

PoSH Act - Behaviours - Check List - Cases - Role of HR

The PoSH (Prevention of Sexual Harassment) Act, 2013, defines and prohibits specific unwelcome behaviours, outlines a formal complaint and inquiry process through the Internal Committee (IC) and assigns critical responsibilities to the Human Resources (HR) department for compliance and culture building.

Behaviours Considered Sexual Harassment

Under Section 2(n) of the PoSH Act, sexual harassment includes any of the following unwelcome acts or behaviours, whether physical, verbal or non-verbal:

- Physical contact and advances.
- A demand or request for sexual favours.
- Making sexually coloured remarks. (e.g., commenting on a person's appearance in a sexual way, making sexual jokes).
- Showing pornography or other explicit materials.
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

It also includes circumstances linked to these acts that create a hostile work environment or affect employment status, such as:

- An explicit or implicit promise of preferential treatment in employment.
- A threat of detrimental treatment in employment (e.g., demotion, denial of promotion).
- Interference with work or creating an intimidating, offensive, or hostile work environment.
- Humiliating treatment likely to affect the employee's health or safety.

Compliance Checklist for Employers/HR

HR plays a crucial role in ensuring the employer meets their statutory duties under the PoSH Act. A high-level checklist includes:

Formulate a PoSH Policy:

Draft and widely circulate a clear, zero-tolerance policy defining sexual harassment, the complaint process and disciplinary actions.

Constitute an Internal Committee (IC):

For organizations with 10 or more employees, establish an IC with at least four members, including a presiding female officer, other employees and an external member to ensure impartiality.

Organize Awareness & Training:

Conduct regular, mandatory orientation and training sessions for all employees and specialized training for IC members to sensitize them about the Act, their rights and expected behaviour.

Establish a Confidential Complaint Mechanism:

Ensure accessible and confidential channels for employees to report incidents (e.g., email, dedicated helpline, SHe-Box online portal).

Ensure Due Process and Documentation:

Ensure a time-bound (inquiry within 90 days), fair, and confidential investigation process, with proper documentation of all proceedings, from complaint receipt to resolution.

File an Annual Report:

Submit an annual report to the District Officer detailing the number of complaints received, resolved, and pending cases.

Display Information:

Prominently display details of the PoSH policy and IC members at the workplace.

Common Case Examples

Cases under the PoSH Act can range from overt physical actions to subtle psychological harassment:

Quid Pro Quo:

A manager tells an employee she will receive a promotion or better work benefits if she agrees to a sexual favour, or threatens negative consequences if she refuses.

Hostile Work Environment:

An employee is subjected to repeated sexual jokes, sexually explicit text messages, inappropriate staring, or comments about her body, making her uncomfortable and affecting her work performance.

Remote Work Harassment:

Stalking, sending inappropriate images or videos via company email or WhatsApp, or pressuring an employee to appear on video calls in a specific manner while working from home.

Role of HR

HR's role is pivotal in both prevention and redressal, acting as a bridge between policy and practice. Key responsibilities include:

Policy Formulation and Dissemination:

Actively participate in drafting the PoSH policy and ensuring it is communicated effectively to all employees.

First Responder:

Often the initial point of contact for an aggrieved employee. HR must listen empathetically, maintain confidentiality, and inform the complainant of their rights and the formal process to file a complaint with the IC.

Facilitator & Administrator:

Coordinate IC meetings, assist with documentation, arrange for necessary support (e.g., interim relief like change of workstation), and ensure timely closure of proceedings.

Promoting Awareness:

Coordinate and track regular training programs for all staff and IC members, fostering a culture of respect and zero tolerance for harassment.

Systemic Intervention:

Analyze complaint trends and advise management on systemic solutions, such as more targeted training or departmental restructuring, to prevent recurrence.

Compliance and Reporting:

Ensure all legal requirements are met, maintain meticulous records, and coordinate the submission of the annual report to the District Officer.

Avoiding Investigation:

HR should not act as the investigator or judge the guilt or innocence of the accused; that is the sole mandate of the Internal Committee.
