

# Prevention of Sexual Harassment (POSH)

Re-designing your policy for the new normal

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# How does the pandemic shape POSH compliance?

Corporate India has accepted the new normal, embraced mass remote working. While we have been quick to address issues related to data privacy, client confidentiality and adapting to collaborative tools to support remote working, there are other workplace issues that require our attention. A large urban working population, approximately three million, is now working from home\*. It is expected that the demand for remote work will increase up to 30% by 2030\*\*. While employees maybe at home, they continue to operate in a 'workplace'. It is time for employers to realise the extension and ensure the workplace remains safe and free of harassment.

In India, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) was enacted with the objective of preventing and protecting women against workplace harassment and ensure effective redressal of complaints of sexual harassment.

## Key elements of the POSH Act include:



### Applicable jurisdiction

Whole of India



### What amounts to sexual harassment

As per the Act, 'sexual harassment' includes any unwelcome sexually tinted behavior, whether directly or by implication such as:

1. Physical contact and advances
2. Demand or request for sexual favours
3. Making sexually coloured remarks
4. Showing pornography
5. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature



### Aggrieved woman

As per the Act, an aggrieved woman, in relation to the workplace, is a woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment

Every organisation (employing 10 or more employees) needs to set up a grievance redressal forum, which includes an Internal Complaints Committee (ICC) at each office and branch to hear, investigate and redress grievances pertaining to sexual harassment. Failure to do so can lead to fines and cancellation of a business' licence. The repercussions extend to reputational damage and adverse effects on employee morale and retention.

\* Coronavirus crisis may fast-forward IT's work-from-home adoption - The Economic Times ([indiatimes.com](https://economictimes.com))

\*\* With Coronavirus in Mind. Are You Ready for Remote Work? ([gartner.com](https://gartner.com))

# Key considerations to relook at your POSH policy



## Defining workplace

The policy should clearly articulate a 'workplace', which today extends to an employee's home, where official business is conducted from. According to the POSH Act, 'workplace' includes, "a dwelling place or a house" therefore, the Act applies to everybody who is working from their own home, leased/rented home, a company leased home, or any other form of accommodation and includes any work-related offsite, etc. - any place that comes under the ambit of a work-related relationship.



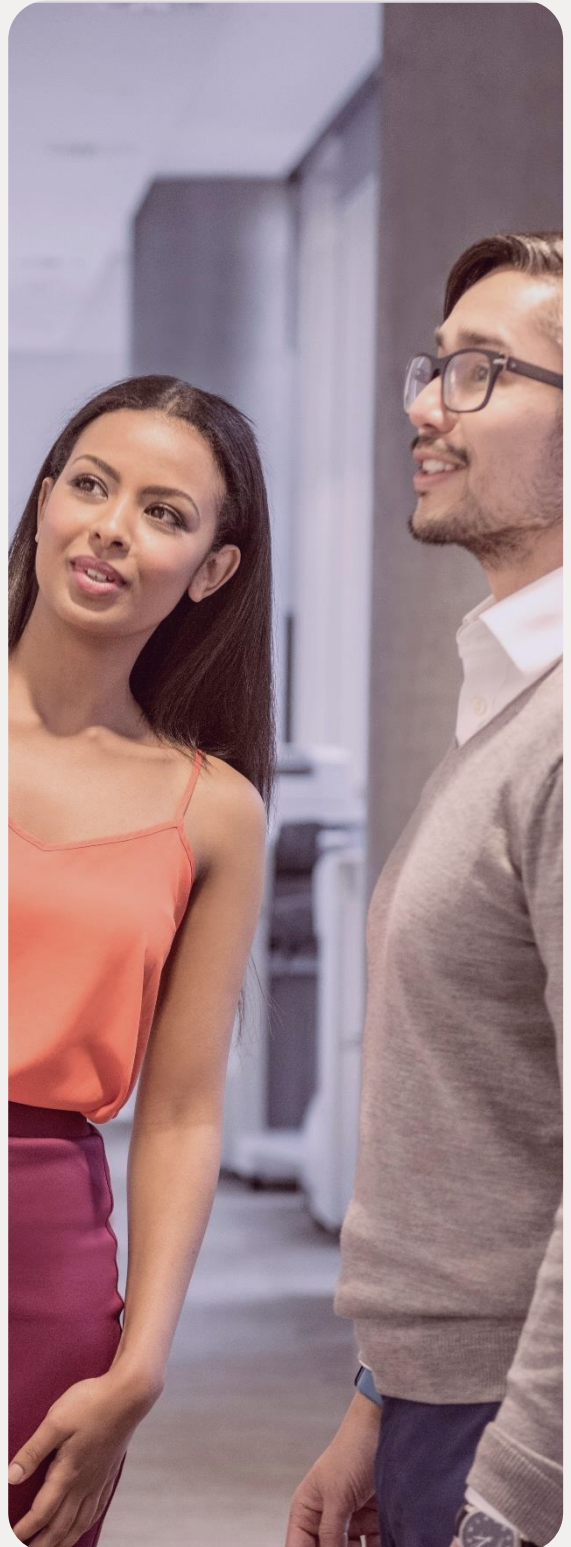
## Coverage

The POSH Act is not only restricted to just the employees of the organisation, but also extends to clients, vendors, trainees, visitors etc. As companies engage people on a contractual basis, it is imperative to clearly articulate who all fall under the policy's purview.



## Addressing ethical dilemmas

It is important for organisations to sensitise and train employees and create awareness on expected standards of professional behaviour. The ICC in any organisation should prevent and not just provide redressal of cases. Therefore, your POSH policy should address questions on what can be construed as virtual harassment (conduct on videocalls, personal comments on social media, inappropriate messages, undefined working hours, etc.), along with clarifying the organisation's stance on what constitutes sexual harassment.





### Providing redressal mechanism

The POSH policy should clearly articulate how the aggrieved can file a complaint (via e-mail or phone) and provide for a strict timeframe to investigate the same. With digital harassment, many women may not report due to lack of confidence in the matter being taken up seriously, fear of losing jobs and/or lack of awareness on how to file a complaint remotely/virtually. Companies must increase their communication with employees to build confidence and increase awareness on how they will investigate complaints in a virtual world. Firms should give liberty to employees in voicing their concerns through surveys, regular check-ins and virtual town halls.



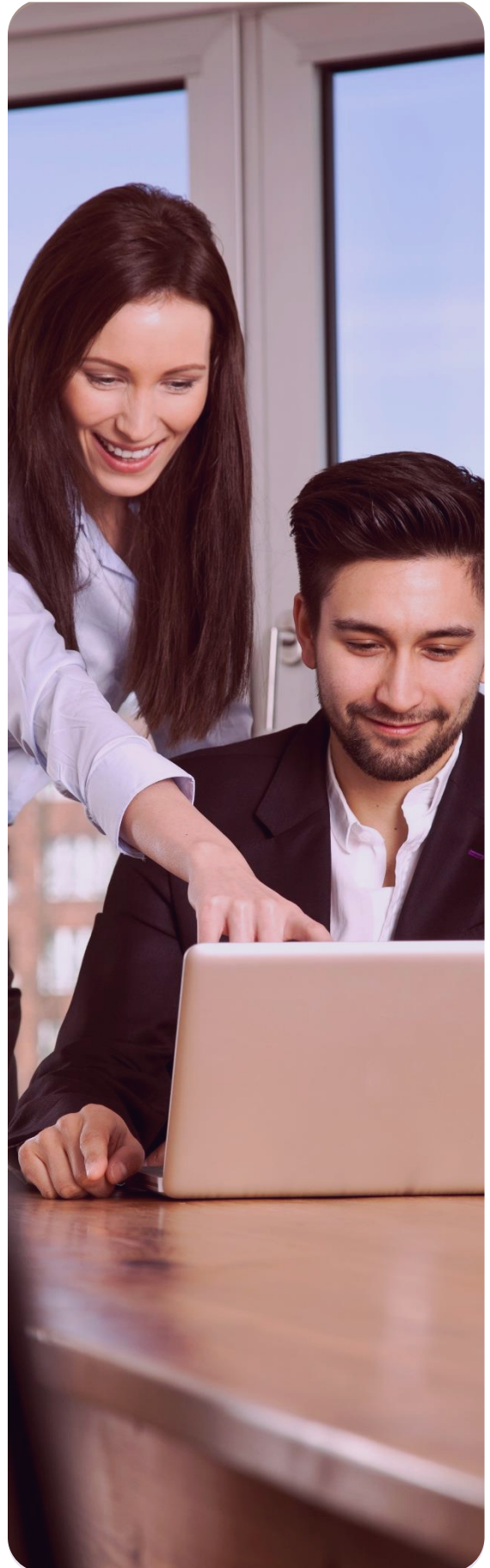
### Going beyond the law

Although the POSH Act in India is applicable to women, there are increasing instances of men being sexually harassed, as well. With workplace diversity and inclusivity gaining importance, companies can relook at the policy to include both men and women.



### Monitoring implementation

Companies can include an annual review of their policy to ensure that it is updated with changing cultural and legal scenarios. An annual review performed by an independent agency of the performance of the ICC can be mandated to review the performance of the ICC, speed with which the cases were investigated and the manner in which the cases were disposed. Based on the results of the audit, the company can enhance their internal complaints procedure and/or policy.



# Best practices to ensure a safe working environment

## Awareness



- Prevention of sexual harassment and training which includes:
  - Regular skill building workshops for the ICC and sensitisation that every case should be dealt with sensitivity and ensure principles of natural justice are followed
  - Sensitising employees using audio-visual material on what does and does not account to sexual harassment - use of local/regional languages, especially for contract staff
  - Use quizzes, infographics, scripted role plays on real life scenarios and panel discussions on POSH
  - Educate those in positions of authority to check casual sexism and unconscious bias
  - Create awareness on how to file a virtual complaint/whistleblower policy at workplace
- Understand pulse of employees by conducting anonymous surveys

## Support



- Managers to check in with the team subtly and help in case of uncomfortable situations. This will reinforce confidence among the employees that the organisation cares for them in these trying times, as well
- Provide helpline support via phone or e-mail to employees by a third-party counselor
- Senior management to set a strong tone at the top, advocating a zero-tolerance policy and at the same time ensuring that complaints with malafide intent are dealt with strict disciplinary action against the complainant to ensure that the policy is not misused

## Prevent and protect



- Use technology as an enabler for workplace safety – examples include tracking public transport through GPS, installing CCTVs, etc.
- Conducting background checks of all third-party staff such as drivers, housekeeping staff, bus drivers, security staff before hiring
- Conduct awareness sessions for customers, suppliers, vendors and enable them to report any unwelcome behaviour with sexual undertones

# How we can help

**Grant Thornton's Forensic team** can assist you in ensuring that your organisation is safe by reviewing your current policies related to workplace safety and POSH. We can assist you in conducting investigative interviews, document/email reviews pertaining to the case; thus, helping you in your endeavour of preventing workplace safety breakdowns in these challenging times by:



**Proactive risk assessment by** assessing trends/patterns of sexual harassment at your workplace and assessing risks your organisation faces



**Reviewing and updating policies** to prevent and prohibit sexual harassment, including grievance redressal procedures to deal with complaints and revising the policy to make it gender neutral



**Conducting skill building workshops** for all members of the ICC to apprise them of new techniques, methods of investigation and best practices



**Conducting sensitisation trainings** for your employees, third parties and vendors



**Assisting in forensic imaging and reviewing electronic data** submitted by the complainant and/or respondent

As we undergo a shift in the way we work, we must remember that workplace fundamentals remain the same and the need of the hour is to provide our employees a safe and secure working environment.

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