



## PREVENTION OF SEXUAL HARASSMENT AT THE WORKPLACE – POSH Act 2013

### Introduction

Baccarose is committed to provide a safe and conducive work environment to all of its employees and expects them to combine “expertise with responsibility”. Towards this, it is essential that each employee deals with their colleagues and third parties with full fairness and respect and realizes that his/her behaviour will be attributed to Baccarose and can affect its inward and outward reputation on an international basis.

Under the Baccarose Code of Conduct, harassment of any kind including sexual harassment is forbidden. Every employee has the right to be protected against harassment, regardless of whether the accused considers his or her own behaviour to be normal or acceptable and of whether the harassed person has the opportunity to avoid the harassment. This right to practice any profession or to carry on any occupation, trade or business also includes the right to a safe environment free from sexual harassment. The Prevention of Sexual Harassment at Workplaces (Prevention, Prohibition and Redressal) Act, 2013 (POSH) was enacted by the Indian Parliament to offer protection to employees in the workplace and to ensure legal compliance and corporate responsibility.

Baccarose is committed to providing a work environment free of sexual harassment. This POSH policy has been formed to prohibit, prevent or deter the commission of acts of sexual harassment at workplace against people and to provide the procedure for the redressal of complaints pertaining to sexual harassment.

### 1. Purpose

- 1.1. Promote a secure physical, social and psychological environment which will raise awareness and deter acts of sexual harassment and educate employees against sexual harassment at workplace;
- 1.2. To evolve a mechanism for the prevention and redressal of sexual harassment cases and to assist those who believe they have been subjected to sexual harassment, to seek support and initiate appropriate remedial action.

### 2. Eligibility/Scope

- 2.1. This Policy will apply to all employees, of Baccarose based across all offices, regardless of their position and place of employment or engagement, including all engaged on contracted and sub-contracted work with Baccarose. The Policy will also cover anyone connected with and engaged with Baccarose as trainees, interns, consultants, contractors, vendors, including



any consultants of subsidiary or affiliate entities of Baccarose and any visitors on the Baccarose premises.

- 2.2. This Policy covers any and all forms of alleged acts of sexual harassment of women by men, of men by women or between the same sexes. Sexual harassment is unlawful irrespective of who is involved in such behaviour.
- 2.3. This Policy is not restricted to Baccarose's office premises only, but extends to all Baccarose employees wherever such employees have occasion to interact with each other, including for example, while outside or travelling on assignment, in vehicles, third party premises, offsite meetings, phone calls, messages, social media platforms, parties, social functions, and any place where the employees carry out their duties and responsibilities.
- 2.4. Where sexual harassment occurs to an Baccarose employee as a result of an act by a third party or outsider while on official duty, Baccarose will take all necessary and reasonable steps to assist the affected person in terms of support and preventive action.
- 2.5. Ignorance of any aspect of this Policy cannot be used as defence during an inquiry on the matter.

### **3. General Guidelines**

#### **3.1 Definition of Sexual Harassment:**

Sexual harassment as defined under the Supreme Court of India Guidelines includes the following unwelcome sexually determined behaviour (whether directly or by implication):

- Unwelcome physical contact and advances;
- A demand or request for sexual favours;
- Sexually coloured remarks or innuendos;
- Showing pornography; or
- Any other unwelcome and offensive physical, verbal or non-verbal conduct of sexual nature.

3.2 This Policy enlists an indicative (but not exhaustive) list of behaviours that constitutes sexual harassment under the terms of this Policy and shall include any and all acts of harassment enlisted by any statute or guidelines/notifications issued by any judicial or governmental agency from time to time.

3.3 Behaviour that constitutes sexual harassment: Harassment includes unwelcome words, acts or displays having sexual overtones. Any behaviour that is mentioned below or has the same impact as any of these, on an Employee, will invite appropriate disciplinary action including separation from Baccarose.

- Verbal harassment includes:
- Any taunting snide remarks based on sex (including pregnancy, childbirth or related medical condition), sexual orientation, gender identity, marital status or personal appearance;
- Phone calls or messages on electronic mail or computer networks which are threatening, abusive or offensive to Employees';
- Intrusive questions about sexual activity, tales of sexual exploits, eve teasing, comments about people's (women/men) bodies;
- Repetitive unwanted advances (requests for dates or social contact) towards someone who has refused/ignored similar invitations previously;
- Requests or demand for sexual favours, either explicitly or implicitly, in return for employment, promotion, examination or evaluation of a person towards any company activity;
- Act or conduct by a supervisor or a person in authority which creates the environment at workplace hostile or intimidating to a person belonging to the other sex;
- Telling lewd jokes, offensive language, singing or humming vulgar songs, body shaming remarks etc.:

#### 3.4 Non-verbal harassment includes:

- Displaying of books, photographs, paintings, films, pamphlets, packages, etc. containing 'indecent representation of women/men';
- Offensive gestures, stalking, sounds, staring, leering or whistling with the intention to insult, offend or affect her/his performance or discomfort someone who may hear or see such behaviour;
- Viewing or sharing through letters, phone calls, electronic instant messaging, or e-mail messages any pornographic posters, Internet sites, cartoons, drawings.

#### 3.5 Physical harassment includes:

- Intentional touching, physical contact or molestation, of the body that makes a person uncomfortable;
- Any displays of affection which can make others uncomfortable or are inappropriate at the workplace even if the recipient welcomes it;
- Indecent exposure or coerced sexual intercourse.

#### 3.6 All such conduct/behaviour at work constitutes sexual harassment when:

- The submission to the conduct is made a condition of employment;
- The submission to, or rejection of, the conduct is used as the basis for an employment or work-related decision; or
- The conduct creates or could create an offensive, intimidating or hostile working environment; or
- The conduct interferes or could interfere with the work performance of the complainant/recipient.
- Any questions/clarifications an Employee may have in this regard can be raised with the reporting supervisor, HR or any member of the ICC, as defined hereinafter.

3.7 Additionally, Baccarose reserves the right to prohibit, at any time, any behaviour or conduct at workplace that may reasonably be interpreted as harassment or discriminatory, whether or not such conduct is pervasive or severe enough to meet the requirements of sexual harassment as defined herein.

3.8 It is the impact or effect of the behaviour on the recipient and not the intent of the offender that is critical in an assessment of such issues/cases of sexual harassment.

**4. Culture:** Baccarose promotes a friendly culture and healthy camaraderie at the workplace. Most socially acceptable behaviours are not considered sexual harassment; provided the recipient is not uncomfortable.

**5. Consensual Relationships:** A romantic or sexual relationship between a manager or other supervisory employee and his or her staff (reporting directly or indirectly), could create compromising conflicts of interest at workplace. It is therefore in the best interest of all concerned that if such a relationship exists, the involved parties should promptly inform HR so the reporting chain can be adequately changed to ensure that no direct or indirect reporting relationship exists.

**6. Internal Committee:**

- An Internal Committee (IC) has been constituted by Baccarose to consider and redress all complaints of sexual harassment at workplace.
- The members of the IC committee will be nominated by the Directors and are headed by a senior level woman employee. Not less than half of the members have to be women and the IC has also to include an external member who has full knowledge of this Act and is capable of guiding the internal IC Members
- Accordingly, the IC shall comprise of [5] members appointed by Baccarose, of whom [3] members shall be women, including the Presiding Officer.
- The particulars of the present members of the ICC are as follows:

S. No	Name	Contact Details	Designation	Email
1	Sonya de Castelbajac	9819020838	Presiding Officer	<a href="mailto:sonya.k@baccarose.com">sonya.k@baccarose.com</a>
2	Jacinta Crasto	9820299443	Member	<a href="mailto:Jacinta.c@baccarose.com">Jacinta.c@baccarose.com</a>
3	Ramachandran Rajasekaran	9320769204	Member	<a href="mailto:Chandru.r@baccarose.com">Chandru.r@baccarose.com</a>
4	Chitra Panikker	9920442045	External Member	<a href="mailto:Chitra.panikker@gmail.com">Chitra.panikker@gmail.com</a>

- BACCAROSE shall update and notify the details of change in membership of the IC from time to time to its employees.
- The IC committee will represent the entire workforce of Baccarose (BPBP & BCPL).
- The IC shall be responsible for looking into all the proceedings for the complaints at all locations.

**7. Documentation:** The IC shall keep complete and accurate documentation of the complaint, its investigation and the resolution thereof. The incident will be documented in both the complainant's and the accused's files with the full report of the IC.

**8. Protection against Retaliation:**

- Baccarose prohibits any form of retaliation, victimization or discrimination against anyone who has reported a suspected episode of sexual harassment or has cooperated in any investigation involving a reported case of sexual harassment.
- If any employee feels that he/she is experiencing any kind of retaliation, victimization or discrimination in the nature of intimidation, pressure to withdraw the complaint or threats for reporting, testifying or otherwise participating in the proceedings, he/she should report the matter to any member of the IC.
- As with complaints of sexual harassment, such actions of retaliation, victimization or discrimination too will be treated as misconduct and upon notification, Baccarose will immediately take appropriate action to prevent/rectify the retaliation, including, pending inquiry, transferring the perpetrator of any such alleged acts of retaliation or victimization, to another department, division or a different place of work.
- Retaliation will be treated as seriously as an alleged case of sexual harassment and will apply even if the original complaint is not proven.

**9. Third Party Harassment:** Where sexual harassment occurs as a result of an act or omission by any third party or an outsider, Baccarose will take all necessary steps to assist the affected person in terms of providing support for initiating any preventive or remedial actions.

10. **Mala-fide Complaint:** Wrongful allegations and publicizing of an incident of sexual harassment will be viewed seriously at Baccarose. If after inquiry by the IC, it is found that the complaint was raised with mala-fide intent, Baccarose can consider this to be misconduct and appropriate disciplinary action will be initiated against the person found guilty of such mala-fide complaint. This disciplinary action could include termination of employment.
11. **Confidentiality:** All inquiries, complaints and investigations are treated with sensitivity and utmost confidentiality at all times and any such information pertaining to any complaints of sexual harassment and the proceedings and recommendations of the IC shall be revealed strictly on a need-to-know basis. Any person (including witnesses) who breaches confidentiality shall be subject to disciplinary action.
12. **Disciplinary Action:** Employees' who violate the terms of this Policy shall be subject to appropriate disciplinary action if an investigation results in a finding that the terms of this Policy have been violated. Disciplinary action may include transfer, withholding promotion, suspension or even dismissal. The mandatory minimum disciplinary action for a confirmed harassment being a written reprimand which shall be recorded in the profile of such violator. The discipline for very serious or repeated violations may entail termination of employment of such violator. This action shall be in addition to any legal recourse sought by the complainant.
13. **Complaint Reporting & Resolution Process:**
  - a) Any employee who is the recipient of any unwelcome sexual or other harassing behaviour as described in this Policy is expected to report the same as per (e).
  - b) In case of harassment, the one undergoing such harassment, should tell the accused that their behavior is unwelcome and ask them to stop.
  - c) If, after asking the accused to stop their behavior, the harassment continues, the aggrieved person must report the abuse to the Internal Committee formed for this purpose at the earliest.
  - d) It is advisable that a person raising such a complaint should keep a record of incidents (dates, times, locations, possible witness, what happened, their response). While this is not a mandatory requirement to file a complaint, a record can strengthen a case and help remember the details over time, in case the complaint is not filed immediately.
  - e) The concerned employee shall file a complaint in writing (email or hard copy) to the IC giving details of the incident within and up to a period of three months from the date of incident and in case of a series of incidents, within and up to a period of three months from the date of last incident. The complainant can also submit corroborative material with documentary proof to substantiate the complaint.
  - f) Any delay in reporting must be explained to the IC with sufficient cause for such delay. Baccarose shall provide all necessary assistance for the purpose of ensuring full, effective and speedy implementation of the terms of this Policy.
  - g) In the event, the aggrieved employee is unable to file a complaint on their own, either on account of physical or mental incapacity or death, the complaint may also be filed by another person on behalf of the aggrieved employee (legal heir, immediate family, social worker).

- h) Every reported complaint of sexual harassment will be referred to IC for review, investigation and recommendation.
- i) The person accused will be informed that a complaint has been filed against him/her and no unfair acts of retaliation or unethical action will be tolerated.
- j) The IC shall ensure that a fair and just investigation is undertaken immediately.
- k) Appropriate measures will be taken by the IC to ensure the confidentiality as to the identity of the complainant and the defendant; particulars of the complaint and proceedings conducted under this Policy and shall ensure that each party gets a fair hearing in the matter.
- l) Both the complainant and the alleged accused initially will be questioned separately with a view to ascertain the veracity of their contentions. If required, the person who has been named as a witness will need to provide the necessary information to assist in resolving the matter satisfactorily.
- m) IC shall provide opportunity to the complainant and the defendant to put forward and defend their respective case along with respective witnesses and the investigation will be done promptly, thoroughly and in as confidential a manner as possible. The investigation process, statements recorded during the same and result of any such investigation shall be documented in writing.
- n) Based on the type and severity of the complaint as assessed by the IC, appropriate enquiries shall be made and resolution process will be suggested upon consultation and corroboration of the complainant and defendant in the manner as stated above. This may be a mediated resolution or a full-fledged investigation by the IC. If mediation is successful and agreed to by both the complainant and the defendant, they must accept and abide by the terms of compromise in writing.
- o) IC shall complete its investigations in connection with any complaint of sexual harassment hereunder within 90 days from the date of receipt of the complaint and shall communicate its findings and recommendations of course of action to the Directors within 10 days of completion of investigation. On the basis of the investigation report and the recommendations, the agreed course of action is to be executed within 60 days from agreement of such decision. Those found guilty will be subjected to appropriate disciplinary action by Baccarose, which disciplinary actions may range from oral/written warnings, extension of probation, change of role or demotion, temporary suspension and/ or termination of employment.
- p) The complainant and the accused shall be informed of the outcome of the investigation.

14. All Baccarose Employees' are expected to use the reporting channels provided hereunder and during the course of any investigations proceedings under this Policy, and must NOT publicize any alleged act of harassment.

Below is the timeline defined by law

Details	Timeline
Submission of Complaint	Within 3 months of last incident
Completion of Inquiry	Within 90 days
Submission of Report by ICC to the Directors	Within 10 days of completion of the inquiry
Implementation of Recommendations/decision by Directors	Within 60 days
Appeal	Within 90 days of the recommendations

**15. Action during pendency of Inquiry:** During the pendency of an inquiry, on a written request made by the aggrieved person, the IC may recommend to the Directors:

- transfer the aggrieved person or the respondent to any other workplace;
- or grant leave to the aggrieved person up to a period of 3 months; or
- grant such other relief to the aggrieved person as may be prescribed
- The leave granted to the aggrieved person under this section shall be in addition to the leave they would be otherwise entitled.

**16. Criminal Proceedings:**

Where the act of sexual harassment or of retaliation, victimization or discrimination against a complainant or any witness amounts to a specific offence under the provisions of the Indian Penal Code or any other applicable law for time being in force, Baccarose may initiate appropriate action, including instituting criminal proceedings, in accordance with the applicable law, by making a complaint with the appropriate authority.

**17. Appeals and Alternate Legal Remedies:**

If an employee feels that his/her sexual harassment complaint or a retaliation complaint did not receive prompt and fair response/resolution, nothing in this Policy shall prevent the complainant or the defendant, at any time, from pursuing formal legal remedies or resolution as may be provided under the various laws for the time being in force through Government agencies or the courts of law of the country.



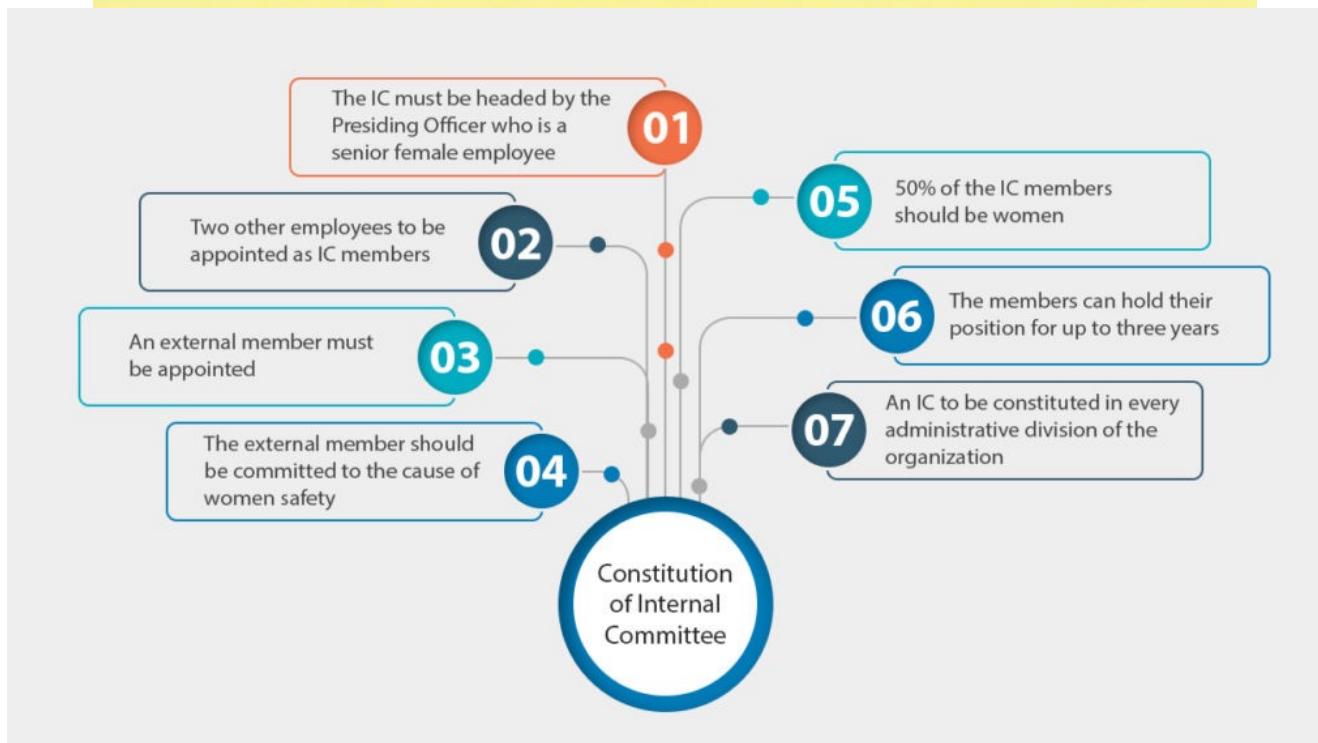
# POSH Synopsis

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## Q. What is ICC?

### Internal Complaints Committee

Under POSH, if a woman is harassed, she can complain to a company/institution's ICC – which must inquire into the case.





# Responsibilities of ICC

**A**

Draft a Prevention of Sexual Harassment policy.



**B**

Formulate an internal committee (IC) to handle complaints



**C**

Appoint an external member with legal knowledge on POSH in the IC.



**D**

Provide training to the employees.



**E**

Report the number of cases filed and the actions taken annually.

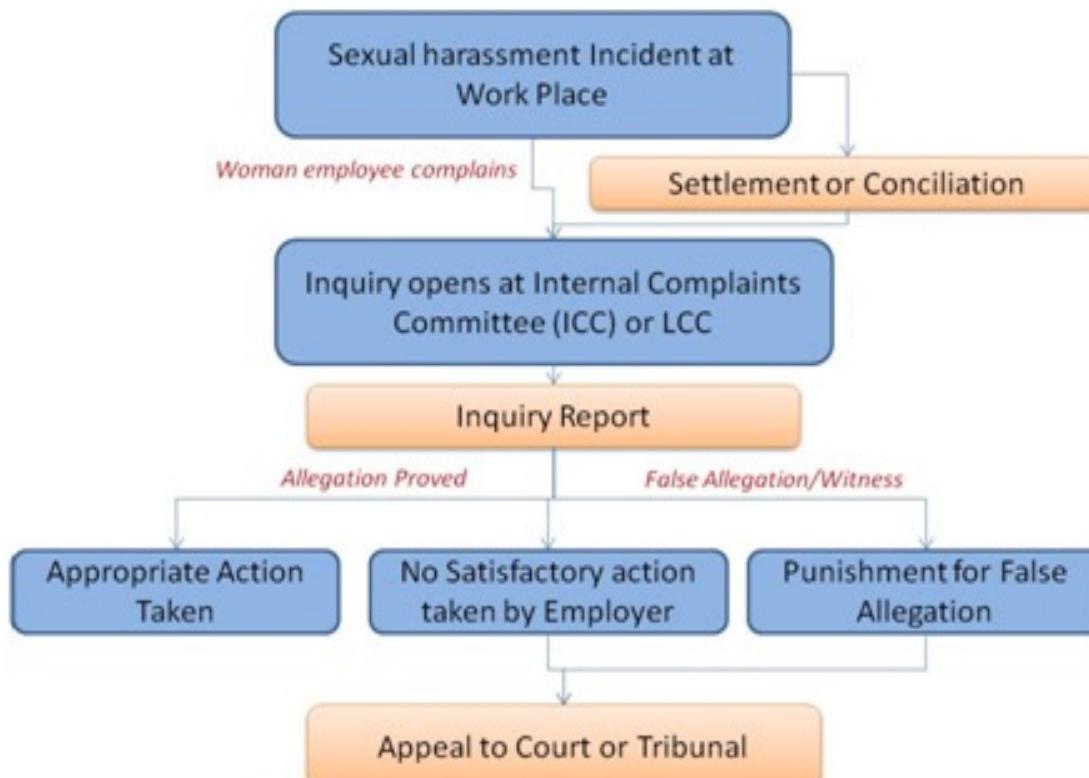




## Timeline for handling a Complaint

Details	Timeline
Submission of complaint	Within 90 days of last incident
Completion of inquiry	Within 90 days
Submission of report by ICC to the compliance decision committee	Within 10 days of completion of inquiry
Implementation of Recommendations/ Decision by compliance decision committee	Within 60 days
Appeal	Within 90 days of recommendations

### Procedure Flow: Prevention of Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 , India





Thank you

## POSH Internal Committee Members

S. No	Name	Contact Details	Designation	Email
1	Sonya de Castelbajac	9819020838	Presiding Officer	<a href="mailto:sonya.k@baccarose.com">sonya.k@baccarose.com</a>
2	Jacinta Crasto	9820299443	Member	<a href="mailto:Jacinta.c@baccarose.com">Jacinta.c@baccarose.com</a>
3	Ramachandran Rajasekaran	9320769204	Member	<a href="mailto:Chandru.r@baccarose.com">Chandru.r@baccarose.com</a>
4	Chitra Panikker	9920442045	External Member	<a href="mailto:Chitra.panikker@gmail.com">Chitra.panikker@gmail.com</a>

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