

What is Conciliation

Conciliation is an alternative way to resolve a dispute between parties using a mediator. Conciliation can be initiated by the Internal Complaints Committee (ICC) as an option of redressing workplace sexual harassment complaints, **only if the aggrieved person requests for the same.**

Conciliation under POSH Act

1. The ICC before initiating an inquiry under section 11 and at the request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation: (please note that the respondent does not have the right to ask for a conciliation)and

Provided that “***no monetary settlement***” shall be made as a basis of conciliation

2. Where a settlement has been arrived at, the ICC shall record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation
3. The ICC shall provide the copies of the settlement as recorded to the aggrieved woman and the respondent.
4. Where a settlement is arrived at, no further inquiry shall be conducted by the ICC

Intent

Conciliation is a procedure followed by the ICC to provide with all fairness a practical resolution to issues raised by the complainants. A resolution, for example, in the form of an oral / written apology or admission of guilt, etc... to avoid lengthy legal process that could be expensive, intrusive and stressful.

Procedure

There is no prescribed procedure by the Act, so the ICC has freedom to conduct it the way it seems appropriate and follow the principles of natural justice and gender sensitivity.

Our thoughts on the procedure to be followed:

1. A written complaint by the victim/complainant and a written request for conciliation (either through mail or written complaint) is a must.
2. Complainant may in such request, set out her terms for conciliation (cannot include terms for monetary settlement).
3. The ICC has to provide a copy of the complaint and such terms of conciliation as requested by the complainant to the Respondent (alleged harasser).
4. The ICC should choose an appropriate and comfortable venue for both the parties to initiate the talk.
5. The conciliation has to be conducted by any member of the ICC chosen by the presiding officer. The external consultant may oversee the proceedings to eliminate any sort of bias.
6. ICC has to document details of meeting between the committee representatives, the complainant and respondent (alleged harasser) in the conciliation proceeding.
7. Once a satisfactory settlement has been arrived at, it has to be documented and signed by all the parties who were part of the conciliation procedure.
8. A copy of the settlement has to be given to the complainant, the respondent, the employer and one copy to be filed by the ICC for their records.
9. Any information related to conciliation in a matter of sexual harassment shall not be published, communicated or made known to the public, press and media. The settlement reached between parties ie ICC members, Complainant, Respondent (alleged harasser) shall remain utmost confidential.
10. Only carefully examined and deemed minor offenses should be solved through conciliation and major offenses (As decided by ICC to be serious) should not be attempted by conciliation.

Metis POSH provides training to committee members on conducting inquiries, related documentation and reporting. Please email: jayaprada@posh.metisindia.com or call **9880711690** for more details.