

Complaint committee Against Sexual Harassment (CCASH) University of Allahabad

The committee shall comprise of the following members:

Prof. Sangita Srivastava (Chairperson)

Dr. Jaya Kapoor Chaddha , Department of English

Dr. Neetu Mishra, centre of Food Technology

Dr. Sonal Shankar, Department of law

Dr. Tanveer J. Siddiqui, J K Institute of Applied Physics, University of Allahabad

Dr. Shefali Nandan,, Assistant Professor, Department of Commerce,

Ms. Archana, Office Assistant, Dept of Home Science, SC nominee.

Legal consultants

Hon. Justice D.P. Singh (Retired Judge, High Court of Allahabad)

Mr. Vinay Saran, Criminal lawyer, High Court of Allahabad

The CASH would be accountable to the Vice Chancellor.

The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act 2013(hereinafter referred as 'The Act'). was enacted in order to provide a safe and secure working environment to women at workplace. With the enactment of The Act, India is now a part of the group of countries to have prohibited sexual harassment at workplace through national legislation.

Sexual harassment is in grave violation of the fundamental rights of a woman. It means any unwanted conduct of sexual nature. It includes both quid pro quo harassment (something for something) and hostile working environment.

Section 2(n) of the Act defines sexual harassment to include any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely

Physical contact and advances

Demand or request for sexual favors

Sexually coloured remarks

Display of pornography

Any other unwelcome physical, verbal or non verbal conduct of sexual nature.

(The above definition of sexual harassment is in consonance with guidelines given by Supreme court in Vishaka v.State of Rajasthan in 1997 and 2013 IPC was amended and interalia section 354 A which provides for sexual harassment and punishment for it was added)

Section 3 of the Act contains a declaration that no woman shall be subjected to any sexual harassment at any work place. It further gives examples of acts or behaviors which may amount to sexual harassment-

Implied or explicit promise of preferential treatment in her employment: or

Implied or explicit threat of detrimental treatment in her employment or

Implied or explicit threat about her present or future employment status ; or

Interference with her work or creating an intimidating or offensive or hostile work environment for work: or

Humiliating treatment likely to affect her health or safety.

Sexual harassment has severe consequences on affected women like humiliation, loss of dignity, depression, loss of desire to continue working/studying in the same office/department etc. Often such behavior goes unpunished because of hesitation on the part of women to report such behavior out of a sense of shame or fear or both. It is important for women to protest against any behavior that they feel is unwanted and unacceptable. The Complaint Committee at UoA has been set up with the aim of providing women an appropriate complaint mechanism against sexual harassment.

What should you do if you are sexually harassed?

Do not feel ashamed. Tell the harasser very clearly that you find his behavior offensive and he should not repeat that behavior.

Do not ignore the harassment in the hope that it will stop on its own. Come forward and complain to the complaint cell.

Talk to somebody you trust about the harassment. It will not only give you strength but also help others in similar position to come forward and complain.

Keep a record of all incidents of sexual harassment. If you feel the need to register a formal complaint later, this record will be helpful.

Action to be taken against the offender

The Complaint Committee is deemed to be an Inquiry Authority for the purpose of CCS (Conduct) Rules, 1964 and the report of the Complaint Committee is deemed to be an Inquiry Report under the rules.

After it has been proved that the offender has indulged in sexual harassment in the work place, appropriate disciplinary action would be taken against him irrespective of his status in the University.(staff, faculty, student). Where such conduct amounts to a specific offense under the Indian Penal Code or under any other law, a complaint will be made to the appropriate authority for action in accordance with the law.

Care shall be taken by the committee to ensure that the victims of sexual harassment and the witnesses shall not be victimized while dealing with the complaint. The victims also have the option to seek transfer of the perpetrator or their own transfer.

The Role of the Committee

- To receive and take cognizance of complaints made about sexual harassment at the University and give every complaint serious consideration.
- Crisis Management, Mediation and Counseling
- To conduct enquiries into the complaints, place findings and recommendations regarding penalties against the harasser in accordance with the rules and procedures laid down by the CASH, before the University Administration

Rules and Procedures

1. 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 while in exceptional cases emergency meeting may be convened as per the requirement.
2. No person who is a complainant, witness, or defendant in the complaint of sexual harassment shall be a member of the Committee.
3. Any Committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.
4. If the CASH decides not to conduct an enquiry into a complaint, it shall record the reasons for the same in the minutes of the Committee meeting. The Committee shall make the same available to the complainant in writing.
5. Within not more than five working days on the receipt of the first intimation of the enquiry, the complainant and the defendant shall submit, to the Convenor of the Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Committee to examine. The Committee shall have the power to summon any official papers or documents pertaining to the complaint under enquiry.
6. The Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.
7. 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.
8. The defendant, the complainant, and witnesses shall be intimated at least seventy two hours in advance in writing of the date, time and venue of the enquiry proceedings. The responsibility of communicating with the witnesses lies with the complainant/defendant regarding the date, time and venue of the meeting.
9. All proceedings of the Committee shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.
10. All persons heard by the Committee, as well as observers/nominees, 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.

11. **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 Committee against Sexual Harassment, the same shall not prejudice the Committee members
12. 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.
13. In the event that the Committee thinks that supplementary testimony is required, the Convenor of the Committee shall forward to the persons concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Committee.
14. 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 Committee against Sexual Harassment 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 Committee Against Sexual Harassment 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.

Punishment for false or malicious complaints and false evidence.

- a. As notified in the ACT of 2013 14 (1) where the internal complaint committee or the local committee as the case may be, arrives at a conclusion that 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 to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section(1) or sub-section(2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:
- b. Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:
- c. Provided further that the malicious intent on part of the complainant shall be established after an enquiry in accordance with the procedure prescribed, before any action is recommended.

- d. Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

Procedure for Registering Complaints

All complaints must be brought by the complainant in person.

The following exceptions will be admitted:

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.

In exceptional cases, third party/witness complaints may be entertained. In such cases, the Committee 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.

Where the Committee takes *suo moto* notice-

Complaints can be lodged directly with any member of the CASH, or through existing channels for lodging grievances, such as the UOA administration, academic and non-academic staff association etc. If the complaint is made through any such channel, 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.

The complaint may be oral or in writing. If the complaint is oral, it shall be documented in writing by the CASH member receiving the complaint and the same shall be authenticated by the complainant under her dated signature or thumb impression as the case may be. The members of the Committee shall maintain confidentiality about the proceedings conducted by them.

Suspension/ transfer of the alleged harasser from his official position can be considered during the pendency of the enquiry if his presence is likely to interfere with the enquiry.

The victim of sexual harassment will have the option to seek transfer of the perpetrator or her own transfer where applicable.

All complaints made to any Committee member must be received and recorded by the member, who shall then inform the Chairperson about the complaint, who in turn shall call a meeting of the Committee.

The proceedings under these Rules and Procedures of CASH shall not, in any way, be affected by any other proceedings against the defendant taken up by the complainant under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law.

The provisions of these Rules and Procedures of CASH shall not restrict the powers of the University or the complainant to proceed against the defendant for any other misconduct, or

pursue criminal or civil remedies, whether or not connected with the misconduct within the purview of these rules.

Procedure to be followed by the Committee

1. On receipt of a complaint the Committee shall record it in writing. Within ten days of the receipt of a complaint, the Committee 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 in the prescribed form for the purpose. Due attention must be paid to confidentiality of the complainant and the defendant and no mention of their details may be made in the record.
2. The Committee shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity. The Committee is empowered to take steps to settle the matter under the new Act to the satisfaction of the complainant before initiating a formal enquiry into the matter.
3. The complainant/ will be allowed to be accompanied by one representative during the enquiry. They shall communicate to the Convener of the Committee the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual she/he is accompanying.
4. 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.

Prior to the institution of enquiry proceedings

1. 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 in the prescribed format along with a copy of the Rules and Procedures of this Policy.
2. The Committee must inform the defendant in writing about the material particulars of the charges made against him and he should be given a period of 5 days to respond to the charge sheet.
3. The Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.
4. The complainant and the defendant shall be responsible for presenting their witnesses before the Committee. However, 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 shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.

5. 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.
6. The 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 present himself for three consecutive hearings convened by the Committee.
7. The venue of the enquiry should take into consideration the convenience and security of the complainant.
8. The Committee should be sensitive to covert forms of harassment that may be faced by the complainant.
9. The identities of the Complainant and all witnesses shall throughout be protected and kept confidential by the Committee.
10. The complainant(s) and the defendant, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings once prepared with the exclusion of witnesses' names and identities. Any person nominated by the complainant and/or the defendant on her/his behalf shall be only a member of UOA..
11. 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 or her witnesses.
12. The defendant/complainant may submit to the Committee, a written list of questions that he/she desires to pose to the 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 behavior, verbal or otherwise, on the part of the defendant or his nominee, 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.
13. Nothing precludes the CASH 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 Committee against Sexual Harassment after submission of the Enquiry Report to the appropriate disciplinary authority, then in the event of the constitution of the reconvened Committee, at least half of the members of the present Committee shall be those who originally enquired into the said complaint.
14. 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.
15. The Committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, conduct, personal and sexual history.

16. 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 while appreciating the evidence.
17. The Committee shall inform the complainant/s that she may give her answers to questions of a sensitive nature in writing at the enquiry proceedings during cross-examination.

Enquiry to be completed within 90 days: -

The Committee shall strive to complete the enquiry in the shortest possible time, preferably within three months from the date on which the complaint is referred to and not exceeding it.

Findings of the Committee:

- 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 arrived at by the Committee.
- b. The Committee shall provide a report of its findings to the employer within 10 days of completion of inquiry and such report shall be made available to the concerned parties.
- c. No observations regarding the work and behavior of either the complainant or defendant shall be made which are not related to the alleged act of sexual harassment. However, the Committee may consider as relevant any earlier complaints of sexual harassment against the defendant.
- d. An opportunity may be given to the parties to be heard on the findings before a recommendation is made.
- e. Upon the completion of an enquiry, the said Committee may in a detailed and reasoned manner pass any of the following orders:

If the Committee finds no merit in the complaint subject of enquiry, it shall write to the competent authority, giving reason for its conclusion, was subject of the Inquiry. The complaint may then be quashed.

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. The disciplinary action will be commensurate with the nature and impact of the sexual harassment. It shall also recommend whether after disciplinary action has been taken, the University Administration should publicize the identity of the offender, the misconduct and the disciplinary action taken. The penalties listed below are indicative, and shall not constrain the UoA administration, from considering others in accordance with the rules governing the conduct of all members of the UoA.

In the case of academic/administrative/technical/non-teaching staff/management, the recommended disciplinary action could be one or more of the following:

Warning

Written apology
 Bond of good behaviour
 Gender sensitization
 Counselling
 Adverse remarks in the Confidential Report
 Debarring from supervisory duties
 Suspension
 Denial of membership of statutory bodies
 Denial of re-employment
 Stopping of increments/promotion
 Reverting, demotion
 Transfer
 Dismissal
 Withdrawal of residential facilities and prohibition from entry on the campus etc.
 Any other relevant mechanism.

In case of students, the recommended disciplinary action could be:

Warning
 Written apology
 Bond of good behaviour
 Gender sensitization
 Counselling
 Debarring entry into a hostel/ campus
 Withholding results
 Debarring from exams
 Debarring from contesting elections
 Debarring from holding posts
 Suspension for a specified period
 Expulsion/ Rustication
 Denial of admission
 Declaring the harasser as "persona non grata" for a stipulated period of time
 Any other relevant mechanism.

(NOTE: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurize the complainant in any way).

Penalties that could be recommended in case of Outsiders

Warning, reprimand, or censure.
 A letter communicating her/his misconduct to her/his place of education, employment or residence.

Declaration of the campus as out of bounds for her/him, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by UoA.

Any other action as may be necessary.

Penalties that could be recommended in case of Service Providers

Warning, reprimand, or censure.

A letter communicating her/his misconduct to her/his place of employment.

Declaration of the campus as out of bounds for her/him.

Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.

Any other action as may be necessary:

In addition to the penalties specified above, the person may be advised to undergo counselling and gender sensitization, and to give a written and/or public apology to the complainant.

Penalty that could be recommended in case of a second offence

A second, or repeated offence, may, on the recommendation of CASH, attract a major penalty.

Where Sexual Harassment amounts to criminal offence:

Where the conduct of Sexual Harassment amounts to a specific offence under the Indian Penal Code (45 of 1860) or under any other law; it shall be the duty of the Committee Against Sexual Harassment to immediately inform the complainant of her right to initiate action in accordance with law with the appropriate authority, and to give advice and guidance regarding the same. Any such action or proceedings initiated shall be in addition to proceedings initiated and /or any action taken under this Policy.

Report of the Committee

The report of the Committee shall be deemed to be an inquiry report under the Central Civil Services (Conduct) Rules, 1964 or any other rules governing the concerned educational institution.

Within 5 working days of the preparation of the report of the Committee, the Chairperson of the Committee against Sexual Harassment shall convene a meeting. Each member of the Committee against Sexual Harassment shall have the right to access the entire enquiry proceedings, or any part thereof. The Committee against Sexual Harassment will discuss the Report and recommendations for disciplinary action, if any. Within five working days of the adoption of the report, the Chairperson of the Committee against Sexual Harassment shall forward the Enquiry Report, together with a summary of the opinions to the University Administration.

Annual Report of CASH

As required by the Supreme Court Judgment, the University administration shall forward to the government department concerned, the Annual Report of CASH together with a written report on the action taken by them on the recommendations of the GSCASH.

Action to be taken by the Vice Chancellor

Upon receipt of the Enquiry Report the Vice Chancellor will promptly act on the Enquiry report. If the Vice Chancellor disagrees with or wishes to modify the recommendations made by the

Committee against Sexual Harassment he may do so by recording the reasons in writing. The same shall also be communicated in writing to the concerned Committee against Sexual Harassment.

A copy of the Enquiry Report shall be given to the complainant and the defendant.

Disciplinary Action shall be taken within 1-2 months of receipt of the report from the Committee against Sexual Harassment.

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

Obligations of University of Allahabad

Ensure a safe environment free from Sexual Harassment including prevention and deterrence of Sexual Harassment.

Prepare and prominently display the policy for the prevention and prohibition of Sexual Harassment.

Maintain a proactive program to educate all members as to the definition of sexual harassment and procedures for redressal.

Undertake workshops and training programmes at regular intervals for sensitizing the members.

Prominently display notices in work places spreading awareness about the issue of “Sexual Harassment on Campus” and giving information for the redressal mechanism that has been put in place and encouraging its members to file their grievances.

Facilitate initiation of proceedings under this Policy through the institution of CASH to redress the instances of sexual harassment.

The University administration shall, through a notification each academic year, notify the names and contact details of the members of CASH, and the fact that CASH is the University body responsible for gender sensitization and enquiries into complaints of sexual harassment.

The University administration will ensure that the Policy is included in the Admission Brochure and circulated at the time of registration. The University administration will ensure that recruitment announcements to all academic and non-teaching positions include the following statement as notification of the Policy: UOA has a Policy against sexual harassment and is committed to providing an environment free from gender discrimination and harassment.

In order to ensure the permanent placement of the Policy, the University administration and functionaries shall arrange for several copies to be placed on boards for display in prominent places, such as the entrances to the campus, academic and administration buildings, hostels, etc.

The University administration and functionaries shall provide legal, medical and counseling assistance to those complainants who have to take recourse to the law.

The University administration and functionaries shall forward all complaints of sexual harassment to CASH, save in cases in which the complainant has expressly prohibited such forwarding.

The University administration will convey the action taken on the basis of recommendations of CASH regarding any complaint to the CASH as soon as the action is implemented.

The University administration shall maintain full confidentiality with respect to matters pertaining to CCASH enquiries into complaints of sexual harassment. The University administration shall extend all necessary assistance for ensuring full, effective and speedy implementation of these Rules and Procedures of CASH.

The provisions of these Rules and Procedures of CASH shall be duly incorporated within any other Statute, Circular or Ordinance of the University as may be relevant, in keeping with the Supreme Court Judgment.

Networking

Each Department/Centre/School/hostel will have a two member Committee (number can be more where possible) of nominated faculty and students.

CASH may liaison with the concerned Committees for awareness, orientation, sensitization and other preventive work, as and when deemed necessary by the Committees.

If necessary, assistance may be sought from the Head/Dean/Director of the Department/School/Centre and other similar persons in administration.

At least one member of CASH should be invited to be part of decision-making bodies such as School Board, Academic Council, Executive Council.

CASH should establish networks with legal experts, legal aid centers, counseling centres, health centres, police stations, Crimes against Women cells, women's groups in the city and other organizations such as the National/State Commission for Women and National/State Human Rights Commission.

If the complainant is a student and the defendant(s) is a teacher, during the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant(s) shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.

Protection against Victimization

If a witness named by the complainant is a student and the defendant(s) is a teacher, during the duration of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the defendant shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.

If both the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.

If witnesses named by the complainant and the defendant(s) are members of the academic and/or non-teaching staff of the University, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not write the Confidential Reports of the complainant, if she/he is otherwise so authorized.

If the defendant(s) is an outsider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, the defendant shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.

If the defendant(s) is a resident/service provider, during the duration of the investigation and enquiry, and even after such an enquiry if the defendant is found guilty, he will not be allowed to reside/provide service on Campus.

Amendment to the Rules & Procedures of CASH

Amendments to the Rules and Procedures of CASH shall have effect only if they are in consonance with the Sexual Harassment of Women at the Workplace (Prevention, prohibition and redressal) Act 2013.

Amendments shall be effected by a decision taken in a Special Meeting of CASH called for the purpose.

The proposed amendment (s), together with the objectives and reasons thereof, shall be recorded in writing and circulated by the proposer of the amendment (s) at least fifteen working days prior to the Special Meeting called for the purpose.

An amendment motion shall be earned by two-thirds of the members present and voting. In the event of a tie on an amendment motion, it shall be put to vote one more time. If a tie recurs, the amendment motion shall be reconsidered by another Special Meeting to be called after at least fifteen working days.