



Internal Complaints Committee

Jesus & Mary College, University of Delhi

The PoSH Act

Workplace sexual harassment is a form of gender discrimination which violates a woman's fundamental right to equality and right to life. India's first legislation specifically addressing the issue of workplace sexual harassment, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (PoSH act) was enacted by the Ministry of Women and Child Development, India in 2013. The PoSH Act has been enacted with the objective of preventing and protecting women against workplace sexual harassment and to ensure effective redressal of complaints of sexual harassment. The statute aims at providing every woman a safe, secure and dignified working environment free, from all forms of harassment.

Sexual harassment means any unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates or creates a hostile and intimidating environment or induces submission by actual or threatened adverse consequences and includes any one or more or all of the following unwelcome acts or behaviour (whether directly or by implication), namely –

- Any unwelcome physical, verbal or non-verbal conduct of sexual nature
- Demand or request for sexual favours
- Making sexually coloured remarks
- Physical contact and advances
- Showing pornography

Anyone (or more than one) of the following circumstances, if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones-

- Implied or explicit promise of preferential treatment as quid pro quo for sexual favours.
- Implied or explicit threat of detrimental treatment in the conduct of work.
- Implied or explicit threat about the present or future status of the person connected.
- Creating an intimidating offensive or hostile learning environment.
- Humiliating treatment likely to affect the health, safety, dignity or physical integrity of the person concerned.

Sexual Harassment Definition [Copy of A Handbook on Prevention of Sexual Harassment at Workplace](#) Page 11/36

Internal Complaints Committee (ICC)

9th January 2014 [Copy of A Handbook on Prevention of Sexual Harassment at Workplace](#) Page 13/36
2nd May 2016 [Notifictation-12022018_IIC_UGC-regulations_sexual-harassment.pdf](#)

ICC is a mandatory body which ensures the safety of the people on the grounds of sexual harassment.

University of Delhi issued notification No. Estab.II(1)/27/ACC/2006/ dated 9 January, 2014 declaring that the provisions of the PoSH Act supersedes the University Ordinance XV-D. Further, notification No. Estab.II(i)/027/ACC/2006 dated 16 January, 2014; the University of Delhi constituted its own Internal Complaints Committee as required under the Act and directed all colleges/institutions under it to constitute their own Internal Complaints Committees. In a notification dated 2 May, 2016 the University Grants Commission gave detailed regulations for the implementation of the PoSH Act within the campus.

Composition of the ICC

- A presiding officer who shall be a women faculty member employed at a senior level at the educational institute, nominated by the executive authority.
- Two faculty members and two non-faculty members nominated by the executive authority.
- Three students, if the matter involves students, are elected through transparent democratic procedure.
- One member from amongst non-governmental organisations/associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the executive authority. [Copy of A Handbook on Prevention of Sexual Harassment at Workplace](#) Page 30/36

Responsibilities of Higher Educational Institutes (HEI)

Every HEI shall-

- Publicly notify the provisions against sexual harassment and ensure their wide dissemination.
- Publicly commit itself to a zero-tolerance policy towards sexual harassment.
- Create awareness about what constitutes sexual harassment including hostile environment harassment and quid pro quo harassment.
- Inform employees and students of the resources available to them if they are victims of sexual harassment.
- Proactively move to curb all forms of harassment of employees and students whether it is from those in a dominant power or hierarchical relationship within HEIs or owing to intimate partner violence or from elements outside of the geographical limits of HEI.
- Be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC to curb and prevent sexual harassment on its campus.
- Reinforce its commitment to creating its campus free from discrimination, harassment, retaliation, or sexual assault at all levels.
- Prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the Commission. [12022018_IIC_UGC-regulations_sexual-harassment.pdf](#) Pg 12/18 Point 3

Responsibilities of the ICC

- Provide assistance if an employee or student chooses to file a complaint to the police.
- Provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights and minimize the need for purely primitive approaches that lead to further resentment, alienation and violence.
- Protect the safety of the complainant by not divulging the person's identity and provide the mandatory relief by the way of sanctioned leave or relaxation of attendance requirement or transfer to another

department or supervisor as required during the pendency of the complaint, or also provide for the transfer of the offender.

- Ensure that the victims and witnesses are not victimised or discriminated against while dealing with complaints or sexual harassment.
- Ensure prohibition of retaliation or adverse action against an individual involved in opposing practices violating sexual harassment laws by participating in sexual harassment proceedings or cooperating with the internal investigation. [12022018_IIC_UGC-regulations_sexual-harassment.pdf](#) Page 15/18 Point 5

Process of filing complaint of sexual harassment

An aggrieved person is required to submit google form and then a written complaint to the ICC within three months from the date of incident and in case of series of incidents within a period of three months from the date of last incident. Provided that where such a complaint cannot be made in writing, the Presiding Officer or any member of the ICC shall render all reasonable assistance to the person for making the complaint in writing. Provided further that the ICC, may for the reasons to be accorded in the writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the person from filing a complaint within the said period. Friends, relatives, colleagues, co-student, psychologists, or any other associate of the victim may file the complaint on account of physical or mental incapacity or death. [12022018_IIC_UGC-regulations_sexual-harassment.pdf](#) Page 16/18 Point 7

Process of conducting inquiry

- Within Seven days of filing a complaint, the ICC is required to give a copy of the complaint to the alleged offender.
- Within 10 days of the ICC giving the complaint, the alleged offender must file their reply and provide details on their witnesses.
- The ICC can take up to 90 days for enquiry and submitting a report. This report should be sent to the victim and the offender within 10 days of the report being submitted.
- The ICC cannot take more than 30 days after the submission of the report to take action against the offender in accordance with the report's instructions.
- During the entire process, the identity of the victim and the alleged offender should be protected. Both sides can produce witnesses and evidence. [Copy of A Handbook on Prevention of Sexual Harassment at Workplace](#) Page 24/36

Scope of punishment

If the person found guilty is a student, the punishment can include

- Suspension or barring entry into the campus for a specific period of time.
- Exclusion and removal of names from the rolls of the institution and even denial of readmission.
- If need be, mandatory counselling or community services.
- If the person found guilty is a professor, the punishment can include:
 - Written apology
 - A warning
 - Withholding of pay rise or increments
 - Termination from service [Copy of A Handbook on Prevention of Sexual Harassment at Workplace](#) Page 27/36

Safety of the victim

Fearing the safety of the victim, the institute can:

- Transfer the victim or the abuser to a different section or department.
- Restrict the abuser from evaluating the work of the victim.
- Warn the offender to keep a distance from the victim if there is a threat, and even bar their entry into campus.
- Take strict measures to provide a safe and conducive environment for the victim.
- Anonymity of the witness will be maintained if necessary.

Action against frivolous complaint

To ensure that the provisions of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised by all HEIs. If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to punishment. However, the inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the parts of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended. [12022018_IIC_UGC-regulations_sexual-harassment.pdf](#)

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- **Focus**
 1. Organize training programmes, workshops and seminars for functionaries, faculty and students to sensitize them and ensure knowledge of the rights, entitlements and responsibilities enshrined in the PoSH Act.
 2. Provide a redressal mechanism for complaints relating to sexual harassment in the institution wherein:
 1. redressal is provided in a time bound manner.
 2. confidentiality is maintained and the identity of the complainant is protected.
 3. assistance is provided in case the employee or students wishes to file complaint to the police.
 3. Ensure prohibition of retaliation or adverse action against an individual involved in opposing practices violating sexual harassment laws by participating in sexual harassment proceedings or cooperating with the internal investigation.
 4. Make recommendations to the institution for appropriate punitive action against the guilty party.
 5. Ensure that the victim and witnesses are not victimized and discriminated against in dealing with complaints of sexual harassment.
 6. Make recommendations to the college administration for changes/elaborations in the rules for students in the Prospectus and the Bye-Laws, to make them gender just and to lay down procedures for prohibition and prosecution of acts of sexual harassment.
 7. Maintain annual status reports of various activities undertaken by the ICC in a given calendar year and records of all the complaints filed.