

POSH- Prevention of Sexual Harassment at Workplace Policy



This policy applies to all permanent employees, contract employees, trainees, interns, contractors, retainers, vendors, suppliers, associates, clients, consultants, business partners, and other individuals working in a non-permanent capacity in the company across all entities/geographies of Onward Tech.

- ❑ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013
- ❑ The law replaced the Vishaka Guidelines 1997 of the Supreme Court

- ❑ Lok Sabha initially passed the bill, with no debate, on 3rd Sep, 2012
- ❑ Lok Sabha again passed it with minor changes on 11th March 2013
- ❑ The bill got President's assent on 22 April 2013
- ❑ The Rules 2013, were issued on 9 December 2013
- ❑ The act and rules, as the government notified, came into force on 9th Dec 2013

03 Precise Object of the Law



- ❑ No woman shall be subjected to sexual harassment at any workplace in India

04 Indicator for Sexual Harassment

- ❑ It includes unwelcome sexual behavior of direct or implied nature such as:
 - Physical contact & advances
 - Request for sexual favors
 - Sexually colored remarks
 - Showing pornography &
 - unwelcome physical, verbal or non-verbal sexual conduct

- ❑ If the complainant had welcomed the respondent's conduct, the incident cannot fall under sexual harassment

This Law Provides a Civil Remedy

**If the Harassment is Criminal, File a
Complaint with the Police for action under
IPC 354 /509**

- ❑ No court can take cognizance of an offence punishable under this act except on a complaint made by the aggrieved or on her behalf
- ❑ Every offence under this law shall be *non-cognizable*
- ❑ It means, no police officer can take *suo moto* action on it without any direction from a judicial magistrate

07 Kinds of Workplace Harassment



- Hostile Work Environment
- Quid Pro Quo* Environment

08 Hostile Work Environment means

- ❑ Creating an intimidating work environment & humiliating treatment that affect health/safety of woman
- ❑ A pervasive sexual harassment that makes the work environment 'hostile'
- ❑ The sexist remarks, display of pornography or sexist/obscene graffiti, physical contact/brushing against women create hostile work environment

09 *Quid Pro Quo* Sexual Harassment means



- Implied/explicit promise of preferential treatment in job
- Threat of detrimental nature & threat to job
- Sexual favor's or advances in exchange for benefits
- Using a sexually explicit behaviour or speech as a condition for providing employment
- Any retaliatory action such as dismissal, demotion, difficult work conditions on a refusal to comply with a 'request'

10 'Workplace' means

- ❑ Organizations, departments, institutions, office, branch unit etc. in the public/private sector, both organized and unorganized,
- ❑ Hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex,
- ❑ NGOs, trusts, cooperatives, societies , service providers &
- ❑ Any place visited by the employee in the course of employment including transportation

11 'Employer' means

- The head
- The person responsible for formulation & administration of policies of the workplace
- The person discharging contractual obligations with respect to his/her employees and
- For a domestic worker, the person who benefits from that employment

12 Kinds of Employees Covered



- Regular/temporary/ad-hoc/daily wage employees, whether for remuneration including volunteers
- Contractual worker, probationer trainee apprentice, Interns, House-keeping, Security, Client Representative, vendor Representative etc.

13 Every Woman at Workplace Covered



- The act covers all women
- In the organized or unorganized sectors
- Public or private and
- Clients, customers and domestic workers
- Irrespective of their age or employment status

- Staring, leering, obscene gestures, howling, making kissing sounds, smacking lips
- Showing sexually obscene/ suggestive signs, objects or pictures
- Indecent comments, dirty jokes, comments on a women's dress/body
- Using power positions to request for favours or threats on loss of privileges/loss of job
- Touching, petting, caressing, kissing, brushing against another's body
- Blocking, following or cornering
- Referring as sweet, honey etc., or making innuendos
- Making work discussions sound sexual
- Telling sexual jokes or stories
- Asking about sexual fantasies, spreading lies of sexual nature
- Winking, licking lips
- Touching a person's clothes, stalking
- Physical assault & Rape

What is meant by “Unwelcome”?

- ❑ Any conduct or behaviour is unwelcome if:
 - The recipient does not consent to it
 - Regards it as offensive

- ❑ Even if the victim does not complain, it doesn't necessarily imply the conduct is welcome

- ❑ Some comments and/or advances are blatant and crude and are inherently offensive: these will almost always be deemed as unwelcome.

Unwelcome	Welcome
Feels bad	Feels good
One sided	Reciprocal
Feels Powerless	In-control
Power based	Equality
Unwanted	Wanted
Illegal	Legal
Invading	Open
Demeaning	Appreciative
Causes Anger/sadness	Happy
Causes negative self- esteem	Positive Self-esteem

17 What is NOT Workplace Sexual Harassment?



- Following-up on work absences.
- Requiring performance to job standards.
- Reprimands in relation to work/meeting targets or deadlines.
- Work related stress e.g. meeting deadlines or quality standards.
- Constructive feedback about work.

18 Steps to Deter: Sexual Harassment



❖ **DO NOT IGNORE IT:**

Don't pretend it didn't happen. Inform the harasser that the behaviour is unwelcome.

❖ **REPORT THE INCIDENT:**

Tell the ICC exactly what happened as soon as possible.

❖ **DO NOT ACCEPT THE BEHAVIOUR:**

Do not tolerate the harassment even if it seems that others around you are tolerating it.

❖ **BE SUPPORTIVE:**

If someone wishes to talk to you about their personal experience, listen with empathy and then direct them to ICC.

❖ **ANY EMPLOYEE MAY FILE COMPLAINTS:**

If you see someone else getting harassed, you may also file a complaint.

1 Chairperson- Senior Women employee from the workplace/other admin units / office/ organizations.

14 members: Committed to the cause of women/experience in social work/ legal knowledge

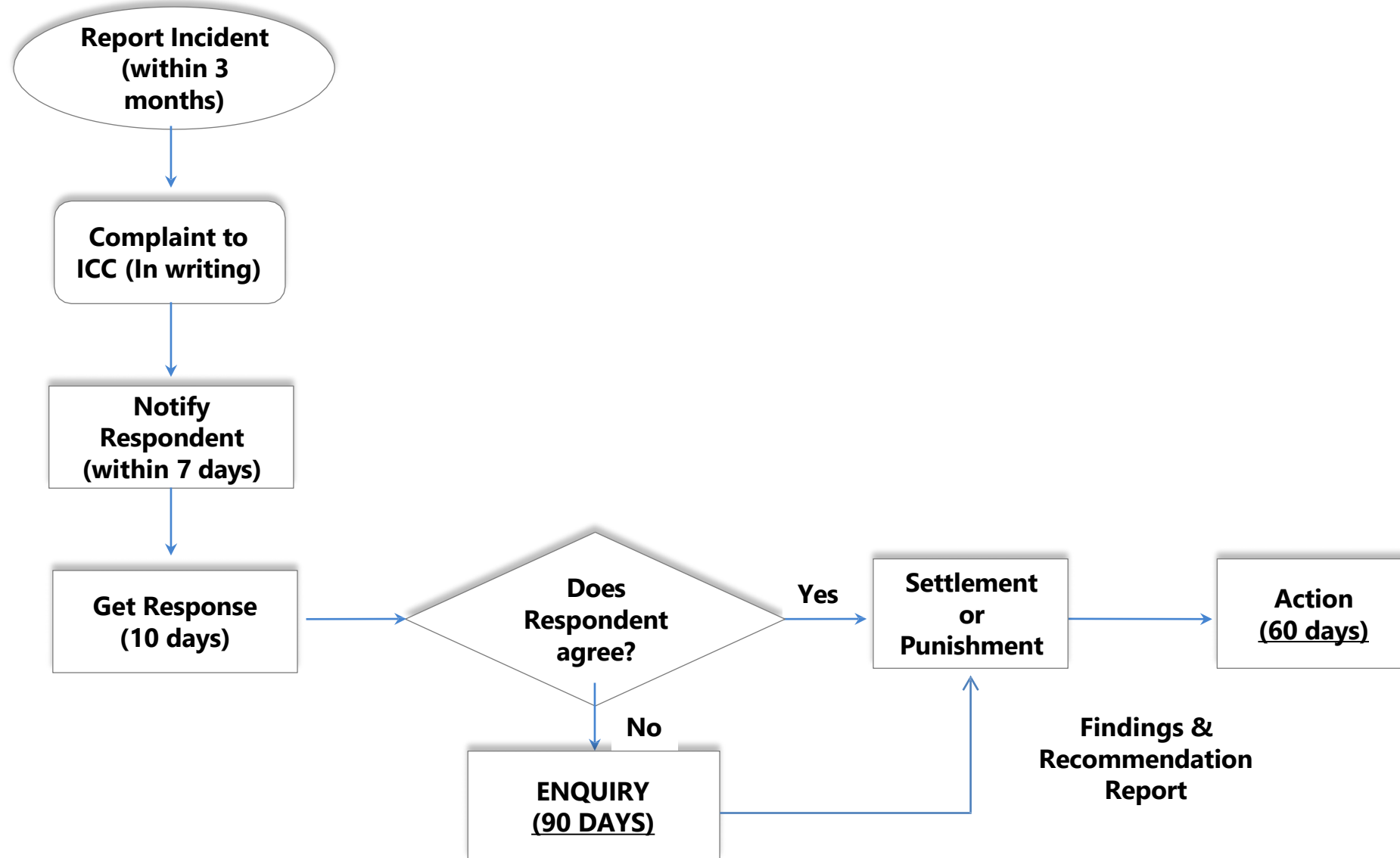
1 External Member: Sayali Shende | Ardent Advocate of Women's Safety & rights at Workplace | Associated with Transcendo NGO | Certified trainer & consultant in POSH

20 Internal Complaint Committee Members:



To know more about committee members and their contact details please refer Policy section at our HRMS portal or write to posh@onwardgroup.com

FILING A COMPLAINT PROCESS



- A complaint must be sent to posh@onwardgroup.com in writing.
- A complaint shall include 6 copies with supporting documents
- The complaint committee should send one copy to the respondent within 7 working days to get a reply
- The respondent has to file his reply within 10 working days
- The complaint committee has to inquire into the complaint, with principles of natural justice

- Be specific about the incident
- Don't make any general allegations such as the officer harassed me.
- Tell exactly what happened with details, dates, witnesses & documents
- Be honest, don't lie, as the complainant can be sued for lying or false submission
- Also, request what the complainant wants like, "I want the head to reassign me to a different officer"
- The employer need not have to accept her suggestion, but her input would be helpful

24 Time Limit for Filing a Complaint



- ❑ A complaint of sexual harassment needs to be filed **within 3 months**
- ❑ The period may extend to another 3 months, in grave circumstances that prevented her from filing the complaint in time

25 Provision for Conciliation

- ❑ The ICC/LCC can take steps to settle the matter between the aggrieved woman & the respondent,
- ❑ This option will be used *only* at the request of the woman
- ❑ Monetary settlement shall not be the basis of conciliation
- ❑ If the settlement is not reached, the complainant can go back to the Committee & initiate an inquiry

- If the complaint discloses a criminal offence, the committee should pass on the complaint within 7 days to the police for criminal action under IPC
- Crime can be charged under IPC 509 or any other section as the incident discloses

27 Period of Inquiry & Action

- The Committee is required to complete the inquiry within 90 days
- On completion of the inquiry, the report should be sent to either the employer or the District Officer within 10 days of its completion
- They are mandated to take action on the report within 60 days
- If allegation is not proved the committee to send a report stating that no action is required

28 Interim Action During Inquiry

- The aggrieved or the respondent can be transferred to avoid face to face contact
- Grant leave to the aggrieved up to 3 months
- Other reliefs to the aggrieved as prescribed in the rules
- The employer should implement the above recommendation and inform the committee about it

- Against the respondent as per the rules in force
- It may be a deduction of an appropriate sum from the respondent's salary or asking him to pay the sum
- If the amount is not paid, it can be recovered as an arrear of land revenue
- The committee can recommend for restraining the respondent from supervision of complainant's work

- ❑ Restoration of lost terms, conditions or benefits of employment to the complaining employee.

- ❑ Disciplinary of Harasser:
 1. Written disciplinary warnings;
 2. Demotion;
 3. Suspension;
 4. Termination.

The complaints committee should consider the following factors:

- The trauma, pain or distress caused
- The loss of career opportunity due to the incident
- Medical expenses incurred
- Income of the respondent
- Feasibility of such payment in lumpsum etc.

- If complaint is false with malicious intent, the complainant can be penalized as per the Service Rules
- An enquiry to be conducted prior to establishing malicious intent
- Mere inability to prove a complaint will not attract penalty
- Any malicious complaint by a woman will attract the same punishment, a man who has been found guilty of the offence at the workplace suffers

- Prohibits disclosure of the identity & address of the aggrieved woman respondent and the witness
- Anyone who discloses the name or identity of the aggrieved woman or witnesses will be liable to pay a penalty of Rs. 5,000
- But information regarding the justice secured to any victim, without disclosing the identity, can be publicized.

- ❑ The complaints committee can terminate the inquiry proceedings or give an ex-parte decision,
- ❑ If the complainant or the respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings
- ❑ Ex-parte or termination order will not be passed without giving the complainant/respondent a 15-day notice in writing

- ❑ Gender equality under Article 14 of the Constitution of India and
- ❑ The right to life & live with dignity under Article 21 of the Constitution
- ❑ Which, in essence, includes a right to a safe environment free from sexual harassment

- Employers must disseminate sexual harassment prevention policy
- Organize workshops on the provisions of the law
- Conduct employees awareness programmes at regular intervals for sensitizing all stakeholders about the procedures
- Provide and publicize contact details of the members of the Internal complaints committee

- ❑ The law makes sexual harassment at workplace a legal wrong
- ❑ It aims at man-woman harmony at work place
- ❑ It aims to build up confidence amongst female employees to stand up against harassment
- ❑ It makes the employer duty-bound to ensure a harassment-free atmosphere for woman to enhance work productivity



Thank you

