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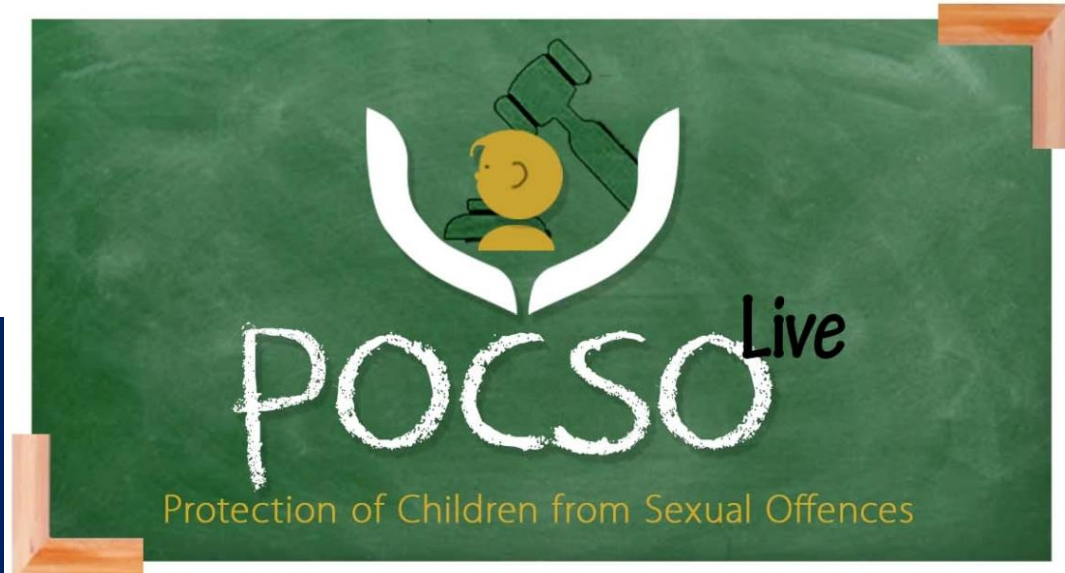
Child Protection Policy

News Corner –

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A quarterly insight to the POCSO Law!

By Vaishali Bhagwat, Adv

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POCSO LIVE brings you updates and information relating to matters of protection of children from sexual abuse irrespective of gender. This is an effort to create awareness amongst all stakeholders having access to children about their duties and obligations towards protecting children from sexual abuse and keeping them safe.

Child Protection Policy

Protection of Children from Sexual Offences Act, 2012; emphasizes on the importance of creating a safe environment for children and taking proactive measures to prevent child sexual abuse. In the Handbook on POCSO Act, 2012 published by National Commission for Protection of Child Rights (NCPCR); states that Child Protection Policy has to be a **strong reflection of the schools commitment to protect its children**. Let us briefly understand what this policy is and what it should comprise of.

Children spend most of their day time at school. The children and parents trust schools immensely for their safety and growth. Safeguarding this trust is the responsibility of school authorities. It is vital that the authorities act decisively, quickly and systematically in the face of a complaint of child sexual abuse.

A Child Protection Policy is a statement that defines school's commitment to safeguard children from harm and abuse. It specifies the staff and others responsibilities and roles in the protection of children. It has to be implemented through every aspect of the school administration and management.

The policy must apply to all personnel and people related to the school and who come in direct or indirect contact with children.

Direct Contact with Children: Those personnel who are with and in the physical presence of a child or children as part of their professional or school related work, be it regular, occasional, temporary or long term.

Indirect Contact with Children: Those personnel whose work does not require them to be in the physical presence of a child but encompasses access to personal details and information, data on children including photographs, case files etc.

Disclaimer

This newsletter does not intend to advertise or solicit work and is for private circulation only. This newsletter is for the purpose of education and creating awareness on POCSO law and its latest developments. It does not intend to be comprehensive nor intends to provide any legal advice. Though every effort is made to share accurate, reliable and current information, POCSO LIVE is not responsible for any errors or omissions in information made available through this Newsletter. Sharing of this Newsletter does not intend to create attorney – client relationship between authors and reader.

GOOD TO KNOW!

1098 – CHILDLINE

Your call for help will not go unanswered!

1098 CHILDLINE is a 24-hour a day, 365 days a year, free, emergency phone service for children in need of aid and assistance.

It not only responds to the emergency needs of children but also link them to relevant services for their long term care and rehabilitation.

CHILDLINE India Foundation (CIF) is the nodal agency of the Union Ministry of Women and Child Development for setting up, managing and monitoring the CHILDLINE 1098 service all over the country.

The work at Childline includes following stages –

1. Call 1098
2. Connected to Childline centre
3. Rescue in 60 minutes
4. Intervention
5. Rehabilitation and follow up

The Child Protection Policy must cover these aspects viz., a) Preventive Measures b) Complaint Mechanism

Preventive Measures may include –

- 1. Background Verification** - Schools can conduct thorough background checks, including criminal record checks and reference verifications, for all employees and volunteers who have direct contact with children. This helps to identify individuals with a history of abusive behavior or other red flags
- 2. Introduction of employees to the Child Protection Policy** – Schools need to ensure that any employee who joins the school/institution is given an ID Card and is made to read, understand and sign the Terms and Conditions of Work as per Child Protection Policy
- 3. Setting clear boundaries and code of conduct** – Schools should establish clear guidelines outlining acceptable behavior for all staff, students, and volunteers. This includes expectations regarding appropriate interactions with children, maintaining professional boundaries, and reporting any concerns or incidents promptly. Clear boundaries towards behaviour of staff towards children should be established such as No teacher will lock the classroom from inside etc.
- 4. CCTV Cameras** – Install CCTV cameras at all places and the review the same frequently
- 5. Lay down clear policy about use of internet within school premises.**
- 6. Awareness and Education** - Schools may implement educational programs and initiatives to raise awareness among students, parents, and the broader school community about child protection issues, including recognizing warning signs, reporting procedures, and resources for support.
- 7. Reporting Mechanism** - Schools establish clear protocols for reporting suspected cases of child abuse or neglect. Staff members are typically required to report concerns to designated child protection officers within the school or to external authorities, such as child welfare agencies or law enforcement, as mandated by law.
- 8. Confidentiality** - Confidentiality policies should be in place to protect the privacy of children and families involved in child protection cases. Information regarding suspected abuse or neglect is shared only with authorized individuals on a need-to-know basis, and care is to be taken to avoid gossip or unnecessary disclosure.
- 9. Counsellor** – Appoint a counsellor who is available to address any issues promptly
- 10. Staff Training** - School staff, including teachers, administrators, and support personnel, must receive training on recognizing signs of abuse or neglect, understanding their legal obligations, and following proper reporting procedures. Training may also cover topics such as child development, communication skills, and creating safe learning environments.

Complaint Mechanism

Schools must have a complaint reporting mechanism in place where either the child or any other person knowing about child sexual abuse can raise the concern to the Child Welfare Committee which can be constituted in the school or a single point of contact can be established to ensure mandatory reporting as per the law.

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In order to ensure the school's response to child safety violations, there can be several points included in the Child Protection Policy under Complaint Mechanism. These points would include –

1. **Immediate Action** – a) To **Ensure Child's Safety** should be the immediate priority which may include separating the child from the alleged perpetrator or situation causing harm and providing safe space within school b) **Provide Support** – Child should be given immediate support and reassurance that the child is believed and it's not their fault.
2. **Create and Follow Reporting Procedure** – Any child who is a victim of sexual abuse or any person knowing a child being victim of sexual abuse must report the same to the school authorities and to the 1098 ChildLine and register to the nearest juvenile police unit.
3. **Protect the Privacy of the Involved Parties** - Maintain confidentiality to protect the privacy of all individuals involved. Information should only be shared with those who need to know for the purposes of investigation and support.
4. If the alleged perpetrator is a staff member, consider whether they should be temporarily removed from their duties or have their access to children restricted during the investigation.
5. Implement measures to prevent recurrence, such as reviewing and updating safety protocols, policies, and staff training programs.
6. **Support** - Offer ongoing support to the victim, which may include counselling, academic support, or adjustments to their school environment to ensure their continued safety and well-being. Provide support to others affected by the incident, such as witnesses or friends of the victim.
7. Consider the legal implications and seek legal counsel as needed to navigate the complexities of child protection laws.
8. Ensure that psychological support is available for all parties involved, recognizing the emotional impact such incidents can have on the entire school community.

Handling child safety violations with sensitivity, urgency, and professionalism is paramount. By doing so, schools affirm their commitment to creating a safe and nurturing environment for all students.

NEWS CORNER –

Any Person Regardless of Gender and Age can be accused under POCSO ACT – Kerala High Court

The plea was submitted to quash the investigation as the petitioner is a minor 13 year old who is accused of offences under section 6 of POCSO ACT, 2012. It was submitted by the counsel of the petitioner that the petitioner cannot be prosecuted under the IPC as well as the POCSO act as the petitioner is a minor. Kerala High Court observed that regardless of gender and age any person can be an accused under POCSO ACT, 2012. It refused to quash the proceedings that were pending in the act against the minor. However, it was clarified by the bench of Justice Ajith Kumar that since it is a case of minors, they will be tried only under the juvenile justice act and not in the ordinary criminal court.

The court held that it does not prescribe at any point that the child in conflict with the law must be prosecuted against in the POCSO Act.

ABOUT THE AUTHORS

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Advocate Vaishali Bhagwat, is amongst the first technology lawyers in the country with prior qualification and working experience in the field of Computer Science, Cyber Defense and Information Assurance.

Her work also focuses on women and children's rights and has worked extensively on cases relating to violence against women and children including sexual violence. Vaishali is an external member on various ICC committees and has conducted several complex inquiries relating to sexual harassment at workplace. POSH awareness and capacity building workshops conducted by her are rich in content as she discusses various cases and draws on her experience dealing with inquiries and POSH related court litigation including criminal cases.

Vaishali has advised several organizations across varied sectors on POSH compliance, safety in virtual workplaces, cyber safety and is also regularly invited as an expert speaker/ panelist on this subject by various organizations providing POSH services.

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Thank you for reading!

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