

Sexual Harassment
at
Work Place

Workplace
Harassment

What is the difference between the two?

How to deal with Sexual Harassment complaints?

WHAT IS SEXUAL HARASSMENT?



- *Sexual harassment is a discriminatory and unwelcome behaviour of sexual nature. It could be in the form of pressure for sexual favours, unwanted sexual advances, verbal or physical conduct that has sexual overtones.*
- *When rejection of or submission to such behaviour is used/capable of being used as a threat to the employment/academic performance/career progression of women, it becomes a clear case of sexual harassment.*
- *When such unwelcome behaviour creates a hostile, intimidating or offensive work/study environment, and interferes with the work/academic performance of women, it certainly is sexual harassment.*

WHAT CONSTITUTES SEXUAL HARASSMENT

SEXUAL HARASSMENT

IN THE

WORKPLACE

***Offering
benefits for a
sexual favour***

***Unwanted
sexual
advances***

***Threats of
retaliation to
'NO'***

***Visual conduct/
Suggestive
gestures***

***Verbal conduct/
Derogatory
comments***

***Physical conduct/
Body positioning/
Touching***

Quid Pro Quo translates to 'This for That', this form of sexual harassment is basically a form of sexual blackmail. In a typical situation of quid pro quo harassment, the respondent being a person in power, pressurizes the woman student/staff/faculty, who is typically a subordinate, for sexual favours in exchange for advancement or preferential treatment in academics / workplace/ department. It is usually followed with a threat of adverse academic /employment action if such a demand is rejected.

Creating an 'intimidating, offensive or hostile work environment'. An example is a work environment where an individual is subjected to unwelcome comments about her body type resulting in the woman employee feeling embarrassed and unable to work properly.



WHAT IS NOT SEXUAL HARASSMENT

- *A noisy argument or disagreement in the context of an unwelcome environment at the workplace*
- *An isolated incidence of intemperate language against a female employee*
- *Insisting that work performance meets the set job standards*
- *Reprimand employee for not meeting work related set deadlines/targets*
- *Stress caused because of poor performance/not meeting targets or deadlines*
- *Constructive criticism/feedback on work*
- *Accidental touching/brushing against/pushing without a sexual connotation*

These will NOT be considered as sexual harassment and DO NOT constitute an offence under the POSH Act 2013.

However, if such acts/behaviours are a reaction to rejection of sexual advances or request for sexual favours, then it is a clear case of sexual harassment under the POSH Act.

LEGISLATION AGAINST SEXUAL HARASSMENT

Workplace sexual harassment is a form of gender discrimination which violates woman's fundamental right to equality and right to life, guaranteed under Articles 14, 15 and 21 of the Constitution of India.

The POSH Act has been enacted with the objective of preventing and protecting women against workplace sexual harassment and to ensure effective redressal of complaints of sexual harassment.

- *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act") was enacted by the Ministry of Women and Child Development, India in 2013.*
- *Government also subsequently notified the rules under the POSH Act titled the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 ("POSH Rules").*
- *Promulgation of the Criminal Law (Amendment) Act, 2013 ("Criminal Law Amendment Act"), which has criminalized offences such as sexual harassment, stalking and voyeurism.*

EXPLAINING WORK PLACE, EMPLOYEE & INCLUSIONS IN HIGHER EDUCATIONAL INSTITUTIONS

What is the 'Work Place'?

- According to the POSH Act 2013, the work place has a very broad coverage.
- It is not confined to the traditional office set up.
- It includes any place that the person visits as part of work/study – other offices, library, labs, hospitals, sports complexes, online platforms, transportation, out station places of stay, even residences, if the management has control over it.

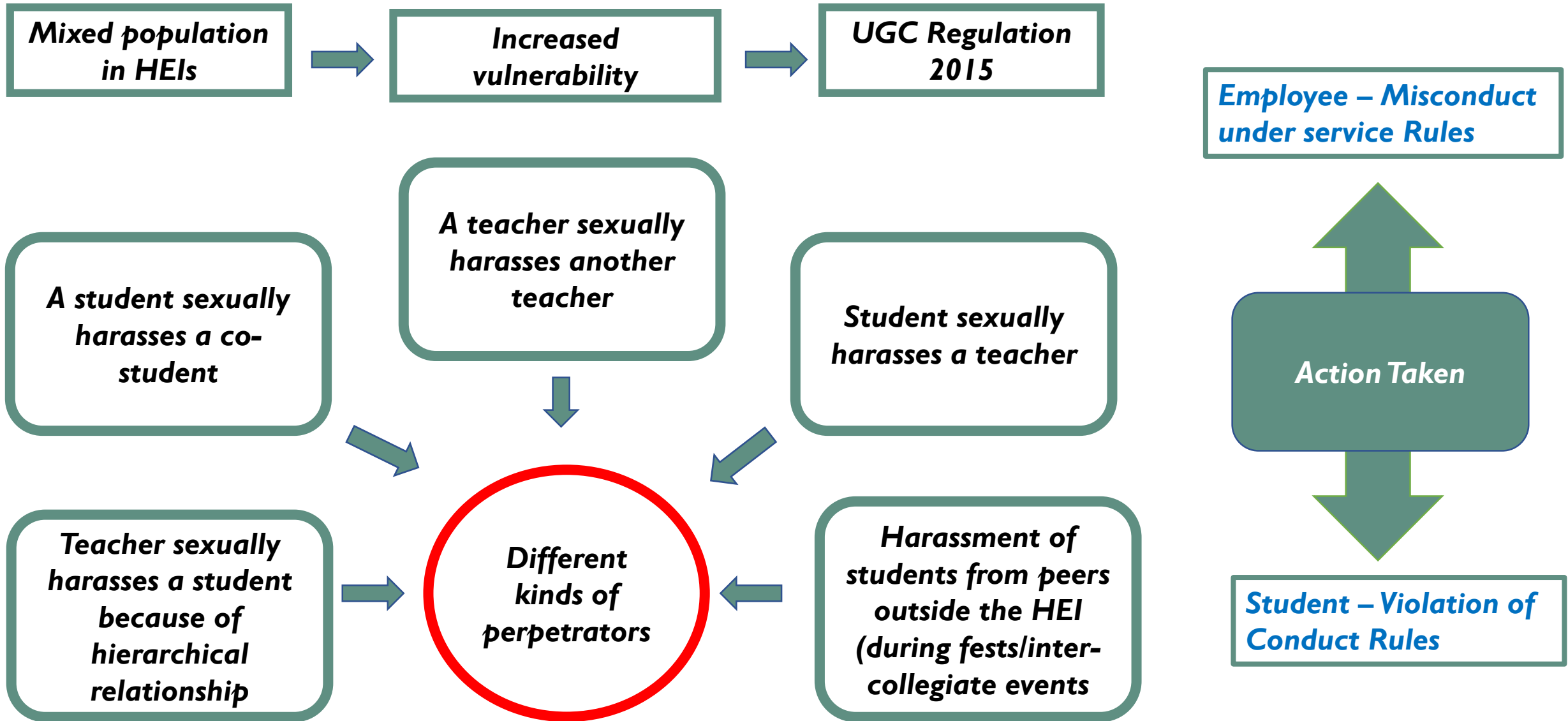
Who is an 'Employee'?

The POSH ACT covers all kinds of employment – regular, part-time, contract, voluntary, daily wage, probationers, trainees, apprentices, sub-contract worker, terms of employment are expressed or implied.

Higher Educational Institutions (HEIs)

- In HEIs, the work place is the entire campus and any department, organization, office, branch, unit established with funds directly or indirectly by the HEI.
- Stadium, sports facilities, sports institute or other activities in HEIs.
- Any place visited by employees or students as part of their employment or study would constitute work place.

UGC REGULATION 2015



SEXUAL HARASSMENT IN HIGHER EDUCATIONAL INSTITUTIONS (HEIs)

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

*UGC (Prevention, Prohibition & Redressal of
Sexual Harassment of Women employees and
Students in Higher Educational Institutions)
Regulation, 2015*

***The POSH Act 2013
and the
UGC Regulation 2015
have to be read
together whenever
POSH mechanisms are
set up in HEIs.***

WHAT IS THE INTERNAL COMMITTEE?

The IC is a Statutory body that MUST be established in all organizations / institutes /work places that employ more than 10 persons.

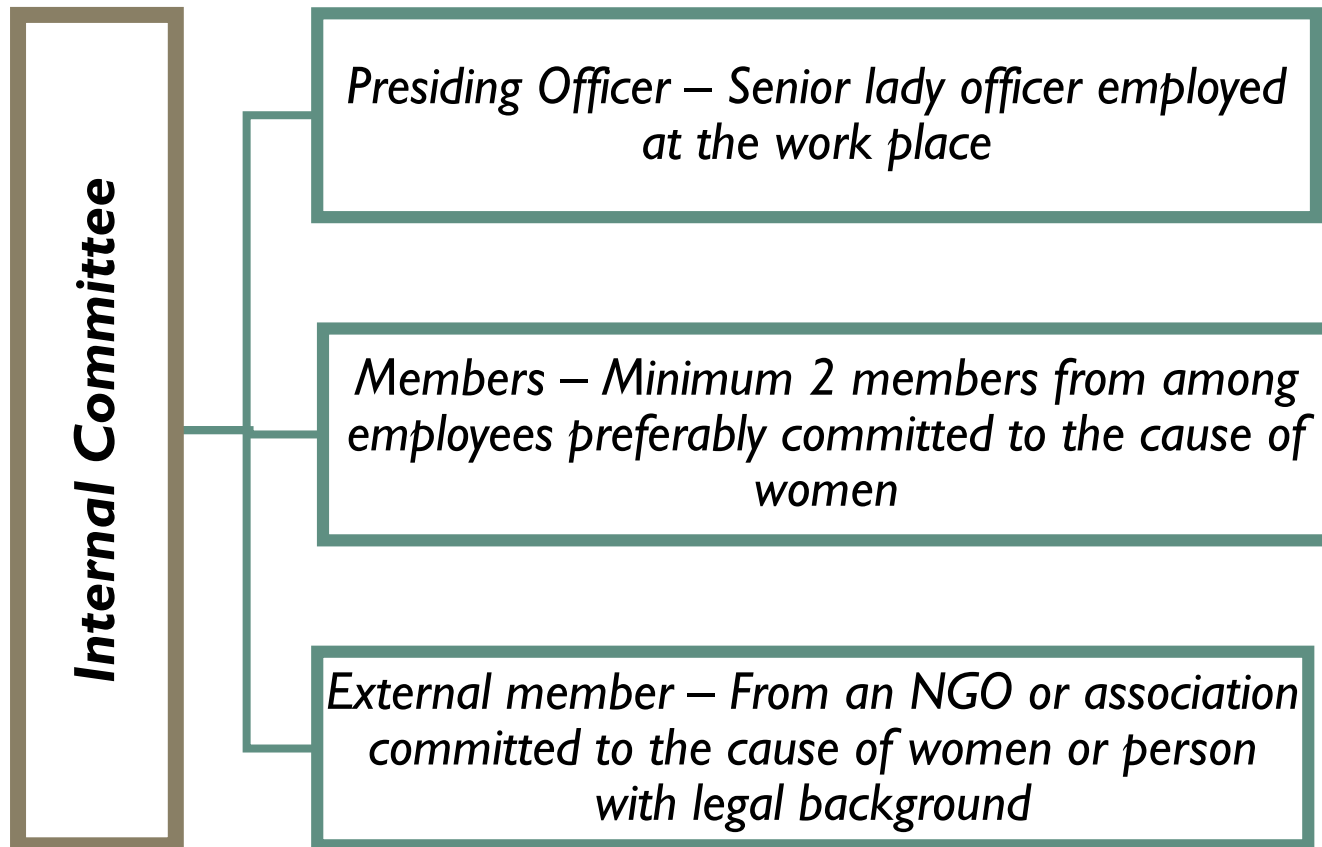
The purpose of this body is to ensure a safe work/study environment for women and follows the principles of natural justice when disposing of matters referred to it.

Non-compliance with this statutory requirement could invite penal action.

***The Internal
Committee (IC)***

COMPOSITION OF THE IC

The POSH Act requires an employer to set up an Internal Committee (IC) at each office /organization employing more than 10 people



If the matter involves students, 3 student representatives one each from the UG, PG and Doctoral levels of the Institute, elected through a transparent democratic process, must be present during the proceedings.

- Not less than half the members of the IC must be women*
- A minimum of 3 members of the IC must be present during the proceedings*
- The term if the IC members shall not exceed 3 years*

THE INTERNAL COMMITTEE (IC) - FUNCTIONS

Proactively prevent & prohibit sexual harassment at work place

Help create a healthy work environment

Receive complaints and initiate fair redressal process

Ensure timely completion of inquiry

Provide relief to complainant/victims of sexual harassment

Ensure no retaliation or backlash for reporting harassment

THE INTERNAL COMMITTEE (IC) - POWERS

Accorded the powers of a Civil Court

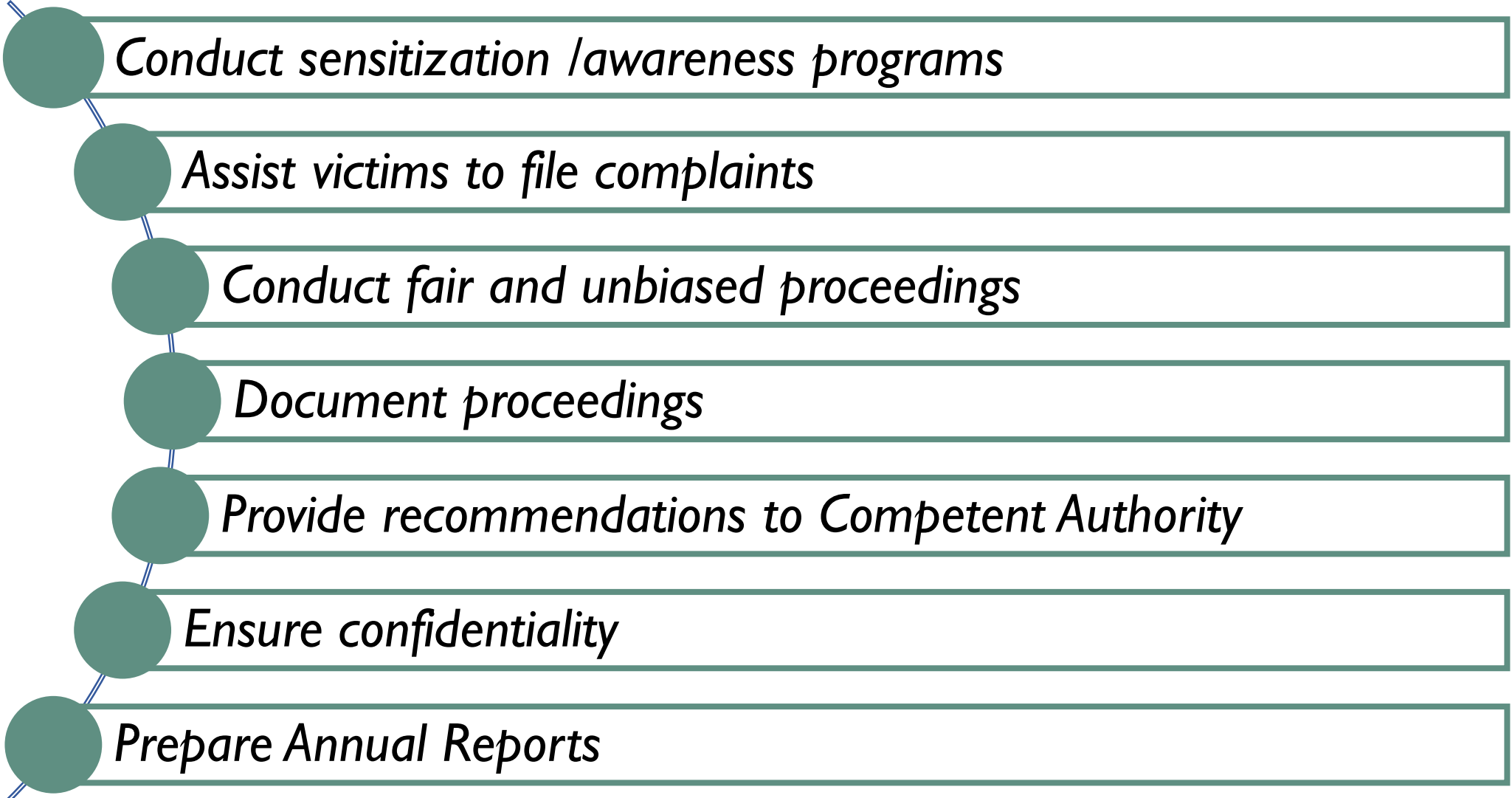
Can ask for documents and call witnesses

Take disciplinary measures if requests are not followed

Can reprimand, transfer, deduct salary or increment

Terminate services of respondent & award damages to victims

THE INTERNAL COMMITTEE (IC) - RESPONSIBILITIES



Conduct sensitization /awareness programs

Assist victims to file complaints

Conduct fair and unbiased proceedings

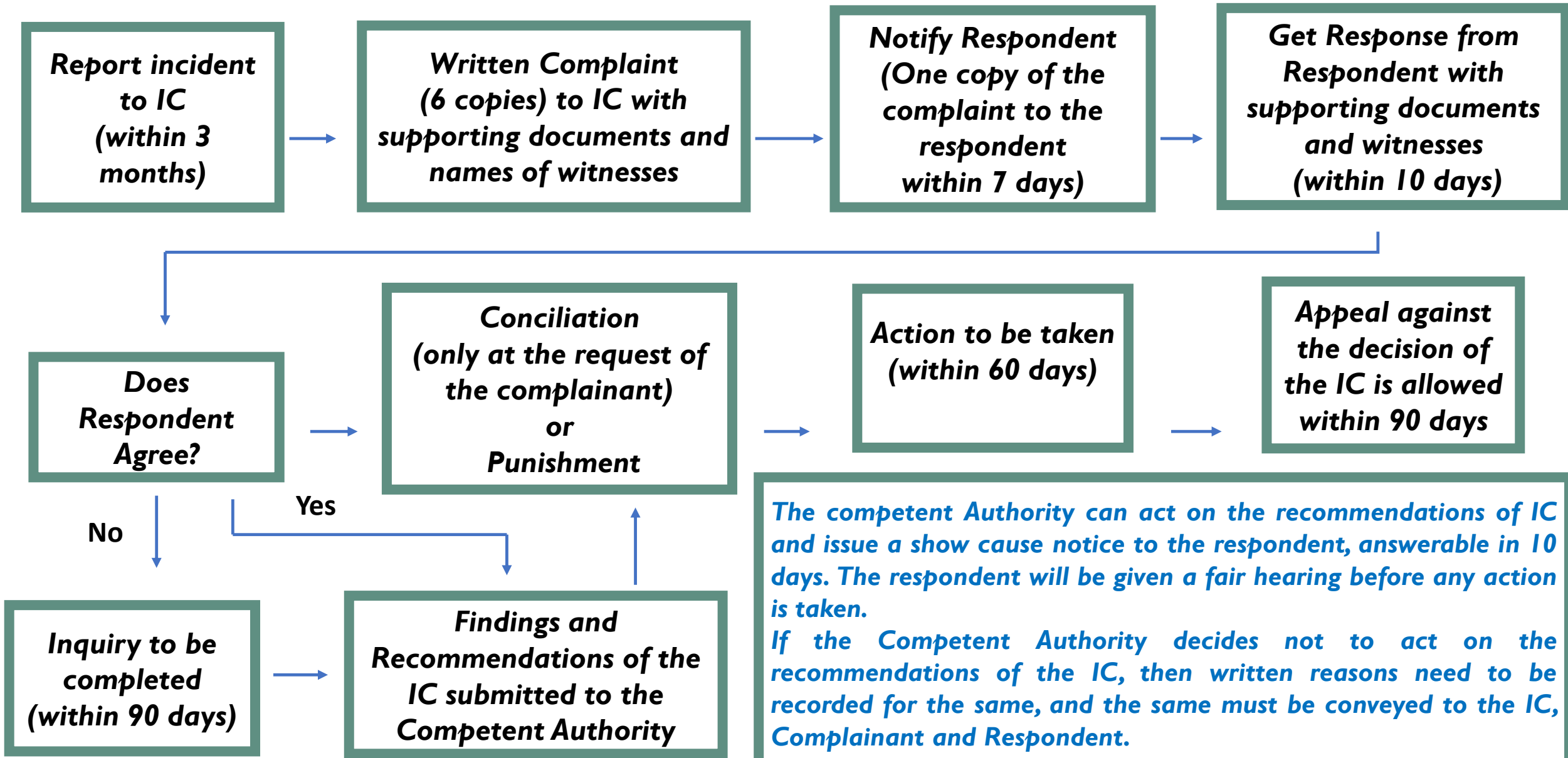
Document proceedings

Provide recommendations to Competent Authority

Ensure confidentiality

Prepare Annual Reports

REDRESSAL MECHANISM & TIMELINE FOR FILING OF COMPLAINT



CONFIDENTIALITY



- *All proceedings conducted by the IC will remain confidential and the identities of the complainant, respondent and all witnesses shall remain confidential at all times, even after the inquiry.*
- *Every one who has attended the IC proceedings, including the witnesses, are sworn to an oath of secrecy. This is to ensure the dignity of the complainant and respondent. Penalties will be imposed on anybody who violates the oath of secrecy.*
- *All members of the IC are obliged to maintain confidentiality at all times. Breach of confidentiality agreement is punishable in accordance with the service rules applicable to the person. Where no such service rules exist, a fine of predetermined/specified value will be imposed.*

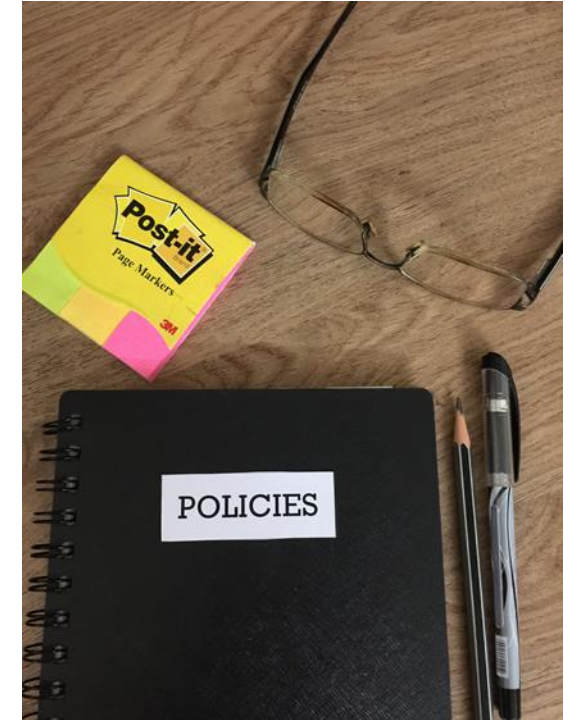
PROCEDURAL REQUIREMENTS & FRIVOLOUS COMPLAINTS

It is mandatory that all proceedings of the IC are well documented. Audio recording is also permitted as part of the documentation process. The Presiding Officer, members of the IC, the complainant, the respondent and all witnesses must endorse the documents in token of authenticity.

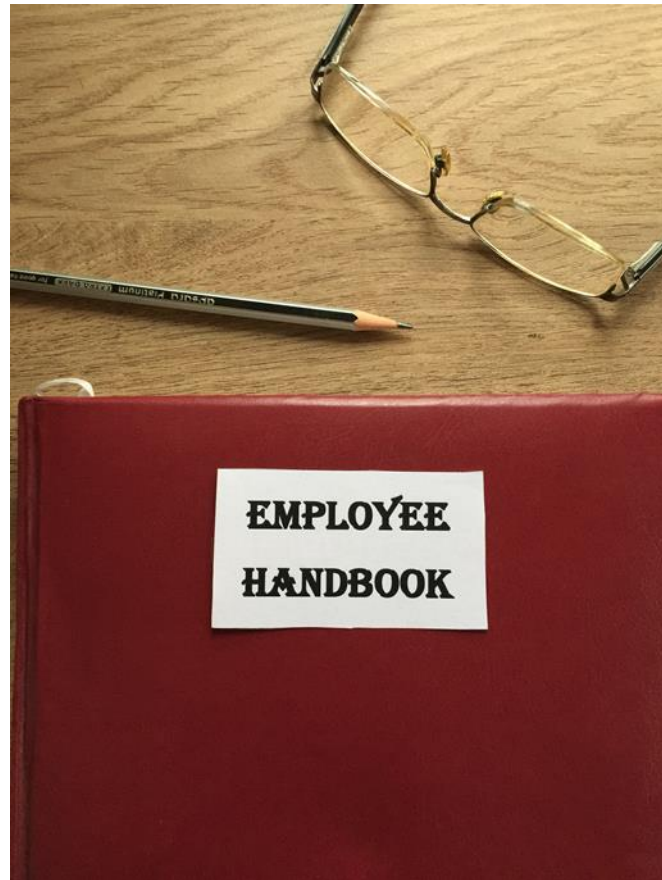
If the aggrieved woman chooses to file a complaint in relation to the offence, under the IPC or any other law for the time being in force, the IC is obliged to provide her with the necessary assistance to do so.

The IC shall prepare an annual report with details on the number of cases filed and their disposal and submit the same to the Director.

As per the POSH Act, if the allegation made by the complainant is found to be mala fide/false/incorrect, or if the evidence has been tampered with, or if the complainant has wilfully provided misleading/malicious information during the inquiry, the IC is empowered to initiate proceedings against the complainant in accordance with the service rules of the organisation.



THE ANTI-SEXUAL HARASSMENT POLICY



- *Clearly defines 'sexual harassment' and outlines the scope and applicability*
- *Reiterates ZERO - TOLERANCE policy of the Institute towards sexual harassment*
- *Explains the extended concept of workplace and employee*
- *Widely communicates the Complaint and Redressal mechanism*
- *Promotes the policy at all levels of the Institute*
- *Ensures that the policy is easily accessible and also regularly distributes it*
- *Provides a copy of the policy to all new students, faculty and staff*
- *Reviews the policy periodically & update information regarding IC on a timely basis*

DIFFERENT TYPES OF WORKPLACE HARASSMENT

When a manager, employee, or group of employees creates a hostile work environment for another employee because he/she reported a violation/ indiscretion or because he/she is doing the job diligently, or penalizes the person for good performance, it is retaliation.

RETALIATION

POWER HARASSMENT

Power harassment is when a superior frequently uses intemperate language /verbal abuse, or demands an employee to do something job-inappropriate, or threatens to dismiss/reprimand an employee for a minor error.

DIFFERENT TYPES OF WORKPLACE HARASSMENT

WORKPLACE BULLYING

Direct threats and intimidation are obvious harassment, but even gossip and other passive-aggressive behaviours can be classified as bullying.

Unfair and unequal treatment based on gender, race, religion, age, sexual orientation, disabilities, job role, education level, physical characteristics.

DISCRIMINATION

GENDER HARASSMENT

This is a type of discriminatory harassment where you are treated in a discriminatory manner because of your gender.

*While gender harassment is often confused with sexual harassment, **the two are different.***

Gender harassment can happen without any sexual innuendo, in such cases it does not come under the purview of the IC.

However, if gender harassment has an underlying sexual entanglement, it definitely comes under the scanner of the IC.



WORKPLACE HARASSMENT

The work place harassments described in the previous 3 slides are not gender specific.

Victims of such harassment are encouraged to approach other grievance redressal forums established in the Institute.

Women could also reach out to the Gender Cell for complaints against these forms of harassment.

**ZERO
TOLERANCE**



***IISER TVM has
ZERO TOLERANCE
to any form of
harassment.***

***Transgressors will be dealt with
severely***

For registering complaints via email

***internalcomplaints_members@iisertvm.ac.in
internalcomplaints_chairperson@iisertvm.ac.in***

THANK YOU!

The following documents have been referred to in the preparation of this presentation.

- 1. The POSH Act 2013*
- 2. UGC Regulation 2015*
- 3. POSH – Legal and HR Considerations, Booklet by Nishith Desai Associate, December 2020*
- 4. Handbook on Sexual Harassment of Women in the workplace by GOI, Ministry of Women & Child Development, November 2015*
- 5. Training module On prevention of Sexual harassment of women at Workplace, Shashi Bala, V.V. Giri National Labour Institute*