

POSH Guidelines

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 (POSH Act)

In the modern workplace, ensuring a safe and respectful environment for all employees is paramount. One crucial aspect of this endeavor is the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013, commonly known as POSH (Prevention of Sexual Harassment). POSH at Work signifies the commitment of organizations to prevent, address, and redress instances of sexual harassment within their premises.

"The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act and Rules 2013 ("Law") mandates every organization to "provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace" (Section 19 (a)).

All organizations (whether public or private) having 10 or more employees (whether permanent, temporary, ad-hoc, consultants, interns, or contract workers irrespective of gender) are mandated under Law to comply with certain requirements laid down under the POSH Act. This Law also lays down the redressal mechanism wherein the aggrieved person can file a sexual harassment complaint with the Internal Committee of the organization.

Sexual harassment at the workplace results in violation of the fundamental rights of a woman

- to equality under Articles 14 and 15 of the Constitution of India
- to life and to live with dignity under article 21 of the Constitution
- to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment.



Introduction

At Consortium e Learning Network Private Limited, we hold our employees to the highest standards of ethical conduct both within the workplace and in all interactions with business stakeholders. This entails a responsibility to:

- Treat each other with dignity and respect
- Adhere to the letter and spirit of the law
- Refrain from engaging in any unwelcome behavior of a sexual nature
- Prevent the creation of a hostile atmosphere in the workplace through sexual harassment
- Promptly report any instances of sexual harassment experienced and/or witnessed to the appropriate authorities and comply with the company's complaint handling procedure

This policy has been developed in accordance with the provisions of "The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013" and the rules framed under it (hereinafter referred to as "the Act"). While the policy covers all key aspects outlined in the Act, any further clarification shall defer to the Act and its provisions shall prevail. In cases where the law addresses aspects of sexual harassment not explicitly covered in this policy, the law shall take precedence. In the event of any conflict between the policy and the law, the law will prevail.

Key Provisions

Definition of Sexual Harassment

It encompasses a broad spectrum of behaviors including but not limited to:

- **Verbal Harassment:** Unwelcome comments, jokes, or remarks of a sexual nature, such as sexually explicit conversations, suggestive comments about appearance or attire, or persistent requests for dates or sexual favors.

- **Non-Verbal Harassment:** Gestures, actions, or behaviors of a sexual nature that are unwelcome and offensive, including leering, whistling, making obscene gestures, or displaying sexually suggestive images or materials.
- **Physical Harassment:** Unwanted physical contact of a sexual nature, such as touching, grabbing, hugging, kissing, or any other form of physical contact that is sexual in nature and not consensual.
- **Quid Pro Quo Harassment:** Unwelcome sexual advances, requests for sexual favors, or other sexual demands as a condition of employment, promotion, or other job benefits.
- **Hostile Work Environment:** Unwelcome conduct of a sexual nature that is so severe or pervasive that it creates an intimidating, offensive, or hostile working environment.

Prohibited Behavior

To maintain a safe and respectful workplace environment, it's crucial to identify and prohibit specific behaviors that constitute sexual harassment. The following behaviors are strictly prohibited within the workplace:

- **Unwelcome Advances:** Making unwelcome sexual advances, whether verbal or physical, towards a colleague or subordinate.
- **Verbal Abuse:** Engaging in verbal abuse of a sexual nature.
- **Physical Contact:** Engaging in unwelcome physical contact of a sexual nature.
- **Display of Explicit Material:** Displaying or distributing sexually explicit material in the workplace.
- **Retaliation:** Retaliating against individuals who report instances of sexual harassment or participate in investigations.
- **Creating a Hostile Environment:** Engaging in behavior that creates a hostile or offensive work environment based on an individual's gender, sexual orientation, or other protected characteristics.

Redressal Mechanism

The POSH Guidelines outline a structured redressal mechanism for complaints of sexual harassment. Victims have the right to file a complaint with the ICC, and the committee is tasked with conducting a fair and impartial inquiry into the matter. Remedial action may include disciplinary action against the perpetrator and providing support to the victim.

- **Internal Complaints Committee (ICC):** Each organization with ten or more employees is required to constitute an ICC comprising both internal and external members.
- **Complaint Filing Process:** Employees who experience sexual harassment have the right to file a complaint with the ICC.
- **Investigation and Inquiry:** Upon receiving a complaint, the ICC conducts a thorough investigation.
- **Remedial Measures:** If the ICC finds the accused guilty of sexual harassment, it recommends appropriate remedial measures.
- **Support for Victims:** Throughout the redressal process, the ICC ensures that the victim receives adequate support and assistance.

Confidentiality and Non-Retaliation

The redressal mechanism prioritizes confidentiality to protect the privacy of both the complainant and the accused. It also prohibits any form of retaliation against individuals who file complaints or participate in the investigation, ensuring a safe environment for reporting incidents of sexual harassment.

- **Confidentiality:** All information related to complaints of sexual harassment is treated with the utmost confidentiality.
- **Privacy Protection:** Measures are in place to safeguard the privacy of individuals involved in the complaint process.



- **Non-Retaliation:** Retaliation against individuals who file complaints of sexual harassment or participate in investigations is strictly prohibited.
- **Supportive Environment:** The organization fosters a supportive environment where individuals feel empowered to come forward with complaints without fear of reprisal.
- **Whistleblower Protection:** Individuals who report instances of sexual harassment are protected from retaliation under whistleblower protection laws and organizational policies.

The ICC plays a crucial role in ensuring the effectiveness of the redressal mechanism. It operates independently of management and is empowered to conduct impartial inquiries, recommend appropriate actions, and oversee the implementation of remedial measures. By upholding the principles of fairness, confidentiality, and accountability, the ICC contributes to creating a workplace culture that is safe, respectful, and free from harassment.

Employer Responsibilities

As an employer, Consortium e Learning Network Private Limited has a range of responsibilities to ensure a safe and respectful workplace environment, particularly in the context of addressing sexual harassment. These responsibilities include:

- **Policy Development**
 - Consortium e Learning Network Private Limited is responsible for formulating and implementing a robust policy against sexual harassment in accordance with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act). This policy should clearly outline definitions of sexual harassment, prohibited behaviors, reporting procedures, and the redressal mechanism.
- **Establishment of Internal Committee (IC)**



- Consortium e Learning Network Private Limited must constitute an Internal Committee (IC) to address complaints of sexual harassment, as mandated by the POSH Act. The IC should be composed of members who are trained to handle complaints impartially and ensure due process for all parties involved.
- **Awareness and Training**
 - Consortium e Learning Network Private Limited is responsible for conducting regular awareness and training programs on sexual harassment prevention for all employees. These programs should educate employees about their rights and responsibilities, provide information on recognizing and reporting sexual harassment, and empower individuals to contribute to a harassment-free workplace culture.
- **Promotion of a Supportive Environment**
 - Consortium e Learning Network Private Limited should foster a supportive environment where employees feel comfortable reporting instances of sexual harassment without fear of retaliation or stigma. This involves maintaining confidentiality during the complaint process, providing support services for victims, and addressing instances of retaliation or intimidation.
- **Compliance with Legal Requirements**
 - Consortium e Learning Network Private Limited must ensure compliance with all legal requirements related to sexual harassment prevention, including those outlined in the POSH Act. This includes implementing preventive measures, establishing ICCs, conducting training sessions, and maintaining records of complaints and their resolution.
- **Monitoring and Evaluation**
 - Consortium e Learning Network Private Limited should regularly monitor and evaluate the effectiveness of its sexual harassment prevention efforts. This includes assessing the implementation of policies and procedures, tracking



complaint trends, and making necessary adjustments to improve the efficacy of prevention measures.

Employee Rights and Responsibilities

Employees have certain rights and responsibilities when it comes to preventing and addressing sexual harassment in the workplace. These rights empower individuals to work in a safe and respectful environment, while their responsibilities contribute to maintaining that environment for themselves and their colleagues. The following outlines key employee rights and responsibilities:

Employee Rights

- **Right to a Safe Workplace:** Every employee has the right to work in an environment free from discrimination, harassment, and unsafe conditions. Consortium e Learning Network Private Limited is committed to providing a safe and healthy work environment for all employees.
- **Right to Confidentiality:** Consortium e Learning Network Private Limited respects your right to privacy and confidentiality. Your personal information and sensitive data will be handled with care and in accordance with applicable privacy laws and company policies.
- **Right to Non-Retaliation:** Employees have the right to be protected from retaliation for reporting instances of sexual harassment or participating in investigations. This includes protection from adverse actions such as termination, demotion, harassment, or discrimination as a result of their involvement in the complaint process.
- **Right to Access Support Services:** Employees who experience sexual harassment have the right to access support services such as counseling, advocacy, or legal assistance. Employers are responsible for providing resources and assistance to victims to help them cope with the emotional and psychological impact of harassment.



- **Right to Equality:** Consortium e Learning Network Private Limited upholds the principles of equality and non-discrimination. As an employee, you have the right to be treated fairly and equally, regardless of your gender, race, religion, age, disability, or any other protected characteristic.
- **Right to Voice Concerns:** You have the right to raise concerns or grievances related to your work environment, including issues of harassment, discrimination, safety, or any other matter affecting your well-being. Consortium e Learning Network Private Limited encourages open communication and provides channels for employees to voice their concerns without fear of retaliation.

Employee Responsibilities

- **Respect for Others:** As an employee of Consortium e Learning Network Private Limited, you are expected to treat your colleagues, supervisors, clients, and other stakeholders with respect and professionalism. This includes refraining from behavior that may be offensive, discriminatory, or harassing.
- **Understanding Company Policies:** Employees are responsible for familiarizing themselves with the organization's policies and procedures regarding sexual harassment prevention and reporting. This includes understanding what constitutes sexual harassment, how to file a complaint, and the steps involved in the investigation and resolution process.
- **Respecting Boundaries:** Employees have a responsibility to respect the personal boundaries of their colleagues and refrain from engaging in behavior that may be perceived as sexual harassment. This includes refraining from making unwelcome advances, comments, or gestures of a sexual nature, and respecting the right of others to work in a harassment-free environment.
- **Reporting Incidents:** Employees have a responsibility to report instances of sexual harassment promptly and accurately. This involves notifying the appropriate authorities within the organization, such as the Human Resources department or the Internal

Complaints Committee, and providing detailed information about the incident to facilitate investigation and resolution.

- **Cooperating with Investigations:** Employees who witness or experience sexual harassment have a responsibility to cooperate with investigations conducted by the organization. This includes providing truthful and accurate information, participating in interviews or hearings as required, and refraining from interfering with the investigative process.
- **Supporting Colleagues:** Employees have a responsibility to support and advocate for colleagues who experience sexual harassment. This may involve offering emotional support, encouraging them to report incidents, and speaking out against harassment in the workplace.
- **Participation in Training:** Consortium e Learning Network Private Limited provides training and awareness programs on topics such as harassment prevention, diversity and inclusion, and safety protocols. As an employee, you are expected to actively participate in these training sessions to enhance your understanding and contribute to a positive work environment.

Benefits of the Posh Act

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, commonly referred to as the POSH Act, brings forth numerous benefits for both employees and employers. These benefits contribute to fostering a workplace culture that prioritizes equality, safety, and respect. The following highlights some of the key advantages of the POSH Act:

- **Protection of Employees:** The primary benefit of the POSH Act is the protection it offers to employees, particularly women, from instances of sexual harassment in the workplace. By establishing clear guidelines and procedures for preventing, addressing, and redressing sexual harassment complaints, the Act creates a safer and more supportive environment for all employees.

- **Legal Compliance:** The POSH Act mandates that organizations establish [Internal Complaints Committees \(ICCs\)](#) to handle complaints of sexual harassment. By complying with this requirement, employers ensure that they are adhering to legal obligations and fulfilling their responsibilities towards preventing sexual harassment in the workplace. Compliance with the Act also mitigates the risk of legal liabilities and penalties associated with non-compliance.
- **Promotion of Gender Equality:** By addressing sexual harassment and promoting a harassment-free work environment, the POSH Act contributes to promoting gender equality in the workplace. It empowers women to work without fear of harassment or discrimination, thereby enabling them to fully participate and contribute to the workforce on an equal footing with their male counterparts.
- **Enhanced Employee Morale and Productivity:** A workplace free from sexual harassment fosters a positive work environment where employees feel valued, respected, and supported. This, in turn, leads to higher levels of employee morale, satisfaction, and productivity. Employees are more likely to be engaged in their work and committed to the success of the organization when they feel safe and respected in their workplace environment.
- **Improved Organizational Reputation:** Organizations that prioritize the implementation of the POSH Act and demonstrate a commitment to preventing sexual harassment send a clear message to employees, customers, and stakeholders that they value ethics, integrity, and employee well-being. This enhances the organization's reputation as a responsible and ethical employer, which can positively impact its brand image and attract top talent.
- **Prevention of Litigation and Reputation Damage:** By proactively addressing sexual harassment through the implementation of the POSH Act, organizations reduce the risk of costly litigation and damage to their reputation. Prompt and effective resolution of complaints demonstrates the organization's commitment to upholding the rights and dignity of its employees, thereby mitigating the risk of legal disputes and negative publicity.



Limitations of the Posh Act

While the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act (POSH Act) serves as a crucial tool in addressing and preventing sexual harassment, certain limitations may impact its implementation within Consortium e Learning Network Private Limited:

- **Implementation Challenges:** Consortium e Learning Network Private Limited, particularly smaller organizations, may encounter difficulties in effectively implementing the Act due to resource constraints or limited awareness. This could include challenges in establishing Internal Complaints Committees (ICCs), providing necessary training, and ensuring compliance with the Act's requirements.
- **Social Stigma:** Victims of sexual harassment may hesitate to come forward and report incidents due to social stigma or fear of retaliation. This reluctance to report can hinder the effectiveness of the Act's redressal mechanisms and prevent victims from accessing the support and justice they deserve.
- **Lengthy Complaint Process:** The investigation and redressal process outlined in the POSH Act may be time-consuming, leading to frustration for complainants. Delays in resolving complaints can further exacerbate the emotional and psychological toll on victims and may deter others from coming forward with their experiences.

Despite these limitations, Consortium e Learning Network Private Limited remains committed to upholding the principles of the POSH Act and creating a workplace environment that is safe, inclusive, and free from sexual harassment. The organization continues to explore ways to overcome these challenges and enhance its efforts towards preventing and addressing sexual harassment effectively.

Annexure

Require internal resource to coordinate & handle complaints of sexual harassment at workplace?

Internal Complaints Committees (ICCs)

<p>Dr. Archana Mehrotra Chairperson archana@stmjournals.com</p>	<p>Ms. Nidhi Mathur Member nidhi@lawgicalassociates.com</p>
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