

Frequently Asked Questions (FAQs)

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

1. What is Sexual Harassment at workplace?

Sexual Harassment is any unwelcome act or behaviour (whether express or implied), such as:-

- Physical contact or advance
- A demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography
- Any other physical, verbal or non-verbal conduct of a sexual nature.

Sexual harassment at workplace can take various forms. It can involve conduct such as:

- unwelcome touching, hugging or kissing
- staring or leering
- suggestive comments or jokes
- unwanted or persistent requests to go out
- intrusive questions about another person's private life or body
- Deliberately brushing up against someone
- insults or taunts of a sexual nature
- sexually explicit pictures, posters, screen savers, emails, twitters, SMS or instant messages
- accessing sexually explicit internet sites
- inappropriate advances on social networking sites
- behaviour which would also be an offence under the criminal law, such as physical assault indecent exposure sexual assault, stalking or obscene communications.

2. How many kinds of sexual harassment at workplace are there?

Sexual harassment of workplace is of two kinds:

- Quid pro quo
- Hostile work environment

3. What is 'Quid Pro Quo' kind of sexual harassment at workplace?

Quid pro quo is a Latin term which literally means '**this for that**'.

Quid pro quo sexual harassment means subjecting a woman to unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of a sexual nature on account of the following:

- To force the woman to agree with such conduct by promising/threatening her (explicitly or implicitly) preferential/detrimental treatment in her job. For example: if you agree to accompany me on a study tour, I will give you promotion or in case you refuse, I will transfer you other place.
- Submission to or rejection of such conduct by the woman is used as the basis for deciding the future course of her job. For example: if you refuse to obey my demand, I will not renew your contract.

4. What is 'hostile work environment' kind of sexual harassment at workplace?

Creation of a hostile, intimidating or an offensive work environment with the purpose of unreasonably interfering with woman's work performance or subjecting woman to humiliating treatment likely to affect her health and safety.

5. What is unwelcome sexual conduct?

A sexual behaviour only becomes sexual harassment at workplace only if it is unwelcome to the woman who is in receipt of such behaviour.

6. Who can complain about of sexual harassment at workplace?

Here, student means a woman above 18 years of age. Those who are under 18 years of age can lodge an FIR under the Protection of Children from Sexual Offences Act, 2012.

7. Does the act constituting sexual harassment have to occur at work?

No. The act does not necessarily have to occur at workplace only. It could occur in any of the following places:

- Social event organised by your employer,
- During work-related travel,
- At a client or customer's premises,
- At training events, business lunches or dinners, promotional campaigns or public relations events with clients, customers or prospective partners or
- During the course of work-related phone conversations or communications via electronic media.

8. If I am a victim of sexual harassment, what should I do?

If you feel comfortable in approaching the harasser yourself, you could directly tell the perpetrator that you find his behaviour unwelcome or inappropriate and ask him not to repeat. Or

You can approach the Internal Complaints Committee established within your organization under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (the SH Act), 2013 with a written complaint. Or

In case, your organisation does not have ICC or if you want to make a complaint against the employer himself or if you work in the capacity of domestic help, then you can lodge your complaint with Local Complaints Committee established in your respective district under the SH Act. Or,

You can contact the nearest police station to lodge an FIR against the perpetrator.

9. What is Internal Complaints Committee (ICC)?

Every organization has to constitute an Internal Complaints Committee (ICC) having following members

- Chairperson – Women working at senior level in the organisation
- 2 Members (at least) – Amongst employees committed to women issues, have legal knowledge or experience in social work
- 1 Member – from NGO

If the organisation has workplaces located at different places or division or sub-division level, then ICC will be constituted at every workplace.

10. What is Local Complaints Committee (LCC)?

The State Government will notify the District Magistrate/Additional District Magistrate/Collector/ Deputy Collector as **District Officer** in every district, who will constitute a Local Complaints Committee (LCC) so as to enable women in the unorganised sector or small establishments to work in an environment free of sexual harassment. The LCC will have following members:

- **Chairperson**- Nominated from amongst the eminent women in the field of social work and committed to the cause of women
- **Member**- Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
- **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:
 - At least one must be a woman
 - At least one must have a background of law or legal knowledge
- **Ex Officio member** - The concerned officer dealing with social welfare or women and child development in the district

11. How to locate ICC within your organisation?

As per the Act, the employer is obligated to display the order constituting ICC at any conspicuous place in the workplace. However, if this is not done, then one can contact the employer/head of the department/human resource department to obtain information about the ICC constituted under the SH Act.

12. How to locate LCC in a particular district?

For locating LCC or one of its members, one can adopt following measures:

- Contact the District Officer's office
- Contact One Stop Centre/Women Helpline (toll free through 181, 100 etc.) functioning in your district/State
- Contact the State Commission for Women
- Contact the State Department of Women and Child Development/department looking after women issues

13. What if ICC/LCC is not constituted in the organisation/district?

Non constitution of Complaints Committee is punishable with a fine of Rs. 50,000/- and repeat offenders will be punished with cancellation/withdrawal of licence/registration required for carrying on business activities. The aggrieved can approach the court to complain about the same.

14. Who can make a complaint?

- Aggrieved Women Herself, or
- In case of **physical incapacity**
 - Her relative
 - Friend
 - Co worker
 - Officer of NCW or SCW
 - Any person who has knowledge of incident with the written consent of complainant
- In case of **mental incapacity**
 - Her relative
 - Friend
 - Special educator
 - Qualified psychiatrist or psychologist
 - Guardian or authority under whose care she is receiving treatment or care
 - Any person who has knowledge of incident jointly with any person mentioned above
- In case woman is unable to file complain for any other reason, by any person who has knowledge of incident with her written consent
- In case of woman's **death** by:
 - Any person who has knowledge of incident with the written consent of her legal heir
 - Legal Heir

15. How to make a complaint of sexual harassment at workplace under the SH Act??

In case, aggrieved woman is unable to submit written complaint, the Complaints Committee will provide her all assistance so that the complaint could be submitted in written form.

Further, if the Complaints Committee is satisfied, it can extend the time limit for submission of complaint (not exceeding three months), however the reason for such extension will be recorded in writing.

16. What will the Complaints Committee does when a complaint is submitted to it?

The Complaints Committee (ICC/LCC) will conduct an inquiry into the complaint by calling all the concerned parties i.e. complainant, respondent [the person(s) against whom

complaint is being made], witnesses etc. Later, on the basis of the testimonies of the concerned parties and evidences (documentary or otherwise) gathered, the Committee will frame its findings, which will be shared with the employer.

If the Committee comes to the conclusion that the allegations against the respondent are genuine, it shall recommend action that needs to be taken by the employer against such person. However, if the Committee concludes after inquiry that no case is being made against the respondent, it shall recommend that no action to be taken against the respondent.

17. Can the complainant ask for some interim relief during the inquiry from ICC?

During the inquiry, at the written request of complainant, ICC can provide following interim reliefs to the complainant:

- Transfer the complainant or respondent to any other place
- Grant leave to the complainant for upto 3 months in addition to her entitled leave
- Restrain the respondent from reporting on the work performance/ writing confidential report of aggrieved
- Restrain the respondent from supervising academic activities of aggrieved

18. What kind of punishment could be awarded under the Act?

- As prescribed under the Service Rules
- In case service rules do not exist
 - Disciplinary action including written apology, reprimand, warning, censure
 - withholding of promotion/ pay raise/ increment
 - Termination of employment
 - Undergo counselling
 - Community service
- Deduction from salary for:
 - Mental Trauma, pain, suffering and emotional distress caused
 - Medical expenses incurred
 - The loss of career opportunity
 - The income and financial status of respondent
- If the amount is not paid it can be recovered as arrear of land revenue

19. Is the inquiry under the SH Act has to be completed in a given time frame?

Yes, the SH Act envisages a time bound inquiry which needs to adhere to following timelines:

Description	Timeframe
Submission of Complaint	Within 3 months of the last incident
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 by employer	Within 60 days
Appeal	Within 90 days of the recommendations

20. What about maintaining confidentiality of the cases related to sexual harassment at workplace?

The Act prohibits the disclosure of:

- Identity and address of complainant, respondent and witnesses
- Information pertaining to conciliatory/ inquiry proceedings or recommendation of ICC or action taken by the employer.

Breach of confidentiality will invite a penalty of Rs. 5,000/- which will 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

21. What are the obligations of employer under the SH Act?

- Formulation of an Anti Sexual Harassment Policy
- Display within organisations the penal consequences of sexual harassment at places where it could be viewed by majority of the people
- Create an ICC at each location and display their contact details
- Sensitisation and training of employees and ICC members
- Provide administrative support and monitor timely submission of reports by ICC
- Mention the number of cases filed and disposed of under the SH Act within organisation's annual report.
- Help the aggrieved women in registering criminal case, if she so desires.

22. Can I register both FIR and lodge complaint with Complaints Committee at the same time?

Yes, a woman if she chooses to do so may both file the FIR with the police and complaint with Complaints Committee simultaneously.