

Internal Committee – How to overcome challenges in constituting an Internal Committee?

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Every Organization having 10 or more employees on their rolls, do find it challenging to constitute an Internal Committee as per Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

In this blog, we shall discuss few challenges and workable solution available before the Employer:

Challenge-1: By an Order in writing, constitute a committee (section 4(1))

Workable solution: Most of the Employer do not constitute by an Order, by the Management. Constitution of the Internal Committee (IC) and nomination of the Presiding Officer, Other Members and External Member, shall be done basis of a written Order – i.e. either by (a) a Board Resolution or (b) an Order by the Partners or the Proprietor or (c) an Order by the Director

Challenge-2: Internal Committee shall be constituted at all administrative units or offices (section 4(1))

Workable solution: Where branch strength is 10 or more, a separate committee shall be constituted and notified – Employer can have, all or few members of the Internal Committee of Corporate/Head office. It is always suggested that a local representative be nominated in each branch, if majority of the IC members are from Corporate/Head office, to facilitate smoother enquiry, in case of any complaint by the aggrieved woman.

Challenge-3: A Presiding Officer Shall be woman employed at a Senior Level at workplace from amongst employees (section 4(2) (a))

Workable solution: The challenge employer faces here is: Senior meaning, by age or seniority in the organization?

A Presiding Officer is going to (a) determine whether the Complaint can be admitted for an enquiry (b) whether the complaint can be referred to conciliation process, if agreed by the aggrieved woman (c) differentiate and identify the impact of such sexual harassment on the aggrieved woman (d) hold principles of natural justice during enquiry process (e) thoroughly record and document the entire enquiry process (f) appropriately report the right recommendation to the Management, on the basis of the outcome of the enquiry (g) have right expertise to work with other internal and external member/s, (h) arrive at a consensus on decision based on the enquiry outcome (i) hold principles of law in case of a division in recommendation amongst the members, etc.

Hence as an individual, such person should have the maturity to handle the above mentioned and inclination towards recognizing concerns of a woman with reference to sexual harassment.

Where the core process of an Organization is different, identifying a person, mainly a woman employee, who needs to be a Woman crusader or legal professional or an activist.

Extent possible, the IC should comprise of women members who have been trained on the Prevention of Sexual Harassment – Definition, Policies, Procedures, etc

Challenge-4: Not less than 2 members amongst employees, preferably committed to cause of women or person familiar with issues relating to sexual harassment (section 4(2) (b))

Workable solution: Here the Employer has the option of choosing either Female employee or Male employee, who were committed to cause of the woman. Nevertheless, the Employer shall ensure that 50% representation of Internal Committee shall be women.

Challenge-5: One member from amongst non-governmental organizations or associations committed to the cause of women or person familiar with the issues relating to sexual harassment. (section 4(2) (c))

Workable solution: Be informed, that there is no requirement, here to nominate only Legal professionals as an External Member, which majority of employers do. There is an advantage in having Legal Professional as an External Member, but not mandatory. Further, many of the Employers identify only Female, to increase the proportion of Female category where few Male employees who were nominated as IC members.

Employers have an opportunity to have right, balanced person from outside, who has the ability to weigh the documents, records, witness depositions and impact to

the individual woman. He/she can assist the Internal Committee in a bigger way, where there cannot be any internal influence. Hence, Employers need to rightly choose a person who can become an External member.

All committee members, including the Presiding Officer and External member, are to be more accessible, easily approachable and appropriately committed to the complaints, if any. All such members shall be sensitive to the issues and understand the impact to the aggrieved woman or to the respondent if the complaint is malicious and to the Organization overall.

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