



VIKRAMA SIMHAPURI UNIVERSITY

Nellore – 524 324, Andhra Pradesh, India

Students Grievance Policy

Purpose

- Students seeking to enrol in a course of study with Vikrama Simhapuri University (VSU) are entitled to access the grievance procedure as set out by (VSU) at which the grievance has arisen, the students' place of residence (hostel and college) in which they study.
- Students and prospective students are entitled to access the grievance procedure as set out by VSU administration for actions of the staff, agents legal, formal and publicly established bodies with other parties.
- VSU recognises the fundamental rights of students or those seeking to enrol in a course of study at University to have unhindered access to mediation. At this juncture the students have the right to report problems, grievances and concerns regarding any aspect of their education or other activities, which are within the control of VSU.
- VSU recognises an official platform for solving grievances in accordance with published procedures as set out in this Student Grievance Policy and Procedures.

Definitions

A grievance is a complaint/conflict which arises out of an act, decision or omission which the grievant considers being unjust, wrongful or discriminatory and which is within the control of the VSU campus.

Academic grievance may include issues relating to:

- Selection and Admission Process
- Academic grades necessary to maintain a scholarship/fellowship
- Content and delivery of subjects in a course
- Assessments (for example assignments, tests, examinations)
- Cancellation of enrolment
- Placements and Internships
- Special Considerations
- Intention to report the student due to unsatisfactory course progress
- Additional matters relating to student transfers, reporting and suspension

Non-academic grievance may include issues relating to:

- Fee Payment & Scholarships
- Suspension of Candidature
- Cancellation of enrolment
- Refusal of the transfer request
- Withdrawal without Penalty
- Misconduct & Critical Incidents
- Harassment
- Discrimination
- Health and Well being
- Facilities

Rights of Students

VSU recognises that any written agreement between students and the VSU does not limit the students' right to make complaints and seek appeals of decisions and action under various processes.

Guidelines

VSU will ensure the following when dealing with complaints, grievances and appeals:

- Each complaint, grievance, appeal and its outcome are recorded in writing
- Students must complete college Complaints and Grievance Form available from Blackboard/Registrar's Office for prospective students.
- The form must set out in writing the nature of the complaint or grievance including all relevant supplementary information or documents.

Grievance Procedures

If a complaint/ problem/ grievance is being experienced with a staff member or a student the following procedure should be used:

- To identify and discuss the complaint
- To discuss the best outcome to the grievance or complaint
- Agree to act to resolve the complaint or grievance

Stage 1

- If after talking to the person, the complaint or grievance remains unresolved the student will need to lodge formal grievance or complaint using the “Grievance and Complaints Form” **(Appendix 1)**
- Complaints must be raised within one month of the issue occurring
- Enrolled and prospective students will submit grievances or complaints to the Registrar's Office.
- The date and time of receipt of the complaint should be recorded
- The process will commence within 10 working days of lodgement of complaint

Stage 2: If the enrolled or prospective student is dissatisfied with the decision and:

- If it is an academic matter, they may appeal to the Co-ordinator of Students affairs for Academics within 10 working days of receipt of the decisions.
- The Co-ordinator of Students affairs for Academics or his /her nominee has 20 working days to consider the appeal and advise both parties with a full explanation of the decision in writing.

Grievance Protocols

To ensure that assessment and investigation of grievances are conducted in a fair and transparent manner

- If the grievance is against an administrative or a support staff, then it will be forwarded directly to the Head of Campus
- If the grievance is against a faculty, then it will be forwarded directly to the respective Course Dean
- If the grievance is against Dean, then it will be forwarded directly to the Vice Chancellor – Academic.
- If a grievance is against the Registrar, then it will be forwarded directly to Vice Chancellor – Administration
- If the grievance is against a Head of Campus, then it will be forwarded directly to Vice –Chancellor.
- If the VSU needs to rectify its own policy and procedures, it must act immediately and document any changes to policies and procedures. This will be dealt with by the appropriate committee on a case to case basis and any changes will be implemented as soon as possible.

Appendix 1: Complaints and Grievance Form

1. Personal Details:

a) Name:

b) Student ID:

- c) Enrolled Course:
- d) Campus:
- e) Date of Birth:
- f) Address:
- g) Current Student: YES/NO
- h) Academic Grievance/Non-Academic Grievance: Please indicate

2. Complaint and Grievance

Please provide:

- a) a description of the complaint/grievance including the date, the location and all persons involved
- b) summary of the processes and steps taken to date to try and resolve the grievance informally
- c) a proposed resolution which you may believe will settle the grievance
- d) attach any documentation in support of the grievance or proposed resolution

3. Declaration

I declare that the information provided by me is true and correct.

I have read and understood the information contained on this form and in the Student Grievance and Mediation Policy and Procedures.

Name (Print):

Signature:

Date:


REGISTRAR
VIKRAMA SIMHAPURI UNIVERSITY
NELLORE - 524 324.



VIKRAMA SIMHAPURI UNIVERSITY

Nellore – 524 324, Andhra Pradesh, India

ANTI-SEXUAL HARASSMENT CELL (ASHC) POLICY ON PREVENTION OF SEXUAL HARASSMENT

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I. BACKGROUND OF THE RULES AND PROCEDURES

These are the Rules and Procedures of the Anti sexual harassment cell which is the body constituted by University, Nellore following the guidelines laid down by the Hon'ble Supreme Court of India, in its ruling on the Writ Petition (Criminal) Vishaka vs. State of Rajasthan on 13 August 1997, on the prevention and deterrence of sexual harassment at the workplace. The Hon'ble Supreme Court in a subsequent judgment titled Apparel Export Promotion Council vs A. K. Chopra, on 20th January, 1999 has reiterated that incidents of sexual harassment violate fundamental rights to gender equality and right to life and liberty. It may be pointed out that although these Rules and Procedures follow the spirit of the above mentioned judgments, they cover a wider spectrum of sexual harassment in consonance with the requirements of an institution of higher education

II. OBJECTIVES OF THE POLICY

The policy has been framed keeping the following objectives in view:-

- (a) To fulfill the directives of the Hon'ble Supreme Court enjoining all employers to develop and implement a policy against sexual harassment at the work places.
- (b) To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at the University.
- (c) To ensure the implementation of the policy in letter and spirit through proper reporting of complaints and their follow-up procedures.
- (d) To promote a social and psychological environment which will raise awareness about sexual harassment in its various forms.
- (e) To generate public opinion against sexual harassment and all forms of gender-based violence.
- (f) To ensure that VSU upholds the commitment to ensure an environment without gender bias or gender based discrimination.

III. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment in this context, (as is described in the Supreme Court Judgment, and the University Policy), includes any unwelcome sexually determined behaviour, whether directly or by implication, and includes physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, and other unwelcome physical, verbal or non-verbal conduct of a sexual nature. It shall include, but will not be confined to the following:

- a) When unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature, explicitly or implicitly, are made a term of condition of instruction, employment, participation, or evaluation of a person's engagement in any academic or campus activity.
- (b) When unwelcome sexual advances and verbal, non-verbal, or physical conduct such as loaded comments, slander, remarks or jokes, letters, phone calls or e-mail or in any form of e-communication/social media, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature have the purpose or effect of interfering with an

individual's performance or of creating an intimidating, hostile or offensive campus environment.

IV. OTHER DEFINITIONS

- i. "Academic staff" includes any person on the staff of the University who is appointed to a teaching and/or research post, whether full-time, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation, and shall include employees employed on a casual or project basis. It shall not, however, include any such person on the staff of an autonomous institution to which Vikrama Simhapuri University is the authority awarding degrees.
- ii. "Appeals Committee" as defined in Section X (3) herein.
- iii. "Campus" includes all places of work and residence in the campus of University. It includes all places of instruction, research and administration, as well as hostels, Library, Halls, sports ground, Post office, Bank, Hospital, Canteen, commercial places guest houses, public places and places of residence allotted and administered by University.
- iv. "Complaints Screening Committee" as defined in Section VI. 3(B) herein.
- v. "Counselor" includes any woman, empanelled by ASHC and/or appointed by the University authorities, who has proven expertise in social and personal counseling on matters arising out of incidents of sexual harassment.
- vi. "Eminent woman academician" includes a senior woman academician who is not a member of either the academic or the non-teaching staff of Vikrama Simhapuri University, and who has experience in working for gender equality.
- vii. "Enquiry Committee" as defined in Section VI.4 herein.
- viii. "NGO" includes any Non-Governmental Organisation registered under the Societies' Registration Act or as a public charitable trust recognised under law. Such a society/charitable trust must not be affiliated to any political party, and should have been engaged in work for gender equality, particularly for the amelioration of the status of women, for a minimum of three years prior to the date of empanelment. Two-thirds of the registered membership of such a society or charitable trust shall be outsiders with respect to Vikrama Simhapuri University; i.e. at least two-thirds of the membership shall not include any person

who is a student, resident, service provider, or a member of the academic staff or non-teaching staff of University.

- ix. "Non-teaching staff" includes any person or the staff of the University who is not appointed to a teaching and/or research post, whether full-time, temporary, ad-hoc, part-time, daily wage, honorary or on special duty or deputation, and shall include employees employed on a casual or project basis, as also persons employed through a contractor. It shall not include any such person on the staff of Vikrama Simhapuri University is the authority awarding degrees.
- x. "Outsider" includes any person who is not a student, resident, or member of the academic or non-teaching staff of Vikrama Simhapuri University. It shall also include any person who is a student, employee, service provider, or resident of any autonomous institution that has its premises/residences in the Vikrama Simhapuri University campus.
- xi. "The Policy" shall refer to the Vikrama Simhapuri University Policy against Sexual Harassment.
- xii. "Resident" includes any person who is a temporary or permanent resident of any of the accommodations or premises managed and/or allotted by Vikrama Simhapuri University, irrespective of whether he/she is the person to whom the accommodation is officially allotted. It shall not include any such person who is in temporary or permanent residence in the campus of an autonomous institution to which Vikrama Simhapuri University is the authority awarding degrees. It shall also not include any person who is in temporary or permanent residence in an autonomous institution that has its premises and/or residences in the Vikrama Simhapuri University campus.
- xiii. "Service provider" includes any person who runs or manages commercial enterprises, or provides services, on the campus. It includes, but is not limited to, persons working in shops, canteens, hostels and restaurants on the campus, as well as persons working in premises allotted on the campus, such as the shopping complexes, Department of Posts & Telegraph, Bank and any other such similar services.
- xiv. "Student" includes any person who is enrolled for any course, whether full time or part time, with University, Nellore and includes an undergraduate or postgraduate student, a Research Scholar, a visitor, and a repeater. It also includes a student of

another University or college who has been placed or has opted for placement with University or short-term courses at University. It shall not, however, include any student enrolled in a course in an autonomous institution to which University is the authority awarding degrees.

- xv. "Supreme Court Judgement" shall refer to the guidelines on the prevention and deterrence of sexual harassment in the workplace laid down by the Supreme Court of India on 13 August 1997 in its ruling on the Writ Petition (Criminal) Vishaka vs. State of Rajasthan and the judgment titled Apparel Export Promotion Council vs. A. K. Chopra, on 20th January 1999.
- xvi. "Third party" shall include the NGO representative or the eminent woman academic serving on, or empanelled by, ASHC.
- xvii. "University authorities" shall refer to the Vice-Chancellor of the University, by virtue of her/his being the head of the Executive Council of University, as well as any such person to whom such power may be delegated and/or any person who is entrusted with any powers and functions to act on behalf of the University under the University Act, or Statutes, Ordinances or Rules thereunder.
- xviii. "University functionaries" includes any person appointed, designated or nominated by the University authorities to a position of service in the University, and includes, but is not limited only to, the following: Dean of Students, Deans of Schools, Chairpersons of Centres, Proctors, Provosts, wardens, security personnel, health professionals, as well as persons discharging administrative responsibilities, such as the Registrar, Controller of examinations, and the Finance Officer.
- xix. "Vacations" shall refer to the periods May 1 to June 30 and December 25 to January 1.
- xx. "Vacations Committee" as defined in Section V.11 herein.
- xxi. "Warden" shall refer to any person, who is nominated, appointed, or designated by the Vice-Chancellor as a Warden of a hostel allotted and/or administered by the University.

V. COMPOSITION AND PROCEDURES OF ASHC

V.1. Composition

ASHC shall have a membership of 7 persons, of which at least half the members shall be women. The composition of these members is given below while the bodies, which shall elect or nominate these members are given in the next section.

V.1 (i) Two faculty members (at least one woman) specially elected to serve on ASHC.

V.1 (ii) Two students (at least one woman) specially elected to serve on ASHC.

V.1 (iii) One woman officer and one woman staff member specially elected to serve on ASHC.

V.1 (iv) Two Wardens (at least one woman).

V.1 (v) One representative each of the Vikrama Simhapuri University Students' Union, Vikrama Simhapuri University Teaching Faculty and Vikrama Simhapuri University non-teaching Staff. V.1 (vi) One eminent woman academician from outside the University.

V.1 (vii) One woman representative of an NGO.

V.1 (viii) One woman counsellor.

V.2. The Process for Formation of ASHC

V.2 (i) The election for the specially elected representatives of students, teachers, staff, and officers (those referred to in Sections V.1 (i) – (iii) above) shall be conducted by the bodies responsible for conducting the elections to the Executives of the respective Unions and Associations. The electoral procedure shall be completed by the month of December each year.

V.2 (ii) The representatives of the Wardens (those referred to in Section V.1 (iv) above) shall be chosen by the Wardens under Inter-Hall Administration (PU) and will assume office by March each year.

V.2 (iii) The representatives of the University Students' Union, University Teachers' Association, University non-teaching Staff Association shall be nominated by the respective Executive Committees, and they will assume office by January each year.

V.2 (iv) ASHC shall empanel a pool of counsellors, eminent women academicians, and NGOs, as defined in Section V.1, (VI), (VII) and (VIII), respectively. However, only one NGO representative, one eminent woman academician and one counsellor shall be invited by ASHC to attend its meeting at one time.

V.2 (v) The panel of NGOs, eminent women academicians, and counsellors, shall be updated by ASHC from time to time. ASHC will strive to maintain continuity in the membership of third party members and counsellors on ASHC. A decision to remove from the panel a serving or empanelled third party or counsellor shall only be taken in a Special meeting defined in Section V.10 (vi).

V.3. Term of Office of ASHC Members

Subject to Section V.5 below and barring the third parties and the counsellor, the tenure of each member of ASHC shall be three years from the date of assumption of office.

V.4. Chairperson/Acting Chairperson of ASHC

The Chairperson of ASHC shall be a woman faculty member. In the event of the Chairperson of ASHC being unable to discharge her duties for a period exceeding 21 days (barring the period when the University is on vacation), ASHC shall designate from amongst its members, a woman faculty member to the post of Acting Chairperson of ASHC for that period. The Acting Chairperson of ASHC shall have all the powers and duties of the Chairperson of ASHC outlined herein. As and when the Chairperson resumes duty, the Acting Chairperson shall cease to hold office.

V.5. Disqualification of Chairperson and Members

A person shall be disqualified for being appointed, elected, nominated or designated as, or for being continued as, a member of ASHC if there is any complaint concerning sexual harassment pending against her/him, or if she/he has been found guilty of sexual harassment/serious misconduct.

V.6. Disqualification of an NGO

A person shall be disqualified for being appointed, elected, nominated or designated as, or for being continued as, an NGO representative on ASHC if such

appointment, nomination, designation, election or continuation is inconsistent with the provisions of Section IV(viii).

V.7. Vacancy of a Member Owing to Absence without Intimation

If a member elected or nominated or designated to ASHC remains absent without written intimation to the ASHC from three consecutive meetings, her/his office shall thereupon become vacant. The same person shall not be eligible to be reelected or re-nominated or re-designated to ASHC for the next one year.

V.8. Resignation of a Member

A member of ASHC may resign her/his office at any time by tendering her/his resignation in writing to the Chairperson of ASHC. Such a person shall be deemed to have vacated her/his office as soon as ASHC has accepted the resignation.

V.9. Filling a Vacancy in ASHC

If a vacancy arises in ASHC, ASHC shall co-ordinate with the relevant body to arrange for the filling up of the vacancy in the particular category, in accordance with the procedure outlined in Section V.2, within four weeks, barring the period during which the University is on vacation. If the vacancy remains unfilled after the specified period, the Vice-Chancellor may, in consultation with ASHC, fill up the vacant positions by appropriate nominations for the residual period. No act or proceedings of ASHC shall be invalidated merely by reason of the existence of a vacancy or vacancies.

V.10. Meetings of ASHC

V.10 (i) ASHC shall meet at least five times a semester or at such intervals as may be necessary provided that the interval between two successive meetings shall not exceed 30 days.

V.10 (ii) Members shall be intimated of meetings in writing or by electronic communication.

V.10 (iii) Minutes of all meetings shall be recorded, confirmed and adopted.

V.10 (iv) Any member of ASHC may request the Chairperson to call an Ordinary Meeting. Forty-eight hours notice shall be required for such a meeting to be called. The quorum for an Ordinary Meeting shall be one-third of the existing members of ASHC. Motions shall be carried by a simple majority of those present and voting.

V.10 (v) Any member of ASHC may request the Chairperson to call an Emergency Meeting. At least twenty-four hours notice shall be required for such a meeting to be called. The quorum for an Emergency Meeting shall be one-third of the existing members of ASHC. Motions shall be carried by a simple majority of those present and voting.

V.10 (vi) A Special meeting shall be called by the Chairperson of ASHC, with at least twenty-four hours notice. It shall have a quorum of two-thirds of the existing members of ASHC, and the attendance of at least one of the third party members shall be mandatory. Motions shall be carried by a two-thirds majority of the members present and voting.

V.10 (vii) If the required quorum is not there at any meeting, such a meeting shall be adjourned for not more than seven working days. For the adjourned Ordinary or Special meetings, the required quorum shall be the same as in a regular Ordinary or Special meeting but for an adjourned Emergency Meeting there shall be no requirement of quorum.

V.10 (viii) ASHC shall hold at least two public meetings every year where it shall report to the University community about its activities. Of these, at least one meeting shall be called specifically for the purpose of the presentation of the Annual Report of ASHC.

V.11. Vacations Committee

In the period when the University is on vacation, ASHC shall strive to ensure the discharge of its duties and functions, in accordance with the procedure outlined herein:

V.11 (i) ASHC shall designate from within itself a Vacations Committee(s), for the period when the University is in vacation, of not less than five members. Not less than half of the members of the said Committee shall be women.

V.11 (ii) The Vacations Committee shall elect from within itself a Convener, who shall be a woman faculty member, and shall exercise all the powers and functions of the Chairperson of ASHC outlined herein.

V.11 (iii) By May 12 and December 5 each year, ASHC shall intimate the University community by public notices the contact details including telephone/mobile nos. of the members of the Vacations Committee.

V.11 (iv) The Vacations Committee shall designate from within itself a monthly Complaints Screening Committee, which shall function in accordance with the procedures outlined in Section VI.3.

V.11 (v) In the event of an enquiry proceedings being necessitated, the Vacations Committee shall call a Special Meeting for the constitution of an Enquiry Committee, in accordance with the provisions of Section VI.4.

V.11 (vi) Save for reasons that the Vacations Committee considers urgent, further action on the complaint shall take place after the end of a vacation, in an Emergency Meeting, called by the Chief Enquiry Officer/Chairperson, ASHC within three working days of the commencement of the semester.

V.11 (vii) In case of a need for immediate disciplinary action, the reasons for which the Chief Enquiry Officer shall state in writing, the Convener of the Vacations Committee shall call a Special Meeting to discuss, take a decision on the recommendations of the Enquiry Committee, and initiate further action on the complaint, in accordance with the procedures outlined in Section.

VI. FUNCTIONS OF ASHC ASHC

Shall have four functions:

VI.1 Gender Sensitization and Orientation

VI.1 (i) ASHC will ensure the prominent publicity of the Policy in all Centers, Schools, Hostels, offices of administration, as well as in all public places on the campus such as the library, health centre, residential areas, canteens, shopping centers, etc.

VI.1 (ii) ASHC will organize programmes for the gender sensitization of the University community through workshops, seminars, posters, film shows, debates, skits, etc. It may enlist the help of specialized NGOs and any campus body to carry out these programmes.

VI.1 (iii) ASHC will conduct at least one major activity per semester involving large sections of the University community.

VI.2. Crisis Management and Mediation

VI.2 (i) ASHC will assist in the mediation of situations arising out of incidents of sexual harassment and sexual assault on the campus.

VI.2 (ii) ASHC will co-ordinate with the campus security services to devise ways and means by which a system of crisis management that is gender-sensitive as well as prompt and effective. It will maintain regular contact with the campus security services to

ensure that in crises arising out of incidents of sexual harassment, ASHC members, and/or the volunteers identified by it, shall be intimated without delay.

VI.2 (iii) ASHC will, through a circular at the beginning of each semester, enlist and activate an adequately representative team of volunteers. ASHC shall ensure the widespread publicity of the contact details (both official and personal) of all its members and volunteers.

VI.2 (iv) ASHC will organize training workshops for members and volunteers to equip them to handle sexual harassment cases (including legal and medical aspects of aid). Volunteers will assist in the gender sensitisation, crisis mediation and management duties of ASHC, but shall not participate in the task of formal redressal of complaints under the Rules and Procedures of ASHC.

VI.2 (v) In cases in which sexually motivated conduct against a student, or a member of the academic or a non-teaching staff, or a resident and/or a service provider amounts to a specific offence under the Indian Penal Code or any other Indian law, ASHC shall assist the affected party in making a complaint to the appropriate authority outside the University.

VI.3 (A) Complaints Filing Process

VI.3 (A) (i) Any student, resident, service provider, outsider, or a member of the academic or non-teaching staff may lodge a complaint of sexual harassment against a student, resident, service provider, outsider, or a member of the academic or non-teaching staff. Third party complaints and witness complaints shall be entertained. The ASHC shall take suo motto notice of grave violations of the basic principles of gender sensitivity and justice on this campus.

VI.3 (A) (ii) Complaints can be lodged directly with any member of ASHC, or through existing channels for lodging grievances, such as the University authorities, wardens, teachers, students, union/association representatives, administrative superior, etc. If the complaint is made through any such channel, the person to whom the complaint is made should bring it to the notice of ASHC within two working days of its receipt by her/him.

VI.3 (A) (iii) Upon receipt of the complaint, the ASHC member to whom the complaint is made shall forward the same to the Complaints Screening Committee.

VI.3 (A) (iv) The complaint may be oral or in writing. If the complaint is oral, it shall be reduced in writing by the Complaints Screening Committee or the ASHC member receiving the complaint, and authenticated by the complainant under his/her dated signature or thumb impression as the case may be.

VI.3 (B) Complaints Screening Committee

VI.3 (B) (i) Composition

ASHC shall designate by rotation three persons from amongst its members for a period of one month to receive and screen complaints, henceforth called the Complaints Screening Committee. The names and contact details of these members shall be given widespread publicity by ASHC.

VI.3 (B) (ii) Functions

- (a) The Complaints Screening Committee shall receive and record complaints of sexual harassment on Form I (Schedule 2) prescribed for the purpose. It shall carefully study the complaint and may hear the complainant and the defendant as well as other involved parties to determine whether an enquiry by ASHC is to be instituted.
- (b) At no time in the complaints receiving and recording procedure shall the defendant(s) and the complainant be placed face to face, or put in a situation where they may be face to face (e.g. they shall not be called at the same time and be made to wait in the same place), keeping strictly in view the need to protect the complainant from facing any serious health and/or safety problems, in accordance with the guidelines in the Supreme court judgement.
- (c) At no time in the complaints receiving and recording procedure shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
- (d) ASHC may issue an order of restraint to the defendant(s) in accordance with the procedure outlined below in Section VI.3(C).
- (e) The Complaints Screening Committee shall communicate its recommendations, along with the reasons and documentary evidence, if any, thereof, in writing to the Chairperson of ASHC as soon as possible.
- (f) The Complaints Screening Committee shall be responsible for making counseling services available to a person requesting for it.

- (g) In a special provision for physically challenged complainants, or complainants in a serious medical condition, the Complaints Screening Committee may, on determining the complaint to be a prima facie complaint of sexual harassment, recommend the institution of enquiry proceedings.

VI.3 (B) (iii) Withdrawal of Complaints

- (a) The complainant may withdraw his/her complaint in writing at any time during the complaints receiving and/or enquiry procedure.
- (b) The complaints screening/enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Complaints Screening/Enquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the defendant(s), or any person on her/his behalf, on the complainant. In such an instance, the complaints screening/enquiry proceedings shall continue in accordance with the procedure outlined in Sections VI.3(C) and 4(C).

VI.3 (C) Restraint Order

VI.3 (C) (i) A restraint order in terms of ASHC Rules shall provide, on Form IV prescribed for the purpose (Schedule 2), a summary of the complaint, the date(s), time(s), and location(s), of the alleged incident(s). It shall warn the defendant(s) that any attempt on her /his part or by person(s) acting on his /her behalf, to contact, or influence, or intimidate, or exert pressure on the complainant or any person in the complainant's confidence may prove prejudicial to her/his case.

VI.3 (C) (ii) The complainant or any other person should intimate in writing the Complaints Screening Committee, the Chairperson of ASHC and/or the Enquiry Committee of any violation of the order of restraint by the defendant(s), or any persons acting on her /his behalf.

VI.3 (C) (iii) Should the Complaints Screening Committee, the Chairperson of ASHC, or the Enquiry Committee be convinced of the truth of such allegations, the Chairperson of ASHC and/or the Chief Enquiry Officer may summon the defendant(s) in person and issue a verbal and written warning that such behaviour may lead to an adverse inference being drawn against her/him.

The Enquiry Committee or ASHC shall retain the right to close the enquiry proceedings, and to give an ex parte decision on the complaint.

VI.3 (C) (iv) The Enquiry Committee and ASHC shall consider all violations of the restraint order when determining the nature of offence of a defendant found guilty of sexual harassment.

VI.4. Formal Enquiry

Once the Complaints Screening Committee has decided that the complaint merits further investigation, it shall inform the ASHC. The ASHC shall conduct formal enquiry and provide its resources to ensure the complainant's safety on the campus. For this purpose, the Chairperson of ASHC shall convene an Emergency meeting to constitute the Enquiry Committee. ASHC shall designate from within the members of such committee the Chief Enquiry Officer who shall be a woman.

VI.4 (A) Composition of the Enquiry Committee

The composition of the Enquiry Committee shall conform to the guidelines below:

- (a) The Enquiry Committee shall consist of not less than three persons and not more than five persons.
- (b) It shall have at least 50% women.
- (c) It shall include at least one third-party, i.e., the NGO representative or an eminent woman academician.
- (d) In cases involving students/academic staff/non-teaching staff, it shall include a representative of the constituency of the complainant and the defendant (i.e., if the complaint is filed by a student against an academic staff member, then the Enquiry Committee shall include one student and one academic staff member).
- (e) No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of the ASHC Enquiry Committee.
- (f) The membership of an Enquiry Committee shall not be changed or in any other way modified during its proceedings, save for the provisions in Sections V.5 – 8.
- (g) Members of ASHC who are representatives of unions/associations of which the complainant and/or the defendant are also members, shall not be eligible to serve on an Enquiry Committee.

- (h) ASHC may, at its own discretion, co-opt any person(s) with demonstrable sensitivity to gender issues to be a part of an Enquiry Committee, provided that the majority of members are the members of ASHC. Such a person shall not serve as the Chief Enquiry Officer.

VI.4 (B) Functions of the Enquiry Committee

- (a) The Enquiry Committee shall enquire into the complaint of sexual harassment using procedures in conformity with the principles of natural justice and gender sensitivity.
- (b) The Enquiry Committee shall act on any violation of the order of restraint issued to the defendant in accordance with the procedure outlined in Section VI.3 (C). The Enquiry Committee shall submit a detailed report to ASHC in which it shall communicate its findings based on its investigations and its recommendations regarding the nature of disciplinary action, if any.

VI.4 (C) Procedure to be followed by the Enquiry Committee

- (a) The Enquiry Committee shall not, at any time in the enquiry proceedings, cause the defendant and the complainant and/or their witnesses to be placed face to face, or put in a situation where they may be face to face (e.g. they shall not be called at the same time and be made to wait in the same place), keeping strictly in view the need to protect the complainant from facing any serious health and/or safety problems, in accordance with the guidelines in the Supreme Court Judgement.
- (b) The Enquiry Committee shall strive to complete the enquiry in the shortest possible time, not exceeding three months from the date that a complaint is referred to it, except for reasons that the Enquiry Committee shall provide in writing to ASHC.
- (c) The Enquiry Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.
- (d) The Enquiry Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
- (e) The Enquiry Committee shall have the power to summon any official papers or documents pertaining to the complainant as well as the defendant.

- (f) The Enquiry Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.
- (g) The Enquiry Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
- (h) The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present herself /himself for three consecutive hearings convened by the Chief Enquiry Officer.
- (i) The Chief Enquiry Officer shall be responsible for making the defendant and the complainant aware that counseling services can be made available if so desired.
- (j) Within two days of the institution of enquiry proceedings by ASHC, the Enquiry Committee shall prepare a summons containing details of the complaint such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the complainant (Form VI, Schedule 2) as well as to the defendant (Form VII, Schedule 2) along with a copy of the Rules and Procedures of ASHC. It shall also intimate the defendant and the complainant the contact details of all members of the Enquiry Committee. The Enquiry Committee shall also make available to the defendant a true copy of the original complaint(s) lodged by the complainant(s).
- (k) Within not more than two working days on the receipt of the first intimation of the enquiry, the complainant and the defendant shall submit to the Chief Enquiry Officer, in writing, a list of witnesses, together with their contact details, that she/he desires the Enquiry Committee to examine.
- (l) On receipt of the first intimation of the enquiry, and not more than two working days after such date, the complainant and/or the defendant shall inform the Chief Enquiry Officer whether they shall wish to exercise the rights afforded in Sections (p) – (r) below.
- (m) The Chief Enquiry Officer shall convene the first hearing of the enquiry. The defendant, the complainant, and witnesses shall be intimated at least seventy-two

hours in advance in writing of the date, time and venue of the enquiry proceedings.

- (n) If the complainant, defendant, or witness desire to appear before the Enquiry Committee accompanied by one companion of their choice, they shall communicate to the Chief Enquiry Officer the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual she/he is accompanying.
- (o) The identities of all witnesses shall throughout be protected by the Enquiry Committee by the use of a coding system for this purpose.
- (p) The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings with the exclusion of witnesses' names and identities. Any person nominated by the complainant and/or the defendant on her/his behalf shall be (only) either a student, or a member of the academic or nonteaching staff of University. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The complainant(s)/defendant should inform the Chief Enquiry Officer specifically if they wish to exercise this right. The Chief Enquiry Officer may allow access to such documents on a specific date to be intimated at least two days in advance to each of the parties concerned. At no point in time, however, can the concerned parties take these documents outside the office of the ASHC.
- (q) The complainant and the defendant shall have the right of cross-examination of all witnesses. Such cross-examination shall be conducted in the form of written questions and responses via the Enquiry Committee.
- (r) The defendant/complainant shall submit to the Chief Enquiry Officer, a written list of questions that she/he desires to pose to the witness. The Enquiry Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive. Any behaviour, verbal or otherwise, on the part of the defendant or her/his nominee, that is designed to intimidate or subject the complainant to mental and physical trauma, shall be construed as a violation of the order of restraint issued by ASHC as defined in Section VI.3 (C) herein.

- (s) The complainant and the defendant shall be responsible for presenting their witnesses before the Enquiry Committee. However, if the Enquiry Committee is convinced that the absence of either of the parties to the disputes is on valid grounds, the Enquiry Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.
- (t) All proceedings of the Enquiry Committee shall be recorded in writing and the same together with the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.
- (u) All persons heard by the Enquiry Committee, as well as observers /nominees, shall take and observe an oath of secrecy about the proceedings. Any violation of the oath of secrecy may invite the full range of penalties outlined in section.
- (v) If the complainant desires to tender any documents by way of evidence, the Enquiry Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Enquiry Committee shall supply true copies of such documents to the complainant.
- (w) In the event that the Enquiry Committee thinks that supplementary testimony is required, the Chief Enquiry Officer shall forward to the persons concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Enquiry Committee.
- (x) After concluding its investigation, the Enquiry Committee shall submit a detailed reasoned report of its findings to the Chairperson of ASHC. In the event that it finds the defendant guilty of sexual harassment, it shall also recommend the nature of disciplinary action to be taken on the complaint as referred in Section IX. It shall also recommend whether ASHC and the University authorities should, after disciplinary action has been taken, publicise the identity of the offender, the act and the disciplinary action taken. If the Enquiry Committee finds no merit in the complaint, it shall write to the Chairperson of ASHC, giving reasons for its conclusions.

(y) Nothing precludes ASHC from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings and even after the communication of the findings to appropriate University authorities, provided that in the latter case, the composition of the reconvened Enquiry Committee shall be at least half of the members of the Enquiry Committee that originally enquired into the said complaint.

VII. COMMUNICATION OF FINDINGS

VII (i) within three working days of the receipt of the report and recommendations of the Enquiry Committee, the Chairperson of ASHC shall convene an Emergency meeting. Each member of ASHC shall have the right to access the entire enquiry proceedings, or any part thereof, and to participate in ASHC deliberations on the complaint. Within two working days of the adoption of the report of the Enquiry Committee, the Chairperson of ASHC shall forward the report of the Enquiry Committee, together with a summary of the opinions of the members of ASHC (including dissenting opinions) to the Vice-Chancellor.

VII(ii) Within a reasonable period of time, and not in any case exceeding 30 days from the date of communication of its findings by ASHC, the appropriate University authority shall convene a meeting with ASHC, in which at least two-thirds of the Enquiry Committee shall be present, to discuss the findings and recommendations of the Enquiry Committee.

VIII. OBLIGATIONS OF UNIVERSITY AUTHORITIES AND FUNCTIONARIES

- i. The University authorities shall, through a notification each academic year, notify the names and contact details of the members of ASHC, and the fact that ASHC is the University body responsible for gender sensitisation and enquiries into complaints of sexual harassment.
- ii. The University authorities will ensure that the Policy is included in the Admission Brochure and circulated at the time of registration. The University authorities will ensure that recruitment announcements to all academic and non-teaching positions include the following statement, as notification of the Policy: Vikrama Simhapuri University has a Policy against sexual harassment and is committed to providing an environment free from gender discrimination and harassment.

- iii. In order to ensure the permanent placement of the Policy, the University authorities and functionaries shall arrange for several copies to be placed on boards for display in prominent places, such as the entrances to the campus, academic and administration buildings, hostels, etc.
- iv. The University authorities and functionaries shall provide legal, medical and counseling assistance to those complainants who have to take recourse to the law.
- v. The University authorities and functionaries shall forward all complaints of sexual harassment to ASHC, save in cases in which the complainant has expressly prohibited such forwarding.
- vi. The University authorities shall maintain full confidentiality with respect to matters pertaining to ASHC enquiries into complaints of sexual harassment. The University authorities shall extend all necessary assistance for ensuring full, effective and speedy implementation of these Rules and Procedures of ASHC.
- vii. As is required by the Supreme Court Judgement, the University authorities and functionaries shall strive to create a workplace in which the functioning of ASHC and/or the interests of justice are not subjected to undue “pressure from senior levels”.
- viii. As required by the Supreme Court Judgement, the University authorities shall forward to the UGC, the Annual Report of ASHC together with a written report on the Action Taken by them upon the decisions/recommendations of the ASHC and/or the Appeals Committee.

IX. PENALTIES

Any student, service provider, resident, outsider, or a member of the academic or nonteaching staff found guilty of sexual harassment shall be liable for disciplinary action. The penalties listed below (in ascending order) are indicative, and shall not constrain the University authorities from considering others, in accordance with the rules governing the conduct of employees and students in practice at the time.

IX (1) Penalties in Case of Academic Staff

- (a) Warning, reprimand, or censure.
- (b) Withholding of one or more increments for a period not exceeding one year.
- (c) Removal from an administrative position at the Centre, School and/or University levels.
- (d) Disbarment from holding an administrative position at the Centre, School and/or University levels.

- (e) Suspension from service for a limited period.
- (f) Compulsory retirement.
- (g) Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

IX (2) Penalties in Case of Non-Teaching Staff

- (a) Warning, reprimand, or censure.
- (b) Transfer.
- (c) Withholding of one or more increments for a period not exceeding one year.
- (d) Suspension from service for a limited period.
- (e) Compulsory retirement.
- (f) Dismissal from service.

Further, the penalty awarded shall be recorded in his/her Confidential Record.

IX (3) Penalties in Case of VSU Students

- (a) Warning or reprimand.
- (b) Transfer to another hostel.
- (c) Withdrawal of hostel accommodation for a period up to one semester.
- (d) Withdrawal of the right to an official character certificate from Vikrama Simhapuri University.
- (e) Withdrawal of hostel accommodation for the entire period of study.
- (f) Rustication from the University for a period up to two semesters.
- (g) Expulsion from the University, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by Vikrama Simhapuri University.
- (h) Withholding of a degree awarded by the University.

Further, the penalty awarded shall be recorded in his/her Personal File.

IX (4) Penalties in Case of Outsiders

- (a) Warning, reprimand, or censure.
- (b) A letter communicating her/his misconduct to her/his place of education, employment or residence.

(c) Declaration of the campus as out of bounds for her/him, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by Vikrama Simhapuri University.

(d) Any other action as may be necessary.

IX (5) Penalties in Case of Service Providers

(a) Warning, reprimand, or censure.

(b) A letter communicating her/his misconduct to her/his place of employment.

(c) Declaration of the campus as out of bounds for her/him.

(d) Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.

(e) Any other action as may be necessary.

In addition to the penalties specified under (1)-(5) above, the person may be advised to undergo counselling and gender sensitisation, and to give a written and/or public apology to the complainant.

IX (6) Penalty in Case of a Second Offence

A second, or repeated offence, may, on the recommendation of ASHC, attract a major penalty.

X. OTHER FUNCTIONS

X (1) False Complaint/Deposition

- i. If the Complaints Screening Committee or the Enquiry Committee finds no merit in any complaint/deposition, it shall write to the Chairperson of ASHC giving reasons for its conclusions.
- ii. Within four working days of the receipt of this communication, the Chairperson of ASHC shall call a Special Meeting to discuss the recommendations of the Complaints Screening Committee or Enquiry Committee, and to decide whether a show-cause notice shall be issued to the complainants/witness(es).
- iii. Upon the decision to issue a show-cause notice, the Chairperson of ASHC shall issue it to the complainants/witness(es). The show-cause notice shall cite the bases of the Committee's conclusions and require the complainants/witness(es) to explain, within seven days (in writing and/or in person), as to why disciplinary action shall not be taken against her/him.
- iv. Within four working days of receipt of any explanation from the complainants/witness(es) to this show-cause notice, or after the expiry of the time

specified for such explanation, the Chairperson of ASHC shall convene a Special Meeting to consider the explanation or any lack thereof.

- v. In event of no, insufficient, or unconvincing explanation, ASHC shall forward its findings to the appropriate University Authority for further action.

X(2) Protection against Victimization

- i. If the complainant is a student and the defendant(s) is a teacher, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant(s) shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
- ii. If a witness named by the complainant is a student and the defendant(s) is a teacher, during the duration of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
- iii. If both the complainant and the defendant(s) are members of the academic and/or nonteaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.
- iv. If witnesses named by the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.
- v. If the defendant(s) is an outsider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found

guilty, the defendant shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.

- vi. If the defendant(s) is a resident/service provider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the order of restraint issued in accordance with the procedures in Section VI.3(C) shall be in force at all times.

X (3) Provisions for Appeal

- i. In the event of the ASHC not taking action on a complaint, or if the complainant or defendant is dissatisfied with the disciplinary action taken by the University authorities, she/he shall have the right to appeal to an Appeals Committee. Appeals may be lodged with the University authorities.
- ii. An Appeals Committee shall consist of: (a) One person nominated by the Executive Council of Vikrama Simhapuri University from amongst its members, (b) One former Chairperson of ASHC or any former senior woman member of ASHC nominated by the Vice-Chancellor. The nominee shall chair the Appeals Committee, and (c) One woman faculty member of the Women Cell, School of Social Sciences, Vikrama Simhapuri University, or any other senior woman faculty member nominated by the Vice-Chancellor.
- iii. The Appeals Committee shall have all the powers and duties of an Appellate Body. It shall consider the appeal, with the appellant deposing in person. It shall have the power to summon any person as witness as well as any official record. On the basis of all the records before it, including the deposition of the appellant, if it is satisfied that the matter needs to be further enquired into, it shall conduct an enquiry in accordance with the guidelines in the Supreme Court Judgement.
- iv. The Appeals Committee shall report to the Executive Council of Vikrama Simhapuri University its findings and recommendations on the nature of the action to be taken on the appeal.

X (4) Amendment to the Rules & Procedures of ASHC

- i. Amendments to the Rules and Procedures of ASHC shall have effect only if they are in consonance with the letter and spirit of the Supreme Court Judgement, the Report of the Working Group on Sexual Harassment headed by Karuna Chanana, the Policy, and the Rules and Procedures.
- ii. Amendments shall be effected by a decision taken in a Special Meeting of ASHC called for the purpose.
- iii. The proposed amendment (s), together with the objectives and reasons thereof, shall be recorded in writing and circulated by the proposer of the amendment (s) at least fifteen working days prior to the Special Meeting called for the purpose.
- iv. An amendment motion shall be earned by two-thirds of the members present and voting. In the event of a tie on an amendment motion, it shall be put to vote one more time. If a tie recurs, the amendment motion shall be reconsidered by another Special Meeting to be called after at least fifteen working days.

X (5) Miscellaneous

- i. The provisions of these Rules and Procedures of ASHC shall be duly incorporated within any other Statute, Circular or Ordinance of the University as may be relevant, in keeping with the Supreme Court Judgement.
- ii. The proceedings under these Rules and Procedures of ASHC shall not, in any way, be affected by any other proceedings against the defendant preferred by the complainant under any other provision of civil or criminal law, except to the extent specifically order by a
- iii. ordered by a court of law. iii. The provisions of these Rules and Procedures of ASHC shall not restrict the powers of the University or the complainant to proceed against the defendant for any other misconduct, or pursue criminal or civil remedies, whether or not connected with the misconduct within the purview of these rules.



VIKRAMA SIMHAPURI UNIVERSITY

Nellore – 524 324, Andhra Pradesh, India

ANTI-SEXUAL HARASSMENT CELL

Proforma for Filing of Complaints of Sexual Harassment

I. Complainant(s):

Student/resident/academic staff/ non-teaching staff/outsider/service provider

Name	
Age	
Sex	
Address	
School/Department/Center	
Phone Number	
Email	

II. **Person(s) against whom the complaint is being lodged:**

Student/resident/academic staff/ non-teaching staff/outsider/service provider

Name(s)	
Age	
Sex	
Address	
School/Department/Center	
Phone Number	
Email	

III. The Complaint:

1. Is the defendant known to the complaint?	
2. Is this the first incident of this kind? If yes, skip 3 and 4.	
3. Was exactly the same person(s) involved? If no, specify further.	
4. Was the first incident reported? To whom? When? What action, if any was taken?	
5. Approximate date(s), time(s) and location(s) of incident(s), starting from the most recent.	

The complaints may be sent to “The Chair Person, Anti-Sexual Harassment Cell, Women’s Cell, Vikrama Simhapuri University, Nellore -524324” in a sealed cover or through email. The email ID: vsuwomencell@gmail.com. In case of on line complaints, the processing will subject to physical validation of signature of the complainant by the Chair Person/Members of ASHC.

Additional details of the complaint may be recorded here:
(Extra Sheet may be attached if needed)


REGISTRAR
VIKRAMA SIMHAPURI UNIVERSITY
NELLORE - 524 324.



HANDBOOK

On

Sexual Harassment of Women at Workplace

(Prevention, Prohibition and Redressal) Act, 2013

for Employers / Institutions / Organisations/
Internal Complaints Committee / Local Complaints Committee



Towards a new dawn

Government of India
Ministry of Women and Child Development

NOVEMBER 2015



HANDBOOK

on

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

**for Employers / Institutions / Organisations/
Internal Complaints Committee / Local Complaints Committee**



Towards a new dawn

**Government of India
Ministry of Women and Child Development**

November 2015

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सत्यमेव जयते

मेनका संजय गांधी
Maneka Sanjay Gandhi



मंत्री
महिला एवं बाल विकास मंत्रालय
भारत सरकार
नई दिल्ली-110001

MINISTER
MINISTRY OF WOMEN & CHILD DEVELOPMENT
GOVERNMENT OF INDIA
NEW DELHI-110001

MESSAGE

With improved access to education and employment, millions of Indian women are entering the country's workforce today. Many working women face sexual harassment at the workplace on a daily basis. It is crucial therefore that as a country, we strive to eliminate work-place sexual harassment since women have the right to work in safe and secure environment. It is the responsibility of every employer to ensure safety of women in a work environment and improve their participation. This will contribute to realization of their right to gender equality and result in economic empowerment and inclusive growth and benefit the nation as a whole.

I am pleased to present this Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It provides key information about the provisions of the Act in an easy-to-use and practical manner. The Handbook has been developed with the aim to ensure that the citizens of India are aware of their rights and obligations in terms of creating safe workplace environment for women.

Government of India is committed to promote gender equality and women's empowerment across every sector. This Handbook reflects our commitment to empower women as economic agents and improve their ability to access markets on competitive and equitable terms. I am confident that this Handbook which advocates and enforces the rules as laid out in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, will be beneficial to everyone. The practical and user-friendly procedures outlined in the Handbook will be useful for actual implementation of the Act.


(Smt. Maneka Sanjay Gandhi)

V. Somasundaran



सचिव
भारत सरकार
महिला एवं बाल विकास मंत्रालय
शास्त्री भवन, नई दिल्ली - 110001

Secretary
Government of India
Ministry of Women & Child Development
Shastri Bhawan, New Delhi-110001
Website : <http://www.wcd.nic.in>

18th November 2015

FOREWORD

I am pleased to share with you this Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This Handbook is of immense importance because combating sexual harassment involves developing deeper understanding of what is sexual harassment and change of attitudes in all - be it employer, employees, colleagues, friends, or the policy makers.

Sexual Harassment at workplace is an extension of violence in everyday life and is discriminatory and exploitative, as it affects women's right to life and livelihood. In India, for the first time in 1997, a petition was filed in the Supreme Court to enforce the fundamental rights of working women, after the brutal gang rape of Bhanwari Devi a social worker from Rajasthan. As an outcome of the landmark judgment of the Vishaka and Others v State of Rajasthan the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, was enacted wherein it was made mandatory for every employer to provide a mechanism to redress grievances pertaining to workplace sexual harassment and enforce the right to gender equality of working women. The Act is also unique for its wide ambit as it is applicable to the organized sector as well as the unorganized sector.

The legislation, however, requires the support and commitment of all stakeholders for its effective and successful implementation in preventing workplace sexual harassment. It casts an obligation upon the employer to address the grievances in respect of sexual harassment at workplace in a time bound manner. It is in this context that this Handbook would be very useful as it provides clear definition of what constitutes sexual harassment and explains how the complaint process works.

I am sure that the Handbook will be extremely useful to all agencies concerned and help them in taking pro-active measures to eradicate the problem/menace of workplace sexual harassment in the country.


(V. Somasundaran)

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Dated: 17th November, 2015

PREFACE

The Government of India is committed to ending all forms of violence against women that negatively impact society, hamper gender equality and constricts the social and economic development of the country.

Since, sexual harassment results in violation of the fundamental rights of a woman to equality as per Articles 14 and 15 and her right to live with dignity as mentioned under Article 21 of the Constitution, the Government of India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Act is an extension of the Vishaka Guidelines issued by the Supreme Court in 1997. The Supreme Court of India, for the first time in the Vishaka Guidelines, acknowledged Sexual Harassment at the workplace as a human rights violation. Further, the Act also reflects the commitment of the Government to the ratification of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) on July 09, 1993. This new legislation makes every effort to be a user friendly tool in the hands of the employers and employees, to create safe and secure workplaces for all women.

With the enactment of the Act, India is now a part of a select group of countries to have prohibited sexual harassment at workplace through national legislation. The Act is unique in its broad coverage which includes all working women from organised and unorganised sectors alike, as also public and private sectors, regardless of hierarchy. Effective implementation of the Act is a challenge. The Handbook is designed to be a Ready Reckoner for organisations vested with responsibility to enforce the law.

The Handbook is structured into six sections. The first section is an introduction and detail regarding the genesis of the Act, the second sets the context by defining the workplace and sexual harassment and impact of such behaviour, the third focuses on the key individuals and institutions involved in prohibition and prevention processes and their responsibilities, section four discusses the redressal mechanism followed by monitoring requirement in section five and important international frameworks and best practices on sexual harassment at the workplace in the concluding section.

It is the hope of the Ministry that this Handbook will be of considerable value for employers, employees and complaint committees alike, as it provides guidance with regard to the steps to be taken and the processes to be followed, in line with the requirements of the law. It will prove useful to all women workers particularly and be a step forward in promoting their independence as well as the right to work with dignity as equal partners in an environment that is free from violence.


(Pręti Sudan)



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We hope that this Handbook will be a guide and inspiration to all of us in creating an enabling environment of women in the workplaces.

(Lopamudra Mohanty)

“The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitudes to encompass all facets of gender equality...”

Late Chief Justice J.S. Verma, Supreme Court of India, Vishaka v. State of Rajasthan

Introduction

“Whereas sexual harassment results in violation of the fundamental rights of a Woman to equality....”

[Preamble, Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act]

As enshrined in the Preamble to the Constitution of India, “equality of status and opportunity” must be secured for all its citizens; equality of every person under the law is guaranteed by Article 14 of the Constitution.

A safe workplace is therefore a woman’s legal right. Indeed, the Constitutional doctrine of equality and personal liberty is contained in Articles 14, 15 and 21 of the Indian Constitution. These articles ensure a person’s right to equal protection under the law, to live a life free from discrimination on any ground and to protection of life and personal liberty. This is further reinforced by the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which was adopted by the UN General Assembly in 1979 and which is ratified by India. Often described as an international bill of rights for women, it calls for the equality of women and men in terms of human rights and fundamental freedoms in the political, economic, social, cultural and civil spheres. It underlines that discrimination and attacks on women’s dignity violate the principle of equality of rights.

Sexual harassment constitutes a gross violation of women’s right to equality and dignity. It has its roots in patriarchy and its attendant perception that men are superior to women and that some forms of violence against women are acceptable. One of these is workplace sexual harassment, which views various forms of such harassment, as harmless and trivial. Often, it is excused as ‘natural’ male behaviour or ‘harmless flirtation’ which women enjoy. Contrary to these perceptions, it causes serious harm and is also a strong manifestation of sex discrimination at the workplace. Not only is it an infringement of the fundamental rights of a woman, under Article 19 (1) (g) of the Constitution of India “to practice any profession or to carry out any occupation, trade or business”; it erodes equality and puts the dignity and the physical and psychological well-being of workers at risk. This leads to poor productivity and a negative impact on lives and livelihoods. To further compound the matter, deep-rooted socio-cultural behavioural patterns, which create a gender hierarchy, tend to place responsibility on the victim, thereby increasing inequality in the workplace and in the society at large.



Though sexual harassment at the workplace has assumed serious proportions, women do not report the matter to the concerned authorities in most cases due to fear of reprisal from the harasser, losing one's livelihood, being stigmatized, or losing professional standing and personal reputation.

Across the globe today, workplace sexual harassment is increasingly understood as a violation of women's rights and a form of violence against women. Indeed, the social construct of male privileges in society continues to be used to justify violence against women in the private and public sphere. In essence, sexual harassment is a mirror reflecting male power over women that sustains patriarchal relations. In a society where violence against women, both subtle and direct, is borne out of the patriarchal values, women are forced to conform to traditional gender roles. These patriarchal values and attitudes of both women and men pose the greatest challenge in resolution and prevention of sexual harassment. Workplace sexual harassment, like other forms of violence, is not harmless. It involves serious health, human, economic and social costs, which manifests themselves in the overall development indices of a nation.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted to ensure safe working spaces for women and to build enabling work environments that respect women's right to equality of status and opportunity. An effective implementation of the Act will contribute to the realization of their right to gender equality, life and liberty, equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth.

The full scale of the problem is not known given the difficulties in documenting the experience of those who have experienced workplace sexual harassment. However, available studies on sexual harassment show that it is certainly prevalent in India today. This is why the legislation is an important step forward within the larger architecture of women's rights, as it tackles this issue to secure the rights of women workers across the country.

While the official figures for women's work participation are low, much of the work that women do is not captured in official data accounts. It is argued¹ that where this is to be captured, women's overall work participation would be 86.2 per cent. While the official data² shows that women's work participation rate is around 25.3 per cent in rural areas and 14.7 per cent in the urban areas, estimates indicate that there is a huge workforce of women, therefore there is a need to secure their workplace and entitlements. Given, that 93 per cent of women workers are employed in the informal sector, they remain unprotected by laws. With no laws or mechanisms to protect them, proactive measures are required to make their workplaces safe.

¹ Professor Jayati Ghosh, Paper on 'What Exactly is Work?' http://www.macrosan.org/cur/oct14/pdf/Exactly_Work.pdf

² NSSO 2011-12

It is well established that ensuring safe working conditions for women leads to a positive impact on their participation in the workforce and increases their productivity, which in turn benefits the nation as a whole. Economically, empowered women are key to the nation's overall development and this can only be achieved if it is ensured that women's workspaces across all sectors and all over the country have a safe and secure environment for work.

It is important as well to ensure that the emphasis is on prevention rather than punitive action. This calls for widespread awareness on the Act among employers, managers and the workers themselves. Frequently, women workers may face sexual harassment but may not be aware that it is a breach of their rights and that there is something they can do about it. They need to know that they can do something about it. Then there are others, who may believe that it is a personal matter that needs to be resolved by the people involved. In order to change this order of things, it is urgent that measures are taken to change mind-sets and attitudes by creating awareness about what constitutes sexual harassment and the steps that can be taken to address it.

This handbook will serve as an important tool to make workplaces safe and benefit both workers and employers alike, leading to mutual gains.

1.1 THE MANDATE

Today, all workplaces in India are mandated by law to provide a safe and secure working environment free from sexual harassment for all women.

1.2 THE GENESIS

In 1992, a rural level change agent, Bhanwari Devi, was engaged by the state of Rajasthan as a *Sathin*³ to work towards the prevention of the practice of child marriages. During the course of her work, she prevented the marriage of a one-year old girl in the community. Her work was met with resentment and attracted harassment from men of that community. Bhanwari Devi reported this to the local authority but no action was taken. That omission came at great cost – Bhanwari was subsequently gang raped by those very men.

The Bhanwari Devi case revealed the ever-present sexual harm to which millions of working women are exposed across the country, everywhere and everyday irrespective of their location. It also shows the extent to which that harm can escalate if nothing is done to check sexually offensive behaviour in the workplace.

Based on the facts of Bhanwari Devi's case, a Public Interest Litigation (PIL) was filed by Vishaka and other women groups against the State of Rajasthan and Union of India before the Supreme Court of India. It proposed that sexual harassment be recognized as a violation of women's fundamental right to equality and that all workplaces/establishments/institutions be made accountable and responsible to uphold these rights.

³ *Sathin*³ means a friend

In a landmark judgment, *Vishaka vs. State of Rajasthan (1997)*⁴, the Supreme Court of India created legally binding guidelines basing it on the right to equality and dignity accorded under the Indian Constitution as well as by the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

It included:

- ◆ A definition of sexual harassment
- ◆ Shifting accountability from individuals to institutions
- ◆ Prioritizing prevention
- ◆ Provision of an innovative redress mechanism

The Supreme Court defined sexual harassment as any unwelcome, sexually determined physical, verbal, or non-verbal conduct. Examples included sexually suggestive remarks about women, demands for sexual favours, and sexually offensive visuals in the workplace. The definition also covered situations where a woman could be disadvantaged in her workplace as a result of threats relating to employment decisions that could negatively affect her working life.

It placed responsibility on employers to ensure that women did not face a hostile environment, and prohibited intimidation or victimization of those cooperating with an inquiry, including the affected complainant as well as witnesses.

It directed for the establishment of redressal mechanism in the form of Complaints Committee, which will look into the matters of sexual harassment of women at workplace. The Complaints Committees were mandated to be headed by a woman employee, with not less than half of its members being women and provided for the involvement of a third party person/NGO expert on the issue, to prevent any undue pressure on the complainant. The guidelines extended to all kinds of employment, from paid to voluntary, across the public and private sectors.

Vishaka established that international standards/law could serve to expand the scope of India's Constitutional guarantees and fill in the gaps wherever they exist. India's innovative history in tackling workplace sexual harassment beginning with the *Vishaka* Guidelines and subsequent legislation has given critical visibility to the issue. Workplaces must now own their responsibility within this context and ensure that women can work in safe and secure spaces.

1.3 THE ACT

Having raised the bar of responsibility and accountability in the *Vishaka* Guidelines, the Supreme Court placed an obligation on workplaces, institutions and those in positions of responsibility, to uphold working women's fundamental right to equality and dignity at the workplace. Three key obligations were imposed on institutions to meet that standard, namely:

⁴(AIR 1997 Supreme Court 3011)

- ◆ Prohibition
- ◆ Prevention
- ◆ Redress

In 2013, the Government of India notified the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (referred to as Act hereinafter). Consistent with the Vishaka judgment, the Act aspires to ensure women's right to workplace equality, free from sexual harassment through compliance with the above mentioned three elements.

It is important to note that the Act provides a civil remedy to women and is in addition to other laws that are currently in force. Consequently, any woman who wishes to report instances of sexual harassment at the workplace has the right to take recourse of both civil and criminal proceedings.



1.4 PURPOSE OF THIS HANDBOOK

This handbook is meant for all workplaces/institutions/organizations to provide a basic understanding of sexual harassment at places of work. Additionally, it is designed to offer Internal Complaints Committee/s and Local Complaints Committee/s (Complaints Committee/s) established under the Act, with simple, user friendly information on sexual harassment; what is expected of Complaints Committee/s to redress a complaint; and what the inquiry process and outcome should include.

1.5 WHO IS THIS HANDBOOK FOR

This handbook informs the end user (an employee/worker) about workplace sexual harassment and their right to an informed complaint process in seeking redress as provided under the Act and Rules framed thereunder.

1.6 STRUCTURE OF THE HANDBOOK

This Handbook has 6 sections, with each containing information for women, male co-workers as well as their employers, on how to deal with sexual harassment at the workplace in the context of the Act.

Section 1 serves as an introduction, as it details the genesis of the Act and the history behind it, as well as provides a brief description of the Act itself. This section also describes the purpose of this handbook and who it is designed for.



Section 2 sets the context by defining a workplace and sexual harassment. It provides the reader with key elements, such as examples of sexual harassment as well as scenarios and the impact of such behaviour.

Section 3 focuses on the key individuals and institutions involved in the prohibition and prevention processes and their responsibilities.

Section 4 is about redress. This section identifies and defines the key players involved in the complaint mechanism (including the complainant and the respondent). It details the stages of the complaint process. Particular attention is paid to the complaints committee which plays a very important role in this process.

Section 5 describes the monitoring requirements as per the Act.

Section 6 lists the important international frameworks and select best practices on sexual harassment at the workplace.

Workplace Sexual Harassment- What Is It?

“No woman shall be subjected to sexual harassment at any workplace.”

Section 3(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

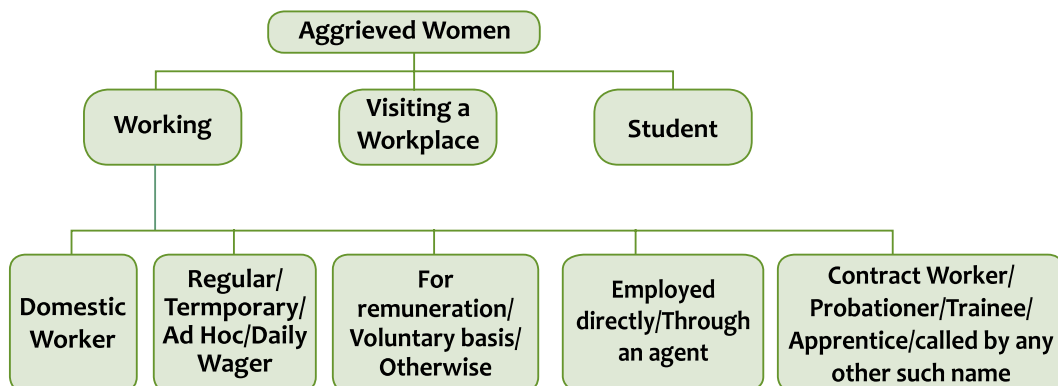
This section defines the aggrieved woman, workplace and sexual harassment as well as highlights key elements of workplace sexual harassment. It provides examples of behaviours through which a woman can experience possible professional and personal harm. It presents the user with scenarios from across-section of work contexts to build clarity on different forms of sexual harassment as identified under the Act.

2.1 WHO IS AN AGGRIEVED WOMAN?

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, adhoc, 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. Their terms of employment can be express or implied.

Further, she could be a co-worker, a contract worker, probationer, trainee, apprentice, or called by any other such name. The Act also covers a woman, who is working in a dwelling place or house.



2.2 WHAT IS A 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.

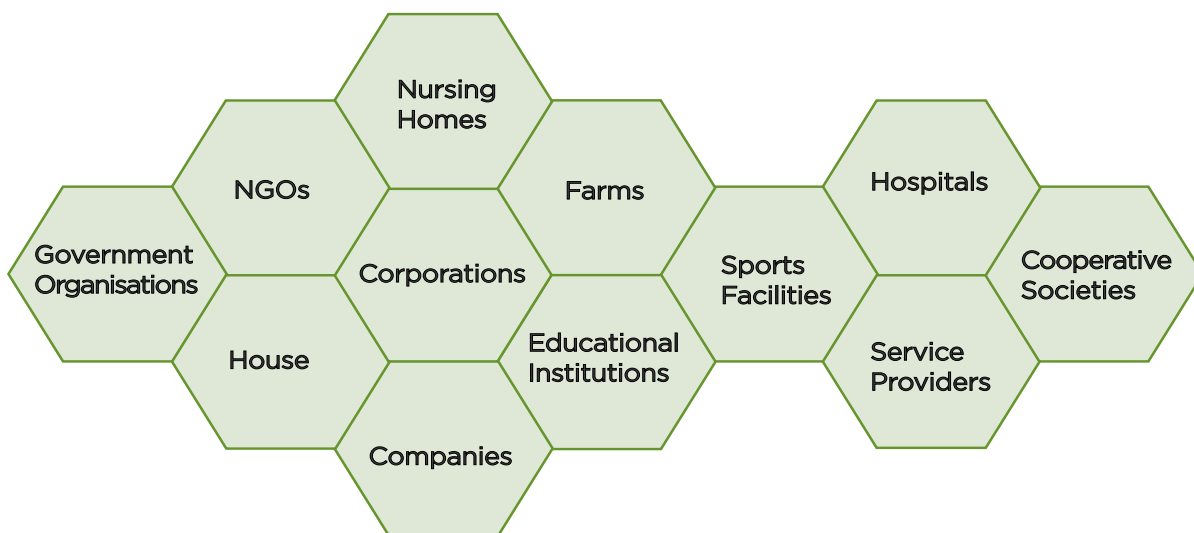
It also includes all workplaces whether owned by Indian or foreign company having a place of work in India. As per the Act, workplace includes:

- Government organizations, including Government company, corporations and cooperative societies;
- Private sector organisations, venture, society, trust, NGO or service providers etc. providing services which are commercial, vocational, educational, sports, professional, entertainment, industrial, health related or financial activities, including production, supply, sale, distribution or service;
- Hospitals/Nursing Homes;
- Sports Institutes/Facilities;
- Places visited by the employee (including while on travel) including transportation provided by employer;
- A dwelling place or house.

The Act defines the Unorganised Sector as:

- Any enterprise owned by an individual or self-employed workers engaged in the production or sale of goods or providing services of any kind;
- Any enterprise which employs less than 10 workers.

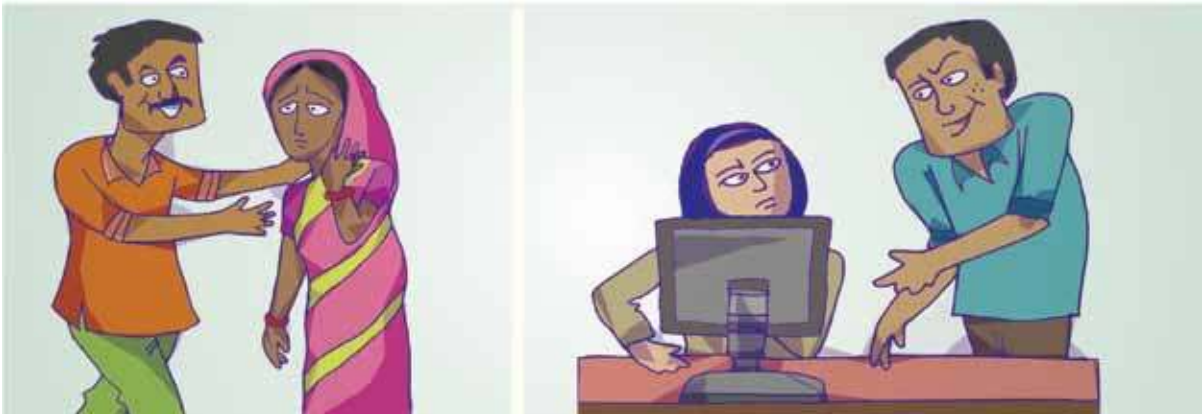
All women working or visiting workplaces, for example:



2.3 WHAT IS 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



2.4 KEY ELEMENTS OF WORKPLACE SEXUAL HARASSMENT

Very often situations that start off innocently end up in inappropriate and unprofessional behaviours. It is important to remember that **workplace sexual harassment is sexual, unwelcome** and the experience is **subjective**. 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.

The following table highlights the subjective nature of the experience and the impact it may have on the person involved, irrespective of the intent of such behaviour.

To enable prevention of sexual harassment at the workplace, it is critical to recognize and differentiate between welcome and unwelcome sexual behaviour. Listed are some examples of how “unwelcome” and “welcome” behaviour is experienced.

THE FIRST STEP TO PREVENTION IS RECOGNITION

Workplace Sexual Harassment is behaviour that is

UNWELCOME

SEXUAL in nature

A **SUBJECTIVE** experience

IMPACT not intent is what matters

Often occurs in a matrix of **POWER**

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

Impact of inappropriate behaviour

The impact of sexual harassment at the workplace is far-reaching and is an injury to the equal right of women. Not only does it impact her, it has a direct bearing on the workplace productivity as well as the development of the society. Below is a list of select examples of such negative impacts.



Professional	Personal
<ul style="list-style-type: none"> • Decreased work performance • Increased absenteeism, loss of pay • Loss of promotional opportunities • Retaliation from the respondent, or colleagues/ friends of the respondent • Subjected to gossip and scrutiny at work • Being objectified • Becoming publicly sexualized • Defamation • Being ostracized • Having to relocate • Job and career consequences • Weakened support network 	<ul style="list-style-type: none"> • Depression • Anxiety, panic attacks • Traumatic stress • Sleeplessness • Shame, guilt, self-blame • Difficulty in concentrating • Headaches • Fatigue, loss of motivation • Personal Difficulties with time • Eating disorders (weight loss or gain) • Feeling betrayed and/or violated • Feeling angry or violent towards the respondent • Feeling powerless • Loss of confidence and self esteem • Over all loss of trust in people • Problems with intimacy • Withdrawal and isolation

SEXUAL HARASSMENT IS A SUBJECTIVE EXPERIENCE

In 2010, the High Court of Delhi endorsed the view that sexual harassment is a subjective experience and for that reason held “We therefore prefer to analyze harassment from the [complainant’s] perspective. A complete understanding of the [complainant’s] view requires... an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable may offend many women... Men tend to view some forms of sexual harassment as “harmless social interactions to which only overly-sensitive women would object. The characteristically male view depicts sexual harassment as comparatively harmless amusement. ... Men, who are rarely victims of sexual assault, may view sexual conduct in a vacuum without a full appreciation of the social setting or the underlying threat of violence that a woman may perceive.”

Dr. Punita K. Sodhi v. Union of India & Ors. W.P. (C) 367/2009 & CMS 828, 11426/2009
 On 9 September, 2010, in the High Court of Delhi

2.5 EXAMPLES OF BEHAVIOURS AND SCENARIOS THAT CONSTITUTE SEXUAL HARASSMENT

Below are examples of behaviour that may or may not constitute workplace sexual harassment in isolation. At the same time, it is important to remember that more often than not, such behaviour occurs in cluster. Distinguishing between these different possibilities is not an easy task and requires essential training and skill building.



Some examples of behaviour that constitute sexual harassment at the workplace:

1. Making sexually suggestive remarks or innuendos.
2. Serious or repeated offensive remarks, such as teasing related to a person's body or appearance.
3. Offensive comments or jokes.
4. Inappropriate questions, suggestions or remarks about a person's sex life.
5. Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
6. Intimidation, threats, blackmail around sexual favours.
7. Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
8. Unwelcome social invitations, with sexual overtones commonly understood as flirting.
9. Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.



10. Physical contact such as touching or pinching.
11. Caressing, kissing or fondling someone against her will (could be considered assault).
12. Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
13. Persistently asking someone out, despite being turned down.
14. Stalking an individual.
15. Abuse of authority or power to threaten a person's job or undermine her performance against sexual favours.
16. Falsely accusing and undermining a person behind closed doors for sexual favours.
17. Controlling a person's reputation by rumour-mongering about her private life.

Some examples of behaviour that may indicate underlying workplace sexual harassment and merit inquiry:

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.

Some 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 about the work mistake and not the person.

2.6 FORMS OF WORKPLACE SEXUAL HARASSMENT

Generally workplace sexual harassment refers to two common forms of ***inappropriate behaviour***:

- 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
- Hostile Work Environment
 - Creating a hostile, intimidating or an offensive work environment
 - Humiliating treatment likely to affect her health or safety

2.7 SCENARIOS

The following scenarios have been constructed as examples based on real life experiences of women at workplaces. The scenarios attempt to build an understanding of the two types of workplace sexual harassment as prescribed by the Act i.e. quid pro quo and hostile environment.

The names in the following examples are fictional and in no way refer to any individual alive or dead.

A. Examples of scenarios that constitute quid pro quo or ‘this for that’ type of sexual harassment at the workplace:

SCENARIO EXAMPLE 1

Kamini is a bright young team leader working in a call centre. Known to be forthright, she is dedicated, hardworking and is a perfectionist.

Kamini stays back at work late one evening with her colleague Ravi to complete work for an important presentation. Ravi offers to buy Kamini dinner and later drop her home since it’s been a long day. After dinner, Ravi proposes to Kamini that he would like her to spend the night with him. Kamini refuses politely but firmly and goes home. Next evening, Ravi repeats his request and on Kamini’s refusal, threatens her that ***if she doesn’t give-in, he will tell everyone*** that she made a pass at him.

What is Workplace ‘this for that’ Sexual Harassment?

In the above example, Ravi’s threat to Kamini that if she does not agree to his ‘request’ for a sexual favour, he will in return smear her character at the workplace as a person who wants to use sexual

favours to her advantage constitutes quid pro quo form of sexual harassment. Ravi's behaviour is unwelcome, sexual, and has a negative impact on Kamini.

SCENARIO EXAMPLE 2

Renuka is employed as a domestic worker where she is expected to take care of all the household activities, other than cooking. Most of the days, the lady of the house leaves early. Renuka is therefore left alone in the house with a male member of the household.

Renuka finds the male member constantly leering at her when he is at home and often walks around the house wrapped in nothing but a towel which makes her very uncomfortable. On one occasion, while she was sweeping, he pinched her bottom. When she protested that she will complain to the lady of the house, he **threatened to accuse** her of stealing, and that he will ensure that she **loses** her job.



What is Workplace Sexual Harassment?

In the above example, the male member by threatening Renuka to keep quiet about the unwelcome physical contact if she wants to continue with her employment commits quid pro quo form of sexual harassment. His behaviour occurring in a matrix of power, is unwelcome, sexual and has a negative impact on Renuka.

SCENARIO EXAMPLE 3

Shamima is a lawyer who works as a researcher at an NGO in Delhi since 2013. Dr. Bhavan is the director of the organisation and has always advocated for the cause of human rights.

During an official field visit to Shimla for 2 days, Dr. Bhavan finds an opportunity to be alone with Shamima and makes a physical advance. Despite her protests, he forces himself on her while giving lurid and sexually explicit details of his relationships, both past and present, with women. When she chastises him and threatens to make his behaviour public, he **threatens to destroy her career**.

What is Workplace Sexual Harassment?

In the above example, by threatening Shamima with the destruction of her career, Dr. Bhavan commits quid pro quo sexual harassment. His physical advances and sexual conversation are unwelcome for Shamima and occur in a matrix of power.

B. Examples of scenarios that constitute a 'hostile work environment' type of sexual harassment at the workplace:

SCENARIO EXAMPLE 1

Jayanthi works in a garment factory in Bangalore.

Varghese, Jayanthi's supervisor, often tries to touch her on one or the other pretext. For example, he adjusts her *dupatta* while she is sewing at her workstation on the pretext of covering her back. Jayanthi is very uncomfortable with his behaviour. Her colleagues at the workplace ridicule Jayanthi and mock her for the 'special treatment' by her supervisor. They often gossip about her and Varghese.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, the physical touching by Varghese is unwelcome and sexual in nature. The gossip, which is based on Varghese's behaviour towards Jayanthi at the workplace, is creating a hostile work environment for Jayanthi.



SCENARIO EXAMPLE 2

Sukhi is a daily wage labourer working at a construction site. Every day at lunch time, Sukhi sits under the shade of the tree to feed her 16-month old baby. She finds Jaswinder, a worker, staring at her from the distance. Sukhi feels uncomfortable and asks Jaswinder to stay away from her while she's feeding the baby. However, Jaswinder persists and always finds a place near her. The group of fellow construction workers now **constantly catcall and whistle** at Sukhi every time she walks their way to refill the cement or mortar. When she questions them, they tell her they are only joking amongst themselves.

What is a Hostile Workplace Environment Sexual Harassment?

Ogling, stalking and gossiping against Sukhi in the above example constitute a hostile work environment, a form of workplace sexual harassment.

SCENARIO EXAMPLE 3

Sumedha is a Captain with the Indian Army. She has refused an offer made by a Senior Officer for a relationship. Sumedha has kept quiet about this experience, but thanks to the rumour-mongering by the Senior Officer, she has acquired a reputation of being a woman of 'easy virtue'. Now she is being *subjected to repeated advances* by three of her senior officer colleagues. When she turns around and protests, *she is singled out for additional physical training*.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, Sumedha's refusal to the sexual advances of her Senior Officer, leads to her being subjected to rumours, gossip, character assassination, unwelcome sexual advances by other officers, and arbitrary disciplinary action. This constitutes Hostile Work Environment form of workplace Sexual Harassment.

SCENARIO EXAMPLE 4

Asha is a researcher at a media agency led by Dr. Purshottam, a well-known journalist.

In the first few months of Asha's employment, Dr. Purshottam is very pleased with her work and publicly appreciates her. Soon after, Dr. Purshottam frequently summons Asha to his office on the pretext of work and makes verbal sexual advances and sexually coloured remarks to her. He brushes aside her protests by saying that they would not be able to work as a team unless she interacted closely with him and they both got to know each other well. However, once she categorically rebuffed his sexual advances, he has stopped. Now he **ridicules her work** and **humiliates** her in the presence of colleagues and the staff. He **discriminates** against her by allotting projects to her and then arbitrarily withdrawing the work.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, the workplace actions are a result of Asha rebuffing the unwelcome, sexual advances of Dr. Purshottam and this constitutes hostile work environment form of workplace sexual harassment.

This section has listed and illustrated some of the behaviours that constitute the five parameters of workplace sexual harassment, viz., sexual, subjective, unwelcome, impact and power. This becomes the basis of the key elements of the Act, Prevention, Prohibition and Redress.

Prevention and Prohibition

“The meaning and content of fundamental rights guaranteed in the Constitution of India are of sufficient amplitudes to encompass all facets of gender equality...”

Late Justice J.S. Verma

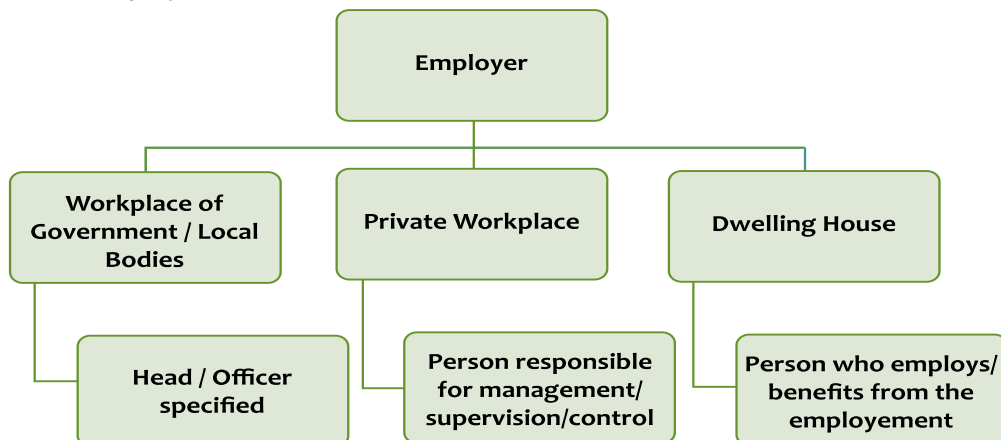
This section describes those who are both responsible and accountable to prevent workplace sexual harassment in compliance with the Act. It also highlights the role of workplaces in prohibiting workplace sexual harassment through an effectively communicated policy.

3.1 PREVENTIVE AUTHORITIES

3.1.1 WHO IS AN EMPLOYER?

An employer refers to:

1. The head of the department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the Appropriate Government or local authority or such officer specified in this behalf.
2. Any person (whether contractual or not) responsible for the management, supervision and control of a designated workplace not covered under clause (i).
3. A person or a household who employs or benefits from the employment of domestic worker or women employees.



3.1.2 WHO IS AN APPROPRIATE GOVERNMENT?

As per the Act, Appropriate Government means:

- i. In relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—
 - a. By the Central Government or the Union Territory administration, the Central Government;
 - b. By the State Government, the State Government;
- ii. In relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government.

3.2 WHO IS A DISTRICT OFFICER (DO)?

State Governments will notify a District Magistrate/Additional District Magistrate/ Collector/ Deputy Collector as a District Officer at the local level. The District Officer will be responsible for carrying out the powers and functions under the Act at the district levels (including every block, taluka, tehsil, ward, and municipality).

3.3 RESPONSIBILITIES OF THE AFOREMENTIONED AUTHORITIES

Under the law the employer/DO is obliged to create a workplace free of sexual harassment. It is the responsibility of the Employer/District Officer in general to:

1. Create and communicate a detailed policy;
2. Ensure awareness and orientation on the issue;
3. Constitute Complaints Committee/s in every workplace and district so that every working woman is provided with a mechanism for redress of her complaint(s);
4. Ensure Complaints Committees are trained in both skill and capacity;
5. Prepare an annual report and report to the respective state government;
6. District Officer will also appoint a nodal officer to receive complaints at the local level.

3.2.1 Complaints Committee/s

The Act provides for two kinds of complaints mechanisms: Internal Complaints Committee (ICC) and Local Complaints Committee (LCC). All Complaints Committees must have 50 per cent representation of women. ICC or LCC members will hold their position not exceeding three years from the date of their nomination or appointment.

1) Internal Complaints Committee (ICC)

Every employer is obliged to constitute an ICC through a written order. The ICC will be composed of the following members:

No	Member	Eligibility
1.	Chairperson	Women working at senior level as employee; if not available then nominated from other office/units/ department/ workplace of the same employer
2.	2 Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/experience in social work
3.	Member	From amongst NGO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment

Where the office or administrative units of a workplace are located in different places, division or sub-division, an ICC has to be set up at every administrative unit and office.

ICC/LCC ARE MANDATORY

The employee who had a fundamental right to a workplace free of sexual harassment, had complained about sexual harassment. According to the Court, had the organisation complied with the Vishaka Guidelines and set up such a Complaints Committee, the preventative benefit would have been three-fold:

1. Ensured a place where women employees could seek redress;
2. Sent a clear message to the workplace that such complaints would be enquired into by a specially designated committee with external expertise;
3. Prevented a series of litigation that followed.

Hence, the Madras High Court awarded Rs. 1.68 crores in damages to an employee for the non-constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines (at the time of the complaint, the Sexual Harassment of Women at Workplace Act 2013 had not been enacted).

Ms. G v. ISG Novasoft Technologies Ltd. Madras High Court (CrI.R.C.No.370 of 2014 order dated 02.09. 2014. Original Petition No.463 of 2012

2) Local Complaints Committee (LCC)

The District Officer will constitute an LCC in every district so as to enable women in the unorganised sector or small establishments to work in an environment free of sexual harassment. The LCC will receive complaints:

1. From women working in an organisation having less than 10 workers;
2. When the complaint is against the employer himself;
3. From domestic workers.

No	Member	Eligibility
1.	Chairperson	Nominated from amongst the eminent women in the field of social work and committed to the cause of women
2.	Member	Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
3.	2 Members	Nominated from amongst such NGO/associations/persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that: <ul style="list-style-type: none"> • At least one must be a woman • At least one must have a background of law or legal knowledge
4.	Ex Officio member	The concerned officer dealing with social welfare or women and child development in the district

*One of the nominees shall be a woman belonging to the SC/ST/OBC/Minority community notified by the Central Government.

3) External Members on the Complaints Committee/s

The Act refers to external members, which generally means persons who have expertise with the issue of sexual harassment. Given the largely intangible nature of workplace sexual harassment, there are a range of complexities involved in responding effectively to workplace sexual harassment complaints. For this reason, external third party/ members on the Complaints Committee/s (from civil society or legal background) should possess the following attributes:

1. Demonstrated knowledge, skill and capacity in dealing with workplace sexual harassment issues/complaints;
2. Sound grasp and practice of the legal aspects/implications.

Such expertise will greatly benefit Complaints Committees in terms of fair and informed handling of complaints to lead to sound outcomes. These external third party members shall be paid for their services on the Complaints Committees as prescribed.

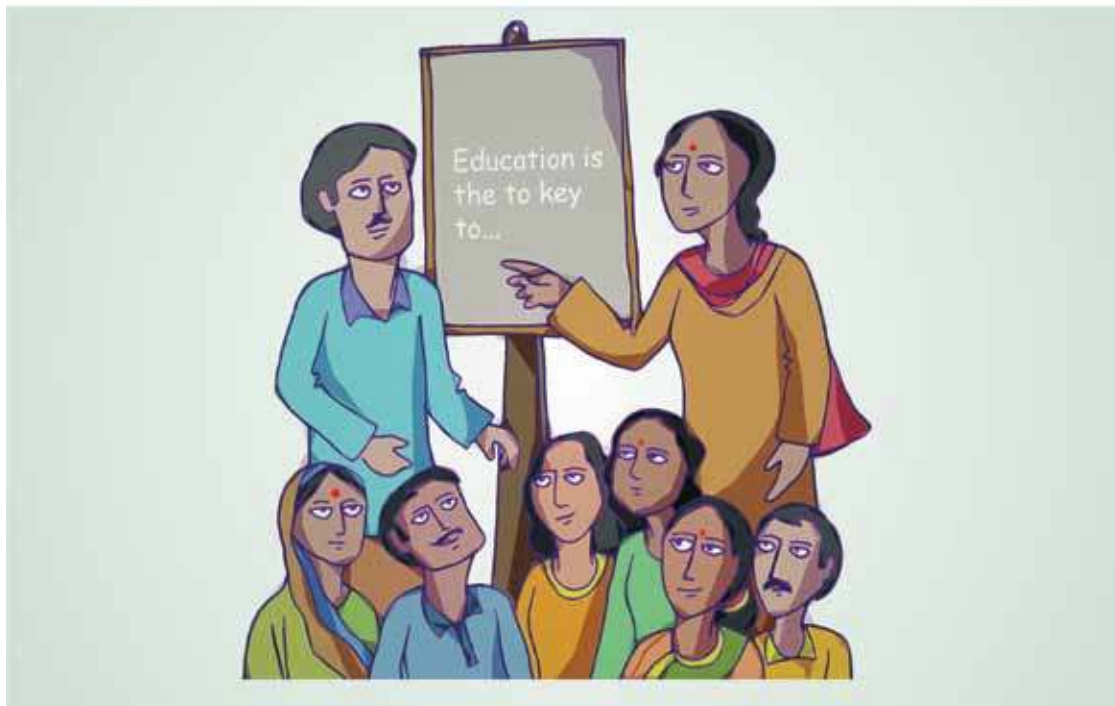
Criteria for the External Member

A 'person familiar with issues relating to women' would mean such persons who have expertise in issues related to sexual harassment and may include any of the following:

- At least 5 years of experience as a social worker, working towards women's empowerment and in particular, addressing workplace sexual harassment;
- Familiarity with labour, service, civil or criminal law.

3.2.2 Sexual Harassment at Workplace Policy

Employers/District Officers are responsible for complying with prohibition, prevention and redress of workplace sexual harassment. In practice, this means having a policy that: (1) prohibits unwelcome behaviour that constitutes workplace sexual harassment; (2) champions prevention of workplace sexual harassment through orientation, awareness and sensitization sessions; and (3) provides a detailed framework for redress.



3.2.3 Dissemination of Information and Awareness Generation

Employers/ District Officers have a legal responsibility to:

1. Effectively communicate a policy that prohibits unwelcome behaviour that constitutes workplace sexual harassment, and provides a detailed framework for prevention, and redress processes.
2. Carry out awareness and orientation for all employees.
3. Create forums for dialogue i.e. Panchayati Raj Institutions, Gram Sabhas, Women's Groups, Urban Local Bodies or like bodies, as appropriate.
4. Ensure capacity and skill building of Complaints Committees.
5. Widely publicize names and contact details of Complaints Committee members.

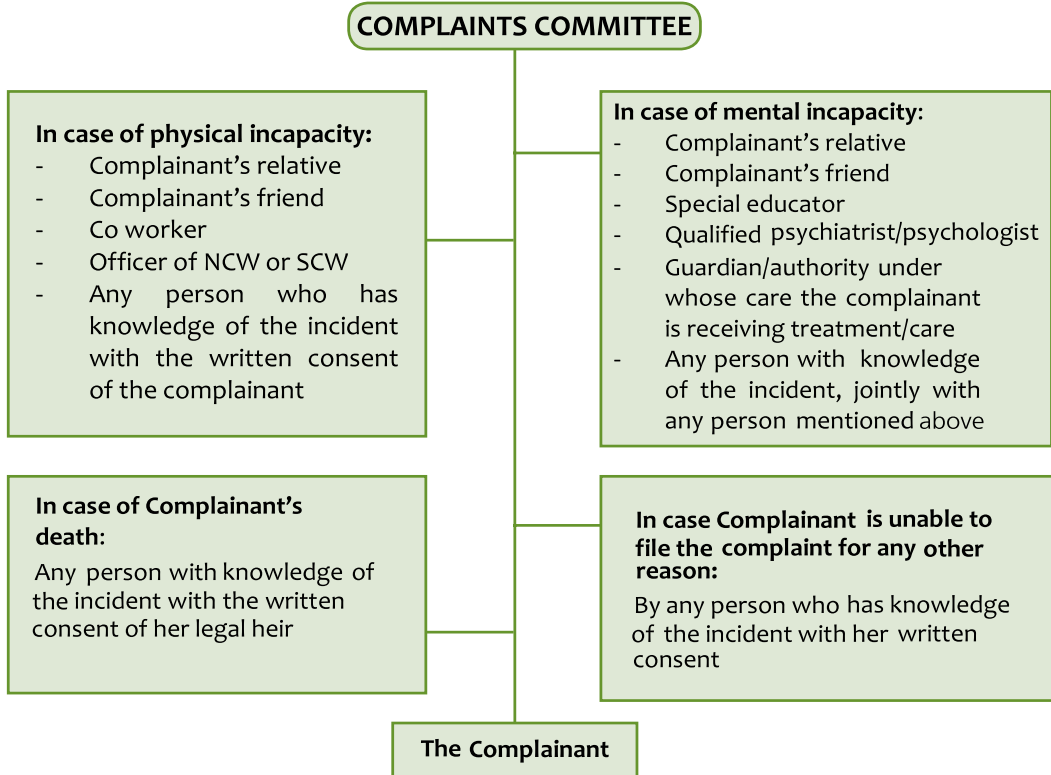
Redress

“...the time has come when women must be able to feel liberated and emancipated from what could be fundamentally oppressive conditions against which an autonomous choice of freedom can be exercised and made available by women. This is sexual autonomy in the fullest degree”

Late Chief Justice J.S. Verma, Justice Verma Committee Report, 2013

This section is about Redress. It provides helpful information on who can complain, to whom, and what a complaint should contain. It also gives information and lays out the steps involved when a complaint has reached the Complaints Committee, in terms of the process, findings and recommendations.

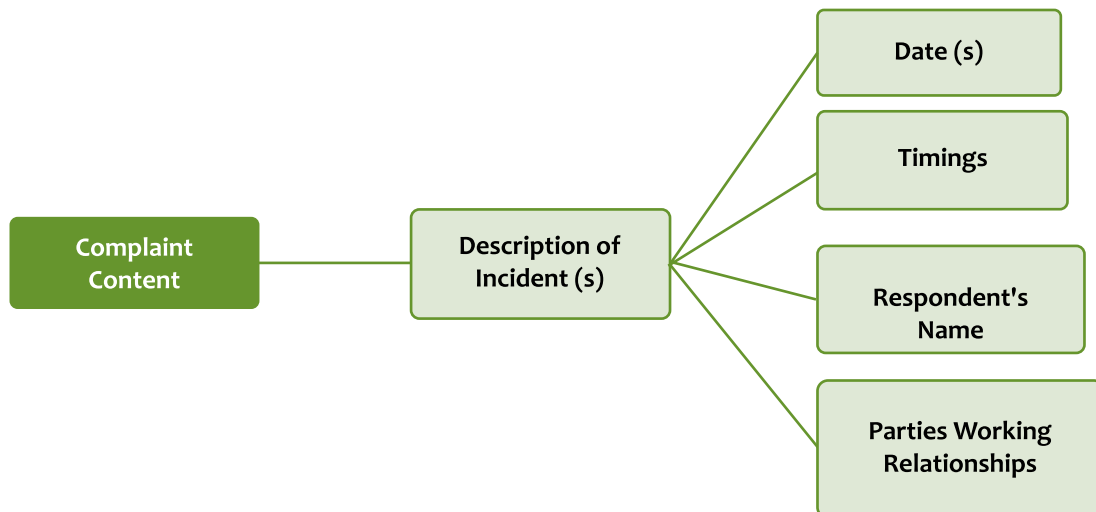
4.1 WHO CAN COMPLAIN AND WHERE?



Generally, where there are less than ten workers, any woman employee can complain to the Local Complaints Committee with the support of the Nodal Officer, when required. It is the responsibility of the District Officer to designate a person as the Nodal Officer in every block, taluka and tehsil in rural or tribal areas and wards or municipalities in the urban areas, to receive the complaints of workplace sexual harassment from women. The Nodal Officer will forward all such complaints within seven days of its receipt to the concerned Complaints Committee for appropriate action. In most other workplaces, a woman employee can make a complaint to the Internal Complaints Committee.

4.2 WHAT SHOULD THE COMPLAINT CONTAIN?

The written complaint should contain a description of each incident(s). It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties. A person designated to manage the workplace sexual harassment complaint is required to provide assistance in writing of the complaint if the complainant seeks it for any reason.



4.3 WHAT CAN AN EMPLOYEE/WORKER EXPECT?

When it comes to redress for workplace sexual harassment, employee/worker has a right to expect -a **trained, skilled** and **competent** Complaints Committee, a time bound process, information confidentiality, assurance of non-retaliation, counselling or other enabling support where needed and assistance if the complainant opts for criminal proceedings.

4.3 A. RIGHTS OF THE COMPLAINANT

- An empathetic attitude from the Complaints Committee so that she can state her grievance in a fearless environment
- A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent

- Keeping her identity confidential throughout the process
- Support, in lodging FIR in case she chooses to lodge criminal proceedings
- In case of fear of intimidation from the respondent, her statement can be recorded in absence of the respondent
- Right to appeal, in case, not satisfied with the recommendations/findings of the Complaints Committee

4.3 B. RIGHTS OF THE RESPONDENT

- A patient hearing to present his case in a non-biased manner
- A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant
- Keeping his identity confidential throughout the process
- Right to appeal in case not satisfied with the recommendations/findings of the Complaints Committee

4.4 KEY RESPONSIBILITIES

To effectively address workplace sexual harassment complaints, a Complaints Committees must first be aware of their key responsibilities, some of which are highlighted below:

1. Be thoroughly prepared
2. Know the Act, Policy and/or relevant Service Rules
3. Gather and record all relevant information
4. Determine the main issues in the complaint
5. Prepare relevant interview questions
6. Conduct necessary interviews
7. Ensure parties are made aware of the process and their rights/responsibilities within it
8. Analyse information gathered
9. Prepare the report with findings/recommendations

4.5 KNOWLEDGE, SKILLS, TRAINING

Dealing with workplace sexual harassment complaints is often complex. Hence Complaints Committee/s must possess critical skills/capacity to effectively carry out their role. That includes a sound grasp of the Act, Vishaka Guidelines, applicable Service Rules, relevant laws and an understanding of workplace sexual harassment and related issues. Complaints Committee skills must include an ability to synthesise information i.e. relevant documents, the law and interviews. They should also be able to communicate effectively, write clearly, listen actively and conduct interviews. They should be competent at showing empathy, being impartial and being thorough. They should be able to identify sexual harassment and its impact.

A Complaints Committee/s is required to be trained in both **skill** and **capacity** to carry out a fair and informed inquiry into a complaint of workplace sexual harassment. An absence of such training will lead to unequal and unfair results, which can cost employers, employees, complainants as well as respondents.

FAIR AND INFORMED INQUIRY

Within 6 months of joining The Statesman newspaper, Rina Mukerhjee lost her job. While the company alleged that her work was “tardy” and “lacking in quality” it suppressed Rina’s complaint of sexual harassment against the news coordinator, Ishan Joshi. Within her first month of work, Rina had taken her complaint directly to the Managing Director, Ravinder Kumar. Time passed, nothing happened and Rina was fired. In a rare display of social context insight and clarity, the Industrial Tribunal (West Bengal) rejected the Statesman’s claim that Rina only referred to “professional” harassment in her complaint to Mr. Kumar. In the Tribunal’s view, Mr. Kumar’s failure to dig deeper was clearly suspect- “... it becomes clear that there was no Committee on Sexual Harassment, as per the Hon’ble Supreme Court’s direction in Vishaka vs State of Rajasthan, existing in The Statesman, at that relevant time. ...to expect-the lady workman to file a written complaint and not to believe the same, when it has been filed ‘at a later date’ is sheer bias.” The Statesman was ordered to reinstate Rina and grant her full back wages.

M/s The Statesmen Ltd. and Smt. Rina Mukherjee. Order of K.K. Kumai, Judge, dated 06.02.2013, Fourth Industrial Labour Tribunal (West Bengal)

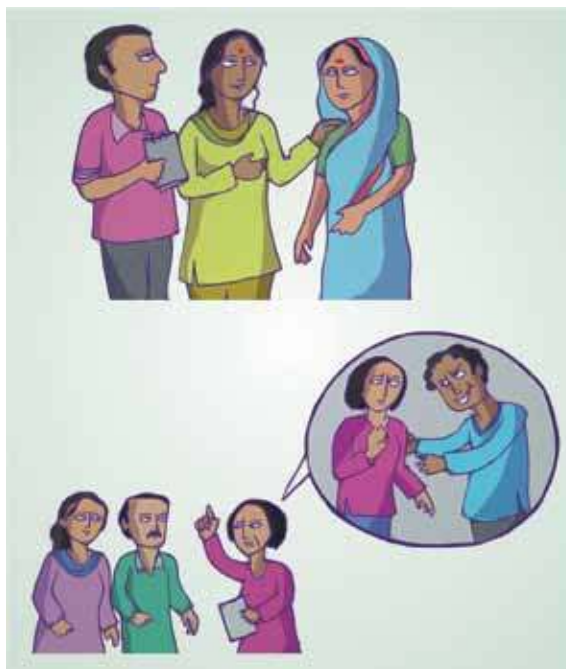
4.6 DO’S AND DON’TS FOR COMPLAINTS COMMITTEE

DO’S

1. Create an enabling meeting environment.
2. Use body language that communicates complete attention to the parties.
3. Treat the complainant with respect.
4. Discard pre-determined ideas.
5. Determine the harm.

DON’TS

1. Get aggressive.
2. Insist on a graphic description of the sexual harassment.
3. Interrupt.
4. Discuss the complaint in the presence of the complainant or the respondent.

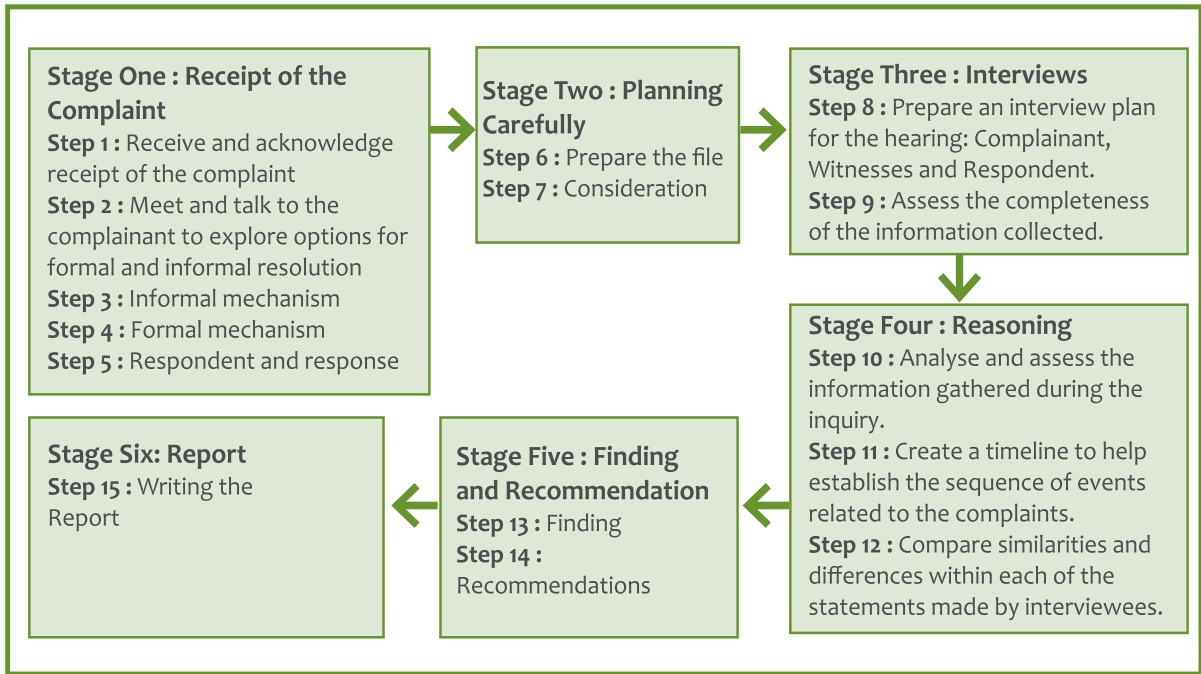


4.7 NON-NEGOTIABLES DURING THE INQUIRY PROCESS

During a redress process the Complaints Committee/s are required to assure confidentiality, non-retaliation and recommend interim measures as needed to conduct a fair inquiry.

4.8 THE SEXUAL HARASSMENT COMPLAINT PROCESS

The Complaints Committee/s needs to have information on the six stages (including fifteen steps), detailed below, for addressing a complaint of workplace sexual harassment.



STAGE ONE: RECEIPT OF THE COMPLAINT

A fair, prompt, and impartial inquiry process starts with a Complaints Committee capable of creating an environment of trust and confidence throughout the inquiry.

Step 1 : Receive and Acknowledge Receipt of the Complaint

The complainant submits a sexual harassment complaint in writing within three months of the last alleged incident to the Complaints Committee or any other person designated by the organization/ District Officer (i.e. Nodal Officer) to receive and manage complaints of sexual harassment.

Training and Skill Building : An Institutional Responsibility

It is important that both the Committee and any other person designated by the organization/ District Officer to receive or otherwise handle a sexual harassment complaint has there quired competency and skill building training formanaging a complaint and/or any concern related to workplace sexual harassment.

Upon receipt, the complaint should be reviewed for:

1. In the context of workplace that the sexual harassment complaint is to be met with under the Act, such as, Service Rules, Workplace Policy, Vishaka Guidelines and related laws.
2. Clarity in the complaint.
3. Additional information needed from the complainant.

The complainant will be notified in writing to acknowledge receipt.

Elements of the Behaviour

The complaint needs to satisfy the following elements:

- 1** The respondent displayed a potentially improper and/or offensive conduct which may come within workplace sexual harassment;
- 2** The behaviour was directed at the complainant;
- 3** The complainant experienced harm.
- 4** The behavior occurred in the workplace or at any location/any event related to work

Step 2: Meet and Talk to the Complainant to Explore Options for Formal and Informal Resolution

The complainant needs to be informed about the ensuing process and the informal or formal options available for the redress.

Step 3: Informal Mechanism

If the complainant chooses to adopt the informal process to resolve her complaint/experience of workplace sexual harassment, then it is the responsibility of the person designated to receive and manage the Complaints Committee to explore enabling ways to address the complaint. This can include counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour or appointing a neutral person to act as a conciliator between the parties to resolve the complaint through conciliation.

However, before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route. At no point, the Complaints Committee will advise the complainant to resolve the matter directly with the respondent. Where such an informal process is successful, such resolution is to be recorded by the conciliator and forwarded to the ICC/LCC who in turn will forward the same to the employer/District Officer for further action based on the resolution. Employers/District Officers are responsible for taking steps to ensure that the complainant is not subject to any backlash.

The choice of a formal process rests with the complainant even if the person responsible for managing the complaint believes that this can be resolved through an informal process.

Step 4: Formal Mechanism

1. If the complainant opts for formal redress, or the nature of the complaint is serious which calls for formal redress, then the Complaints Committee responds to the complaint.

2. Complaints Committee/s members must be free of any conflict of interest with either the concerned parties or with the outcome.
3. Ensure that the independent third party member has sound knowledge, skill, and experience in dealing with workplace sexual harassment complaints.

Step 5: Respondent and Response

1. As per the procedure provided in the Service Rule; or in absence of the same
2. Within seven days of receiving a complaint, the Complaints Committee will inform the respondent in writing that a complaint has been received.
3. The respondent will have an opportunity to respond to the complaint in writing within ten days thereafter.

STAGE TWO: PLANNING CAREFULLY

Step 6: Prepare the File

A sound inquiry relies on sound preparation. This includes taking into account the following steps:

1. Documentation

Create an independent confidential file of the complaint and all subsequent related documentation.

2. Review Law & Policy

Have a clear knowledge and understanding of the Act/Rules as well as the relevant Service Rules, Workplace Policy, Vishaka Guidelines, existing practices and related laws.

3. Make a List

Make a list of all the dates and events relating to the written complaint as well as the names of witnesses, where applicable.

Relevant Witnesses

The complaint may include the names of people believed to have witnessed the alleged incidents or those who may have been aware of other information directly related to the complaint. The respondent may also include the names of witnesses. In addition, the Complaints Committee also has the discretion to call any person as a witness, who it believes, has something to contribute to the inquiry process.

4. Supporting Documents

Obtain and review all supporting documents relevant to the complaint, including those presented by the complainant and the respondent.

5. Act Quickly

Create a plan. This can be used as an initial checklist to ensure that all of the critical elements are covered. It includes:

- a. The names of the parties and witnesses to be interviewed
- b. Any documentary support that needs to be examined
- c. Timeline

Preparing the Plan - Key Elements to Consider

1. Defining the Issues

What is the complaint

Questions or points that require clarification

2. Determining a violation of the Policy/Act

What information is needed to determine that there has been a violation

3. Logistics

Venue for conducting the interviews. Are special logistics required

Creating timelines for each

4. Critical Information

What documents need to be looked at

Witnesses to be questioned and in what order

5. Areas of Questioning

Questions for each specific incident and party/witness

Questions for each particular issue

Issues likely to require follow-up

Step 7: Consideration

1. Interim Measures

While a complaint is pending inquiry, a complainant can make a written request for her transfer or the transfer of the respondent, or for leave (upto 3 months). She can also request the Complaints Committee to restrain the respondent from reporting on her work performance or writing her confidential report or supervising her academic activities (in case she is in educational institution). Even in the absence of such a request, the Complaints Committee must take corrective action. It is essential to take these actions in order to prevent potential *ongoing sexual harassment*.

2. Support

Maintain clear, timely communication with the parties throughout the process. Provide complainants with any specific assistance they may require, such as counselling, addressing health-related concerns or sanctioning of leave.

STAGE THREE: INTERVIEWS

Step 8: Prepare an Interview Plan for the Hearing: Complainant, Witnesses, Respondent

1. Based on the results of the previous steps and before conducting interviews, the Complaints Committee should decide which issues need to be pursued for questioning.
2. Interviews are meant to obtain information that is relevant to the complaint from individuals.
3. Interviews should be conducted with each person *separately and in confidence*. *The complainant and the respondent should not be brought face to face with each other.*

Interviewing Tips

1. Introduction

Questioning the parties and witnesses in a situation of workplace sexual harassment is a sensitive task. The Complaints Committee must therefore proceed with empathy, while appreciating at times, a different version of the facts.

2. Questioning

Determine beforehand the following:

- Date, time, place and order of interviews
- Questions and their order
- Time for each interview

Generally rely on questions related to **who, what, where, when and how**. Remember:

- Questions ought to be clear and focused.
- Obtain as much information as possible through the interview.
- Do not share information gathered from other sources.

3. Choose an Appropriate Location

To create trust, comfort and openness

4. Explain the Interview Process

Explain how the interview will be conducted and what is expected

5. Records of the Interview

Take notes and explain the need for a proper record

6. Manage the Interview

The Chairperson of the Complaints Committee is responsible for ensuring the interviews are correctly carried out and due process followed

7. Sign Statements

At the conclusion of the interview, have those interviewed, sign and date statements made and recorded before the Complaints Committee



Step 9: Assess the Completeness of the Information Collected

At this stage, the Complaints Committee should review the information gathered and their factual relevance to each aspect of the complaint. This will help determine whether there is enough information to make a finding on the complaint.

STAGE FOUR: REASONING

Step 10: Once the information and review is complete, the Complaints Committee will make its reasoned finding(s), which involves having to:-

- Identify the substance of each aspect of the complaint.
- Determine, whether or not, on a **balance of probability**, the unwelcome sexual harassment took place.
- Check that such behaviour/conduct falls within the definition of sexual harassment set out in the relevant Act/Rules, Policy, Service Rules or law.
- Comment on any underlying factor(s) that may have contributed to the incident.

Step 11: Create a timeline to help establish the sequence of events related to the complaint.

Step 12: Compare similarities and differences within each of the statements made by the interviewees.

STAGE FIVE: FINDING AND RECOMMENDATION

Step 13: Finding

Based on the above, the Complaints Committee must arrive at a finding of whether the complaint is upheld, not upheld or inconclusive.

Provided, where both the parties are employees, before finalising the findings, the ICC/LCC shall share its finding with both the parties and provide them an opportunity to make representation against it before the Committee.

Step 14: Recommendations

Based on its findings, the Complaints Committee shall then make appropriate recommendations which may include:

1. Where the Complaints Committee is unable to uphold the complaint, it shall recommend no action.
2. Where the Complaints Committee upholds the Complaint, it may recommend such action as stated within the relevant Policy or Service Rules, which may include a warning to terminate.

In case service rules do not exist, recommended action may include:

- Disciplinary action, including a written apology, reprimand, warning, censure;
- Withholding promotion/ pay raise/ increment;
- Termination;
- Counselling;
- Community service.

3. The Complaints Committee may also recommend financial damages to the complainant, while deciding the amount they shall take into consideration:

- Mental trauma, pain, suffering and emotional distress caused;
- Medical expenses incurred;
- Loss of career opportunity;
- Income and financial status of the respondent.

If the amount is not paid it can be recovered as an arrear of land revenue.

4. The Complaints Committee can also give additional recommendations to address the underlying factors contributing to sexual harassment at the workplace.

STAGE SIX: REPORT**Step 15: Writing the Report**

The Complaints Committee will prepare a final report that contains the following elements:

- A description of the different aspects of the complaint;
- A description of the process followed;
- A description of the background information and documents that support or refute each aspect of the complaint;
- An analysis of the information obtained;
- Findings as stated above;
- Recommendations.

An inquiry must be completed within 90 days and a final report submitted to the Employer or District Officer (as the case may be) within ten days thereafter. Such report will also be made available to the concerned parties. The Employer or District Officer is obliged to act on the recommendations within 60 days. Any person not satisfied with the findings or recommendations of the Complaints Committee or non-implementation of the recommendations, may appeal in an appropriate court or tribunal, as prescribed under the Service Rules or where no such service rules exist, in such manner as may be prescribed.

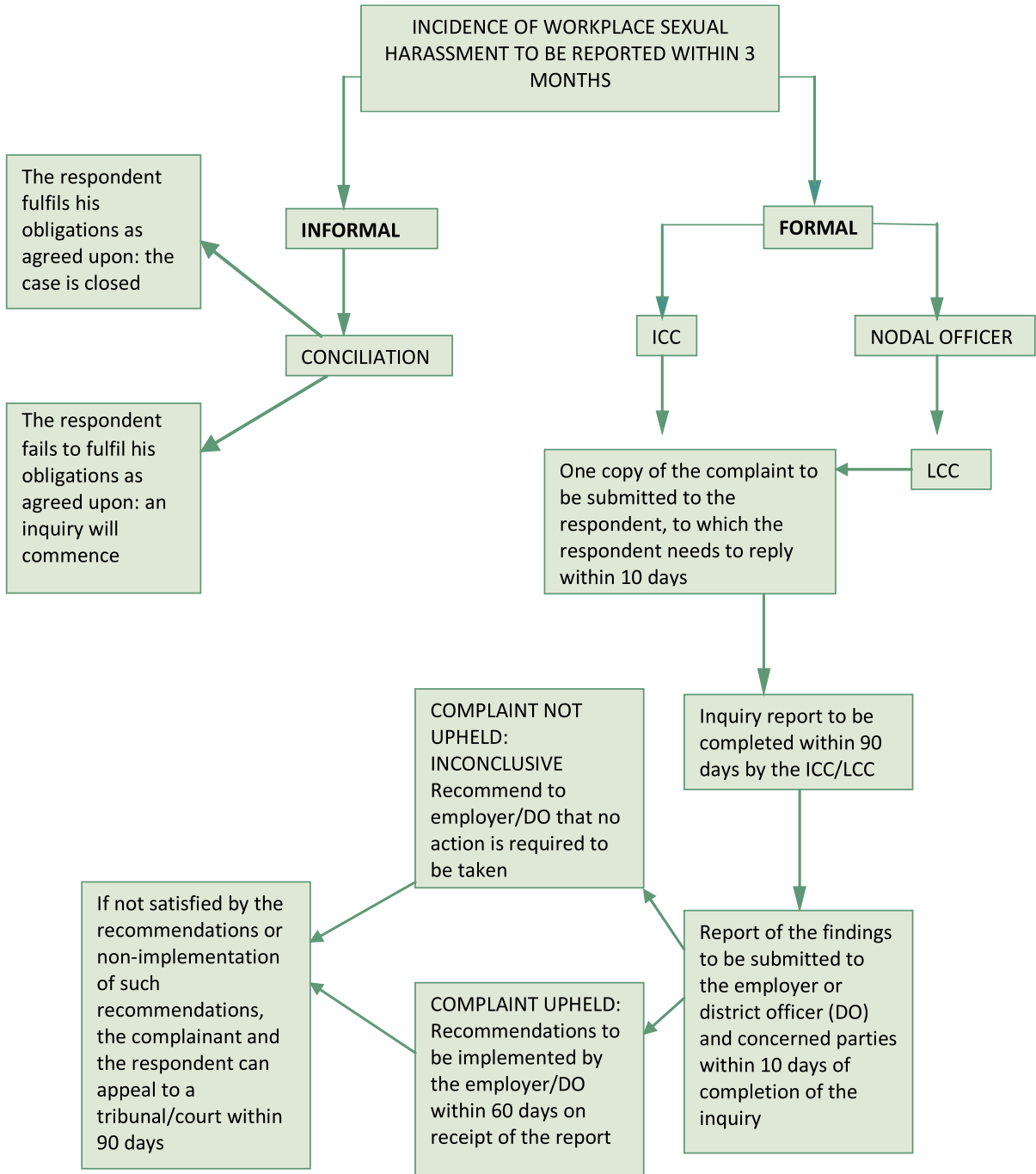
Given that most workspaces today are gender unequal and male-dominated, it is important that complaints by women be treated fairly and not dismissed. The mere inability to substantiate a complaint or provide adequate proof will not attract legal action against the complainant. However, making a false or malicious complaint or producing a forged or misleading document is an offence.

4.9 AT A GLANCE

1) Complaints Committee's Checklist

- Review the written complaints and response to complaints
- Review the applicable policy, the Act/Rules, Vishaka Guidelines and other relevant laws
- Develop a plan
- Meet with the complainant
- Meet with the respondent
- Meet with the witnesses
- Record statements and have them dated and signed
- Review and adapt the plan, as needed
- Proceed with further interviews, as needed
- Analyze all the facts to develop reasoning
- Arrive at the findings
- Give recommendations
- Prepare the report
- Submit the file to the organization or District Officer for implementation of the recommendations and for safe keeping.

INQUIRY PROCESS AT A GLANCE



2) Timelines as per the Act

Submission of Complaint	Within 3 months of the last incident
Notice to the Respondent	Within 7 days of receiving copy of the complaint
Completion of Inquiry	Within 90 days
Submission of Report by ICC/LCC to employer/DO	Within 10 days of completion of the inquiry
Implementation of Recommendations	Within 60 days
Appeal	Within 90 days of the recommendations

3) Confidentiality

The Act prohibits the publication or making known the contents of a complaint and the inquiry proceedings. Any breach of confidentiality will result in specific consequences.

The Act prohibits the disclosure of:

- Contents of the complaint;
- Identity and address of complainant, respondent and witnesses; Information pertaining to conciliatory/inquiry proceedings or recommendations of the ICC/LCC;
- Action taken by the employer/DO.

Accountability: Any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action taken under the provisions of this Act.

Consequences: As per the Service Rules or Rs.5,000/ to be collected by the employer.

Exception: Dissemination of information regarding the justice secured without disclosure of name, address, identity and particulars of complainant or witnesses.

Section 4 completes the details of the Complaints Committee process in addressing formal complaints. It serves as a guideline to action in providing appropriate redress. The manner in which a complaint is addressed will make all the difference to the equal rights of working women as well as the kind of workplace culture being promoted.

Monitoring

“Vishaka was a victory for all women”
Bhanwari Devi

This section refers to ways in which application of the Act at all workplaces is monitored. Monitoring is a way to ensure compliance of the Act on the ground. As an additional means of monitoring, the Act mandates the submission of Annual Reports with specific information as well as specific consequences where compliance is lacking.

The Act authorizes Appropriate Government to monitor the implementation of the Act. As per the Act, Appropriate Government means:

- i. In relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly-
 - a. By the Central Government or the Union Territory administration, the Central Government;
 - b. By the State Government, the State Government;
- ii. In relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

Thus to monitor the Act, the Appropriate Government has the authority to undertake any of the following measures:

5.1 Inspection

In relation to workplace sexual harassment, when it is in the public interest or in the interest of women employees, every employer/District Officer can be ordered by the Appropriate Government i.e. State and Central Government, to make available any information, record or document, including opening its workplace for inspection relating to the same.

5.2 Annual Report

The Appropriate Government is entrusted with the monitoring of the implementation of this Act and for maintaining the data on the number of cases filed and disposed of under it. In particular, the Act mandates submission of an Annual Report by the ICC/LCC to the employer/District Officer.



The District Officer will forward a brief report on the annual reports to the appropriate State Government. Such reports must include the following information:

- a. No. of complaints received;
- b. No. of complaints disposed of;
- c. No. of cases pending for more than 90 days;
- d. No. of workshops/awareness programmes carried out;
- e. Nature of action taken by the employer/DO;

The Report of ICC will be forwarded to the DO through the employer.

5.3 Penalties

An employer can be subjected to a penalty of up to INR 50,000 for:

- Failure to constitute Internal Complaints Committee
- Failure to act upon recommendations of the Complaints Committee; or
- Failure to file an annual report to the District Officer where required; or
- Contravening or attempting to contravene or abetting contravention of the Act or Rules.

Where an employer repeats a breach under the Act, they shall be subject to:

- Twice the punishment or higher punishment if prescribed under any other law for the same offence.
- Cancellation/Withdrawal/Non-renewal of registration/license required for carrying on business or activities.

Monitoring is a critical yardstick to measure success in terms of compliance with the Act. Additionally, it highlights those areas, in terms of law and practice, which may require improvement and/or additional information and guidance at both the State as well as the workplace levels.

Global Norms and Good Practices

Increasing awareness and compliance with international standards is a reminder that we must not lose sight of the goal. Over the years, the international community has developed benchmarks that provide guidance on what the laws around workplace sexual harassment should look like in practice. The key benchmarks are listed below:

1. Recognition that workplace sexual harassment is a form of human rights violation.ⁱ
2. Recognition that sexual harassment is a form of gender-specific violence.ⁱⁱ
3. Equality, dignity and worth of a human person must be emphasized.
4. Gender-based violence includes sexual harassment and impairs the enjoyment by women of several basic human rights and fundamental freedoms.ⁱⁱⁱ Some of these rights include:
 - The right to life, the right to liberty and security of the person.
 - The right to equal protection under the law.
 - The right to the highest standard attainable of physical and mental health.
 - The right to just and favourable conditions of work.^{iv}
5. Eliminating violence against women and advancing women's equality includes the right to be free from workplace sexual harassment.^v
6. Legislation on violence against women should define violence to include sexual harassment. Such legislation should also recognize sexual harassment as a form of discrimination and a violation of women's rights with health and safety consequences.^{vi}
7. The International Labour Organization (ILO) has also drawn specific attention to domestic workers, who have a right to “enjoy effective protection against all forms of abuse, harassment and violence.”^{vii}

In terms of practice, international law and policy frameworks have an important role to play in encouraging the adoption of an understanding of sexual harassment as a fundamental human right and equality issue, and not just a problem for labour/employment law to solve.

Converting these concepts into practice involves constant monitoring and adapting to changing circumstances. As a start, six simple steps to keep in mind and practice in any workplace should involve the following:

1. Make sure there is a policy that has been “effectively” communicated to all workers, irrespective of whether they are paid or volunteers.
2. Display details of both informal and formal ways available to a worker to address/complain about workplace sexual harassment.
3. Undertake orientation on workplace sexual harassment for all workers in respective organizations, establishments or institutions.
4. A Complaints Committee which is trained in terms of skill and capacity is critical for building trust.
5. Encourage senior persons/leaders/supervisors or any person who can influence employment-related decisions, to become role models.
6. Men and women should be included in building a culture which no longer tolerates workplace sexual harassment.

Legally, workplace sexual harassment can no longer be dismissed as some moral transgression. The Vishaka Guidelines raised that bar, when for the first time it recognized “each incident of sexual harassment” as a violation of the fundamental right to equality. That notion has found its way into the Act, which promotes the right of women as citizens to a workplace free of sexual harassment. Complaints Committees at all workplaces are now charged with the role to ensure that the right remains intact, through a fair, informed, user-friendly process of redress.

Prioritising prevention and establishing a redress mechanism, which comprises of 50 per cent women, a woman chair and an external third party expert, is India’s innovative model in responding to working women’s experience of sexual harassment. Assuming adequate changes follow, in both law and practice to meet global benchmarks, that model can evolve into an exemplary best practice. To get there, workplaces in India today, must rise to the requirement of promoting gender equality.

ⁱ General Recommendation 12 of 1989, Committee on the Elimination of All Forms of Discrimination against Women.

ⁱⁱ General Recommendation 19 of 1992, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

ⁱⁱⁱ Ibid.

^{iv} Article 3, Declaration on the Elimination of Violence against Women, 1993.

^v The Beijing Platform of Action drawn at the United Nations’ Women’s Conference in Beijing in 1995.

^{vi} United Nations UN Division for the Advancement of Women *Handbook for Legislation on Violence Against Women* (UN Handbook).

<http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

^{vii} Article 5, ILO Decent Work for Domestic Workers Convention, 2011 (No. 189).





Towards a new dawn

Government of India
Ministry of Women and Child Development



VIKRAMA SIMHAPURI UNIVERSITY

Nellore – 524 324, Andhra Pradesh, India

Anti-Ragging Policy

Policy Statement:

Vikrama Simhapuri University, Nellore, in accordance with the guidelines of UGC, A.P Prohibition of Ragging Act, 1997 and also in adherence to the judgments of the APEX court formulated a policy to curb ragging and act stringently against those who violate as per the administrative and legal procedures.

What is Ragging?

1. Any disorderly conduct whether by words spoken or written or by an act which has the effect of teasing, treating or handling with rudeness a fresher or a junior student.
2. Indulging in rowdy or undisciplined activities which causes or is likely to cause annoyance, hardship or Psychological harm or to raise fear or apprehension there of in a fresher or a junior student.
3. Asking the students to do any act or perform something which such student will not in the ordinary course and which has the effect of causing or generating a sense of shame or embarrassment so as to adversely affect the physique or Psyche of a fresher or a junior student.

The institution devised a mechanism to deal with ragging menace and a system has also been developed for the purpose of preventing the acts of ragging. The following are certain steps in place to avoid incidents of ragging:

1. The University's handbook to the students elaborates necessary information regarding punishments in the event of indulging in ragging.
2. Undertaking will be obtained from the students and the parent. The student will be held responsible for any violation of the provisions of law pertaining to ragging and they will be liable for legal prosecution in case of violation.
3. The Principal (convenor) appoints Anti-ragging squads consisting of all the heads of at least three of Departments every year who visit the hostels and campus (day and night times) to check and prevent activities of ragging if any. Students of final year are also accommodated in the Anti-Ragging committee and their assistance is sought if required to identify the troubleshooters.

4. The Vikrama Simhapuri University prominently displays posters which create awareness about Anti-ragging and provides telephone numbers of University monitoring cell on ragging and police officials to contact in case of any incident of ragging.
5. The Chief warden and Deputy wardens regularly visit the hostels and counsel the students about anti- ragging besides creating the confidence and sense of security among the students.
6. The Heads / Coordinators of the respective departments counsel the students and advise the newly joined students not to hesitate to bring to their notice any grievances on ragging.
7. CCTV's are installed at strategic points for surveillance and a complaint boxes are placed in all the blocks enabling the students to drop letters of complaint on ragging.
8. The court judgments and information related to punishments levied for the violators of law in respect of ragging are made available in the website of the University.
9. The support of the district officials and the parents is sought for effective implementation of steps to check ragging.

Awareness Programs and Initiatives

1. Besides the information provided in the University Handbook, the officials and teachers regularly interact with the students to create awareness about Anti- ragging laws and advise them to stay away from the evil and bring to their notice any incident/incidents to promptly act as per the established procedures and laws in vogue.
2. Senior police officials and judicial officers are invited to address and educate the students about legal aspects related to ragging.

Vigilance

1. The University top officials including the Hon'ble Vice-Chancellor, Principal and Registrar make surprise visits in the campus and also hostels to check incidents if any and also alert the staff.
2. The security officer and personnel will also go around places in and outside the campus to prevent incidents of ragging.

Anti-Ragging Cell

Adhering to the guidelines of regulatory bodies and court directions Anti-Ragging Cell has been constituted with the following composition:

1.	Principal, Vikrama Simhapuri University College, Nellore	Convener
2.	Wardens, University Hostels(Both Men & Women)	Members
3.	Coordinator, Student Welfare	Member
4.	Student Representatives	Member

The University since its inception has been a ragging free campus. The students and the parents feel secure and the Vikrama Simhapuri University has been vigilant and sensitive in implementing all the required steps in a verting incidents of ragging with the support of all the stakeholders and district administration.

The following undertaking has been taken by the student at the time of admission.

LAWS OF THE UNIVERSITY

(Undertaking to be given by all students as required under Rule 3(b) of the Andhra Pradesh Prohibition of Ragging in all Educational Institutions Rules. 2002. Notified as per Section 9 (1) of the Andhra Pradesh Prohibition of Ragging Ad. 1997.

G.O. Ms. No. 67. Higher Education (E.C.-2). dated 31.08.2002).

UNDERTAKING

I, _____ son/daughter of _____

Residing at applicant for admission to the student of the first year / second year of the ----- Degree Course in the Vikrama Simhapuri University College of Nellore during the academic year

200 _____ 200 _____ here by declare that

I am aware of the facts that-

(i) ragging within the premises of the college, hostels and library or anywhere outside the Educational Institutions, is a criminal offence:

(ii) if involved directly or indirectly in committing or abetting ragging, I am liable for one or more of the following punishments to be imposed by the competent Officers/Authorities of the College/University: -

1. Cancellation of admission:
2. Suspension from the institution or classes for limited period:
3. Withholding/withdrawing scholarship/fellowship and other benefits

(contd.)

Debarring from appearing for any test/examination or the revaluation process:

4. With holding of results;
5. Debarring from representing the institution in any event at inter-university, national or international level:
6. Suspension/Expulsion from the hostel
7. Rustication for a period varying from 1 to 2 academic year(s):
8. Expulsion from the institution and consequential debarring from admission to any other institution:
9. Fine with public apology: and also

(iii) The court of Law can award, punishment with imprisonment for a term which may extend from 6 months to life. or fine which may extend from Rs.1.000/- to 50,000/- or with both.

As such I undertake that I shall not indulge myself in any activity of ragging or abetting ragging other students.

Date:

Signature of the Student.

Permanent Address:

HEAD OF THE DEPARTMENT

Principal



VIKRAMA SIMHAPURI UNIVERSITY

Nellore – 524 324, Andhra Pradesh, India

MONITORING CELL ON RAGGING

(UGC Regulations on curbing the menace of Ragging in Higher Educational Institutions)

As per the directions of the Honorable Vice-Chancellor of the University, the Monitoring Cell on Ragging to curb ragging in the campus and to take necessary steps and to initiate precautionary measures for prohibition of ragging in the campus for the academic year respectively is constituted.

MONITORING CELL ON RAGGING:

The Anti-Ragging cell with the following administrators are constituted by the Honorable Vice-Chancellor for both VSU College, Nellore and VSUPG Center, Kavali

1	The Principal, VSU College, Nellore / The Special Officer, VSUPG Center, Kavali	Convener
2	The Dy. Wardens for Boys	Member
3	The Dy. Wardens for Girls	Member
4	The Student Representative for Boys	Member
5	The Student Representative for Girls	Member

RAGGING COMPLAINT-LETTER BOX COMMITTEE:

(UGC Regulations on curbing the menace of Ragging in Higher Educational Institutions)

Ragging Complaint-Letter Box Committee is constituted by the University with the Senior and active faculty members of various departments of faculty. Letter Box is to be fixed on the wall and collect the letters in the complaint boxes regularly at different places in the VSU College Hostels in both Nellore and Kavali campus until further correspondence.

CORE COMMITTEE TO CHECK AND MONITOR ANTI RAGGING ACTIVITIES:

The committees with specific assignments have been constituted in an academic year to curb the ragging activities and also to bring awareness against the evil effects and serious consequences of indulgence in such nefarious activities on both the University Campus at Nellore and kavali. The committee has the following office bearers identified from the different faculties.

ANTI-RAGGING COMMITTEE:

- | | | |
|----|-------------------------------------|------------|
| 1. | The Principal / The Special Officer | : Convener |
| 2. | All the Dy. Wardens | : Member |
| 3. | Student Representatives | : Member |

SECRET STUDENT GROUP:

The Committee is responsible to inform the various committees, the Principal / Special Officer, and University Authorities. A secret committee consisting of students will be informing concerned authorities form time to time during the new admission in the campus.

ANTI-RAGGING SQUAD:

To visit the premises of the Hostels, Canteen and other places especially in the late evening and give its report next day. This committee is constituted by the Hon'ble Vice-Chancellor from time to time during the new admissions in the campus.

Monitoring Body on Ragging: (All HOD's & Principal / Special Officer)	All Head of the Departments are held responsible for instances of ragging in the concerned department and in the Hostels. Accordingly, they should take necessary steps in consultation with the members of the faculty.
Hostel Committee for Anti-Ragging	All Deputy Wardens & some Non Teaching Staff & Security suggested by Deputy Wardens

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REGISTRAR
VIKRAMA SIMHAPURI UNIVERSITY
NELLORE - 524 324.