

ANAND ENGINEERING COLLEGE

HAND BOOK OF ICC AND REDRESSAL PROCESS

Sexual harassment at the workplace has become a routine activity nowadays. Now and then we get to hear about new cases of sexual harassment. This is because sexual harassment at the workplace is enhanced from of violence that takes place in daily routine and snatches away the women's right to life and healthy livelihood.

We need to have a committee in place solely responsible for addressing and resolving the issues of sexual harassment at the workplace and which is easily accessible by all workers

Introduction about ICC

Internal Complaints Committee (ICC) is a mandatory committee that every employer is required to constitute within his organization. In the scenario where the employer has branch offices. he needs to have an ICC as each such branch office to address the issues of sexual harassment Every company needs to base in place an effective ICC committee else the company can be penalized for non-constitution of ICC.

Members of the Internal Complaint Committee:-

Chairperson/ Presiding Officer - Shall be women employed at the senior level at the workplace amongst the employees

Two Members -Shall be amongst the employees preferably committed to the cause of women/ experience in social work.

External Member - External members could be, doctors, Advocate or Among NGOs working against the cause of women.

Responsibilities of ICC

Every company should have a safe and harassment-free workplace. In the case of the complaint against POSH, the ICC is solely responsible to investigate without being biased. The ICC is required to be vigilant to redress the sexual harassment complaints and resolves the same ASAP. ICC is the sole authority to inquire about the complaints and make efforts to redress the same.

The Complaints of sexual harassment at a workplace corrode the persona of not only the complainant and the accused, but of the company and its goodwill as well.

Scope of ICC training

The ICC training is an important part of the complaint redressal process and helps make the Internal Complaints Committee learn about the important elements of compliance under the Act. Our ICC training focuses on the below agenda:

The powers assigned ICC under POSH ACT.

Methodology, for conducting an inquiry on a sexual harassment complaint

Important guidelines which ICC is required to comply with while conducting the sexual harassment inquiry

The timelines for resolving complaints as defined under the Act which ICC needs to follow while investigating a complaint.

What is POSH?

POSH or the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the Act) is a groundbreaking law on a much-needed and burning issue. It is India's first codified legislation that categorically deals with the prevention,

prohibition, and redressal of sexual harassment of women at the workplace.

The Act came into force on December 9, 2013, and is binding on every organization, public or private, having more than 10 employees.

What is POSH Policy For Companies?

The POSH Act has laid down a detailed guideline for the entities and they are free to formulate their policy to prevent, prohibit, and redress sexual harassment of women in their companies.

The "Policy" has to be formulated following the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the "Rules" must be framed keeping in mind the provisions in "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

What is Internal Complaints Committee (IC)?

As per the POSH Act, an employer has 10 workers or more is required to set up an Internal Complaints Committee for the redressal of 'sexual harassment complaints at such entity and to regulate and administer complaints on sexual harassment. An Internal Complaints Committee is required to be constituted which shall submit an annual report to its employer and District officer.

Every company needs to have in place an effective IC, else the company can be penalized for non-constitution of IC.

Initially when the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 was passed Internal Committee was called ICC (Internal Complaints Committee) but on 9th May 2016, the amendment was made and ICC was substituted by Internal Committee (IC) wherever it existed. This was done to expand the role of the sexual harassment Committees so that they are not restricted to complaint resolution only.

Why IC Training?

As per Section 4 of the Act, every employer must adhere to the obligation of constituting an Internal Complaints Committee if the workplace has more than ten employees. This initial in house body gains great significance if a woman faces sexual harassment at the workplace as the Internal Complaints Committee must be approached for filing a complaint by the aggrieved women.

As the entire effectiveness of the POSH Act depends on the Internal Complaints Committee Policy, therefore, the members of the IC need complete clarity and competency. This POSH training will give them the much-needed insight into the formation, functioning, powers, responsibilities, and mechanism of IC's functionality.

By attending this training the IC members will understand the A-Z of the POSH Act and also the nitty-gritty of the sexual harassment redressal system.

Scope of IC Training

The Internal Complaints Committee training is an integral part of the complaint and redressal process of the Internal Complaints Committee Policy. This training will help make the Internal Complaints Committee Members learn about the important elements of compliance under the Act. For example:

The powers assigned to IC under POSH ACT.

Methodology for conducting an inquiry of sexual harassment complaints.

Important guidelines which IC is required to comply with while conducting the sexual harassment inquiries.

Timeline for resolving complaints as defined under the Act, which the Internal Complaints Committee needs to follow while investigating a complaint.

Composition of Internal Complaints Committee

Under the Act. Internal Complaints Committee Policy is required to prevent instances of sexual harassment and also to receive and effectively deal with complaints related to such acts. Accordingly, the Internal Complaints Committee (IC) is to be constituted at all administrative units and offices of a company, and once the committee is appointed the details of the Internal Complaints Committee Policy is to be notified to all persons at the workplace.

The Internal Complaints Committee must comprise of:

- i) **Presiding Officer:** The presiding officer must be a woman employed at a senior level in the organization or workplace to work according to the Internal Complaints Committee Policy.
- ii) **Internal Members:** At least 2 Internal Complaints Committee members must be selected from among the employees who are committed to the cause of women or who have had the experience of social work or have legal knowledge.
- iii) **External Member:** The external member of the IC has to be selected from non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- iv) **50% Women:** At Least one half of the total members nominated In the IC must be women.

Powers of the Internal Complaints Committee

The Internal Complaints Committee plays an important role in the functioning of the provisions of the Act and to ensure the fulfilment of its objectives under Internal Complaints Committee Policy.

Thus, the main function of the Internal Complaints Committee is:

Implementation of the Internal Complaints Committee Policy relating to the prevention of sexual harassment.

Resolving complaints by the aggrieved based on the guidelines of the Internal Complaints Committee Policy.

Recommending actions to be taken by the Employer.

As per Section 11(3) the Internal Complaints Committee enjoys the powers same as that of a Civil Court and therefore:

It is empowered to initiate an inquiry into a complaint of sexual harassment at the workplace according to the Internal Complaints Committee Policy.

IC has the power to summon witnesses and parties to state the committee.

It enjoys the discretion of summoning evidence to be examined if it may be deemed necessary to do so by the members of the Committee.

Responsibilities of Internal Complaint Committee

Every organization is bound by POSH law to publish the names and details of the current IC members on the premises at prominent places as well as on their official website.

The main responsibility that lies with the IC is:

Receive complaints of sexual harassment at the workplace

Initiate and conduct an inquiry as per the company's procedure

Submit findings and recommendations of all such inquiries

Coordinate with the Employer in implementing appropriate action

Maintain strict confidentiality throughout the process as per established guidelines of the Internal Complaints Committee Policy

Submit annual reports in the prescribed format as prescribed

The Internal Complaints Committee is required to be vigilant to redress the sexual harassment complaints and resolve the same ASAP.

REDRESSAL PROCESS

1.) Conciliation

Procedure for Conciliation:

Before initiating an inquiry, the Internal Complaints Committee may, at the written request of the Complainant take steps to settle the matter between the Complainant and the Respondent through conciliation.

Monetary settlement cannot be made the basis of such conciliation. In case a settlement has been arrived at, the IC shall record it and forward it to the Company to take action as specified in the recommendation of the IC.

The Internal Complaints Committee will also provide copies of the settlement as recorded to the Complainant and the Respondent.

If conciliation has been reached, the IC will not be required to conduct any further inquiry.

If Complainant feels that the terms of Settlement are not being complied with by the Respondent or action has not been taken by the Company, Complainant can make a written complaint to the IC to conduct an inquiry into the complaint.

2.) Inquiry

The procedure of inquiry begins when a settlement is not feasible or could not be arrived at through conciliation and the Internal Complaints Committee is then bound to conduct an inquiry into the complaint.

An inquiry may also be initiated if the aggrieved person informs the IC that any terms of the settlement have not been complied with by the respondent.

The Internal Complaints Committee within 7 working days of receiving the complaint shall forward one copy to the respondent and seek a response.

The respondent shall file his/her reply to the complaint along with a list of supporting documents, names, and addresses of witnesses, within 10 working days of receiving the complaint.

The complainant or the respondent to the complaint shall not be allowed to bring any legal practitioner to represent them.

At any stage of the proceedings before the IC, neither the complainant nor the respondent shall be allowed to bring any legal practitioner to represent them.

The Internal Complaints Committee shall hear both the complainant and the respondent on the date(s) intimated to them in advance and the principles of natural justice will be followed accordingly.

If the complainant or the respondent fails to attend a personal hearing before the IC on three consecutive dates without sufficient cause, the IC shall have the right to terminate the inquiry proceedings or give an ex-parte decision.

However, before such termination or the ex-parte order, the IC shall serve a notice in writing to the party/parties, 15 days in advance.

The process of inquiry shall be completed by the Internal Complaints Committee within 90 days from the date of receipt of the complaint.

From the date of completion of the inquiry, the IC shall provide a report of its findings and recommendation(s) within 10 days to the concerned authorities as well as complainant(s) and respondent(s).

3.) Interim Relief

As per the Internal Complaints Committee Policy, during the period of pendency of the inquiry. if a written request is made by the complainant. the Internal Complaints Committee may recommend to the employer:

To transfer either the aggrieved or the respondent to some other workplace.

To grant leave to the aggrieved individual for a period of a maximum of 3 months, but this should be in addition to the leave she would be otherwise entitled to.

To accord any other relief to the aggrieved as may be found to be appropriate.

To restrain the respondent from reporting on the performance of the complainant.

4.) Compensation

Internal Complaints Committee Policy mandates that the compensation by IC shall be determined based on:

The mental trauma, pain, suffering, and emotional distress caused to the aggrieved employee,

The loss in career opportunity due to the incident of sexual harassment; Medical expenses incurred by the victim for physical/psychiatric treatment;

The income and status of the alleged perpetrator, and Feasibility of such payment in a lump sum or installments.