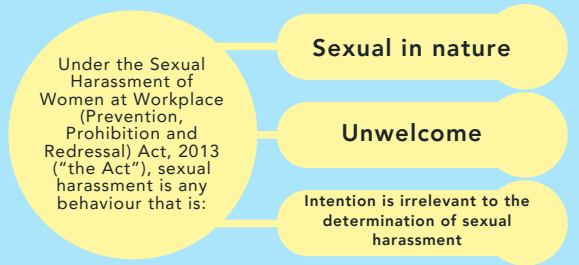
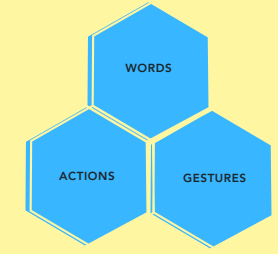


## WHAT IS SEXUAL HARASSMENT AT 'WORKPLACE'?



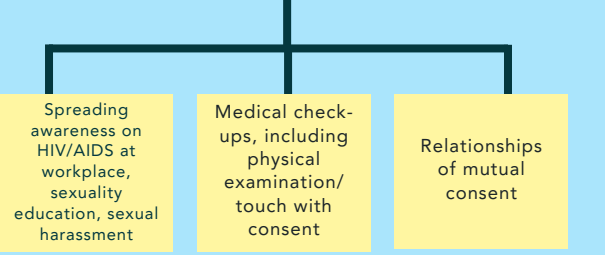
### What kinds of conduct fall within its scope?

- Sexual or suggestive comments, messages or emojis on appearance, body, clothes or mannerism whether in person, on email or social media
- Diverting work conversation to sexual topics

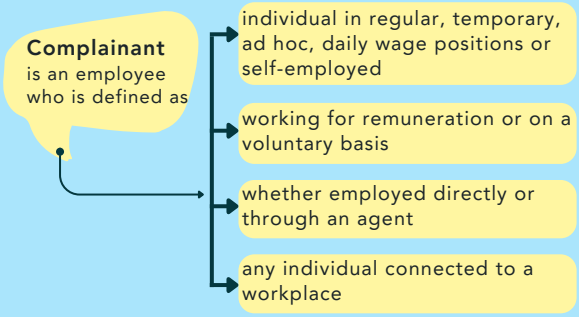


- Staring, peeping
- Sexual gestures, showing pornography
- Spreading gossip
- Touch or attempting to touch (holding, hugging, standing close, etc.)
- Pressuring to establish a personal or physical relationship
- Stalking
- Taking photos without consent, circulating without consent or morphing photos for circulating with others or on social media

### What is not sexual harassment at workplace?



## WHO MAY FILE A COMPLAINT AND WHERE?



**When can you file a complaint?**  
Complaints can be filed when the incident takes place within the workplace or in the course of work-related activities including transportation by the employer for undertaking such a journey.

### Where to file a complaint?

The law envisages two types of mechanisms for two categories of workplaces:

Organised sector	Unorganised sector
Enterprises with more than 10 workers, governmental, non-governmental organisations, service providers, education/health/sports institutions, private companies	Enterprises with less than 10 workers, self-employed workers, workplaces with no Internal Committee
E.g. - Student, security guard, intern	E.g. - Street vendor, domestic worker, agricultural labourer
Employer to constitute an IC in every office/administrative unit which has 10 or more employees	Government to notify District Officers for each district, who constitutes an LC

## HOW TO FILE A COMPLAINT?

**The complaint must be in writing**

- Submit a written complaint to the Internal/Local Committee
- For those unable to submit a written complaint (non-literate, distressed, mental or physical disability, deceased), assistance maybe provided by the Committee or others

**Time limit for submitting complaints**

- The complaint must be filed within 90 days from the date of incident
- Where there is continuing harassment, the complaint may be filed within 90 days from the date of the last incident
- In special circumstances, the time limit for submitting a complaint can be extended beyond 90 days, to another 90 days. The complaint must explain the special circumstances that led to delay, for the Committee to consider it.

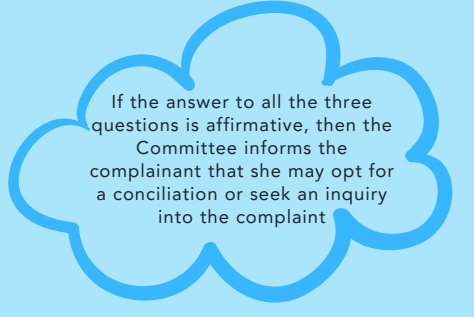
**Optional parallel recourse: registering an FIR (First Information Report) in the police station**

- An aggrieved person may file a complaint under Indian Penal Code, 1860 (IPC) or other laws with the police. In case of domestic worker, the local Committee can transfer the matter to the police station, to be registered as an FIR, within 7 days from the date of complaint
- Employer must assist if the aggrieved person is an employee, and wants to register an FIR. The police proceedings will be independent of the internal inquiry at the workplace

## STEPS TAKEN BY THE COMMITTEE ONCE A COMPLAINT IS FILED

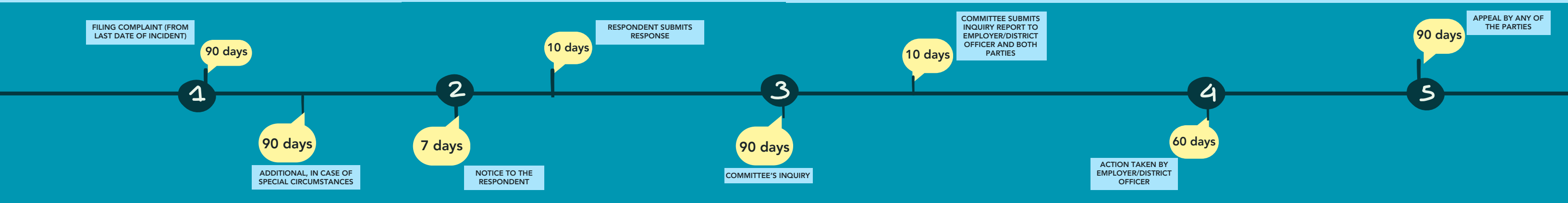
**Step 1: PRIMA FACIE FINDING:** The Committee will accept or reject the complaint based on the following:

- (a) Does the act complained of amount to sexual harassment?
- (b) Is it within the scope of workplace?
- (c) Is it within the prescribed time limit?



**Step 2: CONCILIATION:** Based on the gravity and nature of the complaint, the Committee may offer the option of conciliation to the complainant.

- Is a voluntary process facilitated by the Committee, which allows the two parties to agree to resolve the complaint, without monetary compensation through an apology or acknowledgment.
- It is undertaken on request of the complainant and the respondent must agree to participate
- If the conciliation does not succeed in resolving the matter, the Committee will proceed with the inquiry



## INQUIRY

**Step 3: INQUIRY:** Where the conciliation is not an option, or it does not succeed, the Committee will adopt the following procedure to conduct an inquiry:

**1** The Committee will send a copy of the complaint to the respondent

May suo-moto or on the request of the complainant recommend to the employer that interim relief be granted to shield the complainant from the respondent, through leave, transfer and removal from supervisory role

**2** The respondent is required to submit a response to the complaint within 10 days

**3** A copy of respondent's submission will be provided to the complainant

**4** Committee will question both the parties to the complaint, and interview their witnesses

**5** The Committee may seek information from organisation and from independent witnesses

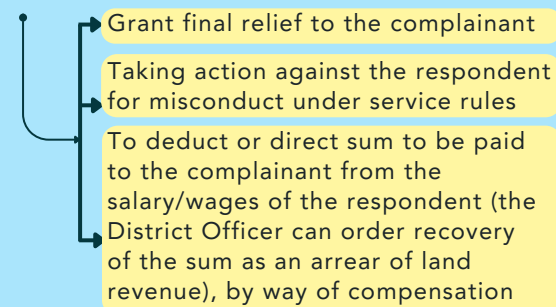
**6** The Committee will record all the testimonies, duly signed by parties and themselves

**7** The Committee will provide equal opportunities to both the parties to pose question to each other by way of cross-examination, adopting methods that shield complainant from distress; and retain confidentiality of witnesses where necessary

**8** Complete the inquiry within 90 days, prepare a report of its findings and submit it to the Employer (IC) or District Officer (LC) within 10 days. The report may recommend action/s to be taken by the employer by way of redress

### Step 4: ACTION TAKEN in pursuance of inquiry report:

- The employer is tasked with the responsibility to take action, in pursuance of the Committee's findings or recommendations
- Where the Committee finds the respondent guilty, the employer may take one or more of the following actions commensurate and proportional to the gravity of the wrongdoing within 60 days of receipt of the Committee's inquiry report



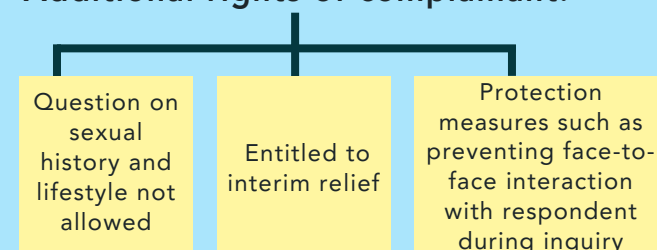
- Where the Inquiry report does not find the respondent guilty of sexual harassment, the matter is closed
- Where the inquiry report has found the complaint to be false or malicious, action may be taken in accordance with the service rules. A false or malicious complaint is one which is intentionally misleading, based on forged document, and known by the complainant/witness to be false. The mere inability to substantiate a complaint or provide adequate proof does not amount to false. A finding of malice cannot be assumed but must be established by an inquiry

### RIGHTS OF THE PARTIES

#### Both parties:

- Non-partisan and unbiased inquiry
- Equal opportunity to be heard in the inquiry
- To question and cross-question each other during inquiry
- Identity to be kept confidential
- Appeal against the findings of the inquiry report with the Court or Tribunal within 90 days

#### Additional rights of complainant:



### YOUR CHECKLIST

? Have you read the sexual harassment policy of your organisation?

? Do you have posters on the subject in your office?

? Are the details of the internal committee displayed in a common area in your office?

? Have you participated in workshops/awareness programmes on the sexual harassment at workplace law?

## A guide to complaint and the inquiry procedure

## under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013



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