

**The Law on  
Prevention of  
Sexual  
Harassment at  
Workplace**

**sexual  
harassment**

**in the workplace**

**UNDERSTAND PREVENT RESPOND**

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# Onus of Compliance with the POSH Law

The onus of Compliance with the POSH law is on the **EMPLOYER**

The Employer has to ensure that the organization is compliant with the Law.

***Compliance with Law is very easy.***

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# Sexual harassment cases mishandled by organisations

Many **organisations tend to get rid of this problematic situation** of a complaint of Sexual Harassment.

In many cases, the complainant was offered a transfer to another department within the organisation or was free to choose her next course of action.

Some tacitly encouraged the complainant to leave the organisation.

Some organisations asked the complainant to sign a document stating that the organisation had taken appropriate action on her complaint.

This implies that the **organisation was more desperate to get itself out of the situation and also play safe at the same time, instead of being sympathetic or supportive of the complainant.**

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# Sexual harassment cases mishandled by organisations

It is easy to be compliant with the Law and take up the Complaints, if any, as per the legal process.

This keeps the organization safe.

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# Compliances required under the Law



# POSH Policy

The Law provides that employers must formulate a policy against sexual harassment at workplace.

## **Please note:**

- ✓ A policy is must for women even if there is no policy for other genders
- ✓ Even if there are only men as employees, a policy is must
- ✓ Even if there are global policies, policy as per Indian law is must
- ✓ The policy needs to be disseminated.

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# POSH Policy

**Women centric**

**OR**

**Gender Neutral**



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# Internal Committee

- Every employer of a workplace (having more than 10 employees) shall, by order in writing, constitute an Internal Committee (IC).
- In case an organization has offices or administrative ***units at different locations, such committee shall be constituted at each of the offices.***



# Composition of the IC

The IC shall consist of the following members to be nominated by the employer:

- Presiding Officer, who shall be a woman employed at a senior level;
- At least 2 members from amongst the employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- One member from amongst NGOs or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;

***Therefore, there shall be at least 4 members to form an IC.***

***Provided that at least one-half of the total members so nominated shall be women.***

# Sensitization Sessions

The employer is mandated to conduct sensitization and awareness sessions for all employees on a regular basis.

An orientation session for the members of the IC is also required to equip them to handle any cases of Sexual harassment that may be reported. They also need to be regularly updated on matters related to POSH.

Members of the Senior Management should also be sensitized on the POSH related matters.

# Notices / Posters

As per POSH Law, an employer is responsible for creating awareness about the Policy, the redressal mechanism, consequences of sexual harassment and to display details of IC members at conspicuous places.

Poster(s) to create awareness could be displayed at any place within the workplace that is usually or frequently seen / visited by employees/ visitors.

# Reports & Returns

- As per POSH Law, each IC of each separate legal entity must prepare and submit an annual report to the employer and District Officer in their district.
- The details of compliance with the POSH Law are also required to be disclosed in the Directors' Report of the Company.

***UNWELCOME*** is the key in defining sexual harassment.

It is the ***impact*** and ***effect*** the behaviour has ***on the recipient*** that will define the behaviour as sexual harassment.

# Strict action against the perpetrators is the need of the hour



# Criticality to Business Vs. Behaviour

- Top Management normally weighs the need / immense contribution of the employee vis-à-vis the alleged offence.
- Here, it is not a question of balancing the two but is a matter of **image of the organization**.
- We need to evaluate the **impact of the decision on the organization** as a whole.

# Penalties

- Where the employer fails to comply with provisions of the Act, he shall be punishable with fine which may extend to **Rs. 50,000/-**.
- In case of repeat offence, the punishment shall be twice of what was imposed at first offence, subject to the same being maximum provided for the same offence, provided that if a higher punishment is prescribed under any other law, the court shall take due cognizance of the same while awarding the punishment.
- Further, it may also lead to **cancellation of the licence** or withdrawal or non-renewal or approval or cancellation of registration, as the case may be, by the Government or local authority required for carrying on the business activity.





**Manoj Kapoor**  
**Director & Chief Mentor**  
**Kapgrow Corporate Advisory Services Private Limited**  
E-69, Lajpat Nagar - 1, New Delhi-110024  
Telephone: 011- 40553774  
e-mail: [msnoj.kapoor@kapgrow.com](mailto:msnoj.kapoor@kapgrow.com)  
Mobile: 9810270880