

**GOVERNANCE AND
COMPLIANCE STANDARD
ON
PREVENTION, PROHIBITION AND REDRESSAL
OF SEXUAL HARASSMENT AT WORKPLACE**



**THE INSTITUTE OF
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FOREWORD

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (PoSH Act) is a landmark legislation aimed at ensuring the safety, dignity, and equality of women at the workplace.

The successful implementation of this law requires a consistent and robust framework that can be adopted by organizations across all sizes and sectors. I am happy to note that the Secretarial Standards Board (SSB) of the ICSI, in its commitment to promoting good governance, is introducing the Governance and Compliance Standard (the "Standard") on the "Prevention, Prohibition, and Redressal of Sexual Harassment at Workplace." This initiative aims to significantly enhance the implementation of the PoSH Act, in diverse organizational settings.


This Standard provides comprehensive and standardized procedures for conducting meetings of the Internal Committee, ensuring consistency and efficiency. It also clarifies and streamlines the provisions related to complaint and inquiry mechanisms, offering greater coherence and transparency.

Recognizing the importance of education and capacity building, the Standard includes detailed modalities for training programs for employees and capacity-building initiatives for Internal Committee members. These programs are designed to foster a thorough understanding and effective application of the PoSH Act, thereby promoting a culture of respect and equality at workplace.

Moreover, the Standard lists out the necessary elements for drafting a gender-neutral PoSH policy and provides a specimen policy to guide organizations in creating inclusive and equitable workplace policies.

The adoption of this Standard by organizations will undoubtedly lead to more effective implementation and compliance with the PoSH Act. It will not only reinforce the legal framework but also contribute to creating a safer and more inclusive work environment for all.

I commend the ICSI, the members of the SSB, and everyone who has contributed to the development of this well-researched and comprehensive Standard. I urge all organizations to adopt and implement it. Together, we can ensure that the workplace remains a safe and equitable space for everyone.


(Dr. Rajiv Mani)
Secretary



CONTENTS

Particulars	Page No.
PART-I	
Introduction	2
Scope	3
Definitions	3
Governance and Compliance Standard	8
1. Internal Committee	8
2. Complaint and Inquiry Mechanism	21
3. Anti-Sexual Harassment Policy	33
4. Trainings and Sensitization	36
5. Annual Report Disclosures	41
6. Gender Equality	43
PART-II	
Specimen Policy on Prevention, Prohibition and Redressal of Sexual Harassment at Workplace	46
Specimen Brochure on PoSH for displaying at Workplace	62



PART-I

Governance and Compliance Standard on Prevention, Prohibition and Redressal of Sexual Harassment at Workplace

GOVERNANCE AND COMPLIANCE STANDARD ON PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT AT WORKPLACE

The following is the text of the Governance and Compliance Standard (GCS) on “Prevention, Prohibition and Redressal of Sexual Harassment at Workplace”, issued by the Council of the Institute of Company Secretaries of India.

Adherence to this Governance Standard by an Employer, organization or institution is highly recommended.

(In this Governance and Compliance Standard, the Standard portions have been set in bold text. These shall be read in the context of the background material which has been set in normal text. Both the Standard portions and the background material have equal authority).

Introduction

The Government of India has enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as “PoSH Act”) to ensure women’s right to Workplace equality, free from Sexual Harassment by emphasizing compliance with three vital elements of the PoSH Act i.e., prevention, prohibition and redressal.

This Standard prescribes a set of principles with respect to the prevention, prohibition and redressal of Sexual Harassment at Workplace and matters related thereto.

SCOPE

The principles enunciated in this Standard aim to facilitate effective implementation of the provisions of the PoSH Act and apply to all Workplaces, whether in the public or private sector irrespective of their size and nature of business, area of operations, etc.

While the PoSH Act was originally enacted to address women's Sexual Harassment concerns in the Workplace, the principles outlined in this Standard are inclusive, ensuring equal protection and support for everyone, regardless of gender. Therefore, the term "Aggrieved Person" has been adopted in the Standard inclusively. In case of the Local Committee, complaints can only be filed by "Aggrieved Woman."

The principles outlined in this Standard shall be applied to an Aggrieved Person, regardless of gender, to the extent feasible. Equality and fairness remain paramount in addressing concerns and fostering a safe working environment for all.

DEFINITIONS

The following terms are used in this Standard with the meaning specified:

"Act" or **"PoSH Act"** means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 or any statutory modification thereto or re-enactment thereof and includes any Rules and Regulations framed thereunder.

"Aggrieved Woman" means –

- (i) in relation to a Workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of Sexual Harassment by the Respondent;
- (ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house.

"Aggrieved Person" means an individual of any age, caste, gender, or religion, whether employed or not and includes an

Aggrieved Woman, who alleges to have been subjected to any act of Sexual Harassment by the Respondent.

“Complainant” is either the Aggrieved Person or a person authorized by the Aggrieved Person who is raising the complaint.

“Domestic Worker” means a person who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part-time or full-time basis, but does not include any member of the family of the Employer.

“District Officer” means a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector, as notified by the appropriate Government, for every District, to exercise powers or discharge functions relating to the prevention, prohibition and redressal of Sexual Harassment at Workplace.

“Electronic Mode” in relation to meetings means meetings through video conferencing or other audio-visual means. “Video conferencing or other audio-visual means” means audio-visual electronic communication facility employed which enables all the persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting.

“Employee” means a person employed at a Workplace for any work on 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, probationer, trainee, apprentice or called by any other such name.

“Employer” means

- (i) in relation to any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of

that department, organization, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

- (ii) in any Workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the Workplace.

Explanation. – For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organization;

- (iii) in relation to the Workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her Employees;
- (iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of a Domestic Worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the Domestic Worker.

“Internal Committee” means the committee constituted by the Employer to address any issue relating to the prevention, prohibition and redressal of Sexual Harassment at the Workplace irrespective of gender.

“Local Committee” means the committee constituted by the District Officer of the district to address the complaints related to Sexual Harassment received within the district.

“Member” means a Member of the Internal Committee or the Local Committee, as the case may be.

“Presiding Officer” means the chairperson of the Internal Committee nominated by the Employer who shall be a woman employed at a senior level.

“Respondent” means a person against whom the Aggrieved Person has made a complaint of Sexual Harassment.

“Service Rules” includes Service Rules, code of conduct, PoSH policy or any other document issued by the Employer by whatever name called dealing with issues related to the prevention, prohibition and redressal of Sexual Harassment at the Workplace.

“Sexual Harassment” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely: –

- (a) physical contact and advances;
- (b) a demand or request for sexual favours;
- (c) making sexually coloured remarks;
- (d) showing pornography;
- (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature;
- (f) following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behaviour of Sexual Harassment may amount to Sexual Harassment:
 - (i) implied or explicit promise of preferential treatment in employment;
 - (ii) implied or explicit threat of detrimental treatment in employment;
 - (iii) implied or explicit threat about present or future employment status;
 - (iv) interference with work or creating an intimidating or offensive or hostile work environment;
 - (v) humiliating treatment likely to affect health or safety;
 - (vi) threat, intimidation, or retaliation against an Employee who speaks about unwelcome behaviour with sexual overtones/ connotations.

Explanation: Sexual Harassment is a pervasive issue that extends beyond physical spaces into the virtual realm. Virtual Sexual Harassment involves unwelcome and inappropriate behaviours through digital platforms. This can include explicit messages, unsolicited images or videos, or online stalking.

“Workplace” includes –

- (a) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
- (b) any private sector organisation or a private venture whether for or not for profit, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;
- (c) hospitals or nursing homes;
- (d) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- (e) any place visited by the Employee arising out of or during the course of employment including transportation provided by the Employer for undertaking such journey;
- (f) a dwelling place or a house;
- (g) the term Workplace also includes an unorganized sector which means an enterprise owned by individuals or self-employed workers, engaged in the production or sale of goods or providing service of any kind whatsoever, and the number of such workers is less than ten.

Explanation: Workplace refers to any location, premise, or space, whether physical, virtual, or otherwise, where an Employee carries out work-related activities or duties for and on behalf of an organization. This encompasses not only the primary Workplace but also any off-site or remote location where work is performed, official events, work-related travel, or any other setup where work-related interactions occur.

Words and expressions used and not defined herein shall have the meaning respectively assigned to them under the PoSH Act. The words and expressions used within the Standard will explicitly encompass all individuals, regardless of gender ensuring inclusivity in the application of its principles.

GOVERNANCE AND COMPLIANCE STANDARD

1. Internal Committee

1.1 Constitution

The Employer of a Workplace whether public, private or not-for-profit organizations having ten or more Employees shall constitute an Internal Committee by order in writing from the management.

The management includes the person or board or committee responsible for formulation and administration of policies for such organisation.

The terms of reference of the Internal Committee shall be specified in the resolution or order constituting the Internal Committee and it shall be communicated to every Member of the Internal Committee specifying their roles and responsibilities.

Where the offices or administrative units of the Workplace are located at different places or divisional or sub-divisional levels, the Internal Committee shall be constituted at all such administrative units or offices.

1.2 Composition

- 1.2.1 The Internal Committee shall comprise of a minimum of four Members with at least one-half of the total Members being women.**
- 1.2.2 The Internal Committee shall comprise of a Presiding Officer who shall be a woman employed at a senior level at the Workplace from amongst the Employees, at least two Members from amongst Employees preferably committed to the cause of women or have legal knowledge or experience in social work or is professionally qualified and experienced to manage regulatory compliances and one external Member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with handling the issues relating to Sexual Harassment.**

Where a senior level woman Employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the Workplace. Where other offices or administrative units of the Workplace also do not have a senior level woman Employee, the Presiding Officer shall be nominated from any other Workplace of the same Employer or other department or organisation.

1.3 Qualification of Members

- 1.3.1 Legal knowledge, experience in social work or commitment to the women's cause shall be the pre-requisite for selection of the Employees as Members of the Internal Committee.**
- 1.3.2 The external Member shall be from non-governmental organisations or associations committed to the cause of women or a person familiar with labour, service, civil or criminal laws preferably having experience in creating women empowerment and/ or addressing Workplace Sexual Harassment.**

- 1.3.3 A Company Secretary in practice may be appointed as an external Member of the Internal Committee.**
- 1.3.4 The Company Secretary in practice so appointed as external Member shall be an independent professional and guide the governance process of the Internal Committee, advise on the adoption and implementation of this standard and recommend best practices and the nature of disclosures to be made in the annual report of the company. The Internal Committee shall consider such guidance with relation to working of the Committee and the manner of handling the complaints under the Act.**
- 1.3.5 No disciplinary proceeding or inquiry into any offence under any law for the time being in force shall be pending against any Member of the Internal Committee at the time of appointment of the Member.**

1.4 Tenure and performance evaluation

The Presiding Officer and Members of the Internal Committee shall not occupy the office for a period of more than three years from the date of nomination. The Internal Committee shall be reconstituted after the period of every three years.

The Internal Committee shall endeavour to establish a mechanism of performance evaluation on parameters such as skills, expertise, participation and contribution in the meetings.

1.5 Grounds of removal

- 1.5.1 A Member shall be removed from the Internal Committee on the grounds of breaching the confidentiality norms, being convicted for an offence, being found guilty in any disciplinary proceeding or if it is discovered that an inquiry/ disciplinary proceeding is pending against such**

Member or there is an abuse of position by the Member of the Committee or is involved in or has committed an act rendering such Member unfit and not proper to be a Member.

1.5.2 An opportunity of being heard shall be provided to the concerned Member of the Internal Committee before arriving at a decision.

1.5.3 Any casual vacancy on the Internal Committee either due to the removal of a Member or otherwise shall be filled up forthwith.

1.6 Fees or allowances

The organization shall pay such fees or allowances to the Members of the Internal Committee as approved by the Board or as per the policy of the organisation.

No fee or allowance for attending the meetings of the Internal Committee shall be paid to Members who are Employees of the organisation except to the extent of their entitlement as per Service Rules or other rules of the Employer/Workplace. External Members shall be paid a reasonable sitting fee and other out-of-pocket expenses incurred for attending the meetings of the Internal Committee, including travel expenses, if any.

1.7 Meetings of the Internal Committee

1.7.1 Authority

1.7.1.1 The Presiding Officer may at any time summon a meeting of the Internal Committee.

1.7.1.2 The Presiding Officer shall summon a meeting of the Internal Committee, if a written requisition is received from at least two Members of the Internal Committee and there is sufficient cause to convene a meeting.

1.7.2 Notice

1.7.2.1 A Notice in writing of every meeting shall be given to every Member of the Internal Committee by hand or by speed post or by registered post or by courier or by facsimile or by e-mail or by any other electronic means.

Proof of sending notice shall be maintained for at least three years from the date of the meeting.

1.7.2.2 Notice shall be issued by the Presiding Officer.

In the absence of the Presiding Officer, the notice of the meeting may be issued by any other Member of the Internal Committee, if authorised in writing by the Internal Committee.

The authorization shall be taken at the first meeting of the Internal Committee.

1.7.2.3 Notice shall specify the serial number, day, date, time and full address of the venue of the meeting.

1.7.2.4 Notice shall inform the Members about the option available to them to participate through Electronic Mode and provide them with all the necessary information.

Notice shall also contain the contact number or e-mail address of the person issuing the notice to whom the Member shall confirm the mode of attending the meeting. In the absence of an advance communication or confirmation from the Member, it shall be assumed that the Member will attend the meeting in-person.

1.7.2.5 Notice shall be given at least three days before the date of the meeting.

In case the organization sends the Notice by speed post or by registered post or by courier, an additional two days shall be added to the period of service of notice.

1.7.2.6 To transact an urgent business, notice may be given at a shorter period of time than stated above.

The urgency of the matter shall be decided by the Presiding Officer or at least two Members of the Internal Committee considering the severity of the matter being discussed and its consequences for the Aggrieved Person.

1.7.3 Agenda

1.7.3.1 The agenda, setting out the business to be transacted at the meeting, and notes on the agenda shall be given to every Member of the Internal Committee at least three days before the date of the meeting either by hand or by speed post or by registered post or by courier or by facsimile or by e-mail or by any other electronic means.

In case the organization sends the agenda by speed post or by registered post or by courier, an additional two days shall be added for the service of the agenda. Proof of sending the agenda shall be maintained by the organization for at least three years from the date of the meeting.

1.7.3.2 Agenda shall be issued by the Presiding Officer.

In the absence of the Presiding Officer, the agenda of the meeting may be issued by any other Member of the Internal Committee, if authorised in writing by the Internal Committee.

The authorization shall be taken at the first meeting of the Internal Committee.

1.7.3.3 To transact urgent business, an agenda may be given at shorter period of time than stated above.

The urgency of the matter shall be decided by the Presiding Officer or at least two Members of the Internal Committee considering the

severity of the matter being discussed and its consequences for the Aggrieved Person.

1.7.4 Frequency of meetings

1.7.4.1 First meeting

The First meeting of the Internal Committee shall be held within ninety days from the date of its constitution to take note of the terms of reference, existing PoSH mechanism, and policy and to make suitable recommendations for improvements, if any.

1.7.4.2 Review meeting

The Presiding Officer shall convene at least two review meetings in a year to ascertain the effectiveness of the organization's anti-Sexual Harassment policies and procedures, review the action taken report on previous decisions, evaluation of cases, recommend awareness programmes on PoSH and such other matters within the purview of the Internal Committee.

1.7.4.3 Inquiry meetings

Inquiry Meetings shall be held as and when required on the basis of the complaints received.

1.7.4.3.1 Interim status report

In case of inquiry meetings, an interim status report shall be prepared for every such meeting so as to make the same available to the Complainant or the Respondent to keep the proceedings transparent.

The interim status report shall share the status of the inquiry on the date of the meeting.

1.7.4.3.2 Inquiry report

On the conclusion of the inquiry proceedings, an inquiry report shall be issued by the Internal Committee within ten days. Such report be made available to the concerned parties including the Complainant and the Respondent.

1.7.5 Mode of meetings

Meetings shall be conducted either physically or through Electronic Mode.

1.7.6 Quorum

1.7.6.1 Quorum shall be present throughout the meeting.

1.7.6.2 For quorum at the meetings of the Internal Committee, a minimum of three Members including the Presiding Officer shall be present.

1.7.6.3 A Member shall not be reckoned for quorum nor shall be entitled to participate in respect of an item in which such Member is interested.

The interested Member shall make a declaration of conflict of interest with the parties at the beginning of the meeting.

Members of the Internal Committee shall not have a conflict of interest with any of the parties involved in the inquiry and accordingly shall recuse from participating in the inquiry.

1.7.6.4 Members participating through Electronic Mode shall be counted for the purpose of the quorum.

1.7.7 Chairperson

The Presiding Officer of the Internal Committee shall be the chairperson of the meeting.

1.7.8 Attendance register

1.7.8.1 Attendance register shall be maintained for all the meetings of the Internal Committee.

The pages of the attendance register shall be serially numbered.

If an attendance register is maintained in loose-leaf form, it shall be bound periodically, at least once in every three years.

1.7.8.2 The attendance register shall contain the following particulars: serial number and date of the meeting; place of the meeting; time of the meeting; names and signatures of the Members, Complainant, Respondent, witness(es) and also of persons attending the meeting by invitation and their mode of presence, if participating through Electronic Mode.

1.7.8.3 The attendance register shall be deemed to have been signed by the persons participating through Electronic Mode, if their attendance is recorded in the attendance register and authenticated by the Presiding Officer or by any other Member present at the Meeting, if so, authorised by the Presiding Officer.

In case of Members participating through Electronic Mode, the Presiding Officer shall confirm the attendance of such Members. For this purpose, at the commencement of the meeting, the Presiding Officer shall take a roll call. The Presiding Officer shall request the Member(s) participating through Electronic Mode to state his/ her full name and location from where he/ she is participating, confirm that he/ she has received the agenda and all the relevant material for the meeting; and that no one other than the concerned person is attending or having access to the proceedings of the meeting at the location and shall record the same in the minutes.

1.7.8.4 The attendance register shall be preserved for a minimum period of three years or any other period as may be decided by the Internal Committee.

1.7.9 Minutes

1.7.9.1 Minutes of the meetings of the Internal Committee shall be entered in the minutes book maintained for this purpose.

- 1.7.9.2 Minutes shall be maintained in physical or in electronic form.**
- 1.7.9.3 Minutes shall not be pasted or attached to the minutes book, or tampered with in any manner.**
- 1.7.9.4 The pages of the minutes books shall be consecutively numbered.**
- 1.7.9.5 Minutes books, if maintained in loose-leaf form, shall be bound periodically.**
- 1.7.9.6 Minutes of the meeting of the Internal Committee shall be circulated to all the Members within fifteen days from the conclusion of the meeting.**
- 1.7.9.7 The Presiding Officer shall sign the minutes of the meeting of the Internal Committee within fifteen days from the circulation of the minutes.**
- 1.7.9.8 The time of commencement and conclusion of the meeting shall be recorded in the minutes.**
- 1.7.9.9 Minutes of the meetings of the Internal Committee shall be preserved permanently.**
- 1.7.9.10 The proceedings of the Internal Committee shall be duly recorded in the minute book of the Committee and the same shall be in the custody of the Presiding Officer or such other Officer as may be authorized in this regard.**
- 1.7.9.11 An authenticated copy of the PoSH policy shall be annexed to the minutes of the first meeting, which is convened**

after the notification of this standard to have an official reference for the Internal Committee Members.

1.7.9.12 An authenticated copy of the PoSH policy shall also be annexed to the minutes of the first meeting of the Internal Committee convened after its reconstitution.

1.8 Roles and responsibilities

1.8.1 The roles and responsibilities of the Employer shall, inter alia, include:

- (a) to provide a safe working environment at the Workplace, which shall include safety from persons coming into contact at the Workplace and also to ensure implementation of PoSH policy across the organisation.
- (b) to maintain zero tolerance towards acts of Sexual Harassment and to encourage respectful and dignified behaviour in the Workplace at all times by all the Employees.
- (c) to display the composition of the Internal Committee with names and contact details prominently in the Workplace, and displaying the penal consequences of Sexual Harassment in conspicuous places at the Workplace.
- (d) to conduct workshops and awareness programs regularly to sensitize Employees about gender-sensitive behaviour, Sexual Harassment, and relevant legal provisions.
- (e) to organize orientation and skill-building programs for the Internal Committee Members periodically.

- (f) to provide necessary facilities and information to the Internal Committee for handling complaints and conducting investigations.
- (g) to assist in arranging the attendance of the Respondent and witnesses before the Internal Committee and to provide required information related to complaints.
- (h) to offer assistance to the Aggrieved Person if they choose to file a FIR under the Indian Penal Code or any other applicable law.
- (i) to assist Aggrieved Person, if desired, in filing complaints against individuals/ perpetrator not employed by the Employer for incidents of Sexual Harassment at the Workplace.
- (j) to monitor the timely submission of reports by the Internal Committee and to ensure compliance with all applicable laws.
- (k) to ensure compliance with all applicable laws, including the Act.
- (l) to treat Sexual Harassment as misconduct in the Service Rules of the organisation and initiate action for such misconduct.
- (m) to provide necessary information to the Internal Committee regarding complaints filed under policy on prevention, prohibition and redressal of Sexual Harassment at Workplace.

1.8.2 The roles and responsibilities of the Internal Committee shall, inter alia, include:

- (a) address all complaints promptly and diligently.
- (b) ensure fairness to all parties during the investigation of Sexual Harassment complaints.

- (c) conduct inquiries and recommend appropriate actions in accordance with the Act, the policy of the organisation, and relevant laws.
- (d) uphold principles of natural justice and treat all involved parties with dignity and respect.
- (e) submit the inquiry report along with recommendations to the Employer.
- (f) meet reporting obligations under Sections 21 and 22 of the Act by submitting annual reports to designated District Officers (including details like the number of complaints received in the year, number of complaints disposed of during the year, number of cases pending for more than ninety days, number of workshops or awareness programme against Sexual Harassment carried out, nature of action taken, etc.)
- (g) maintain strict confidentiality of complaint and inquiry information, handling it discreetly.
- (h) lead by example in promoting proper Workplace behaviour and ethical standards consistent with the values and code of conduct of the organization.

1.9 Powers of Internal Committee

For the purpose of making an inquiry, the Internal Committee is vested with the powers of the Civil Court under the Code of Civil Procedure 1908 when trying a suit in respect of the following matters, namely

- (a) summoning and enforcing the attendance of any person and examining him on oath,
- (b) requiring the discovery and production of documents,
- (c) recording the statement of summoned parties, and
- (d) any other matter which may be prescribed.

1.10 Local Committee

The Local Committee constituted by the District Officer will receive and redress complaints of Sexual Harassment from:

- (a) the Workplace that does not have an Internal Committee because it has less than ten Employees,
- (b) women working in unorganized sectors like housekeeping staff or Domestic Worker, and
- (c) Employees from a Workplace with more than ten Employees if the complaint is against the Employer himself.

The jurisdiction of the Local Committee extends to the areas of the district where it is constituted.

2. Complaint and Inquiry Mechanism

2.1 Filing a complaint

2.1.1 Complaint to be filed in writing

2.1.1.1 Complaint to be filed in writing within a period of three months from the date of incident.

In case of a series of incidents, the period of three months shall be counted from the date of the last incident.

2.1.1.2 In case the Complainant is unable to give a complaint in writing, the Presiding Officer or any Member of the Internal Committee shall render all reasonable assistance to the Aggrieved Person for making the complaint in writing.

2.1.2 Extension of time limit for filing the complaint

2.1.2.1 Internal Committee may extend the time limit for filing the complaint, if it is satisfied that the circumstances were

such that it prevented the Aggrieved Person from filing a complaint within the said period of three months. The reasons for extending the time limit shall be recorded in writing by the Internal Committee.

2.1.2.2 The reasons for extending the time limit may inter alia include mental or physical incapability of the Complainant, unforeseen circumstances or other emergencies.

2.1.3 Complaint shall be filed by the Aggrieved Person

2.1.3.1 In case of physical incapacity of the Aggrieved Person, the complaint can be filed by his/ her relative, friend, co-worker, officer of National Commission for Women/ State Women's Commission or any person who has knowledge of the incident with the written consent of the Aggrieved Person.

2.1.3.2 In case of mental incapacity of the Aggrieved Person, the complaint can be filed by Aggrieved Person's friend, relative, qualified psychiatrist or psychologist, guardian, authority under whose care Aggrieved Person is receiving treatment or care, special educator or any person who has knowledge of the incident jointly with any of the abovementioned person.

2.1.3.3 If an Aggrieved Person is unable to file a complaint for any other reason, a complaint may be filed by any person who has knowledge of the

incident, with the written consent of the Aggrieved Person.

2.1.3.4 In case of death of the Aggrieved Person, a complaint may be filed by the legal heir of the Aggrieved Person or any person who has knowledge of the incident, with the written consent of the legal heir of the Aggrieved Person.

2.1.4 Filing complaint with the Local Committee

Aggrieved Person may file a complaint to the Local Committee with the support of the Nodal Officer designated by the District Officer for that area.

2.1.4.1 Employer shall clearly disclose the details of the Local Committee or any appropriate authority on the notice board of the Workplace and in the reception area. Such details shall include name, address and contact details of the Nodal Officer to whom the complaint is to be sent.

2.1.4.2 Employer shall also provide every possible assistance to the Complainant in registering the complaint of Sexual Harassment with the Local Committee which may include travel assistance, support in writing the complaint, etc.

2.1.5 Requisites of a valid complaint

The complaint shall be in writing and contain description of each incident(s) with the relevant date, time and location where the incident took place, the name of the Respondent(s) and the working relationship amongst the parties.

All supporting documents shall be enclosed with the complaint including names and contact details of witnesses.

2.2 Acknowledging a complaint

The Internal Committee shall acknowledge the receipt of the complaint within three days of receiving it.

2.3 Escalation of complaint

2.3.1 In case a complaint is not acknowledged/ accepted at the branch office or local Workplace of the Aggrieved Person, then the Complainant may escalate the complaint to the Internal Committee at the head office after seven days of filing the complaint.

2.3.2 If a complaint is accepted at the branch or local Workplace level but no action has been initiated within twenty days, then the Complainant can approach the Internal Committee at the head office.

In any of the abovementioned cases the Internal Committee at the head office shall issue directions to the branch level Internal Committee to acknowledge/initiate action on the complaint within seven days of such direction.

2.3.3 The complaint shall be deemed to be filed on the day on which it was originally made at the branch / local Workplace.

2.4 Conciliation Process

2.4.1 The Internal Committee before initiating an inquiry, shall inform the Complainant about the remedies available.

2.4.2 Opting for conciliation shall be at the sole discretion of the Complainant. The Complainant shall not be pressurized or influenced in any manner to enter into conciliation.

The Internal Committee shall at the request of the Complainant, take steps to resolve the matter through conciliation and before it takes up the conciliation, it shall be the responsibility of the Internal

Committee to inform the Complainant that no monetary settlement shall be available once the complaint is taken for resolution through conciliation.

2.4.3 On arriving at a settlement, the Internal Committee shall record the settlement so arrived and forward the same to the Employer to take action as specified in the recommendation.

The Internal Committee shall provide the copies of the settlement as recorded to the Complainant and the Respondent.

Where a settlement is arrived at, no further inquiry shall be conducted by the Internal Committee.

2.5 Inquiry into complaint

2.5.1 Inquiry shall be initiated where the Complainant does not opt for conciliation, terms of conciliation were not agreed upon by the parties or after conciliation process the terms of settlement were not complied with.

2.5.2 The Internal Committee shall send one copy of the complaint received from the Aggrieved Person to the Respondent within a period of seven working days and the Respondent shall submit his/ her reply to the complaint with names and addresses of witness(es) and supporting documents, if any, within a period not exceeding ten working days from the date of receipt of the complaint.

2.5.3 The Internal Committee shall inform about the importance of confidentiality and integrity to the Complainant, Respondent and witness(es) before initiating an inquiry.

2.5.4 On a request received from the Complainant, the Internal Committee shall maintain the anonymity of the Complainant during the inquiry proceedings and recording of minutes.

2.5.5 Declaration of confidentiality

2.5.5.1 At the first meeting initiating an inquiry, a declaration of confidentiality shall be signed by every Member of the Internal Committee.

2.5.5.2 Declaration of confidentiality shall also be signed by Complainant, Respondent and witness(es).

The parties shall confirm in the declaration of confidentiality that the information submitted before the Internal Committee is true to the best of their knowledge and that there is no false statement or concealment of any material facts.

The parties shall also acknowledge that they will maintain the confidentiality of proceedings, facts and statements and shall abstain from disclosing it to anyone.

2.5.5.3 In case of virtual meetings, a declaration of confidentiality shall be signed and sent over e-mail prior to the commencement of the meeting.

2.5.6 The statement of the Complainant, Respondent and witness(es) shall be recorded in writing, signed by the person giving the statement and countersigned by the Presiding Officer for the purpose of identification.

2.5.7 In case of virtual meetings, the transcript of meetings and video recordings shall be maintained for a period of eight years or any other period as may be decided by the Internal Committee.

Transcripts of meetings shall be signed by the Presiding Officer.

2.5.8 The Internal Committee shall make an inquiry into the complaint in accordance with the principles of natural justice.

The Internal Committee shall conduct an inquiry into the complaint in accordance with the principles of natural justice. This inter alia includes permitting both parties to be present at all hearings, hearing both parties and their witnesses on the allegations, allowing both parties to do cross-examination, giving a reasoned order, and upholding the right of both parties to receive a copy of the findings of the Internal Committee. The Internal Committee shall ensure that adequate advance notice in writing is given to the Complainant and the Respondent of the date/s, time and venue at which the inquiry shall take place.

The Internal Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint if the Complainant or Respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Presiding Officer. Such termination or ex-parte order shall not be passed without giving a notice of fifteen days in writing, to the party concerned.

The Internal Committee may call witness(es) as it deems fit and examine them on oath, even though such persons are not named as such by the Complainant or the Respondent.

Internal Committee may call for records, documents, information as it deems fit and the Employer shall make sure that such records, documents or information is provided timely to the Internal Committee.

Internal Committee may engage experts if it deems fit, for the purpose of inquiry; however, such expert or specialist shall sign the confidentiality and non-disclosure agreement with the organisation, before attending the hearing.

2.5.9 Punishment for false statement and breaching the confidentiality

2.5.9.1 The Presiding Officer shall inform the Complainant, Respondent and witness(s) about the fact that in case any one of them is found guilty of

giving any statement, knowing it to be false, then they shall be liable to punishment as per the Service Rules of the organisation and if no such Service Rules exist, as per Rule 10 of the PoSH Rules 2013.

2.5.9.2 The Presiding Officer shall inform the person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations of the Internal Committee or action to be taken by the Employer that if such person is found guilty of publishing, communicating or making known to the public, press and media

- a) the contents of the complaint,**
- b) the identity and addresses of the Aggrieved Person, Respondent and witnesses,**
- c) any information relating to conciliation and inquiry proceedings,**
- d) recommendations of the Internal Committee, and**
- e) the action taken by the Employer**

then such person shall be liable to punishment as per the Service Rules of the organisation and if no such Service Rules exist, as per Rule 12 of the PoSH Rules 2013.

2.5.10 The inquiry shall be completed within a period of ninety days from the date of submission of complaint to the Internal Committee.

2.6 Action during the pendency of inquiry

2.6.1 During the pendency of an inquiry, on a written request made by the Aggrieved Person, the Internal Committee may recommend to the Employer:

- a) to transfer the Aggrieved Person or the Respondent to any other Workplace;
- b) to grant leave to the Aggrieved Person up to a period of three months;
- c) to restrain the Respondent from reporting on the work performance of the Aggrieved Person and assign the same to another officer;
- d) to restrain the Respondent from issuing a direction or supervising any activity of the Aggrieved Person.

The leaves granted on the recommendation of the Internal Committee shall not be deducted from entitled leaves or salary of the Aggrieved Person.

2.6.2 The Employer shall implement the recommendations of the Internal Committee within sixty days and send the report of such implementation to the Internal Committee.

2.7 Completion of inquiry

2.7.1 The Internal Committee shall provide an inquiry report to the Employer within a period of ten days from the date of completion of the inquiry and such report shall be made available to the concerned parties.

2.7.1.1 The inquiry report shall be dated and signed by the Members of the Internal Committee mentioning their name and designation.

- 2.7.1.2** The inquiry report shall specify the nature of the allegations, the name and designation of the parties, their tenure of service in the organization, and details of reporting officers.
- 2.7.1.3** The inquiry report shall include a detailed statement of the parties, a summary of the meetings conducted, reasons for admitting or dismissing the charge, and a conclusion with recommendations of the Internal Committee.
- 2.7.2** Where the Internal Committee arrives at a conclusion that the allegations against the Respondent have not been proved, it shall recommend to the Employer that no action be taken in the matter.
- 2.7.3** Where the Internal Committee arrives at a conclusion that the allegations against the Respondent have been proved, it shall recommend to the Employer to initiate action against the Respondent in accordance with the Service Rules of the organization.

In the absence of Service Rules, the Internal Committee shall make recommendation to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the Respondent from service or undergoing a counselling session or carrying out community service, deduction from the salary of the Respondent, an appropriate amount, to be paid as compensation to the Aggrieved Person or to the legal heirs of Aggrieved Person.

While deciding the amount of compensation, the Internal Committee shall have regard to:

- a. mental trauma, pain, suffering and emotional distress caused to the Aggrieved Person;

- b. loss in career opportunity due to the incident of Sexual Harassment;
- c. medical expenses incurred by the victim for physical or psychiatric treatment;
- d. the income and financial status of the Respondent;
- e. feasibility of such payment in lump sum or in instalments.

Where the Employer is unable to make such deduction from the salary of the Respondent due to the Respondent being absent from duty or cessation of employment it may direct the Respondent to pay such sum to the Aggrieved Person or to the legal heirs of Aggrieved Person.

Where the Respondent fails to pay the sum as determined above, the Internal Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

The Employer or the District Officer shall act upon the recommendation of the Internal Committee within sixty days from the receipt of such recommendation.

2.7.4 The inquiry report shall be preserved for a period of at least eight years.

2.8 Actions against malicious complaints

2.8.1 On arriving at a conclusion of malicious intent, after conducting due inquiry, the Internal Committee shall recommend to the Employer to take appropriate action against Complainant/ witness(es).

The inability to substantiate a complaint shall not be considered as malicious intent. The Internal Committee shall consider the following before arriving at a conclusion:

- a. the allegation against the Respondent is mala fide;
- b. the Complainant has made the complaint knowing it to be false;

- c. the Complainant has produced any forged or misleading document;
- d. any witness has given false evidence or produced any forged or misleading document.

2.8.2 The actions for malicious complaints as recommended by the Internal Committee shall be executed by the Employer in accordance with the provisions of the Service Rules applicable to the Complainant/ witness(es).

In the absence of the Service Rules, the Internal Committee may recommend to the Employer to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the Complainant/ witness from service or undergoing a counselling session or carrying out community service.

2.9 Appeal

2.9.1 Any of the parties to the complaint, if aggrieved with the recommendations of the Internal Committee may prefer an appeal to the Court or any other competent authority in accordance with the provisions of the Service Rules applicable to the said person.

In the absence of Service Rules, the appeal may be preferred to the Appellate Authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946.

2.9.2 Parties shall not violate the confidentiality provisions while preferring an appeal by disclosing information on media or by any other means.

2.9.3 An appeal shall be preferred within a period of ninety days of the recommendations of the Internal Committee.

3. Anti-Sexual Harassment Policy

3.1 Formation of policy

3.1.1 Every Employer of public, private or not-for-profit organizations having ten or more Employees, shall formulate an anti-Sexual Harassment policy at the Workplace to safeguard stakeholders against Sexual Harassment.

The Employer may authorize the Internal Committee to formulate the policy.

3.1.2 The policy shall be framed comprehensively for the promotion of a safe, secure, inclusive, and respectful Workplace environment for all stakeholders, promoting zero tolerance of Sexual Harassment at the Workplace.

3.2 Key elements of policy

3.2.1 The organisations shall prioritize the formulation of an effective anti-Sexual Harassment policy¹ with adequate measures to prevent, prohibit and redress the instances of Sexual Harassment at the Workplace.

3.2.2 The policy shall strive to cover the following key elements:

- a) **Definition of Sexual Harassment:** Clearly define what constitutes Sexual Harassment within the organization, encompassing both quid pro quo and hostile work environment situations.
- b) **Zero tolerance statement:** Communicate a strong commitment to zero tolerance for Sexual

1. Sample Policy on Prevention, Prohibition and Redressal of Sexual Harassment at Workplace, refer PART-II

Harassment, emphasizing that all Employees, regardless of position, will be held accountable.

- c) **Scope of the policy:** The scope of the policy shall clearly indicate the type of stakeholders an organization aims to cater to in addition to Employees i.e., extension of scope to third parties, vendors, suppliers, customers, etc.
- d) **Reporting procedures:** Outline a confidential and accessible procedure for reporting incidents of Sexual Harassment, including dedicated e-mail ID, hotlines, or online portal.
- e) **Investigation process:** Detail the steps involved in investigating complaints, ensuring a fair and unbiased process, and specifying who shall be responsible for conducting investigations.
- f) **Protection from retaliation:** Clearly state that individuals who report Sexual Harassment or participate in an investigation shall be protected from retaliation, and outline consequences for those found engaging in retaliation.
- g) **Consequences of violations:** Specify the potential disciplinary actions for individuals found guilty of Sexual Harassment, including possible termination, legal consequences, or other appropriate measures.
- h) **Punishment for false and malicious complaints:** Clearly state the consequences of making false or malicious complaints. Ensure that the consequences are proportionate to the severity of false accusations.
- i) **Education and training:** Implement regular training programs to educate Employees on

what constitutes Sexual Harassment, how to prevent it, and the organization's policies and procedures.

- j) **Preventive measures:** Promote a culture of respect and inclusion through awareness campaigns, promoting diversity and inclusion, and encouraging positive Workplace behaviour.
- k) **Confidentiality:** Address the importance of maintaining confidentiality throughout the reporting and investigation process to protect the privacy of all parties involved.
- l) **Communication of policy:** Ensure that the anti-Sexual Harassment policy is clearly communicated to all Employees, including new hires, and that they acknowledge receipt and understanding of the policy.
- m) **Record-keeping:** Establish a system for documenting complaints, investigations, and outcomes while maintaining confidentiality as required.
- n) **Legal compliance:** Ensure that the policy complies with relevant local, state and central laws regarding Sexual Harassment and Workplace conduct.
- o) **Periodic review:** Regularly review and update the policy to reflect changes in laws, regulations, and best practices, and to address emerging issues related to Sexual Harassment.
- p) **External resources:** Provide information about external resources, such as counselling services or legal assistance, for Employees who may need additional support.

- q) **Leadership commitment:** Demonstrate leadership's commitment to a harassment-free Workplace by actively promoting and adhering to the policy.

3.3 Implementation and dissemination of policy

3.3.1 The policy shall be implemented by the Employer from its effective date. Effective date is the date as approved by the Board/ Employer.

3.3.2 The policy shall be disseminated to all stakeholders, including every office or administrative unit of the Workplace, situated at any location, divisional or sub-divisional level.

Dissemination of the policy may be efficiently carried out by:

- a) displaying on the organization's website and notice boards;
- b) publishing in newsletters;
- c) dissemination in the form of virtual posters;
- d) circulating over work groups, intranet and emails;
- e) making it a part of induction programs, periodic virtual Employees' awareness programs and refresher courses on gender sensitivity, safety guidelines of the company, and Employee handbook.

3.4 Review of Policy

The Policy shall be reviewed annually to incorporate any legal amendments or recommendations by the Internal Committee based on their experience.

4. Trainings and Sensitization

4.1 Training programs for Employees

4.1.1 Organisations shall conduct and promote regular training programs on prevention of Sexual Harassment which are crucial for fostering a safe and respectful Workplace.

- 4.1.1.1 Induction training program on the prevention of Sexual Harassment shall be conducted within three months of joining of Employees.**
- 4.1.1.2 Annual training program on prevention of Sexual Harassment shall preferably be conducted during the first quarter of the calendar year.**
- 4.1.2 Objective of training programs shall be to create awareness about harassment, empower individuals to recognize and prevent it, and help organizations to comply with legal requirements.**
- 4.1.3 Records of training programs organised and attendance thereat shall be maintained.**
- 4.1.4 Training programmes for Employees shall inter alia include the following aspects:**
 - a) Clear objectives:** The objectives of training program shall be clearly communicated to Employees, ensuring they understand the purpose and knowledge they will gain from such program.
 - b) Legal compliance and updates:** Training should suitably cover details of local and national laws on Workplace Sexual Harassment, fostering an environment of legal awareness. Training material should be kept up-to-date with the latest laws, policies, and best practices to ensure relevance and effectiveness.
 - c) Interactive content:** Use engaging and interactive content, such as case studies, scenarios, or role-playing, to enhance learning and facilitate better understanding.

- d) **Tailored content:** Customize the training content to align with the specific needs of the Employees and the organization, making it more relevant and relatable. By tailoring the material to the Workplace culture and the roles of the Employees, the training will be more effective in engaging the Employees and ensuring they can apply the knowledge in their daily interactions.
- e) **Leadership involvement:** Demonstrate commitment from top management, involving leaders in training sessions to set a tone of accountability and prioritize a harassment-free culture.
- f) **Reporting mechanism:** Clearly communicate the reporting mechanisms for Sexual Harassment incidents, maintaining confidentiality norms and providing assurance to Employees who come forward.
- g) **Feedback forms:** To get insights from Employees on the effectiveness of the training and scope for improvements in future programs.

4.2 Orientation/capacity building programs for the Internal Committee

4.2.1 Organisations shall conduct orientation/ capacity building programs for Members of the Internal Committee to enable them to effectively perform their roles and responsibilities.

Orientation/ capacity building program for Members of the Internal Committee shall be conducted at least once in a year.

4.2.2 Orientation/ capacity building programs for Members of the Internal Committee shall be focussed on the art of navigating the complaints

mechanism including the process of receiving, processing, inquiry and disposal of complaints.

4.2.3 Orientation/ capacity building programs for the Internal Committee Members shall inter alia include the following aspects:

- a) **Legal understanding:** Comprehensive training on the provisions of PoSH Act outlining key provisions, definitions, and legal obligations.
- b) **Committee's role and responsibilities:** Internal Committee's role in handling complaints, conducting inquiries, and recommending actions with an emphasis on the importance of confidentiality and sensitivity in dealing with Complainants.
- c) **Gender sensitization:** Sessions on gender sensitivity to help committee Members understand the nuances of Sexual Harassment and create an inclusive and respectful Workplace culture.
- d) **Effective communication:** Training of Members on effective communication skills, ensuring they can empathetically engage with Complainants, Respondents, and witnesses while maintaining professionalism.
- e) **Investigation skills:** Training of Members on proper investigative techniques, ensuring fair and unbiased inquiries, including gathering evidence, conducting interviews, and maintaining documentation.
- f) **Awareness of Workplace Hierarchies:** Ensure that Internal Committee Members are sensitized to Workplace hierarchies, so they remain unbiased and maintain a proper balance

when handling Sexual Harassment cases, free from the influence of positional authority.

- g) **Cultural sensitivity:** Training to handle cases involving diverse backgrounds, recognizing and addressing potential biases.
- h) **Documentation and reporting:** Training to Members in accurate and thorough documentation of proceedings, maintaining confidentiality, and timely reporting of outcomes.
- i) **Support systems:** Inform the Members about available support systems for both Complainants and Respondents, emphasizing the importance of mental health and well-being.
- j) **Periodic updates:** Regularly update the Committee Members on any amendments to laws or guidelines related to Workplace Sexual Harassment, ensuring ongoing capacity building.
- k) **Mock scenarios:** Conduct mock scenarios to simulate real-life situations, allowing the Internal Committee Members to practice their roles and decision-making skills.
- l) **Collaboration with experts:** Facilitate sessions with legal experts, psychologists, or other relevant professionals to enhance the Internal Committee's understanding and effectiveness.
- m) **Feedback mechanism:** Establish a feedback mechanism for Internal Committee Members to share experiences, discuss challenges, and suggest improvements, fostering a culture of openness and improvement.

5. Annual Report Disclosures

5.1 Annual report of Internal Committee

5.1.1 Internal Committee shall in each calendar year prepare an annual report and submit the same to the Employer and the District Officer.

5.1.2 Annual report of Internal Committee shall inter alia include the following information:

- a. number of complaints of Sexual Harassment received in the year,
- b. number of complaints disposed of during the year,
- c. number of cases pending for more than ninety days,
- d. number of workshops/awareness programmes carried out, and
- e. nature of action taken by the Employer.

5.1.3 Internal Committee shall submit an annual report to the Employer and District Officer within the first month (i.e., by 31st January) of the end of the calendar year.

5.2 Annual report of Employer

5.2.1 The Employer shall submit the details of the cases filed, if any, and disposed of during the year to the District Officer.

In case of Companies, the details shall be included in the annual report of the organization.

5.2.2 The organizations shall inter alia consider following best practices while disclosing particulars of prevention of Sexual Harassment compliances in their annual report:

- a) **Dedicated section:** A specific section shall be dedicated in the annual report for PoSH

compliances. This ensures stakeholders can easily locate and understand the information.

- b) **Comprehensive overview:** A comprehensive overview of the organisation's PoSH policy including the policy's objectives, scope, and key components.
- c) **Training initiatives:** Training programs conducted to raise awareness about prevention of Sexual Harassment among Employees mentioning the frequency and types of training programs organized.
- d) **Orientation/ capacity building programs:** Training Programs conducted for Members of the Internal Committee to enable them to effectively perform their roles and responsibilities.
- e) **Internal Committee:** Details of the Internal Committees constituted at various locations of the Workplace.
- f) **Number of complaints received:** Number of complaints received, disposed of, and pending during the reporting period. This shall include details on the nature of the complaints without disclosing sensitive information.
- g) **Redressal and support:** Measures taken to support victims and the redressal mechanisms in place.
- h) **Compliance with legal requirements:** Confirm compliance with relevant legal requirements related to PoSH. This shall include updates or changes in legislation and how the organization has adapted to these changes.
- i) **Communication and awareness programs:** Discuss any communication strategies used to promote awareness of the PoSH policy and

the organization's commitment to maintaining a safe and respectful Workplace.

- j) **Future initiatives:** Provide insights into any planned initiatives or improvements related to PoSH compliance. This demonstrates an ongoing commitment for fostering a safe working environment.

6. Gender Equality

To promote gender equality and safe working environment for the entire workforce, the organization shall frame a “gender-neutral” policy for the prevention of Sexual Harassment.

The essential elements to be considered for framing a gender-neutral policy include:

- a) **Inclusive language:** Replace gender-specific terms with neutral ones throughout the policy. Use “they” instead of “he/she” and “their” instead of “his/her” to encompass individuals of all genders. Also, in place of Aggrieved Woman use the word Aggrieved Person. The preamble of the policy shall clearly spell out that the policy is gender-neutral and shall be applicable across the organization for all the genders.
- b) **Comprehensive definitions:** Clearly define various forms of Sexual Harassment and provide examples that are not limited to a specific gender.
- c) **Equal protection:** Explicitly state that the policy protects individuals of all genders from Sexual Harassment and discrimination. Affirm that both men and women can be victims or perpetrators, and that the policy applies universally.
- d) **Reporting mechanisms:** Ensure that reporting mechanisms are accessible and confidential for everyone, regardless of gender. Encourage individuals to report incidents without fear of bias or discrimination.

- e) **Investigation procedures:** Outline investigation procedures that treat Complainants and Respondents fairly, irrespective of their gender. Ensure that the process is unbiased and impartial. The Internal Committee shall be vested with the authority to investigate cases of Sexual Harassment for all genders.
- f) **Training programs:** Implement training programs that promote awareness about Sexual Harassment, emphasizing that it can affect individuals of any gender. Include case studies and scenarios that reflect diverse experiences.
- g) **Prevention strategies:** Develop and communicate preventive measures that address behaviours without targeting a specific gender. Focus on fostering a respectful and inclusive Workplace culture.
- h) **Support systems:** Establish support systems for victims that are gender-neutral. This includes counselling services, legal support, emotional support and resources that cater to the diverse needs of individuals who may experience Sexual Harassment. Educate the victim about their legal rights and remedies.
- i) **Non-retaliation clause:** Clearly articulate that the policy protects individuals from retaliation, regardless of their gender, for reporting incidents or participating in investigations.
- j) **Regular reviews:** Periodically review and update the policy to ensure it aligns with evolving understanding of gender issues and inclusivity. Stay informed about legal developments and best practices related to gender-neutral Workplace policies.

PART-II
**(Specimen Formats, Policies and
Procedures)**

**Specimen Policy on Prevention, Prohibition and Redressal
of Sexual Harassment at Workplace**

Table of Contents

Particulars	Page No.
Policy Statement	
Scope	
Applicability	
Definitions <ol style="list-style-type: none"> 1. Aggrieved Person 2. Complainant 3. Employee 4. Employer 5. Respondent 6. Sexual Harassment 7. Workplace 	
Internal Committee Complaint filing mechanism Non-retaliation Redressal process Record keeping system External Resources for Additional Support Consequences of Violations of Policy Malicious allegations Awareness Confidentiality	

This version of the policy is effective from _____ and supersedes all prior policies.

Policy Statement

1. _____ (Organization's name) is committed to providing a safe, non-discriminatory, non-hostile and harassment free work environment that is free from any form of intimidation or harassment that is sexual in nature and to maintain a Workplace where all the Employees are considered equal and where the dignity of each Employee is respected and protected.
2. _____ (Organization's name) will operate a zero-tolerance policy for any form of Sexual Harassment in the Workplace.
3. All complaints of Sexual Harassment will be taken seriously and treated with respect and in confidence.
4. This Policy takes complete cognizance of the "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" of India (hereinafter referred to as the "PoSH Act") and the rules framed thereunder. This Act is to provide protection against Sexual Harassment of women at the Workplace for the prevention and redressal of complaints of Sexual Harassment and for the matters connected therewith or incidental thereto.

Scope

1. This Policy shall cover the process to investigate and redress complaints of Sexual Harassment at the Workplace.
2. While the PoSH Act's applicability is limited to women Employees, this Policy is gender-neutral extending the benefits of the provisions to all Employees, irrespective of their gender. Therefore, any Employee, regardless of gender, can file a complaint of Sexual Harassment under this Policy in the context of the Workplace.

In case of conflict between the terms under this Policy and the

PoSH Act, the terms under PoSH Act shall prevail over the terms under this Policy. Local country laws will take precedence over this Policy in other geographies, if applicable.

This Policy does not cover:

1. Interactions or engagements in personal capacity, even if they started in the Workplace.
2. Any complaints that do not fall under the definition of Sexual Harassment.

Applicability

This Policy shall be applicable to

1. Employees, whether full-time, part-time, temporary, ad-hoc or daily wage basis, either directly or through an agent and includes contractual personnel, probationers, trainees, apprentices and interns.
2. Customers, vendors and their Employees, consultants, and anyone else doing business at the organization's Workplace or interactions arising from any work being carried out by or on behalf of the organization.
3. Anyone who is present in the Workplace such as candidates, visitors, guests, etc.

Definitions

“Aggrieved Person” is a person, whether employed or not, who alleges to have been subjected to any act of Sexual Harassment by the Respondent.

“Complainant” is either the Aggrieved Person or a person authorized by the Aggrieved Person who is raising the complaint.

“Employee” means a person employed at the Workplace, for any work on 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, probationer, trainee, apprentice or called by any other such name.

“Employer” means a person responsible for the management, supervision and control of the Workplace.

“Respondent” is a person against whom the Complainant has made the complaint.

“Sexual Harassment” may occur not only when a person uses sexual behavior to control, influence or affect the career, salary or job of another person, but also between co-workers. It may also occur between an Employee and someone that the Employee deals with in the course of their work who is not employed by the organization.

Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication), but is not limited to:

1. Any unwelcome sexually determined behaviour, or pattern of conduct, that would cause discomfort and/or humiliate a person at whom the behaviour or conduct was directed namely:
 - a) unwelcome sexual advances involving verbal, non-verbal, or physical conduct, implicit or explicit;
 - b) physical contact and advances including (but not limited to) touching, stalking, sounds that have explicit and /or implicit sexual connotation/overtone, molestation;
 - c) teasing, voyeurism, innuendos and taunts with implicit sexual connotation, physical confinement and /or touching against one’s will or an act likely to intrude upon one’s privacy;
 - d) demand or request for sexual favours;
 - e) sexually coloured remarks or remarks of a sexual nature about a person’s clothing or body;

- f) display of pictures, signs etc. with sexual nature/ connotation/ overtones in the work area and work-related areas;
 - g) showing pornography, making or posting vulgar / indecent / sexual pranks, teasing, jokes, demeaning or offensive pictures, cartoons or other materials through email, SMS, MMS, gestures etc.;
 - h) repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person's wishes;
 - i) giving gifts or leaving objects that are sexually suggestive;
 - j) persistent watching, following, and contacting of person;
 - k) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.
2. The following circumstances if it occurs or is present in relation to any sexually determined act or behaviour amount to Sexual Harassment:
- a) implied or explicit promise of preferential treatment in employment;
 - b) implied or explicit threat of detrimental treatment in employment;
 - c) implied or explicit threat about the present or future employment status;
 - d) interference with the person's work or creating an intimidating or offensive or hostile work environment;
 - e) humiliating treatment likely to affect health or safety.

An alleged act of Sexual Harassment committed during or outside of office hours falls under the purview of this policy. Further, it is important to note that whether harassment has occurred or not

does not depend on the intention of the Respondent but on the experience of the Aggrieved Person.

Sexual Harassment also include instances which have been laid down by applicable law either by way of enactment or by other means such as judgements or can be perceived as Sexual Harassment within the framework of law, or to further the objective of the law.

“Workplace” includes –

- premises, locations, establishments, enterprises, institutions, offices, branches or units established which are owned or controlled by the organization;
- places visited by the Employees of the organization or organization’s entities arising out of, or during the course of employment (such as meetings at third party premises, offsite meetings and public venues), including transportation provided by the organization for undertaking such journey, organization-sponsored formal and informal team events, organization offsites, parking lots in the administrative locations, business conferences organized by the organization, airports and/or any other location;
- all digital platforms of interaction where the Employee represents the Company.

Explanation: *Workplace refers to any location, premise, or space, whether physical, virtual, or otherwise, where an Employee carries out work-related activities or duties for and on behalf of an organization. This encompasses not only the primary Workplace but also any off-site or remote location where work is performed, official events, work-related travel, or any other setup where work-related interactions occur.*

A. Internal Committee

An Internal Committee means a committee constituted to address any issue relating to the prevention, prohibition and redressal of Sexual Harassment at Workplace. Internal Committees have been appointed for all administrative units/offices of the organization. The details of the committee is notified to all covered persons at the location (Workplace). The committee at each location shall comprise of minimum four Members with at least half of the Members being women.

The Internal Committee at each location comprises of:

1. Presiding Officer: A woman employed at a senior level in the organization or Workplace
2. At least two Members from amongst Employees, committed to the cause of women or have legal knowledge or experience in social work
3. One external Member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to Sexual Harassment.

The Committee shall be responsible for:

1. Receiving complaints of Sexual Harassment at the Workplace
2. Initiating and conducting inquiry as per the established procedure
3. Submitting findings and recommendations of inquiries
4. Coordinating with the Employer in implementing appropriate action
5. Maintaining strict confidentiality throughout the process as per established guidelines
6. Submitting annual reports in the prescribed format

B. Complaint filing mechanism

In case of any issues of Sexual Harassment, whether existing or perceived, either explicit or implied, the Complainant is required to report the matter within a period of three months from the date of the incident and in case of more than one incident, within a period of three months from the date of the last incident, to any of the following in the prescribed manner without any order of preference –

- 1) Write to the Internal Committee at the designated E-mail ID or by post
- 2) Write to any Member of the Internal Committee at their designated e-mail ID or by post
- 3) Submit a written complaint in the complaint drop box made available at all locations of the organization
- 4) Call on the toll-free helpline number.....
- 5) Log-in through the official website of the organization at
- 6) Write to the HR representative or approach for guidance/ support on raising of the issue

Irrespective of the channel of communication, all reported matters shall be duly forwarded to the Internal Committee, within seven days, for further action in the matter.

While there is no prescribed format for raising a complaint, it is recommended that the Complainant shall make the complaint, along with necessary facts, documentary evidences and details of witnesses, as available for a thorough and unbiased inquiry into the matter.

C. Non-retaliation

The organization shall not support or tolerate retaliation or victimization in any form against anybody who identifies or raises concerns, lodges complaints and /or participates in

related proceedings. Any such person who engages in such retaliation or victimization whether directly or indirectly, or encourages others to do so, shall be subject to appropriate disciplinary action.

D. Redressal process

a. Conciliation

While an Aggrieved Person has a right to raise a Sexual Harassment issue and get the matter investigated till its resolution, if for any reason, the Aggrieved Person decides to withdraw the complaint/requests for settlement, the same shall be considered in accordance with the provisions of the law and dealt with as follows:

- i. The Internal Committee may before initiating the investigation and at the request of the Aggrieved Person take steps to settle the matter between such Aggrieved Person and the Respondent through conciliation;
- ii. No monetary settlement shall be made as a basis of conciliation;
- iii. Where a settlement has been arrived at, the Internal Committee shall record the settlement so arrived and forward the same along with recommended action to the organization. No further investigation shall be conducted;
- iv. The Internal Committee shall provide copies of the settlement as recorded by the Committee to the Aggrieved Person and the Respondent.

b. Investigation

- i. Subject to the above clause D. (a.) and in the event of any term or condition of the settlement not being complied with by the Respondent, issues raised under this policy shall be referred

for investigation at the instance of the Internal Committee as per the protocol.

- ii. The Internal Committee shall follow the principles of natural justice by adhering to the following steps in particular with regard to inquiry into the complaint:
 - a. At least three Members of the Internal Committee (including the Presiding Officer) shall preside over the inquiry.
 - b. On receipt of the complaint, the Internal Committee shall send a copy of the complaint to the Respondent within seven working days, indicating the deadline by which a response, along with evidences and details of witnesses should be submitted.
 - c. The Respondent shall also be given an opportunity to be heard and make written submissions on the allegations made and circumstances leading to the complaint.
 - d. In case of failure on the part of the Respondent to respond to the complaint or make themselves available for the hearing, the Internal Committee at its discretion may terminate the inquiry in favor of the Aggrieved Person, after giving fifteen days' notice to the parties concerned.
 - e. The parties shall not engage a lawyer to represent their case in proceedings before the Internal Committee.
 - f. At the request of the Complainant and upon the recommendation of the Internal Committee, the location of inquiry and

inclusion of additional witnesses in the investigation may be considered.

- iii. In the event, the victim chooses to take recourse to law, the organization may at its sole discretion decide to not pursue the matter further.
- iv. Inquiry shall be completed within a period of ninety days from the date of receipt of the complaint.
- v. During the pendency of an inquiry, on a written request made by the Aggrieved Person, the Internal Committee, may recommend to the Employer to—
 - a. transfer the Respondent / Aggrieved Person to any other Workplace;
 - b. grant paid leave to the Aggrieved Person of a maximum of three months, in addition to the leave Aggrieved Person would be otherwise entitled to;
 - c. grant such other reasonable relief to the Aggrieved Person as may be directed by the Internal Committee.

c. Inquiry Report

The Internal Committee will submit the inquiry report to management within a period of ten days from the date of completion of the inquiry in consideration of the following –

- Nature of evidence in support of the allegation;
- Leading circumstances culminating in Sexual Harassment;
- Discrepancies, if any, in the allegations and the submission made by the victim and his/ her witnesses;

- Grounds for review or counter allegations/evidences from the Respondent.

The Employer shall act upon the recommendations of the Internal Committee within sixty days of receipt of the final investigation report.

d. Appeals

Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the Appellate Authority in accordance with the Act, within ninety days of the recommendations being communicated.

E. Record keeping system

Establishing a robust record-keeping system is essential for documenting complaints, inquiry, and outcomes related to Sexual Harassment cases. The organization shall ensure the following:

- **Comprehensive documentation:** All complaints received, inquiry conducted, and outcomes determined are meticulously documented. This includes recording dates, details of the parties involved, evidence gathered, and the decisions made.
- **Confidentiality:** The system shall prioritize the confidentiality of all individuals involved. Access to records shall be restricted to authorized personnel only, and measures shall be taken to protect sensitive information from unauthorized disclosure.
- **Compliance and retention:** Record-keeping practices shall comply with relevant laws and regulations. Records shall be retained for the duration required by law and policy, and will be disposed of securely once they are no longer needed.

- **Transparency and accountability:** The system shall facilitate transparency in the process while maintaining confidentiality. It shall also support accountability by providing a clear trail of actions taken in response to each complaint.

F. External Resources for Additional Support

The organization recognizes that Employees who experience or witness Sexual Harassment may require additional support beyond the internal processes. To ensure that all Employees have access to the necessary resources, the following external support services are available:

1. Counselling Services

- **Employee Assistance Program (EAP):** Organization's Employee Assistance Program provides confidential counselling services to Employees dealing with issues related to Sexual Harassment or any other personal or work-related concerns. Employees can access this service 24/7 at no cost.
- **Mental Health Professionals:** The organization has partnered with licensed mental health professionals who specialize in trauma, Workplace harassment, and stress management. Employees can be referred to these professionals for in-depth counselling and support.

2. Legal Assistance

- **Legal Aid Services:** Employees who need legal advice or assistance related to Sexual Harassment claims can access free or low-cost legal aid services. The organization provides information on reputable legal aid organizations that specialize in Workplace harassment and Employee rights.

3. Confidentiality and Anonymity

- **Confidential Use of Services:** All external resources provided are intended to be used confidentially. The organization respects the privacy of Employees seeking external support and ensures that information about accessing these services by Employees will not be further disclosed by the organization.

G. Consequences of Violations of Policy

The organization is committed to maintaining a Workplace that is free from Sexual Harassment. Any violation of this policy will be treated with the utmost seriousness and may result in significant consequences. The following outlines potential consequences for violations of the Sexual Harassment policy:

1. Disciplinary Action

- **Verbal or Written Warning:** Depending on the severity and frequency of the violation, the individual may receive a formal warning. This warning will be documented and retained in the individual's personnel file.
- **Suspension:** The individual may be suspended without pay for a specified period. Suspension serves as a serious warning and an opportunity for reflection and behaviour correction.
- **Demotion:** In cases where the individual holds a position of authority, demotion to a lower rank or reduction in responsibilities may occur.

2. Termination of Employment

- **Immediate Termination:** In cases of severe violations or repeated offenses, the organization may terminate the individual's employment immediately. This will be done in

accordance with applicable employment laws and the organization's procedures.

3. Legal Consequences

- **Legal Action:** The organization reserves the right to report the violation to relevant authorities if it constitutes a criminal offense. The individual may face civil or criminal charges, depending on the nature of the violation.
- **Liability for Damages:** If the violation results in harm to the Complainant or the organization, the individual may be held liable for damages. This could include compensatory and punitive damages, as well as legal fees.

H. Malicious allegations

Where the Internal Committee arrives at the conclusion that the allegation against the Respondent is malicious or the Complainant has made the complaint knowing it to be false or has produced any forged or misleading document, it may recommend to the company/organization to act against the Complainant.

While deciding malicious intent, the Committee should consider that mere inability to substantiate a complaint need not mean malicious intent. Malicious intent must be clearly established through a separate inquiry.

In case a witness has given false evidence or produced any forged or misleading document during the inquiry, the Committee may recommend to the organization to act against the witness.

I. Awareness

Awareness sessions shall be organized to:

- disseminate an internal policy on prevention, prohibition and redressal of Sexual Harassment at

Workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against Employees.

- carry out orientation programs and seminars for the Members of the Internal Committee.
- conduct capacity building and skill building programs for the Members of the Internal Committee.
- to conduct workshops and awareness programs for sensitizing the Employees to the provisions of the PoSH Act, and internal policy on prevention, prohibition and redressal of Sexual Harassment at Workplace.

J. Confidentiality

This policy and the law prohibit any person including Internal Committee Members from publishing, communicating or making known to the public, press and media in any manner, the contents of the complaint, the identity and addresses of the Aggrieved Person, Respondent and witnesses, any information relating to conciliation and inquiry proceedings, or recommendations of the Internal Committee during the proceedings under the provisions of the Act. Any violation thereto shall also be subject to applicable disciplinary action.

**Specimen Brochure on PoSH
for displaying at Workplace**

LOGO OF THE ORGANIZATION

**A SLOGAN FOR PREVENTION OF SEXUAL
HARASSMENT**

**NAME AND CONTACT DETAILS OF PRESIDING OFFICER
OF THE INTERNAL COMMITTEE**

**NAME AND CONTACT DETAILS OF EACH MEMBER OF
THE INTERNAL COMMITTEE**

MODES OF FILING COMPLAINT

**(E-mail ID, contact numbers and other modes of filing
complaint)**

DETAILS OF LOCAL COMMITTEE

**(In case Employer has not constituted the Internal
Committee)**

PENAL PROVISIONS OF SEXUAL HARASSMENT