

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

Internal Complaint Committee Policy



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SHIVAM INFOCOM PRIVATE LIMITED

AN ISO 9001 & OHSAS 18001 CERTIFIED COMPANY

E-mail : shivam@shivaminfo.in Website : www.shivaminfo.in

I. Preamble

The Parliament of India has passed the "Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act," in the year 2013. The ACT provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for the matters connected therewith or incidental thereto.

The guidelines explicitly state the following:

"It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolutions, settlement, or prosecution of acts, of sexual harassment by taking all steps require."

Corporates are also bound by the Supreme Court's directive and the Act. Shivam Infocom Pvt Ltd (Shivam Infocom), Delhi is committed to creating and maintaining an environment which is free of all forms of gender violence, sexual harassment, and discrimination on the basis of sex/gender. Following this, the establishment is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction. As directed by the act Shivam Infocom has constituted a committee called "Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace." The following policy has been made keeping in mind the above facts.

II. Objectives

The objectives of the Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace are as follows:

1. To develop a policy against sexual harassment of women at the Establishment.
2. To create a secure physical and social environment to deter any act of sexual harassment.
3. To promote a social and psychological environment to raise awareness on sexual harassment in its various forms.

III. The Definition of Sexual Harassment

According to THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT 2013, sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

1. Physical contact and advances; or
2. A demand or request for sexual favors; or



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3. Making sexually colored remarks; or
4. Showing pornography; or
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Any act falling under the purview of following cases will be considered as an incident of sexual harassment (Clarification of Unwelcome acts or behavior):

- a) When submission to unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation, or evaluation of a person's engagement in any activity.
- b) When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature.
- c) Interfering with her work or creating an intimidating, offensive, or hostile environment for her.
- d) When a person uses the body or any part of it or any object as an extension of the body with a sexual purpose in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
- e) When a person shows any humiliating treatment to woman that is likely to affect her health and safety.

IV. Jurisdiction

The policy and the rules & regulations would apply to all the employees on active roles of Shivam Infocom. The policy and the rules & regulations would also apply to service providers and outsiders who may be within the territory of the Shivam Infocom at time of commission of the act coming under the purview of the policy.

1. The policy would apply inside the premises but also on off-premises official duty (workshops, field work, group holidays/excursions organized by Shivam Infocom, interviews/meeting with outside people and any other activity organized by Shivam Infocom outside the premises including the period of travelling for such activity).
2. In particular, the rules and procedures laid down in this policy shall be applicable to all complaints of sexual harassment made:
3. By a service provider or an outsider against an employees or a member of the establishment by an employees or a member of an outsider or a service provider, if the sexual harassment is alleged to have taken place within the premises.

In the above, the following definitions will apply:

Members of the Shivam Infocom include employees, staff, (permanent and temporary), trainee (full time and part time) and any other visitors. It shall also include contract workers and daily wagers.



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V. Constitution of the Internal Committee

The Committee shall consist of following three members, who shall be appointed by the Director as under, namely:

1. A female employee member from the office, as the Chairperson
2. Two executive members (one female and one male)
3. Two Staff members (one female and one male from Group 'B' & 'C')
4. One External female member (preferably lawyer by profession or from NGO committed
5. At least one of the members shall be belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time.

The term of each member shall be of three years

VI. Power and Duties of the Committee:

The committee is NOT to act as a moral police; neither will it intrude on anyone's privacy. The role of the Committee is to create awareness about sexual harassment and to deal with and recommend punishment for non-consensual acts of sexual harassment, and not to curtail sexual expression within the premises. Members are expected to be sensitive to the issue and not let personal biases and prejudices (whether based on gender, caste, class) and stereotypes (e.g., predetermined notions of how a "victim" or "accused" should dress up or behave) affect their functioning as members of the committee.

A. Preventive

To create and ensure a safe environment that is free of sexual harassment, including safety from persons/visitors coming into contact at the workplace.

VII. Meetings of the Committee:

The members of the Committee shall meet at least four times in a year. The Chairperson shall preside over the meeting. In the absence of the Chairperson, the second senior female Faculty member shall preside over the meeting. The Chairperson may upon the request of not less than one third of the total members of the Committee, call a meeting on a date not later than fifteen days after the receipt of such requisition.

1. The quorum of the meeting of the Committee shall be three of its members. If the quorum is not complete in any meeting, it shall be adjourned for half an hour and thereafter, the meeting shall precede with those members who are present in the meeting.
2. All decision in the meeting will be taken through mutual consent from the members of the Committee present in the meeting. In the case of any disagreement among the members regarding any decision, Chairperson of the Committee shall hold the authority to take the final decision and her decision would be considered as final.



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VIII. Allowances

The travelling allowances should be paid to the External members of the Committee for attending all the meetings of the Committee or any invited guest coming for the work of Committee.

Any internal member of the Committee, who is on official duty or personal leave (outside DELHI) is called for meeting, the travelling allowances should be paid to such members of the Committee.

IX. The Inquiry Process

1. In case the **COMPLAINANT** requests that the complaint should be processed with beyond a mere warning, the same may be processed and has to be solved within a stipulated time of 90 working days.
2. Within five days of the start of the enquiry process, the Inquiry Committee shall furnish a copy of the complaint to the accused and complainant along with a written notice requiring both parties to furnish a written submission. In case the complainant does not have any additions to make to the complaint filed earlier, she can just submit a statement to that effect.
3. Within a week, both parties shall submit to Inquiry Committee their replies to the documents that have been served on them. The replies may also include a list of questions that the party wishes the Enquiry Committee to ask the other party or its witnesses.
4. All parties can also submit any documentary evidence at the time of the oral hearing.
5. Lawyers are not allowed during the enquiry but both sides can avail help from them.

Note:

Most cases of sexual harassment occur in private, so there may not be any eye-witness. The Enquiry Committee will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the written submissions and oral testimonies of the complainant, the accused, and witnesses if any as well as any documentary evidence. This enquiry is not a criminal investigation or a proceeding in a court of law – a strong probability, rather than ‘proof beyond reasonable doubt’, is enough to take a decision on the complaint.

X. Complaint Withdrawal

1. The **COMPLAINANT** may withdraw her complaint in writing at any time during the inquiry procedure. However, the Committee must ascertain the reasons for withdrawal



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of the complaint and record the same in writing and get it counter-signed by the complainant.

2. The complaints enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the 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 Accused(s), or any person on her/his behalf on the complainant. In such an instance, the complaints enquiry proceedings shall continue in accordance with the procedure outlined in the policy.

XI. Disciplinary Actions

Enhancement of disciplinary action, by the Committee, could depend on factors such as the nature and extent of injury caused to the complainant, the impact of the violation on the institutions as a whole, the position of the harasser in the power hierarchy, repetition of offence etc.

Where the Committee finds an employee of the establishment involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:

1. Warning
2. Written apology
3. Bond of good behavior
4. Adverse remarks in the performance assessment
5. Debarring from or duties.
6. Denial of membership of statutory bodies
7. Denial of re-employment or renewal of contract
8. Stopping of increments/promotion
9. Reverting, demotion
10. Suspension
11. Dismissal
12. Any other relevant mechanism

In such cases where the Committee finds a third party/outsider to be guilty of sexual harassment, the establishment's authorities shall initiate action by making a complaint with the appropriate authority and at the Establishment level it can recommend disciplinary action in the form of:

1. Warning
2. Written apology
3. Debarring entry into the premises

[NOTE: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurize the complainant in any way and any pressure/threat to the committee.]

In the above-mentioned reports, confidentiality of the complainants will be maintained.



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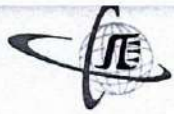
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XII. Redressal

1. The Committee will submit a report along with recommended disciplinary actions to the DIRECTOR.
2. The Director of the SHIVAM INFOCOM upon receipt of the enquiry report shall implement the disciplinary action on the basis of the recommendations of the Committee under relevant service rules within two months.
3. The disciplinary action will be commensurate with the nature of the violation.
4. Complainant or where the complainant has produced any forged or misleading document, the Committee may recommend punitive action against such COMPLAINANT.
5. The victim of sexual harassment/COMPLAINANT will have the option to seek adjustments such as change of the room/location of the office room, change of the quarter, etc.

XIII. Obligations of SHIVAM INFOCOM Authorities

1. Provide a safe working environment at the workplace which shall include safety from persons coming into contact at the workplace.
2. Display at any conspicuous place at the workplace, the penal consequences of sexual harassment, and the order constituting the SHIVAM INFOCOM.
3. Assist the Committee to organize two or more workshops annually to sensitize the employees and employees with the provisions of the Act and orientation programmers for members of the Committee
4. Establishment should organize gender orientation session/ human processing lab at the beginning of each establishment session.
5. There is a need to have a counselling center at SHIVAM INFOCOM. At least once a week counselling services should be made available to the employees on the issues of adjustment, harassment, any other issue related to education and stay at SHIVAM INFOCOM/DELHI.
6. The Establishment through its authorities would ensure necessary facilities to the Committee and the process of an inquiry. It would assist in securing the attendance of the accused and witnesses before the Committee or its sub-committee, as the case may be. It would also make available such information to the Committee as it may require having regard to the complaint.
7. Provide assistance to the individual to file a complaint under the IPC
8. Treat sexual harassment as misconduct under the service rule and initiate action against misconduct.
9. RTIs are not applicable for sexual harassment complaints.



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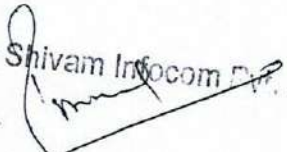
Ref No-SIPL/2021/55

Date- 01st Apr 2022

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

Internal Complaints Committee ("ICC")

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For Shivam Infocom Pvt. Ltd.

Authorised Signatory

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