

Sangath Anti-Discrimination and Equal Opportunity Policy for Transgender and Intersex Persons

As mandated under the Transgender Persons (Protection of Rights) Act, 2019 and the
Transgender Persons (Protection of Rights) Rules, 2020

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Preface

In December 2019, the Government of India, passed the Transgender Persons (Protection of Rights) Act, 2019 which for the first time extended constitutional rights to persons identifying as transgender. The policy, and its linked rules which were released later in July 2020, mandates that every establishment publish an Equal Opportunity Policy for transgender persons. In line with this mandate, Sangath has formulated the below policy. Since the Act in its definition of transgender persons includes intersex persons as well, Sangath's policy is titled 'Sangath Anti-Discrimination and Equal Opportunity Policy for Transgender and Intersex Persons'. This policy will go a long way towards ensuring diversity and inclusivity in Sangath.

POLICY

1. Title

- 1.1. This Policy is titled ‘Sangath Equal Opportunity Policy for Transgender and Intersex Persons’.

2. Statement of Commitment

- 2.1. Transgender and intersex persons experience oppression, social stigma and discrimination in society in general and the workplace in particular where they face chronic underemployment or unemployment due to discriminatory and hostile work cultures.
- 2.2. We firmly believe in equal opportunity and are committed to the creation of an inclusive and non-discriminatory work environment, particularly with regard to our obligations under the Transgender Persons (Protection of Rights) Act, 2019 and the Rules framed thereunder.
- 2.3. Affirming the right of transgender and intersex persons to freely participate in the workplace with dignity and respect for their personhood, through this Policy, we seek to address barriers to their participation at the workplace, and take positive measures to prevent discrimination and create an inclusive environment.

3. Application of the Policy

- 3.1. This Policy uses the term ‘transgender person’ to refer to persons whose gender does not match with their gender assigned at birth and includes a trans-man, trans-woman, persons identifying as transgender, or such socio-cultural identities as *kinner*, *hijra*, *aravani* and *jogta*, amongst others.
- 3.2. An inter-sex person refers to one who shows variation in their primary sexual characteristics, external genitalia, chromosomes or hormones from normative standards of their body.
- 3.3. Sangath will not insist on the completion of legal processes or medical procedures as a precondition for the application of this Policy but will apply this policy on the basis of self-identification as transgender or intersex

4. Infrastructure provision in Sangath offices

- 4.1. Office Safety: The measures for safety undertaken to ensure the safety and security of employees will be extended to transgender and intersex employees.
- 4.2. Sangath’s Policy for sexual harassment at workplace will be made inclusive of people of all gender identities and expressions.
- 4.3. **Washrooms:**
 - 4.3.1. As a general principle, persons can use the washroom consistent with their gender identity. This will be displayed prominently outside the washrooms.
 - 4.3.2. Where there are gender segregated washrooms, an additional gender inclusive or unisex washroom will be provided for every two gender-segregated washrooms. However, it will not be mandatory for transgender employees to only use the gender inclusive washroom.

- 4.3.3. In offices with fewer than 10 employees, the washrooms will not be gender demarcated and there will only be gender inclusive washrooms.
- 4.3.4. All washrooms, gender segregated as well as gender inclusive, shall be fully stocked with hygiene products, including sanitary napkins, so as to ensure comfort and to enable employees to effectively discharge their duties in the establishment.

5. Recruitment

- 5.1. Sangath will strive to ensure that its workforce is diverse and representative by pro-actively recruiting from the transgender and intersex communities, where possible. It will advertise that it is an equal opportunity employer and encourage gender and sexual minorities to apply for job listings through specific language which is incorporated in all job ads.
- 5.2. During its recruitment process and while framing the terms of reference for consultants, Sangath may take into account the complexity of the experiences of transgender and intersex persons, including caste related discrimination, bullying and harassment in educational institutions, lack of social support, and vulnerability to mental illness.
- 5.3. The application form will indicate an option to provide a person's self-identified name and gender, and pronouns, in addition to their legal name and gender. Any disclosure made by the applicant regarding their transgender or intersex identity, will be voluntary, and, if made, will be treated as confidential and only disclosed to those persons considering the application.
- 5.4. The staff in the recruitment team must comprise of at least one person who has undergone sensitivity training organised under this Policy. During the interview process, the interviewer will not initiate any discussion with the applicant regarding their gender

identity, sexual orientation or sex characteristics, or ask intrusive questions, which do not have any relevance to the job for which the recruitment is being carried out.

- 5.5. The applicant will be referred to by their chosen name and pronouns as indicated in the application form.
- 5.6. Applicants will be permitted to present documentation, including, government issued identity cards, school and university certificates, with their name and gender assigned at birth, even if it differs from their chosen name and gender. Applicants may be asked to provide documents, which link their chosen name to their legal documentation in order to confirm the certificates relating to them, such as the gazette notification regarding their name and gender change or the certificate issued under the Transgender Persons Act, 2019.
- 5.7. For contracts and other legal formalities, where a person has not legally changed their name, the documentation will refer to them as chosen name @ legal name. These documents will be treated as confidential by the organization.

6. Non-Discrimination and Enabling Working Environment

- 6.1. An employee, consultant, or potential employee or consultant shall not be: denied recruitment, appointment, promotion, professional or training opportunities, or have their services terminated; or treated unfairly in relation to their employment, where unfair treatment means differential treatment which has the effect of imposing a disadvantage not imposed on others or which withholds or limits access to advantages available to others, **on the basis of their gender identity, sexual orientation or sex characteristics.**

- 6.2. It is clarified that any distinction, exclusion, eligibility condition, or preference in respect of particular recruitment, appointment, promotion, or provision of training opportunities, will not be a denial of equal employment opportunities if it is directly linked to the requirements of work to be undertaken.
- 6.3. Rules and regulations of Sangath concerning service conditions, appointment, increments and promotions will be the same for employees of all gender identities, unless otherwise explicitly specified.
- 6.4. All employees and consultants may dress and express themselves in accordance with their gender identity and expression, and no restrictions will be placed on any person to dress or maintain their personal appearance in a particular manner, which does not conform to their gender identity. This is regardless of whether a person has undergone any medical procedures. The general expectations of all employees with regard to office related attire, or formal occasions would continue to apply.
- 6.5. Should a transgender employee or inter sex employee be required to undertake inter-state travel or international travel, Sangath may, along with the person concerned, consider the most appropriate form of travel, keeping in mind the person's physical safety, and facilitate all travel documentation, if the employee has not changed the legal documents.
- 6.6. Unless indicated in writing by the person concerned, all documents relating to a transgender employee or intersex employee, which disclose their dead name [legal name prior to gender transition which they no longer use], biological sex, sex characteristics, and gender identity will be treated as confidential, and will not be generally accessible. Appropriate steps will be taken to secure the records, whether maintained physically or electronically.
- 6.7. A transgender or intersex employee shall be entitled to be addressed according to their pronouns, chosen name and gender in all workplace communication and have these

reflected in their organizational communication accounts, including email addresses and in organizational social media posts where they might be named.

7. Protection against Workplace Harassment

7.1. Workplace harassment takes place when a protected person is subject to any of the following acts by another person at the workplace:

- 7.1.1. non-consensual disclosure of a person's transgender or intersex identity or history;
- 7.1.2. communication or expression of negative stereotypes, or, abusive or offensive comments that denigrate a person's gender identity, sexual orientation or sex characteristics;
- 7.1.3. refusal to acknowledge or respect a person's gender identity and expression, including their chosen name and pronouns;
- 7.1.4. intentional and/or persistent referral to a person by a name or pronoun that is not in accordance with their expressed preference;
- 7.1.5. denial or restriction of access to common spaces such as bathrooms or use of common resources;
- 7.1.6. refusal to allow a person to dress or otherwise express themselves according to their gender identity or expression;
- 7.1.7. unwelcome physical, verbal, or non-verbal harassment done in person, or through any other mode of communication;
- 7.1.8. creation of a hostile work environment.

7.2. An act of workplace harassment may be committed intentionally or unintentionally.

7.3. Workplace harassment of a person on the ground of association of such person with another person with a particular gender identity, gender expression or sexual orientation will also amount to workplace discrimination. Further, workplace harassment of a person on the perception, whether accurate or otherwise, of such person being a transgender or intersex person will amount to workplace discrimination

7.4. **For the purposes of this Policy, the workplace includes the following:**

- 7.4.1. all physical offices of Sangath;
 - 7.4.2. any place where employees or consultants are required to visit for work, such as meetings, workshops, trainings, and conferences;
 - 7.4.3. the virtual workplace, that is, where any of employees or staff are connected through the internet or telecom, regardless of the platform and without regard to geographic boundaries; and
 - 7.4.4. transportation undertaken for any work-related purpose.
- 7.5. The present policy will be periodically reviewed every three years to ensure that the language is not dated and fully protects the rights, dignity and personhood of transgender and intersex persons.

8. Sensitisation and Training

- 8.1. Regular training and sensitization workshops on the rights of transgender and intersex persons, and their provisions of this Policy, will be conducted for all employees, at all levels of the organisation including the management officials and the extended workforce.
- 8.2. All new employees will undergo training specifically focused on gender identity and sexual orientation at the time of their induction.
- 8.3. The Complaint Officer appointed under this Policy will undergo additional training on bias-free adjudication of complaints with the assistance of an outreach community organization specializing in issues related to the transgender community.

9. Support for Employees undergoing Transition

- 9.1. Sangath will extend full support and understanding to an employee undergoing transition, which may or may not be accompanied by surgical or other medical intervention. The process of transition is an incredibly complex and individualised process and Sangath will attempt to make all reasonable accommodations to make the process comfortable.

- 9.2. The employee undergoing transition will be entitled to 30 days paid leave, in addition to the already existing leave period, for the transition period, medical or otherwise. This leave may be taken together or divided into different periods.
- 9.3. If the employee undergoing transition wishes to be moved to another team or location, Sangath will make all efforts to accommodate that request depending on availability of appropriate project and position. If the employee wishes to continue with their existing role, their current team/ colleagues shall be sensitized regarding their new name/ pronouns.

10. Details of the Complaint Officer

- 10.1. One senior level staff member at each location will be designated as the Complaint Officer, who will be responsible for the implementation of this Policy as well as the provisions of the Transgender Persons (Protection of Rights) Act, 2019.
- 10.2. Unless otherwise mentioned, the seniormost member of the ICC at the site will be the complaint officer.

11. Complaint Process

- 11.1. **A complaint of a violation of this Policy may be made by:**
- 11.1.1. a current or former employee, whether employed on a regular, temporary, ad hoc, or daily wage basis, a current or former consultant, or any person that has worked or is working for remuneration or on a voluntary basis; and
- 11.1.2. A third party that comes into contact with any person from Sangath during the course of their work.
- 11.1.3. The person making the complaint is referred to as the Complainant. The person against whom the complaint is made is referred to as the Respondent.

- 11.2. The complainant may submit a written and signed complaint to the Complaint Officer or send an email to the designated email ID.
- 11.3. **However,**
- 11.3.1. If the complainant is unable to make the complaint themselves, on account of disability, mental illness or for any other reason, the Complaint Officer may depute a person to assist them in making the complaint and guide them through the process or permit the complainant to take the assistance of a person of their choice, such as their friend, partner, colleague or a counsellor, to assist them in this regard.
- 11.3.2. In the event of the death of the complainant, any person who has knowledge of the incident may submit the complaint, with the written consent of the complainant's legal heir, including their chosen family.
- 11.3.3. The Complaint Officer may act on anonymous complaints if they are of a nature, which may be inquired into without requiring the participation of the complainant. In particular, these may relate to structural issues, employment conditions or policies.
- 11.4. The complaint should be submitted within six months from the incident, and in case of multiple incidents, within six months from the latest incident. In case of any exigent circumstances, the Complaint Officer may relax this requirement, and extend the time for filing a complaint. Sangath will strive to create an environment where the transgender employees will feel safe to complain under this policy, in case of discrimination.
- 11.5. The Complaint Officer will ensure that the identity of the Complainant and their witnesses are kept confidential.
- 11.6. **Redressal Process:**
- 11.6.1. The Complaint Officer will acknowledge the receipt of the complaint in writing.

- 11.6.2. Within two working days of receiving the complaint, the Complaint Officer will inform the respondent in writing that a complaint has been received, and provide them with a copy. The respondent will have an opportunity to respond to the complaint in writing within three working days.
- 11.6.3. If the complainant consents, the Complaint Officer may initiate a conciliatory process between the complainant and the respondent. The complainant should not be pressurised directly or indirectly into entering conciliation. No monetary settlement will be made as a basis of conciliation. The Complaint Officer will then follow a non-adversarial process and seek to arrive at a fair conclusion that is agreeable to both parties. The resulting agreement will then be communicated to the senior administrative official and be acted upon, and no further inquiry will be made by the Complaint Officer into the matter.
- 11.6.4. If conciliation is not possible or a settlement cannot be arrived at, the Complaint Officer will call upon the complainant and the respondent to submit all supporting documents and statements of their witnesses in writing within seven working days.
- 11.6.5. The Complaint Officer may ask either party to submit clarifications in writing by putting to them specific questions that are respectful, especially for the Complainant and their witnesses, where they feel safe and comfortable and are not humiliated or threatened.
- 11.6.6. The Complaint Officer will then hold a meeting where the Complainant and the Respondent may address brief oral submissions. This may be done separately if the complainant expresses that they may be triggered by the presence of the respondent. The meeting will be done ensuring utmost visual and auditory privacy. No advocates or lawyers for either party will be present during the proceedings of the inquiry.
- 11.6.7. The Complaint Officer will take into consideration the power dynamics between the complainant and the respondent, both within the organisation as well as professional circles, and ensure that the process it follows protects the complainant from any intimidation or coercion.

11.7. **Interim Measures:** During the pendency of the inquiry, on request by the complainant, the Complaint Officer may recommend that the relevant administrative staff:

- 11.7.1. grant the complainant paid leave up to a maximum of three months, in addition to the leave they would otherwise be entitled to;
- 11.7.2. transfer the respondent to another workplace, team or project to minimise the interaction between the parties;
- 11.7.3. modify team structures such that the respondent is not evaluating the work or performance of the complainant;
- 11.7.4. take other measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimisation as a consequence of making a complaint;
- 11.7.5. In making its recommendation, the Complaint Officer will ensure that the interim measures do not have the direct or indirect effect of penalising the complainant for making the complaint.

11.8. **Final Report:**

- 11.8.1. The Complaint Officer will submit their final report containing its findings and recommendations to the EC/MC no later than 15 working days after the complaint has been made.
- 11.8.2. Where the Complaint Officer concludes that the complaint against the respondent has not been proved, it will recommend to the Employer/Director that no action is required to be taken on the complaint.
- 11.8.3. Where the Complaint Officer concludes that the complaint against the respondent has been established, they may recommend any of the following:
 - 11.8.3.1. Counselling;
 - 11.8.3.2. Censure or reprimand;
 - 11.8.3.3. Apology to be tendered by the respondent;
 - 11.8.3.4. Withholding promotion and/or increments
 - 11.8.3.5. Suspension for a fixed period without pay;
 - 11.8.3.6. Termination;
- 11.8.4. If the respondent is a third-party vendor or consultant, the Complaint Officer may recommend that Sangath cease its engagement with such person, terminate its contractual relationship, or cease inviting the concerned person to events organised by Sangath.

11.8.5. In making their recommendations, the Complaint Officer will be guided by the principle of proportionality, that is, it will consider what a just, appropriate and proportionate response would be to actions of the respondent.

11.8.6. Where a Complaint Officer has not decided a complaint within 15 days, the EC/MC will ensure the completion of process without delay.

11.9. Implementation: The EC/MC will implement the Complaint Officer's recommendations within 15 working days of receiving the decision of the Complaint Officer and intimate the Complaint Officer about its implementation.

12. Protection against Victimisation and Retaliation

12.1. No person will be penalised, formally or informally, for making a complaint under this Policy or cooperating in the redressal process. Any person who engages in such retaliation will be subject to disciplinary action, up to and including termination of services.

13. Interpretation

13.1. In case any question arises as to the interpretation of this Policy, the interpretation, which furthers the rights of the transgender and intersex persons ought to be adopted.

14. Display of this Policy

14.1. Sangath will display this Policy prominently on the Sangath website under a separate tab as well as conspicuously on the notice boards of each of its offices in both English and the local language in its office, including the contact details of the Complaint Officer.

14.2. Each existing employee and consultant will be provided with a copy of the Policy upon its initial adoption and new employees and consultants will be provided with a copy of the Policy upon joining.