

# **Role of HR in POSH Act Process - Responsibilities, Limitations & Best Practices**

## **Introduction**

Workplace harassment not only violates the dignity of an employee but also hampers organizational growth, morale, and productivity. To combat sexual harassment at workplaces, India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the POSH Act. The Act mandates every organization with 10 or more employees to establish an Internal Committee (IC), frame policies, and create a safe working environment.

Within this framework, the Human Resources (HR) department plays a vital role. Although HR is not the decision-making authority in POSH inquiries (that responsibility lies with the IC), it is the bridge between employees and the organization, ensuring that policies are implemented effectively, awareness is spread, and complaints are handled sensitively.

## **Need for POSH Act in Workplaces**

### **1. Protecting Employee Dignity**

The POSH Act ensures that employees, particularly women, can work without fear of sexual harassment, thereby upholding their fundamental right to equality and dignity at work.

### **2. Legal Compliance**

Non-compliance can lead to heavy penalties, cancellation of licenses, and reputational damage to organizations.

### **3. Safe Work Culture**

A harassment-free workplace boosts morale, productivity, and employee trust.

### **4. Preventing Power Misuse**

The law ensures accountability and provides a structured mechanism to address cases where power dynamics may be abused.

### **5. Encouraging Workforce Participation**

By safeguarding against harassment, organizations attract more women into the workforce, promoting diversity and inclusivity.

## **Why HR Plays a Critical Role in Prevention & Compliance?**

### **1. Policy Creation & Communication**

HR ensures that the organization has a clear POSH policy and that employees are aware of it.

### **2. Training & Awareness**

HR conducts workshops, sensitization sessions, and orientation programs to educate employees on acceptable behavior and complaint mechanisms.

### **3. Complaint Support**

As the first point of contact, HR helps employees understand the process of filing complaints and guides them to the Internal Committee.

### **4. Neutrality & Trust**

HR ensures fair handling of complaints without bias or favoritism, maintaining confidentiality and employee trust.

### **5. Compliance Monitoring**

HR tracks whether the IC is functioning effectively, ensures annual reports are filed, and aligns organizational practices with the legal mandate.

## **Role of HR in the POSH Act Process**

### **1. Facilitating Awareness & Training**

One of the primary responsibilities of HR is to ensure that employees are well-informed about the POSH Act and the organization's internal policies on sexual harassment. This includes organizing regular awareness sessions, interactive workshops, and induction programs for new employees. Effective training not only educates employees about what constitutes sexual harassment but also clarifies the process for reporting and seeking redressal.

### **2. Assisting in Constitution & Functioning of the Internal Committee (IC)**

The POSH Act mandates every workplace with 10 or more employees to constitute an Internal Committee (IC). HR often plays a supporting role in ensuring the IC is properly formed, has the required members (including an external expert), and functions smoothly. HR can also coordinate IC meetings, maintain compliance calendars, and provide logistical support during inquiries.

### **3. Receiving Complaints & Guiding Complainants**

While HR is not the decision-making authority, employees often approach HR as the first point of contact for concerns related to workplace harassment. HR's role is to listen empathetically, explain the complaint mechanism, and guide employees to formally approach the IC. Importantly, HR should avoid overstepping or influencing the complainant's choice.

### **4. Supporting Inquiry Proceedings without Bias**

During inquiry proceedings, HR's role is facilitative, not investigative. HR may help with scheduling, arranging documentation, or coordinating between the IC and employees involved. However, HR must ensure neutrality and avoid influencing either the complainant, respondent, or IC members.

### **5. Ensuring Implementation of IC Recommendations**

Once the IC submits its findings and recommendations, it is the employer's duty to act. HR plays a critical role in ensuring that recommendations (such as disciplinary action, transfers, or compensation) are properly implemented. This helps in maintaining compliance and reinforcing employee trust in the system.

## **Responsibilities of HR under PoSH**

### **1. Policy Formulation & Communication**

HR ensures that the organization has a comprehensive POSH policy aligned with the Act. This policy should be communicated effectively to all employees through handbooks, emails, and notice boards.

### **2. Conducting Sensitization Programs**

Regular gender-sensitization programs and workplace behavior workshops conducted by HR help in building a respectful work culture. These sessions should cover examples, case studies, and interactive Q&A to make employees feel engaged and informed.

### **3. Record Keeping & Documentation**

HR must maintain accurate records of complaints, IC proceedings, training sessions, and compliance reports. These records may be crucial during inspections, audits, or legal scrutiny.

### **4. Monitoring Compliance & Reporting**

HR helps ensure that annual reports required under the POSH Act (detailing number of complaints received and resolved) are submitted to the appropriate authority.

They also act as compliance monitors, checking whether IC recommendations are implemented and if preventive measures are working effectively.

### **Limitations of HR in the POSH Process**

The Human Resources (HR) department plays a vital role in facilitating the smooth implementation of the POSH Act in organizations, but its role comes with certain limitations and boundaries that must be respected to ensure fairness and legal compliance. Understanding these limitations is essential so that HR does not unintentionally undermine the independence of the Internal Committee (IC).

#### **1. HR is not a substitute for the Internal Committee**

While HR is often the first point of contact for employees, it is crucial to remember that HR cannot replace the IC. The Internal Committee is a statutory body mandated under the POSH Act with the authority to conduct inquiries, evaluate evidence, and recommend action. HR can facilitate logistics, provide necessary resources, and support the IC, but cannot directly adjudicate or interfere with IC decisions. Any attempt by HR to function as the IC risks invalidating the inquiry process.

#### **2. Avoiding Conflict of Interest**

HR professionals must avoid situations where their organizational responsibilities may conflict with the neutrality expected under the POSH Act. For example, HR often represents management interests, such as protecting the company from liability. If HR becomes too deeply involved in the inquiry process, there is a risk that the interests of the organization may be prioritized over justice for the complainant or respondent. To prevent this, HR should act as a facilitator, not a decision-maker, ensuring that both parties have equal opportunity to present their case before the IC.

#### **3. Boundaries in Investigation & Decision-Making**

The responsibility of conducting investigations, questioning witnesses, and evaluating evidence rests solely with the IC. HR's role is limited to providing administrative and procedural support—such as scheduling meetings, arranging for external experts, and maintaining records. HR should not influence witnesses, guide testimonies, or suggest outcomes. This separation ensures that the inquiry process remains free from bias and undue influence.

#### **4. Maintaining Confidentiality without Overstepping**

Confidentiality is one of the most critical aspects of the POSH process. HR is often entrusted with sensitive information but must be careful not to misuse it. Over-disclosure of information can breach trust, while withholding information from the IC can obstruct justice.

HR's role is to maintain strict confidentiality in complaint handling, ensuring that details are shared only with those legally authorized (such as IC members) while safeguarding the dignity and privacy of all involved.

### **Best Practices for HR in the POSH Process**

While acknowledging its limitations, HR can still play a powerful role in strengthening POSH compliance by adopting the following best practices:

#### **1. Establishing a Safe Reporting Environment**

HR should ensure that employees feel secure in reporting incidents of sexual harassment without fear of retaliation. This includes creating clear communication channels, providing multiple modes of reporting complaints (online, offline, anonymous mechanisms), and building trust among employees that their concerns will be handled fairly and confidentially.

#### **2. Ensuring Neutrality and Fairness**

HR professionals must demonstrate complete neutrality while supporting the IC process. This means treating both complainant and respondent with respect, avoiding assumptions of guilt or innocence, and ensuring neither party faces victimization during or after the inquiry. By acting as an impartial facilitator, HR can enhance the credibility of the organization's POSH framework.

#### **3. Collaborating with IC & External Experts**

HR should actively support the IC by arranging for external members, subject experts, or legal advisors whenever required. Collaboration also extends to ensuring that IC members receive regular training in inquiry procedures, legal updates, and sensitivity handling. By bridging organizational resources and IC needs, HR helps strengthen the overall compliance mechanism.

#### **4. Continuous Training & Cultural Change Initiatives**

Prevention is the cornerstone of the POSH Act, and HR is uniquely positioned to drive this aspect. By organizing regular sensitization workshops, awareness sessions, and cultural change initiatives, HR can promote respectful workplace behavior. Beyond compliance, HR should strive to cultivate a zero-tolerance culture towards harassment, where inclusivity and gender equality are embedded in everyday organizational practices.

## **Challenges Faced by HR**

### **1. Handling sensitive complaints delicately**

HR professionals often find themselves as the first point of contact for employees who wish to share their concerns about sexual harassment. These complaints are usually highly sensitive, involving personal trauma, workplace dynamics, and reputational risks. The challenge for HR lies in creating an empathetic environment where complainants feel comfortable disclosing their issues without fear of judgment or retaliation. Mishandling such complaints—either by trivializing them or reacting with overt suspicion—can discourage victims from coming forward. Hence, HR must balance emotional sensitivity with professional objectivity, ensuring that the matter is addressed appropriately while adhering strictly to the legal process under the POSH Act.

### **2. Managing power imbalance cases**

One of the most difficult challenges arises when the accused is a senior manager, a key stakeholder, or someone in a position of significant authority. In such cases, employees may hesitate to report misconduct due to fear of career setbacks, negative appraisals, or retaliation. HR must handle these cases with exceptional caution, ensuring that no undue influence is exerted on the complainant, witnesses, or even members of the Internal Committee (IC). At the same time, HR has to prevent the misuse of the POSH mechanism against senior management through false or malicious complaints. Managing such delicate situations requires HR to act as a strong bridge between the complainant, IC, and management, while maintaining credibility, neutrality, and trust.

### **3. Balancing employee trust and organizational interest**

HR's dual responsibility—to protect employees and uphold organizational values—often creates tension. On the one hand, employees expect HR to act as their advocate, ensuring their voices are heard and their safety is prioritized. On the other hand, HR also represents the organization, which may seek to protect its reputation, financial interests, and operational continuity. This dual role can lead to conflicts where HR might be perceived as biased towards management or accused of not supporting employees enough. To balance these competing responsibilities, HR must rely on transparency, fairness, and consistent adherence to the POSH framework, thereby reinforcing trust in the system while safeguarding organizational integrity.

## **Judicial & Regulatory Insights**

### **1. Case laws highlighting HR's role in POSH compliance**

Indian courts have repeatedly emphasized the importance of organizations ensuring effective implementation of the POSH Act, with HR playing a vital supportive role. For instance:

- **Vishaka v. State of Rajasthan (1997):**

Though decided before the POSH Act, this landmark judgment laid down the Vishaka Guidelines, which highlighted the responsibility of employers to create mechanisms against sexual harassment. HR departments, post-2013, have become central in operationalizing these mechanisms.

- **Medha Kotwal Lele v. Union of India (2013):**

The Supreme Court reinforced that organizations failing to comply with the Vishaka Guidelines (later codified into the POSH Act) could face serious consequences. This places a heavy duty on HR to ensure not just the presence of policies but their effective execution.

- **Apparel Export Promotion Council v. A.K. Chopra (1999):**

The Court reiterated that even an act of sexual harassment without physical contact constitutes a violation, emphasizing the need for HR-driven awareness campaigns and proactive sensitization to prevent hostile work environments.

## **2. Lessons from corporate compliance failures**

Several high-profile cases in India have revealed gaps in HR's role during POSH implementation. For example, reports of organizational failures often highlight that HR either delayed reporting complaints, failed to ensure confidentiality, or inadequately supported the IC. In some instances, HR's excessive interference in IC inquiries compromised the independence of the process, leading to judicial censure. These failures serve as reminders that HR must act strictly within the POSH framework—neither overstepping into adjudicatory functions nor neglecting their supportive responsibilities.

### **Key takeaways for HR include:**

- Proactive monitoring of compliance rather than reactive crisis management.
- Ensuring periodic reporting to statutory authorities.
- Regular training of employees and IC members to prevent lapses.
- Avoiding reputational cover-ups, as courts treat suppression of complaints as serious non-compliance.

## **Practical Guidance for HR Professionals**

### **1. Checklist for HR while Handling POSH Matters**

HR professionals should have a structured approach whenever they are involved in POSH Act processes. A well-defined checklist ensures compliance, minimizes risks, and maintains neutrality:

- Ensure the POSH Policy is accessible and well-communicated to all employees.
- Verify constitution of the Internal Committee (IC) with at least four members, including an external expert.
- Conduct awareness sessions regularly for both employees and management.
- Acknowledge complaints promptly and guide complainants about the next steps.
- Maintain strict confidentiality in all cases and documentation.
- Provide logistical and administrative support to the IC without influencing proceedings.
- Ensure timely implementation of IC recommendations and submit annual reports to authorities.

## **2. Dos & Don'ts in Complaint Handling**

### **Dos:**

- Listen to the complainant with empathy and respect.
- Maintain neutrality and avoid premature judgments.
- Ensure the complainant knows their rights and the IC process.
- Assist in providing a safe environment for both parties during the inquiry.
- Keep written records of communications while ensuring confidentiality.

### **Don'ts:**

- Do not attempt to investigate complaints directly; that is the IC's responsibility.
- Avoid sharing details of the complaint with anyone outside the IC.
- Do not show favoritism to either the complainant or the respondent.
- Never delay communication or procedural steps, as this could amount to non-compliance.
- Avoid using POSH processes for organizational politics or retaliation.

## **3. Building Trust in the Redressal System**

For the POSH Act mechanism to function effectively, employees must feel confident in the system. HR plays a pivotal role in building this trust:

- **Transparency:**

Clearly communicate processes, timelines, and rights of employees.

- **Confidentiality:**

Reassure employees that information will be kept secure.

- **Support Systems:**

Provide counseling services or connect employees with external experts if needed.

- **Non-retaliation Policy:**

Strongly enforce policies that prohibit retaliation against complainants or witnesses.

- **Feedback Mechanism:**

Allow employees to share experiences about the POSH process to identify areas of improvement.

## **Conclusion**

The role of HR in the POSH Act process is delicate, powerful, and highly influential. HR professionals act as facilitators of awareness, policy implementation, and compliance, while ensuring fairness in handling complaints. At the same time, HR must respect the limitations of their role, recognizing that the Internal Committee alone has the mandate to investigate and decide cases.

A strategic approach requires HR to balance legal compliance, organizational interests, and employee trust. By adopting ethical practices, ensuring neutrality, and continuously fostering a culture of respect and safety, HR can become a cornerstone in making workplaces free from sexual harassment.

Ultimately, HR's role is not just about legal compliance but about shaping a safe, inclusive, and dignified workplace culture.

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