

Advisory about Workplace Sexual Harassment

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, often known as the 'POSH Act', is an Indian law created to make workspaces safer and more secure by preventing, forbidding, and remedying acts of sexual harassment against them in the workplace. The Ministry of Women and Child Development declared the law applicable throughout India on December 9, 2013.

The Wadia Institute of Himalayan Geology follows a zero tolerance policy on Workplace Sexual Harassment.

Complaints of inappropriate behavior, physical, verbal, online will be dealt with utmost strictness.

Queries or clarifications on the contents below may be sought at posh-wihg@wihg.res.in

All employees, regular, temporary, contractual, may inform themselves of the Act and adhere to appropriate behavior at workplace.

Women covered under the Act

- The Act recognizes the right of every woman to a safe and secure workplace environment irrespective of her age or employment/work status. Hence, the right of all women working or visiting any workplace whether in the capacity of regular, temporary, ad-hoc, or daily wages basis is protected under the Act.
- It includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise.
- She could be a co-worker, a contract worker, probationer, trainee, apprentice, or called by any other such name.

Definition of Workplace

- A workplace is defined as “any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such a journey.”
- As per this definition, a workplace covers both the organised and un-organised sectors.
- It also includes all workplaces whether owned by Indian or foreign company having a place of work in India.
- A dwelling place or house, which has been assigned as a result of her employment.
- Cyberspace, which is an automatic part of work life.

Sexual harassment at the workplace

“Sexual Harassment” includes anyone or more of the following unwelcome acts or behaviour (whether directly or by implication), namely :

1. Physical contact or advances;
2. A demand or request for sexual favours;
3. Making sexually coloured remarks;
4. Showing pornography;
5. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature

Forms of workplace sexual harassment

Workplace sexual harassment may be expressed in the form of *inappropriate behaviour as:*

1. Quid Pro Quo (literally ‘this for that’)
 - Implied or explicit promise of preferential/detrimental treatment in employment
 - Implied or express threat about her present or future employment status
2. Hostile Work Environment
 - Creating a hostile, intimidating or an offensive work environment
 - Humiliating treatment, including belittling competence and agency
3. Unwelcome lewd comments in the guise of compliments, invitation, advances
4. Physical touch escalating to molestation with attempts to isolate, particularly at a power differential
5. Stalking
6. Displaying sexual images
7. Sharing/circulating intimate photographs

Key elements of workplace sexual harassment

- It is the impact and not the intent that matters and it almost always occurs in a matrix of power.
- It is possible that a woman may experience a single instance of sexual harassment or a series of incidents over a period of time.
- It is important also to remember that each case is unique and should be examined in its own context and according to the surrounding circumstances as a whole.
- To enable prevention of sexual harassment at the workplace, it is critical to recognize and differentiate between welcome and unwelcome sexual behaviour.

Examples of behaviour of underlying workplace sexual harassment:

1. Criticizing, insulting, blaming, reprimanding or condemning an employee in public.
2. Exclusion from group activities or assignments without a valid reason.
3. Statements damaging a person’s reputation or career.

4. Removing areas of responsibility, unjustifiably.
5. Inappropriately giving too little or too much work.
6. Constantly overruling authority without just cause.
7. Unjustifiably monitoring everything that is done.
8. Blaming an individual constantly for errors without just cause.
9. Repeatedly singling out an employee by assigning her with demeaning and belittling jobs that are not part of her regular duties.
10. Insults or humiliations, repeated attempts to exclude or isolate a person.
11. Systematically interfering with normal work conditions, sabotaging places or instruments of work.
12. Humiliating a person in front of colleagues, engaging in smear campaigns.
13. Arbitrarily taking disciplinary action against an employee.
14. Controlling the person by withholding resources (time, budget, autonomy, and training) necessary to succeed.

Examples of workplace behaviours that may not constitute sexual harassment:

1. Following-up on work absences.
2. Requiring performance to job standards.
3. The normal exercise of management rights.
4. Work-related stress e.g. meeting deadlines or quality standards.
5. Conditions of works.
6. Constructive feedback/criticism about the work mistake for improvement and advancement and not the person.

Persons who may observe and/or experience inappropriate behaviour have a responsibility to inform the ICC, even if not directly a victim.

False complaints, amounting to maligning an individual, will attract culpability.