

# SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE – REDRESSAL MECHANISMS

## Frequently Asked Questions

### **Q. What is sexual harassment?**

A. Sexual harassment, in simple terms, includes any sexual act whether direct or by implication which is unwelcome in nature.

### **Q. What constitutes a workplace?**

- Workplace premises
- Any place visited by employee arising out of/in the course of employment, including transportation provided for employer for doing the same
- This need not be only the workplace where the woman is employed

### **Q. What is the law regarding the same?**

A. The law regarding prevention of sexual harassment at the workplace developed following the Vishaka judgement, where the Supreme Court laid down basic guidelines to be followed by institutions in this regard. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides for an Internal Complaints Committee to be constituted to deal with such acts at a workplace.

### **Q. What are the redressal mechanisms available for victims of sexual harassment?**

A. Lodging a complaint with the Internal Complaints Committee or the nearest police station.

## INTERNAL COMPLAINTS COMMITTEE

### **Q. How is the Internal Complaints Committee Constituted?**

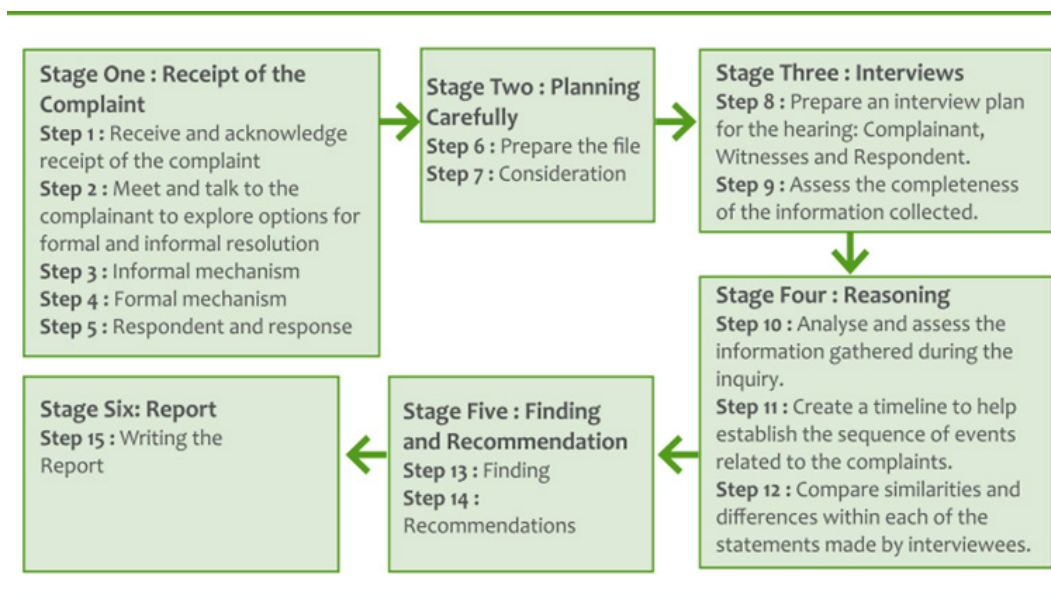
A. 50% of the members of the committee must be women, and the Presiding Officer has to be a woman. In case the offices or administrative units of a workplace are located in multiple places, each one must have an ICC of its own. Complaints Committee/s members must be free of any conflict of interest with either the concerned parties

or with the outcome.

**Q. Is there any other Committee that deals with cases of sexual harassment at the workplace?**

A. In case there are fewer than 10 employees in a company, or if the act of sexual harassment has been conducted by the employer himself, the victim must approach the Local Complaints Committee, which must be constituted in every district by the State Government, or contact the local police station.

**Q. What are the stages of inquiry under the ICC?**



**Q. Who can complain?**

A. In case the victim of sexual harassment is incapable of filing the complaint, the complaint can be filed by a relative, friend, person with knowledge and the victim's written consent among others.

**Q. What must the complaint contain?**

The written complaint should contain a description of each incident(s). It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties. A person designated to manage the workplace sexual harassment complaint is required to provide assistance in writing of the complaint if the complainant seeks it for any reason.



### **Q. What is the procedure to file the complaint?**

A. Complaint must be filed within 3 months of the incident or 3 months of the last incident (extension can be granted at the discretion of the committee)

Six copies of:

- i. complaint;
- ii. supporting documents; and
- iii. names and addresses of the witnesses

Complainant must receive acknowledgement receipt

### **Q. What is the process of inquiry?**

A. Once the committee receives the complaint, they must complete inquiry into the same within 90 days and submit a final report to Employer or District Officer (as the case may be) within ten days thereafter.

### **Q. What is the informal process of settlement?**

A. At the request of the aggrieved woman, the matter can be settled through conciliation. The Committee may advise for or against the same, but the final decision is that of the complainant. Monetary settlement cannot be made the basis of conciliation.

**Q. What is the formal process of inquiry?**

A. The formal process of inquiry deals with accumulation of evidence, i.e., eye-witnesses, relevant documents, interviews conducted etc., at the end of which the ICC reports whether or not the sexual harassment has taken place and what the penalty will be in case it has been proven.

**Q. Will the complainant be granted any relief during the process of inquiry?**

A. In the process of the inquiry the Committee may, on request by the Complainant, grant temporary relief in the form of:

- i. transfer of the aggrieved woman or the respondent to any other workplace;
- ii. granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement;
- iii. restraining the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, which duties may be transferred to other employees.

**Q. What happens if the sexual harassment has not been proven?**

A. If the ICC determines that no sexual harassment has taken place, there will be no action taken against the respondent.

**Q. What are the penalties in case the sexual harassment has been proved?**

A. If the harassment is proved it may be recommended that the respondent issues a written apology, his promotion, pay rise or increment in salary is withheld, his services are terminated, he receives counselling or is reprimanded.

**Q. Can the complainant not receive compensation in case the sexual harassment has been proved?**

A. The Complaints Committee may also recommend financial damages to the complainant, while deciding the amount they shall take into consideration:

- Mental trauma, pain, suffering and emotional distress caused;
- Medical expenses incurred;
- Loss of career opportunity;
- Income and financial status of the respondent.

If the amount is not paid it can be recovered as an arrear of land revenue.

**Q. Will the report containing the findings be submitted to the complainant and**

**respondent?**

A. The final report will be made available to both the parties.

**Q. When will the Employer have to act on the ICC's recommendations?**

A. The Employer or District Officer is obliged to act on the recommendations within 60 days.

**Q. Can one appeal in case they are dissatisfied by the ICC's findings?**

A. If any of the parties is not satisfied with the finding, they may appeal the same in an appropriate court or tribunal.

**Q. What are the duties of the employer in this regard?**

A. An employer is duty-bound to provide a safe working environment, increase awareness about what constitutes sexual harassment and its consequences, and provide adequate redressal mechanisms for the same.

## POLICE STATION

**Q. What is an FIR?**

A. FIR (First Information Report) is a report that contains all the details of the offence committed against the victim. The FIR is the first step towards investigating the offence.

**Q. How can one file an FIR?**

A. An FIR is filed at the police station closest to the place of commission of offence, with an officer in charge. It can be done orally or in writing. The particulars of the offence must be recorded by the officer and subsequently read out to the informant.

**Q. Can the police refuse to file an FIR?**

A. The officer in charge cannot refuse to file an FIR. If the officer in charge refuses to record the information,

- i. the same can be sent to the Superintendent of Police in writing and by post;
- ii. one can approach the National or State Human Rights Commissions;
- iii. approach the National Commission for Women

**Q. Does the informant get a copy of the FIR?**

A. The informant must receive a copy of the FIR within 24 hours of its filing.

**Q. Can a woman having faced sexual harassment request to have a female police officer file the FIR?**

A. Yes.

**Q. Under which provisions of the Indian Penal Code can one lodge a complaint regarding sexual harassment?**

A. IPC provisions under which the FIR can be filed:

**1. Section 354 : Outraging the modesty of a woman**

Assault or use of criminal force to any woman, intending to outrage or knowing it to be likely that modesty would be outraged.

**2. Section 354-A: Sexual harassment by a man**

- i. Physical contact and advances involving unwelcome and explicit sexual overtures;
- ii. Demand or request for sexual favours;
- iii. Showing pornography against the will of a woman; or
- iv. making sexually coloured remarks.

**3. Section 354-B : Assault or use of criminal force to woman with intent to disrobe**

**4. Section 354-C: Voyeurism**

Watching, or capturing the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image.

**5. Section 354-D: Stalking**

Following a woman and contacting or attempting to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or Monitoring the use by a woman of the internet, email or any other form of electronic communication.

**6. Section 503. Criminal intimidation**

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

7. Section 509: Uttering any word, making any sound or gesture, or exhibiting any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by a woman, with an intention to insult her modesty, or intruding upon the privacy of such woman.

8. Section 376C. Sexual intercourse by a person in authority.

Abuse of such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him

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