



Frequently Asked Questions:

PREVENTION OF SEXUAL HARASSMENT AT THE WORKPLACE

Q: What is the difference between harassment and sexual harassment?

A: Sexual harassment would be comments of a sexual nature, making repeated attempts to pursue a colleague, sending messages that are inappropriate, pornographic content, seeking sexual favors in return for work related benefits.

Both harassment and sexual harassment acts are unwelcome and inappropriate at the workplace; however the difference lies in the content and type of harassment. The Sexual Harassment the requests are sexual in nature. Additionally, the intent of the harasser is irrelevant; it is the perception of the victim that is taken into consideration.

Q: What kind of evidence would be required to lodge a complaint to the ICC?

A: The complainant has to give a written complaint to the ICC. Internal Complaints Committee or ICC is an internal body formed as per legal requirements to resolve cases on Sexual Harassment. No evidence may be required. You may not have any evidence as there is every possibility that the incident took place in private. It is always advised to tell the perpetrator to stop, either by SMS or email. However, if you have received a SMS or late night call, do save the log, or forward the same to your ICC member. If colleagues have witnessed the act, please do provide their names, as the ICC will speak with them in confidence. Report the incident immediately. If the area was covered by CCTV, the footage can be retrieved as the data capacity of CCTV is not more than a few weeks.

Q: What would be the punishment/repercussions?

A: Depending on the incident, the action ranges from a warning to counseling, suspension, community service, withholding work related benefits, termination of services, police complaint if the complainant wishes to file one and compensation, should it be required.



Q: How to obtain evidence? What are the statutory records to be maintained?

A: As an ICC member or first point of contact receiving the complaint, they need to follow the process of investigation by seeking information on witnesses; check if there are any messages, etc. If yes, request the Complainant to save them. Check to see if the Complainant has spoken to or confided in a colleague about the incident. If yes, seek their names. The ICC follows the principles of natural justice for their investigation.

Q: Are rules & regulations of policy applicable to both Male & Female employees without any partiality?

A: The Law in India is only applicable to women at the workplace. However, several companies have extended the policy to all employees regardless of sex. A few statutory obligations like leave and compensation are difficult to extend to men. The intention behind the policy is to ensure professional behavior & ensure that no employee suffers due to such harassment. Hence the expected behavior for all colleagues is as laid down in the policy

Q: If the employees wear revealing clothes which attract other employees, then how will we take action?

A: All employees are expected to dress in a professional manner. If it is noted that someone is not dressed appropriately, please do not use that as a reason to pass unsavory comments or behave inappropriately. Instead escalate the concern to HR, who will take appropriate corrective action. Decent behavior needs to be maintained regardless.

Q: If one is innocent yet a false case is filed against them, when will he/she get justice after investigation?

A: The investigation time-frame as prescribed by law is 90 days; however, the ICC will make all attempts to close the same within a month. The Act is very clear on false, fabricated and malicious complaints. Stringent action up to and including termination of services will be taken against any employee, who misuses the policy to raise such false cases or provides false evidence.



Q: Is it mandatory to have all complaints in writing?

A: A written complaint is mandatory to start the process of investigation (Formal or conciliatory) The Complainant can seek the assistance of the ICC to write the complaint if they have any fears, concerns or are unable to write themselves.

Q: What are strategies / gadgets that will be utilized for investigation?

A: The ICC will seek statements, documents, any evidence available including CCTV footage, What's app, Face book, SMS and any other social media network information.

Q: What is the procedure for a harassment case?

A: Once the written Complaint is escalated to the ICC (Within 3 months of the incident taking place), a copy will be shared with the alleged perpetrator in order to give all parties an opportunity to present their version, provide documents and witnesses. The ICC would conduct an inquiry, prepare a report, forward the same to management, and implement recommendations. It will also provide both parties with the findings of the case and the required action- taken document.

Q: Will it be open inquiry including both parties?

A: Both parties will be met independently. There will be no face to face interaction. Even if the Complainant opts for the conciliatory process, both parties will not be brought in a room together. In fact, the ICC will take all possible steps to separate the parties to ensure safety and comfort.

Q: Is there any provision in this policy that is applicable to employees who spread wrong rumors inside & outside the company?

A: Any colleague who spreads rumors about another in an attempt to malign or hurt them and harm their reputation or character will face stringent disciplinary action.



Q: If a Sexual Harassment case is filed & the perpetrator resigns within the 90 day timeframe of the case being filed, can the organization still conduct investigation against him/her?

A: In such situations, the organization must inform the perpetrator that the investigation is pending. Without the completion of this investigation, the full & final settlement of the employee cannot be cleared (as that is the component an organization will have control over). To resign is a legal right of the employee & we cannot compel anyone to work against their wishes. If the Complainant wishes to pursue the matter & file a police case, the ICC must support in such cases.

Q: Sometimes in the plants, due to increased workload women employees stay beyond work hours. What is the corrective action to be taken by the respective manager(s) in such cases?

A: Managers should not encourage this situation. It is not advised to request the women employees to stay beyond the stipulated work hours. Requesting a lady to stay back, beyond the permissible time is a violation of The Factories Act. HR may take action as per internal guidelines.

Q: If the complainant is an employee & the perpetrator is on contract/off rolls/temporary worker of the company, can compensation be sought?

A: Compensation can be sought only under certain circumstances. When a case involves a contract/off rolls/temporary worker, their employer is also involved in the investigation, hence the compensation, if found to be a valid action (Deducted from the salary of the perpetrator) can be sought from the principal employer.

Q: If an employee harasses another co-worker post office hours & outside of work premises, is it covered under the policy?

A: It is covered under the prevention of sexual harassment policy. What is relevant is that they met at the place of employment and have access to the other party as a result of their employment.



Q: Can Manager raise a Complaint on behalf of the Victim?

A: The policy states that a victim or a witness to harassment can raise a concern to the ICC directly. The manager can raise on behalf of the Complainant if duly authorized by the Complainant or if they have witnessed the act of harassment. Moreover if the Manager is the first point of contact (FPOC) they are duty bound to escalate the complaint.

Q: What will be action steps if a boss indulges in favoritism towards a reporting employee? (Specifically to reporting relationship)

A: Favoritism and bias towards an employee is to the detriment of others and is unacceptable and unprofessional. HR will take action accordingly. If it emerges that there is a conflict of interest, the parties will be separated. It is considered under hostile work environment.

Q: Sometimes senior employees receive SOS/Emergency Calls with respect to the complainant wanting to commit suicide or taking a drastic step. During such threat calls, how should one react and whom do they need to first approach?

A: Immediately inform the family member (Numbers will be listed with the HR department's record. (Person(s) to be contacted in case of an emergency) of the employee & request them to rush to the employee. Moreover, document the issue (via SMS) to the relative. Police needs to be informed through HR/Security. The first effort should be to help the employee. Make them safe and secure.