



NATIONAL BOOK TRUST, INDIA

Internal Complaint's Committee

(NBT-ICC)

Guidelines, Procedures and Policy

NATIONAL BOOK TRUST - INTERNAL COMPLAINT'S COMMITTEE
(NBT-ICC)

Guidelines, Procedures and Policy

In pursuance of the Act of Parliament viz. THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013, National Book Trust, India – Internal Complaint's Committee (NBT-ICC) adopts the following guidelines and procedures to prevent, prohibit and redress sexual harassment of women at the workplace. NBT is committed to provide all its women employees an environment that is free from sexual harassment, intimidation and exploitation.

A. INTRODUCTION

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 aims to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

Whereas sexual harassment results in violation of the fundamental rights of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment.

B. WHAT IS SEXUAL HARASSMENT?

Unwelcome sexual advances, requests for sexual favours, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment. Sexual harassment includes:

- Implied or explicit promise of preferential treatment in a woman's employment; or

- Implied or explicit threat of detrimental treatment in a woman's employment; or
- Implied or explicit threat about a woman's present or future employment status; or
Interference with a woman's work or creating an intimidating or offensive or hostile work environment for a woman; or
- Humiliating treatment likely to affect a woman's health or safety.

Determining what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs. Sexual harassment may take many forms – subtle and indirect, or blatant and overt. For example,

- It may be conduct towards an individual of the opposite sex or the same sex.
- It may occur between peers or between individuals in a hierarchical relationship.
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behaviour or work performance.
- It may consist of repeated actions or may even arise from a single incident.

C. AN "AGGRIEVED WOMAN"

A woman, of any age whether employed in NBT or not, who alleges to have been subjected to any act of sexual harassment by an employer or a person within the precincts of NBT.

D. AN "EMPLOYEE"

A person employed at NBT whether on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without, the knowledge of NBT, whether for remuneration or not, or working on a voluntary basis

or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

E. AN "EMPLOYER"

Any department, section, cell, regional office or Book Promotion Centre of NBT.

F. DUTIES OF EMPLOYER

The Employer shall:

- (a) Provide a safe working environment.
- (b) Display at conspicuous places in the workplace, the penal consequences of sexual harassment; and the order constituting the NBT-Internal Complaint's Committee.
- (c) Organize workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes by the members of the NBT-ICC.
- (d) Provide necessary facilities to the NBT-ICC for dealing with complaints and conducting inquiries;
- (e) Facilitate the attendance of respondent and witnesses before the NBT-ICC;
- (f) Make available such information to the NBT-ICC as it may require with regard to the complaints.
- (g) Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law in force.
- (h) Treat sexual harassment as Moral Turpitude under the service rules and initiate action for such misconduct.
- (i) Ensure timely action on recommendations in the reports submitted by the NBT-ICC.

G. COMPLAINT

(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the NBT-ICC.

- Provided that where such complaint cannot be made in writing, the Chairperson of NBT-ICC shall render all reasonable assistance to the woman for making the complaint in writing.

(2) The NBT-ICC may, before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation. Provided that no monetary settlement shall be made as a basis of conciliation.

(3) Where a settlement has been arrived at, the NBT-ICC shall record the settlement so arrived at and forward the same to the Employer to take action as specified in the recommendation.

(4) The NBT-ICC shall provide the copies of the settlement as recorded to the aggrieved woman and the respondent.

(5) Where a settlement is arrived at, no further inquiry shall be conducted by the NBT-ICC.

Provided that where the aggrieved woman informs NBT-ICC that any term or condition of the settlement arrived at has not been complied with by the respondent, NBT-ICC shall proceed to make an inquiry into the complaint or forward the complaint to the police.

(6) For the purpose of making an inquiry, the NBT-ICC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, when trying a suit in respect of the following matters, namely:

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of documents; and
- (c) Any other matter which may be prescribed.
- (d) The inquiry shall be completed within a period of 90 days.

H. INQUIRY INTO COMPLAINT

(1) During the pendency of an inquiry, on a written request made by the aggrieved woman or on the basis of preliminary inquiry, the NBT-ICC may recommend to the employer to:

- (a) Transfer the aggrieved woman or the respondent to any other regional office/BPC; or
- (b) Grant leave to the aggrieved woman up to a period of three months: or
- (c) Grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled to.

(3) Where the NBT-ICC arrives at the conclusion that the allegation against the respondent has not been proved, it shall inform to the Employer in writing that no action is required to be taken in the matter.

(4) Where the NBT-ICC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the Employer:

- (i) To take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;
- (ii) To deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine.
- (iii) Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct the respondent to pay such sum to the aggrieved woman.

(5) Where the NBT-ICC arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the

complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend in writing to the Employer to take action against the woman or the person who has made the complaint.

(6) Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the NBT-ICC and the action taken by the Employer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner.

I. CONSTITUTION AND STRUCTURE OF NBT-ICC AGAINST SEXUAL HARASSMENT

Implementation of the ACT will be achieved through the following structures:

i. National Book Trust, India – Internal Complaints Committee (NBT-ICC) Against Sexual Harassment

A complaints and redressal body to be set up at the Headquarters. This Committee shall have jurisdiction over all complaints at NBT Headquarters and also including those arising from the Regional Offices of NBT.

It will function as the guiding body for all Awareness, Preventive and Redressal work related to this Policy. The Employer may refer any complaint under this Policy for enquiry directly to NBT-ICC.

The Chairperson of NBT-ICC should be a woman member of NBT. In case no appropriate senior woman officer is available with NBT, an external woman member will be the Chairperson.

ii. Composition

NBT-ICC shall be composed of one Chairperson and at least four other members drawn from the following categories:

- At least two outside members with relevant expertise.

- At least two NBT employees, including one male employee of NBT.
- A person who has been found guilty of sexual harassment is ineligible to become a member.

iii. Duration

- The duration of the NBT-ICC Committee will be two years extendable by one year.
- The maximum term of the NBT-ICC member/Chairperson is two years or the age of retirement, whichever is first.

iv. Honorarium

The member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

J. POWERS AND DUTIES OF NBT-ICC AGAINST SEXUAL HARASSMENT

J. i. Gender Sensitization and Orientation

1. To work towards creating an atmosphere promoting equality, non-discrimination and gender justice
2. To promote and facilitate measures to create a work and study environment that is free of sexual harassment of women.
3. To publicise widely the policy against sexual harassment especially through the posters/circulars/notices or other mechanisms and display the same on notice boards, website, etc.
4. Every recruitment announcement must state: NBT has a policy against sexual harassment and is committed to providing an environment free from sexual harassment of women at the workplace.
5. To regularly organize and carry out programmes for gender sensitization of NBT members through workshops, seminars, posters, film shows, debates etc. It may enlist the help of specialized NGOs to carry out these programmes.

7. The NBT-ICC shall take *suo moto* notice of grave violations of the basic principles of gender sensitivity and gender justice on the campus.

J.ii. Enquiry

1. To receive and take cognizance of complaints made about sexual harassment of women at the workplace.

2. To conduct enquiries into these complaints, and place findings and recommendations before the Employer in accordance with the service rules.

3. To ensure the safety of the complainant and witnesses during the pendency of the enquiry and till the final determination of the complaint, by advising the Employer to issue warnings, suspension or any other order, if the harasser harasses or intimidates the complainant or witnesses.

4. To make efforts to ensure that the complainants and the witnesses are not further victimised or discriminated against while it is dealing with the complaint, the Committee shall recommend action against anyone who threatens or intimidates the complainant or members of the Committee.

5. To seek medical, police and legal intervention with the consent of the complainant.

6. To make arrangements for appropriate legal, psychological / emotional and physical support for the complainant if she so desires in terms of providing referral numbers.

7. In the case of third party/ outsider harassment, the NBT shall initiate action with the consent of the aggrieved woman, and shall also assist the aggrieved woman in making a complaint with the appropriate authority having jurisdiction over the offence. Further NBT and the NBT-ICC will actively assist and provide available information regarding NGO and Counselling services in that area to the complainant in pursuing the complaint.

K. GUIDELINES FOR NBT-ICC AGAINST SEXUAL HARASSMENT

a. The Chairperson (woman) and members of the Committee to be nominated by the Director from the panels recommended by NBT-ICC.

- b. At least 50% of the members in each of these categories should be women.
- c. The term of each Committee shall be two years extendable by one year. The previous Committee will however continue till the new Committee is constituted.
- d. In the event of the expiry of the term of NBT-ICC during the pendency of an enquiry then for purposes of that complaint the NBT-ICC will be regarded as a valid Committee, under this Policy and Service Rules, till the submission of the Enquiry Report to the Employer.
- e. A person shall be disqualified from being appointed, elected, nominated or designated as, or for being continued as, a member of NBT-ICC if there is any complaint concerning sexual harassment pending against him, or if he has been found guilty of sexual harassment/serious misconduct.

L. PROCEDURE FOR REGISTERING COMPLAINTS

- L. i. The mechanism for registering complaints should be safe, accessible and sensitive.
- L. ii. All complaints must be brought by the complainant in person.

The following exceptions will be admitted:

- a. In cases of forced confinement of the person. In such a case, brought by another person on behalf of the complainant, the Committee will examine whether an enquiry, intervention or some other assistance is needed.
- b. In cases of appeals where it is difficult for the complainant to travel in person to the location of the appellate body.
- c. In exceptional cases, third party/witness complaints may be entertained. In such cases, NBT-ICC will ascertain whether the woman alleged to have been sexually harassed wishes to lodge a formal complaint. Once such a complaint is received the Committee shall proceed to enquire into it as per the procedure specified.
- d. If the complainant wishes, she can be accompanied by a representative.

- iii. Complaints can be lodged directly with a designated member of the NBT-ICC or through existing channels for lodging grievances, such as the NBT authorities. The person to whom the complaint is made should bring it to the notice of the Committee within two working days of its receipt by her/him
- iv. A complaint can be directly referred by the Director to the NBT-ICC. However, in such cases, which will be exceptional, the Director may record the reasons for the same.
- v. The complaint may be oral or in writing. If the complaint is oral, it shall be reduced in writing by the NBT-ICC and the same shall be authenticated by the complainant under her dated signature or thumb impression as the case may be.
- vi. All complaints made to the NBT-ICC must be received and recorded by the designated member, who shall then inform the Chairperson about the complaint, who in turn shall call a meeting of the Committee.
- vii. All meetings of the Committee will be called by the Chairperson and a notice of at least 5 working days must be given for the meeting. In exceptional cases emergency meeting may be convened as per the requirement.
- viii. Within ten days of the receipt of a complaint, the concerned NBT-ICC must determine whether a prima facie case of sexual harassment is made out. It shall carefully consider the complaint and may hear the complainant and the defendant and/or any other relevant person to determine whether an enquiry by the Committee is to be instituted. If the Committee considers it necessary to hear the defendant at this preliminary stage, it shall issue a notice to him for the purpose.
- ix. No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of a Committee.
- x. Any Committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.
- xi. If the NBT-ICC decides not to conduct an enquiry into a complaint it shall record the reasons for the same in writing. The Committee shall make the same available to the complainant in writing. The reasons for the decision can be recorded in the minutes of the meeting.

L. iii. Procedure to be followed by the Committee

The Committee shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity given below:

- i. During the enquiry proceedings the complainant and/or their witnesses and the defendant shall be called separately so as to ensure freedom of expression and an atmosphere free of intimidation.
- ii. The complainant will be allowed to be accompanied by one representative during the enquiry. Such a person shall have only observer status to point.
- iii. The Committee shall complete the enquiry, preferably within two months from the date on which the complaint is received by the Committee.
- iv. Within one week of the institution of enquiry proceedings by NBT-ICC, the Committee shall prepare a document containing a summary of the complaint such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the complainant and the defendant. The defendant shall be given all this information along with a copy of the GUIDELINES, PROCEDURES AND POLICY of the NBT-ICC. The Committee shall also make available to the defendant a true copy of the complaint(s) lodged by the complainant(s).
- v. The Committee must inform the defendant in writing about the material particulars of the charges made against him/her and they should be given a period of 2 working days to respond to the chargesheet. Within not more than two working days of the receipt of the first intimation of the enquiry, the complainant and the defendant shall submit, to the Convener of the Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Committee to examine. The complainant and the defendant shall be responsible for presenting their witnesses before the Committee. The Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
- vi. The Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.

vii. The Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.

viii. If the Committee believes that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned can be done for a maximum of 2 times. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting with prior intimation/valid ground..

ix. The Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant, if it has relevance to the case, shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment. The Committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, conduct, or sexual history.

x. The defendant, the complainant, and witnesses shall be intimated at least 3 days in advance in writing of the date, time and venue of the enquiry proceedings.

xi. The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to be present for two consecutive hearings convened by the Enquiry Committee.

xii. The venue of the enquiry should take into consideration the convenience and security of the complainant.

xiii. The identities of the Complainant and all witnesses shall throughout be protected and kept confidential by the Committee.

xiv. The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the video recordings once prepared with the exclusion of witnesses' names and identities. The complainant(s)/defendant should inform the Committee specifically if they wish to exercise this right. However, the concerned parties shall maintain strict confidence of the written transcripts and desist from taking these documents outside the office of NBT.

xv. The complainant and the defendant shall have the right of cross-examination of all witnesses. However, such cross-examination shall be conducted in the form of written questions and responses via the Committee only. The defendant shall have no right to directly cross examine the complainant.

xvi. The defendant/complainant may submit to the Committee, a written list of questions that he/she desires to pose to the defendant complainant/witness. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive. Any behaviour, verbal or otherwise, on the part of the defendant, that is designed to intimidate or subject the complainant or her witnesses to mental and physical trauma, can lead the Committee to recommend disciplinary action against the defendant.

xvii. All proceedings of the Committee shall be recorded in writing. Statement of witnesses shall be endorsed by the persons concerned as a token of authenticity thereof.

xviii. All persons heard by the Committee, as well as observers shall take and observe an oath of secrecy about the proceedings to protect the dignity of the complainant and the defendant. Any violation of the oath of secrecy may invite penalties.

Exception: A complainant has the right to go public about the complaint of sexual harassment if she so desires. If the Complainant goes public before filing the complaint with the NBT-ICC, the same shall not prejudice the Committee members. Once a complaint has been given to the Committee, the complainant should not go public till the enquiry is completed.

xix. The members of the Committee shall maintain confidentiality about the proceedings conducted by them.

xx. If the complainant desires to tender any documents by way of evidence, the Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the complainant.

xxi. In the event that the Committee thinks that supplementary testimony is required by a third party not connected with proceedings earlier, the Convener of the Committee shall forward to the persons concerned a copy of the complaint and allow for a time period of seven days for them to submit such testimony, in person or in writing, to the Committee.

xxii. Nothing precludes the Complaints Committee from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings. If a new fact or evidence is brought to the notice of the NBT-ICC after submission of the Enquiry Report to the Employer, then in the event of the constitution of the reconvened Enquiry Committee, at least half of the members of the Committee shall be those who originally enquired into the said complaint.

xxiii. The Committee shall be sensitive to the covert, private and insidious nature of Sexual Harassment and shall take into account that often the aggrieved woman may not be able to submit/present direct or corroborative evidence. The Committee shall take note of the respective socio-economic positions of the parties, their hierarchy in the respective organization / workplace, the employer-employee equations and other power differences.

xxiv. All information received in the course of the examination and enquiry into a complaint of sexual harassment shall be held in trust by the concerned NBT-ICC and the same shall not be made available pursuant to an application under the Right To Information Act, 2005. Such information shall constitute an exception under Section 8 (e) of the Right To Information Act, 2005, as the same is held by the NBT-ICC in a fiduciary relationship and the non disclosure of the same will not be against public interest. To the contrary disclosure of such information may endanger the life or physical safety of the complainant or any of the witnesses. An exception to this Rule will be when the complainant herself applies for information under the Right to Information Act, 2005.

xxv. Enquiry to be completed within 60 days. The enquiry shall be completed and the Enquiry Report submitted to NBT-ICC within a period of 60 days from the date on which the enquiry is commenced. In the event of any delay in submission of the Enquiry Report the reasons for the same shall be recorded in writing.

M. REPORT OF THE COMMITTEE

M.i. (a) After concluding its enquiry, the Committee shall prepare a detailed and written report of its findings. The enquiry report shall specify the details of the charge(s) against the defendant, the statements made and evidence presented in the enquiry and a discussion of the reasons upon which the findings were arrived at by the Committee.

(b) No observations regarding the work and behaviour of either the complainant or defendant shall be made which are not related to the alleged act of sexual harassment.

M.ii. Upon the completion of an enquiry the said Committee shall provide any of the following recommendations as may be relevant:

(a) If the Committee finds no merit in the complaint, it shall dismiss the complaint with reasons given.

(b) In the event that the Committee finds the defendant guilty of sexual harassment, it shall also recommend the nature of disciplinary action to be taken, taking into consideration the gravity of the offence of which he has been found guilty and the impact on the complainant.

(c) The penalty should be in accordance with the service rules, some of which are mentioned here: i. Warning, ii. Written apology, iii. Bond of good behaviour, iv. Gender sensitization, v. Counselling, vi. Adverse remarks in the Confidential Report, vii. Debarring from supervisory duties, viii. Denial of membership of statutory bodies, ix. Denial of re-employment, x. Stopping of increments/promotion, xi. Reverting, demotion, xii. Transfer, xiii. Dismissal, xiv. Any other relevant mechanism.

N. ACTION TO BE TAKEN BY EMPLOYER

i) Upon receipt of the Enquiry Report, the Employer shall act on the Enquiry report within six weeks.

ii) A copy of the Enquiry Report shall be given by the Employer to the complainant and the defendant.

iii) The Employer shall however take disciplinary action only after giving the defendant an opportunity to reply to the findings of NBT-ICC through an oral or written representation, in accordance with the service rules and principles of natural justice.

iv) No person accused of an act of Sexual Harassment under this policy shall be part of the decision making process referred to, in this section.

O. APPEAL

The complainant and the defendant shall have the right to appeal if they are dissatisfied with the decision of the concerned NBT-ICC or the Employer.

O. AMENDMENT

The NBT-ICC may undertake a review of the GUIDELINES, PROCEDURES AND POLICY every five years, or as per the Government of India regulations.