras appropriately, and never to exploit or harass children or to access child pornography through any medium;
- refrain from physical punishment or discipline of children (excluding my own children);
- refrain from hiring children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury;
- comply with all relevant Indian legislations, including labour laws in relation to child labour;

- immediately report concerns or allegations of child maltreatment in accordance with appropriate procedures ; and

Signature:

.....

Name:

Address:

Contact Details:

All staff, professionals, adult students and volunteers working with or in contact with AF- Jaipur’s children beneficiaries will be required to complete this self-disclosure form regarding their suitability to work with children, youth, and women, as part of their induction process. Anyone who refuses to do so will be deemed ineligible to study, work or assist with any activities associated with AF- Jaipur R. Please note that not all convictions will be relevant. Those that will preclude employment/ study/volunteering include;

- Offences against children.
- Offences against women.
- Sexual offences or offences related to violence.
- Drugs and arms related offences.

Confidential and not for circulation

Have you ever been convicted of a criminal offence or been the subject of a Caution or Bound Over order?

Yes

No

If “YES”, please state the nature and date (s) of the offence (s).

Have you ever been subject to any disciplinary action or sanctions relating to child or vulnerable adult abuse?

Yes

No

If "YES", please provide details

You are required to self-certify that you are not known to any social services department/the police/the Judicial system/quasi legal system/civil society organization as being an actual or potential risk to children or vulnerable adults; have not been disqualified or prohibited from fostering children or vulnerable adults or had any rights or powers in respect of any child or vulnerable adult vested in you assumed by a local authority; or have not had a child or vulnerable adult ordered to be removed from your care.

Signed:..... Dated:.....

Name:.....

Address:.....

.....

.....

Contact Number (s):.....

Email:.....

Enclosure – 3 Checklist for Reporting Staff and adult student Behavior

This checklist has been developed to monitor whether AF- Jaipur's staff (including professionals) and adult students are adhering to the child protection clauses enjoined within AF- Jaipur's Child Protection Policy. This checklist will be administered by the Child Protection Officer (CPO) to all existing AF- Jaipur's employees (full time and part time or any other nature) and adult students once in a month. Appropriate documentation will be done by the CPO with respect to any breach. The concern will be discussed immediately and due action will be taken. This will be reviewed during the next round of administering the checklist. The CPO will decide in conjunction with the Director regarding action to be taken against those who repeatedly display non-adherence to the policy.

Do your staff and adult students regularly report to you on all case related developments?

Yes

No

Do your staff / adult students get ample time to meet and interact (individual meetings) with their immediate supervisor/teacher for case / work related issues that could adversely impact child protection?

No

Yes

Have there been any incidences of arguments among your staff members/ adult students in front of the children?

No

Yes

Is there an effective communication pattern among your staff / adult students on matters directly related to the AF- Jaipur's children beneficiaries?

No

Yes

Do any of your staff / adult students have strained relationships which is

adversely impacting the services being offered to the AF- Jaipur's children beneficiaries?

Yes No

Have any of your staff / adult students had any of their personal work done by the children beneficiaries of the organization?

Yes No

Have any of your staff / adult students physically abused or used corporal punishment for the AF- Jaipur's children beneficiaries?

Yes No

Have you ever come across a situation where your staff / adult students has used resources meant for the AF- Jaipur's children beneficiaries for their own personal use?

Yes No

Have any of your staff / adult students displayed favoritism towards any particular AF- Jaipur's child beneficiary or a group of AF- Jaipur's children beneficiaries?

Yes No

Have any of your staff/ adult students engaged in any discriminatory actions or demeaning interactions with AF- Jaipur's children beneficiaries?

Yes No

Have any of your staff / adult students disrespected the AF- Jaipur's children beneficiaries on the basis of their race, colour, sex, language, religion, political or other opinion, national/ethnic/social origin, property, disability, birth, sexual orientation or other status?

Yes No

Have any of your staff / adult students used language or gestures towards AF- Jaipur's children beneficiaries that are inappropriate, harassing, sexually provocative, abusive, demeaning, belittling, or culturally inappropriate?

Yes No

Have you come across any incident where your staff / adult students has engaged AF- Jaipur's children beneficiaries in any form of sexual activity or acts, including paying for sexual services or acts?

Yes No

Have any of your staff / adult students ever insisted that no other adult staff member/ adult student should be present with them when working in the proximity of AF- Jaipur's children beneficiaries?

Yes No

Have you come across any incidence where staff members / adult students have invited unaccompanied AF- Jaipur's children beneficiaries into their homes without any imminent risk of injury or physical danger to them?

Yes No

Have you come across any incident where staff / adult students has slept close (unless absolutely necessary) to unsupervised AF- Jaipur's children beneficiaries without your prior permission?

Yes No

Have you come across any incident where staff / adult students has misused computers, mobile phones, or video technology in order to exploit or harass AF- Jaipur's children beneficiaries?

Yes No

Does the staff / adult students report concerns or allegations of child

maltreatment to you in accordance with appropriate procedures as laid down by the organization?

Yes No

Have there been incidents where any of the staff/ adult students has made contact with the AF- Jaipur's children beneficiaries outside the purview of the organization?

Yes No

Do any of your staff/ adult students indulge in labeling child (AF- Jaipur's children beneficiary) behavior patterns?

Yes No

Have there been incidences where your staff/ adult students has acted negligent towards AF- Jaipur's children beneficiaries who have been placed in their temporary custody for care and protection?

Yes No

Do your staff maintain and keeps all child related records and documentation accurate and up to date?

Yes No

Do your staff / adult students use images, videos, and audios of AF- Jaipur's children beneficiaries responsibly and only for official purposes?

Yes No

Do your staff / adult students respect the right to confidentiality of AF- Jaipur's children beneficiaries in their communication (verbal/written) with other staff members, students, ex-AF- Jaipur staff, visitors, guests, volunteers, interns, etc.?

Yes No

Are any of your staff members/ adult students ignorant towards the varied protocols laid down by AF- Jaipur to be used with regards to direct services to AF- Jaipur's children beneficiaries?

Yes No

Is your staff well/ adult students acquainted with AF- Jaipur's Child Protection Policy and adheres to the same?

Yes No

Please use this space to provide any other detailed information with regards to staff behavior hindering child protection.

Reporting Period:.....

AF- Jaipur's Location:.....

Signature of Team Head:.....

Date:.....

Enclosure-4 Consent Form for Parent(s)/Guardian(s) (Permission for participation of his/her child in the events and use of photographs)

I ____resident of__am the (putdown relationship with the child, such as father/ mother/ guardian) of the child whose name is_____.

I am duly competent to represent and provide the following consent on his/ her behalf.

I acknowledge that a member of_____ (Name of the Organization) has explained the purpose of the proposed interview/ proposed event/ proposed film/ proposed product.

I agree to my child participating in the event/interview/filming that is being organized by ____ (Name of the Organization).

I allow the organization to use some or all parts of the media products/contribution coming out of the event/interview/photographs/film as follows. I have given permission for the

- Complete use of photographs and my child's name in the products
- Limited use of photographs in the products. Specify limitation _____
- Limited use of my child's name and other details. Specify limitation _

Date:

Signature/Thumb Impression:

In case the child's parent(s)/guardian(s) is/are unable to read or write, the content of the consent form shall be read out to them by an independent person, who shall also affix her/his signature after obtaining the thumb impression of the child's parent(s)/guardian(s).

Enclosure- 5 Consent Form for the Child (Permission for participation and use of name/ photographs)

I _____ resident of _____ acknowledge that a member of the _____ has explained the purpose of the proposed interview/ proposed event/proposed film/proposed product.

I agree to my participation in the event/interview/filming that is being organized by _____ in the intervention area.

I allow the organization to the use some or all parts of the media products/contribution coming out of the event/ interview/ photographs/ film as follows. I have given permission for the

- Complete use of photographs and my name in the products
- Limited use of photographs in the products. Specify limitation

- Limited use of my name and other details. Specify limitation

Date:

Signature/Thumb Impression:

In case the child is unable to read or write, the content of the consent form shall be read out to the child by an independent person, who shall also affix her/his signature after obtaining the thumb impression of the child.