

Duties of IC

Section 4 of the Prevention and Prohibition of Sexual Harassment of Women at workplace Act, provides for the constitution of an IC or the Internal Complaints Committee. Any company which has 10 or more employees need to constitute a Committee to address the complaints related to Sexual harassment arising at workplace. Integrity and impartiality of the IC is ensured by presence of an External person as a member of the IC. In an organization, only an IC has the power to investigate complaints of sexual harassment. The IC shall have minimum 4 members out of which the head of the committee shall be a woman. 50% of the members nominated for IC have to be women.

We have collated all the activities that the IC must carry out and created a checklist. It includes the following:

1. Receive complaints and ensure that the complaints received are in the form and manner prescribed.
2. Render assistance to the complainant if he/she is not able to make it in writing.
3. In case the complaint has not be made within 3 months of the last incident of alleged sexual harassment , then grant an extension of time period not exceeding 3 months and record in writing the reasons for granting such extensions.
4. Upon receipt of the complaint, inform the complainant of her rights under the Act and Rules, without influencing her decision in any matter in connection with the complaint.
5. If requested by the complainant, before initiating inquiry into the complaint, take steps to settle the matter between the complainant and respondent through conciliation and ensure that the conciliation does not entail any monetary settlement.
6. Record the terms of settlement and forward the same to the employer and copy each thereof to the complainant and the respondent.
7. Proceed with investigation into the complaint in case the complainant has not requested for a conciliation, or where conciliation fails,
8. Ensure to record in writing, all proceedings of the IC in connection with an investigation.
9. Please keep in mind that while conducting the investigation, your IC is vested with the powers equivalent to a civil court with respect to i) summoning and enforcing the attendance of any person and examining him/her on oath, ii) requiring the discovery and production of documents and iii) any other matter which may be prescribed.

10. You must complete the inquiry within 90 days of the receipt of the complaint.
11. During the pendency of the inquiry, upon the request made by the complainant, Recommend to the employer certain interim measures aimed at ensuring that the complainant does not have to face any inconvenience, hostility and reprisals at workplace in connection with the complaint made by her. Such interim measures may include transfer, leave etc as set out in section 12 of the act.
12. Provide a report of the findings to the employer and other concerned parties including the complainant and the respondent, within 10 days of completion of the investigation.
13. On conclusion that the allegations against the respondent have not been proved, recommend to the employer that no action be taken against the respondent.
14. On conclusion that the allegations against the respondent have been proved then recommend to the employer to take action against the respondent pursuant to sections 13 and 15 of the act.
15. On conclusion that the complaint was a malicious complaint, then recommend to the employer to take action against the complainant as per the section 9 of the act.
16. On conclusion that any witness has given false evidence, then recommend to the employer to take action against such witness.
17. Keep confidential all information and records including identity of complainant and respondent, details of the complaint, investigation by the IC and actions taken by the employer during and/or at the conclusion of the investigation.
18. Each year, prepare an “Annual Report” containing particulars set out in Rule 14 and submit the same to the employer.
19. Ensure that your IC members participate in the orientation and training programmes which the employer organizes from time to time.
20. Ensure to take a session during the new hire orientation and make a presentation to the new joiners about the POSH policy, its features, ICC and other important facets. If the HR is doing this, it is highly recommended that the “POSH” part be handed over to the IC.
21. Constantly keep a vigil on the internal processes to check on the safety parameters for women workers especially. Recommend to the employer on changes that needs to be incorporated in various policies, processes and procedural matters related to safety of employees/prevent any kind of sexual harassment from taking place