

## **Frequently Asked Questions (FAQs) Regarding Prevention of Sexual Harassment at Workplace**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter referred to as “the Act”) was enacted to ensure a safe and dignified work environment for women. If one faces any form of harassment, it is crucial to know one’s rights, the process of filing a complaint, and the support systems available.

### **I. General Questions:**

#### **i. What is Sexual Harassment at the workplace?**

Sexual harassment has been defined under Section 2(n) of the Act which states as follows:

“(n) “sexual harassment” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.”

#### **ii. What are the various forms of Sexual Harassment?**

Sexual harassment may be in any one or more of the following forms:

##### **a. Physical**

1. Touching;
2. Patting, caressing, or fondling;
3. Impeding or blocking movement;

4. Standing closer than appropriate or necessary for the work being done, touching or rubbing oneself sexually around or in view of another person, or assault.

**b. Verbal**

1. Targeting a person with sexual comments, jokes;
2. Verbal abuse of a sexual nature;
3. Making sexual comments about a person's clothing, body or looks;
4. Sexually degrading words used to describe an individual;
5. Turning work or academic discussions into sexual discussions;
6. Asking personal questions about sexual life.

**c. Visual**

1. Looking at someone in a sexually suggestive manner;
2. Making suggestive gestures;
3. Displaying pornography, sexually suggestive pictures, cartoons, caricatures etc.

**iii. Who can file a complaint?**

1. As per Section 9 of the Act, any aggrieved woman who has faced sexual harassment at the workplace can file a complaint.
2. An aggrieved woman, in relation to the Delhi High Court, means a woman, of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent within the precincts of the Delhi High Court.

Where an aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or for any other reason, the persons specified under Section 9 of the Act and under Rule 6 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 may make or continue with a complaint.

**iv. Against whom can a complaint be filed?**

- a) An officer or official of the Registry;
- b) Any staff in High Court of Delhi, including contractual staff;
- c) Law researchers/Interns;
- d) Any litigant coming to High Court of Delhi if the place of incident is High Court of Delhi.

**II. How can a complaint be filed?**

- 1. Through the website of High Court of Delhi on the designated portal; or
- 2. The Complainant/aggrieved woman can approach the Delhi High Court Legal Services Committee (DHCLSC) to assist in drafting the complaint (<https://www.dhclsc.org>); or
- 3. The Complainant/aggrieved woman can also approach the Nodal Officer designated to deal with sexual harassment complaints, for assistance.

**III. How should one decide which portal to use to file a complaint?**

- 1. One will have to go to the website of the High Court of Delhi and then scroll down towards the footer of the home page where the “Sexual Harassment Complaint” link appears.
- 2. Once the link is clicked, the Sexual Harassment Complaints home page will open. On the home page, three tabular options are available depending upon who the Respondent is.
- 3. **The First Tab is when the Respondent is a Permanent or Contractual employee of the Delhi High Court.** To file a complaint, the complainant/aggrieved woman has to click on the “File Complaint” Tab and enter her details along with the mobile number. The complainant/aggrieved woman will have the option of filing the complaint straightaway or of saving a draft of the complaint before filing the same.

4. **The Second Tab of the page will take one directly to the web page of Delhi High Court Bar Association.** If the respondent is a member of the Delhi High Court Bar Association, the complainant/aggrieved woman can directly make a complaint on the said web page.
5. **The Third Tab will take you to the web page of the Bar Council of Delhi.** If the respondent is an Advocate but not a member of the Delhi High Court Bar Association, then the complainant/aggrieved woman can directly make a complaint on the Tejasvi portal of the Bar Council of Delhi.
6. **THE SELECTION OF THE TAB WILL BE BASED ON THE INFORMATION AS TO WHO THE RESPONDENT IS, OR IS WORKING WITH, OR REGISTERED WITH, AS THE CASE MAY BE. Insofar as complaints to ICCs of District Courts are concerned, the same may be sent to the respective ICCs of the District Courts.**

#### **IV. What documents may be filed with the complaint?**

In addition to a written complaint signed by the complainant/aggrieved woman, the following additional documents may also be filed:

1. Any relevant evidence (e.g., emails, texts, audio/video recordings, photographs);
2. Details of witnesses (if any);
3. Any previous complaints or communications regarding the harassment;
4. Any other relevant material.

#### **V. What is the time period within which a complaint can be filed?**

As per Section 9(1) of the Act, a complaint must be filed **within 3 months (three months) from the date of the incident** of sexual harassment. However, in cases of continuing harassment, the time limit would be three months from the date of the last incident.

The Internal Complaints Committee/ Complaints Committee may however extend the time limit by three months as per the Act, for reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the aggrieved woman or complainant from filing a complaint within the stipulated period

**VI. Will the identity of the complainant/aggrieved woman be disclosed?**

No. The name, address, and identity of the complainant/aggrieved woman will be kept confidential and will not be disclosed.

**VII. Who will inquire into a complaint?**

The Internal Complaints Committee or the Complaints Committee of the Delhi High Court which is headed by a woman, will inquire into the complaint.

**VIII. What actions can be taken on a complaint?**

- i. Where the respondent is an employee of the High Court of Delhi to whom the service rules are applicable and against whom the charges are held to be proved, the Disciplinary Authority may direct action against the respondent as per the service rules. Besides, the Internal Complaints Committee may recommend award of compensation to the complainant/aggrieved woman.
- ii. Where the service rules are not applicable to the respondent and the Complaints Committee finds that the allegations of sexual harassment stand proved against the respondent, the Complaints Committee may recommend to the employer:
  1. any of the reliefs mentioned in IX below;
  2. to take any action including a written apology, warning, reprimand, withholding of pay rise (where applicable), terminating the services of the respondent (where applicable) or undergoing a counselling session or carrying out community service;
  3. award of compensation.

**IX. What action can be taken during the pendency of the inquiry to help the complainant/aggrieved woman?**

As per section 12 of the Act, the Internal Complaints Committee/Complaints Committee of the Delhi High Court may direct interim relief to be provided such as:

1. Transfer either the aggrieved woman or the Respondent to any other workplace, or
2. Grant leave to the aggrieved woman for a period upto 3 months, or
3. Temporarily suspend the Respondent, or
4. Grant such other relief to the aggrieved woman as may be prescribed.

**X. What action can be taken if the complaint is found to be false or malicious?**

As per Section 14 of the Act, if it is found after the inquiry that the complaint was filed with malicious intent or is false, the complainant/aggrieved woman can face disciplinary action and action can be taken in accordance with the provisions of the service rules applicable to her or where no service rules exist, in such manner as may be prescribed.

**XI. Can the same complaint be filed by the complainant/aggrieved woman on different portals?**

No. The same complaint cannot be filed on different portals for the same cause of action. However, if the harassment continues outside the precincts of Delhi High Court, complaint/complaints may be filed by the complainant/aggrieved woman before the appropriate Forum.

**XII. Can the complainant/aggrieved woman opt for mediation or conciliation before filing a complaint?**

1. Yes. The Complainant/aggrieved woman can opt for Mediation or Conciliation before filing the complaint. A provision for the same exists on the dedicated home page as well.
2. The Complainant/aggrieved woman can also contact the designated Nodal Officer for this purpose.

**XIII. Can counselling be given to the complainant/ aggrieved woman or the respondent?**

The Internal Complaints Committee or the Complaints Committee may provide assistance of a counsellor or of a doctor or psychologist to either party, in case the same is required or felt necessary.