

Sexual Harassment and POSH Committees: Trends and Challenges



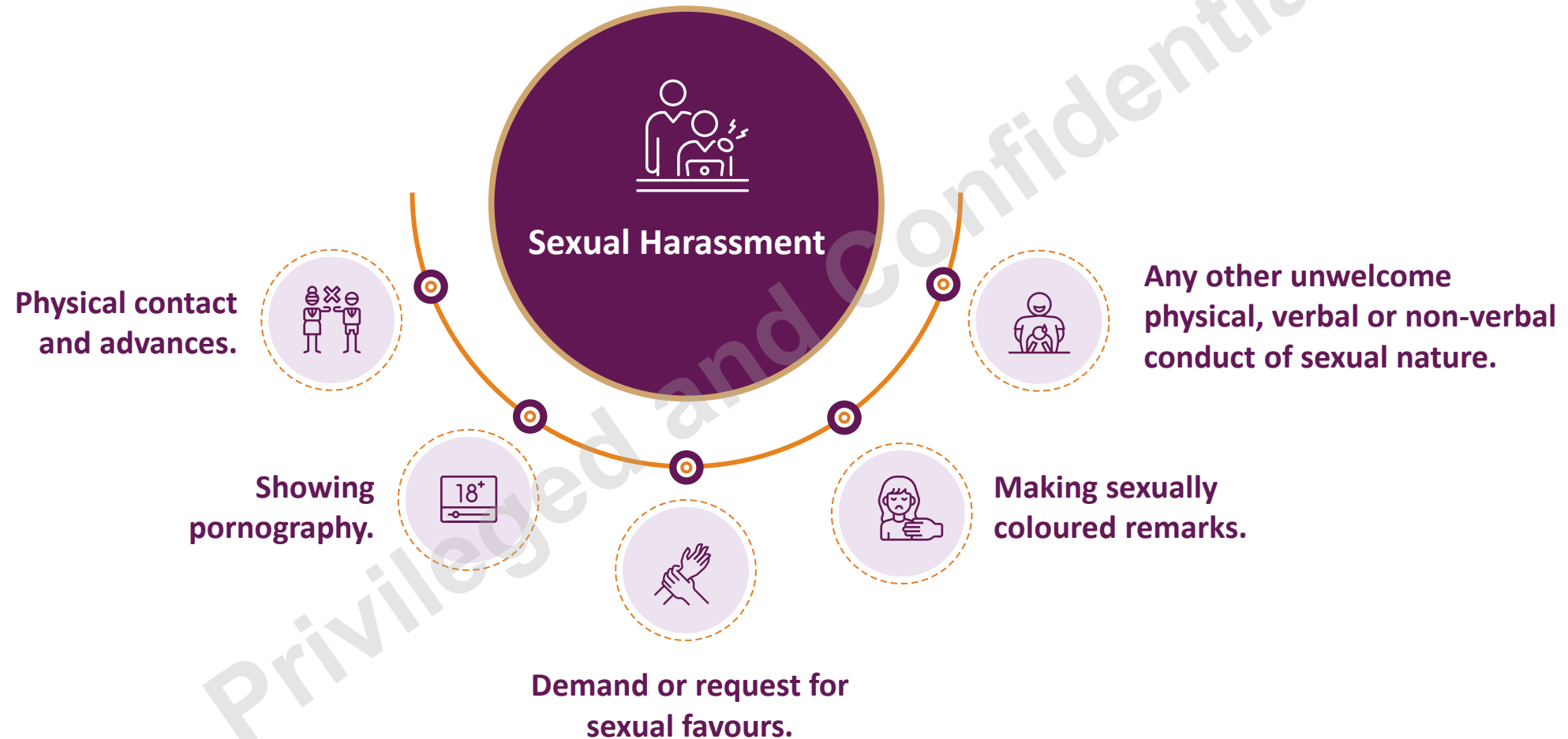
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ahead of the curve

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What is Sexual Harassment?

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The above acts are indicative not exhaustive

Making Sexually Coloured Remarks

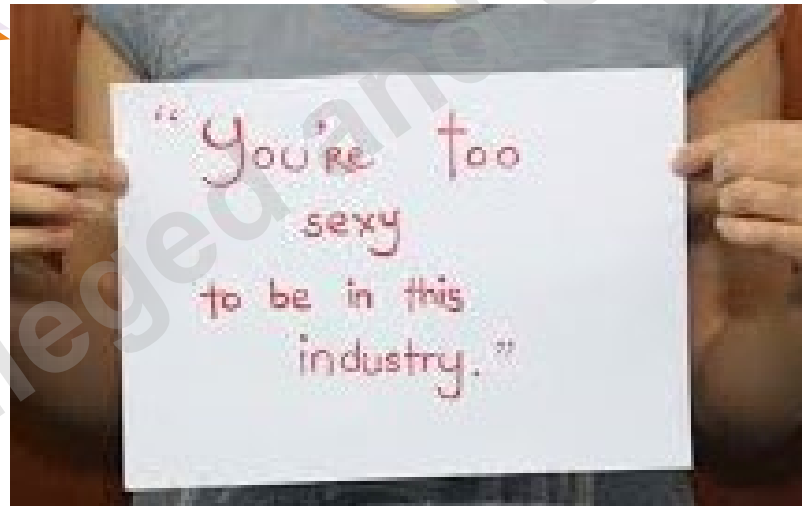
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Language like chick, cutie, blondie, hottie, love, babe, beautiful.

Commenting on lipstick, make up or clothes.

Inappropriate comments on appearance, including weight loss, weight gain etc./ Bodyshaming?

Commenting on the fit of clothes, their appropriateness, whether it suits the person etc.



Language with sexual connotations – e.g. 'slut', 'rape', 'bitch', 'hot'.

Any other Unwelcome Physical, Verbal or Non-verbal Conduct of Sexual Nature

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- 01 Use of certain expletives.
- 02 Rating someone based on their appearance, or related games.
- 03 Making someone uncomfortable by staring at them.
- 04 Forcing someone to have a drink at parties.
- 05 Insisting on dropping home, especially at night.
- 06 Not maintaining personal space, in office or social events.
- 07 Taking pictures and selfies without consent.



Circumstances which, when connected with act or behaviour of sexual harassment, may amount to Sexual Harassment

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01

Implied or explicit promise of preferential treatment in employment.

02

Implied or explicit threat of detrimental treatment in employment.

03

Implied or explicit threat about present or future employment status.

04

Humiliating treatment likely to affect health or safety.

05

Interference with work or creating an intimidating or offensive or hostile work environment.



Sexual Harassment is a Subjective Experience

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Sexual Harassment should be analysed from the victim's Perspective.



Conduct that one gender considers unobjectionable may offend the other.



One gender may view certain forms of sexual harassment as harmless social interactions to which only overly-sensitive individuals of the other gender would object.

Sexual harassment is complex, subtle, and highly subjective.

“Aggrieved Woman” ≠ “Employee” under the POSH Act

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01

Regular, temporary, ad-hoc or on daily wages.

02

Includes contract worker, probationer, trainee/ apprentice.

03

As per the POSH Act, any “aggrieved woman” can file a complaint.

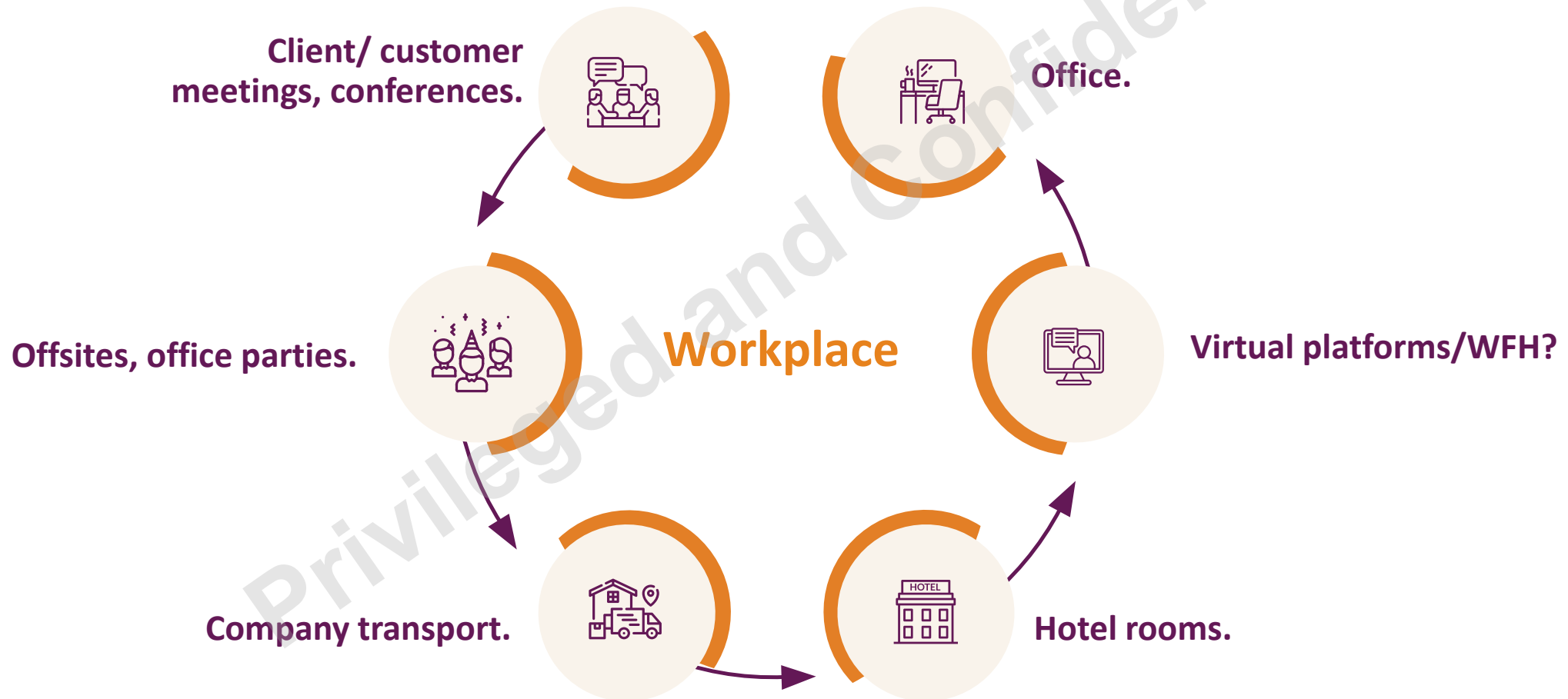
04

“Aggrieved woman” NEED NOT be an employee.



What is Workplace?

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Sexual Harassment on Virtual Platforms

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Everything that is sexual harassment in a physical environment is also sexual harassment in a virtual/WFH environment.

Dressing inappropriately on video calls.

Frequent and excessive calls when not necessary.

Inappropriate comments, stalking etc. through social media handles.

Taking screenshots without permission.

Scheduling calls at odd hours when not necessary.

Inappropriate backgrounds during video calls.

Insisting on video calls when audio calls are sufficient – odd hours.

Commenting on appearance during work calls/meetings.

Inappropriate jokes or comments over mails, texts or calls.

Use of inappropriate emojis in texts and mails.

Screen sharing with inappropriate content.

Key Points To Note

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In Sanjeev Mishra vs. Bank of Baroda, The Rajasthan High Court extended the definition of "workplace harassment" to encompass online abuse – *“with the global shift to the work-from-home model owing to the ongoing pandemic, more individuals and particularly women are finding themselves vulnerable to online sexual harassment.”*



Speak to the supervisor or internal committee to express and discuss your discomfort.



Remain aware of professional boundaries, even in WFH scenarios.



If any behavior makes a person feel uncomfortable, let the company's IC decide/determine if its sexual harassment.



As senior leaders, call out when you see unwanted behavior, even in WFH/virtual scenarios.

Constituting an Internal Committee

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01

A Presiding Officer who is a senior-level woman employee.

02

Not less than two members from amongst employees.

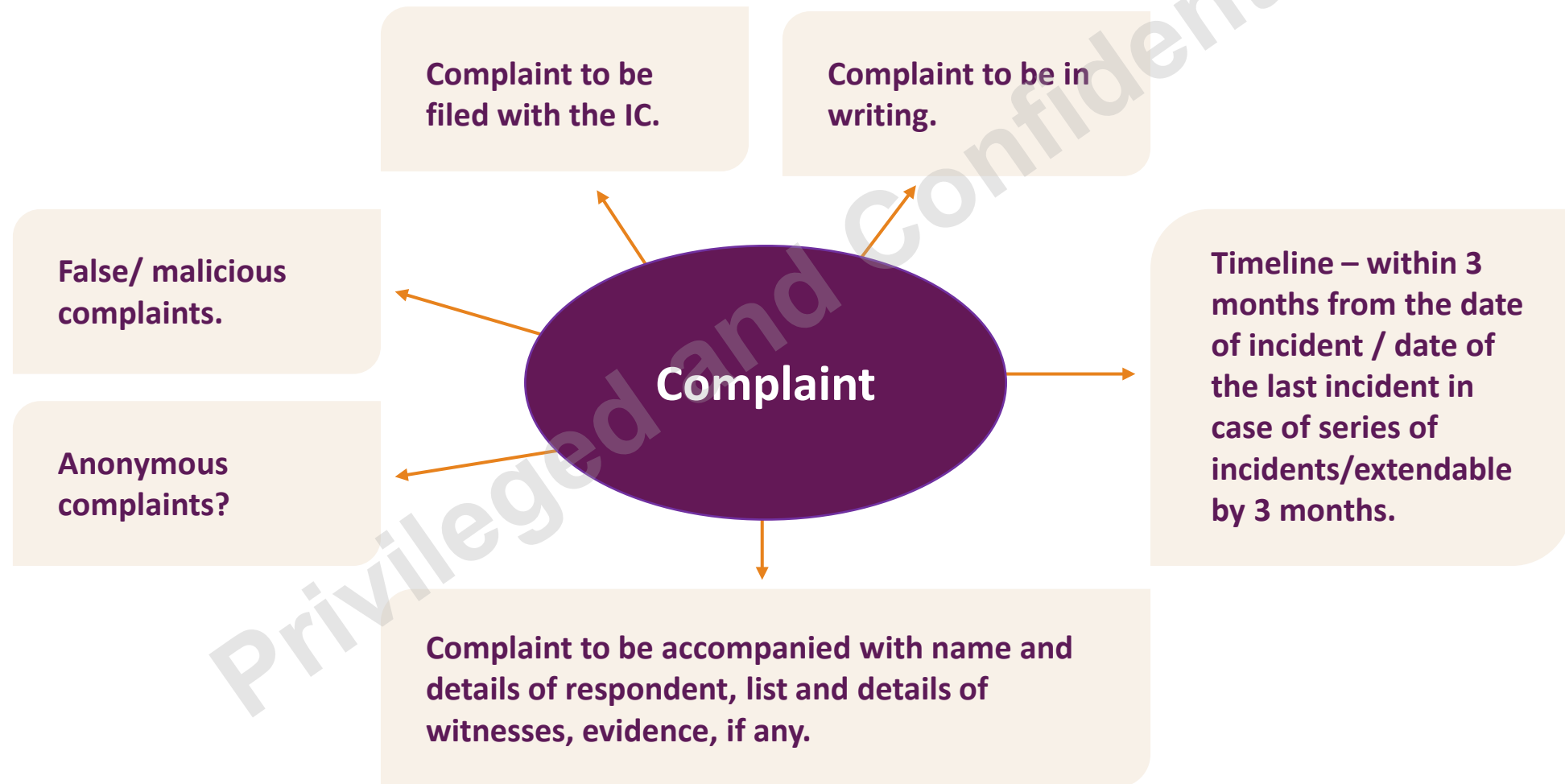
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One external member.



Process of filing a complaint - Key points

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Role and Responsibility of All Employees

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Case Study

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Mike, a math professor at a university, repeatedly made unwelcome advances towards his student, Myra, who is a PhD Scholar, over a six-month period. Despite Myra's clear discomfort and verbal requests to stop, Mike continued sending explicit messages to her student email, making inappropriate comments about her physical appearance during student meetings, and deliberately touching her shoulders and arms during one-to-one discussions. The behaviour escalated when Mike cornered Myra in the university cafeteria late one evening, making sexually suggestive remarks.



Does Mike's behaviour towards Myra amount to sexual harassment?

- a) Yes, it will
- b) No, it will not
- c) Maybe, I am not sure



Would it be sexual harassment had it been only once?

- a) Yes, it will be sexual harassment even if it had happened only once.
- b) No, it has to happen more than once for it to be sexual harassment under the POSH Act.
- c) Maybe, I am not sure.



Is it Permissible to have a Common Internal Committee for Multiple Locations?

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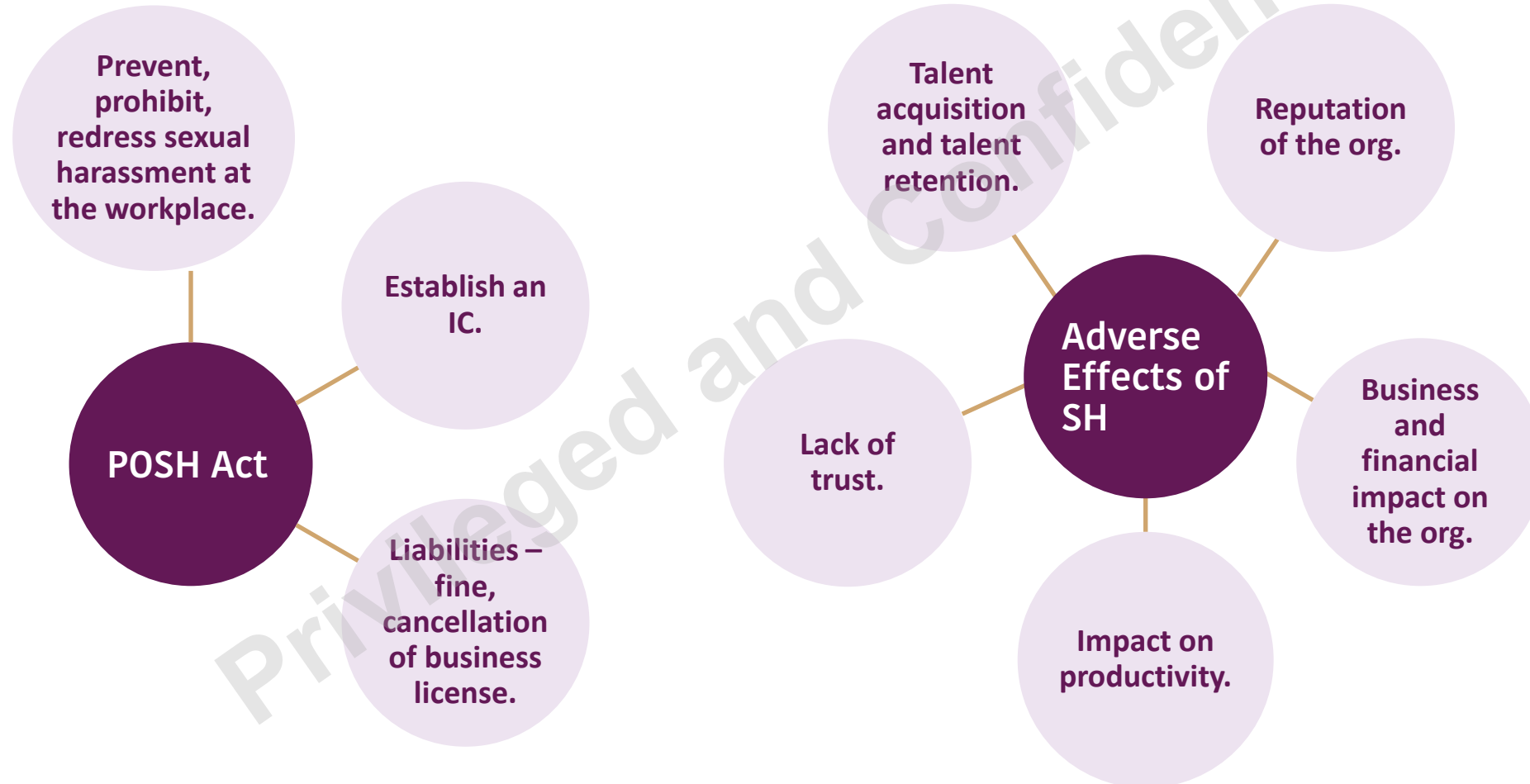
The POSH Act stipulates that an Internal Committee should be established at all administrative units or offices having 10 or more employees regardless of location (whether or not such office/ unit has female employees on its rolls or not).



Effect of judgment in *Jaya Kodate Vs. Rashtrasant Tukdoji Maharaj Nagpur University* case before the High Court of Bombay.

Legal and Moral Obligations

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Recent Trends and Developments

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- ✓ In August 2024, the Ministry of Women and Child Development launched a revamped version of the She-Box which is a centralized digital portal to register, track, and monitor workplace sexual harassment complaints.
- ✓ In 2025, the Ministry of Corporate Affairs (MCA) significantly reinforced POSH compliance through the Companies (Accounts) Second Amendment Rules, 2025, which came into effect on **July 14, 2025**, and are applicable to all companies registered under the Companies Act, 2013, including public, private, listed and unlisted companies. Elevating workplace safety to a critical corporate governance issue, the MCA mandated detailed, quantified disclosures in every applicable company's Board's Report.

Recent Trends and Developments

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- ✓ A private member bill to amend the POSH Act, called the Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Amendment Bill, 2024 (POSH Amendment) was introduced in the Rajya Sabha on February 02, 2024. The Bill proposes the following amendments to the POSH Act:
 - a) **Extension of Complaint Filing Timeline:** 1 year from the current 3 months limit. The IC would also have discretion to grant further extensions if justified.
 - b) **Omission of Conciliation:** To remove the conciliation process, the rationale being to eliminate potential coercion or undue pressure on complainants to settle.
- ✓ Under the Code on Wages 2019, there is an express provision on disqualification for payment of statutory bonus, where an employee is convicted of sexual harassment.



Questions?

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Cyril Amarchand Mangaldas

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