

KelpHR's Survey Analysis

on

Awareness and Prevalence of Sexual Harassment

Industry Report (2019)



About Us

KelpHR was incorporated in 2013 to provide the best HR solutions to organisations. Over the last 6 years we have 400+ happy clients pan India across various industries with niche offerings:

- Our flagship offering, **Prevention of Sexual Harassment** at workplace ensures that we are a “one stop shop” for organisations to be compliant with the law, which came into force in 2013.
- With **Diversity and Inclusion**, we are constantly working with organisations to build a culture of diversity in their DNA that encompasses Gender Sensitization, bridges the gaps between Gen X and Gen Y, everyday Unconscious bias at work and enables inclusive hiring for recruiters. Our HR experts specialize in framing your Company Policies or rewriting them to match up to the industry best practices while incorporating your corporate values

NHRDN, The National HRD Network established in 1986, a non-profit organisation, is the leading National Apex body of HR professionals committed to promoting the HRD movement in the country and enhancing the capability of human resource professionals to global levels, while simultaneously enabling them to make an impactful contribution in enhancing competitiveness and creating value for Society. Over the past three decades, this institution has been built and mentored by outstanding leaders and committed office bearers who have embraced the mission of creating an unparalleled network of Human Resource professionals who can contribute meaningfully and in a value added manner to the process of organisation and nation building.

NHRDN has over 12500 Professional Members and more than 1200 Corporate Institutional Members, with an all-India network of 30 Chapters, and has global linkages with institutions like the Ross Business School, University of Michigan USA, Wharton Business School USA, Fudan University China, and many others.

● Definitions & Applicability ●

Sexual Harassment

The Supreme Court's definition of 'Sexual Harassment' in the Vishaka Judgement is the basis for the PoSH Act's definition as well.

'Sexual Harassment' includes unwelcome sexually tinted behaviour, whether it is direct or by implication, such as

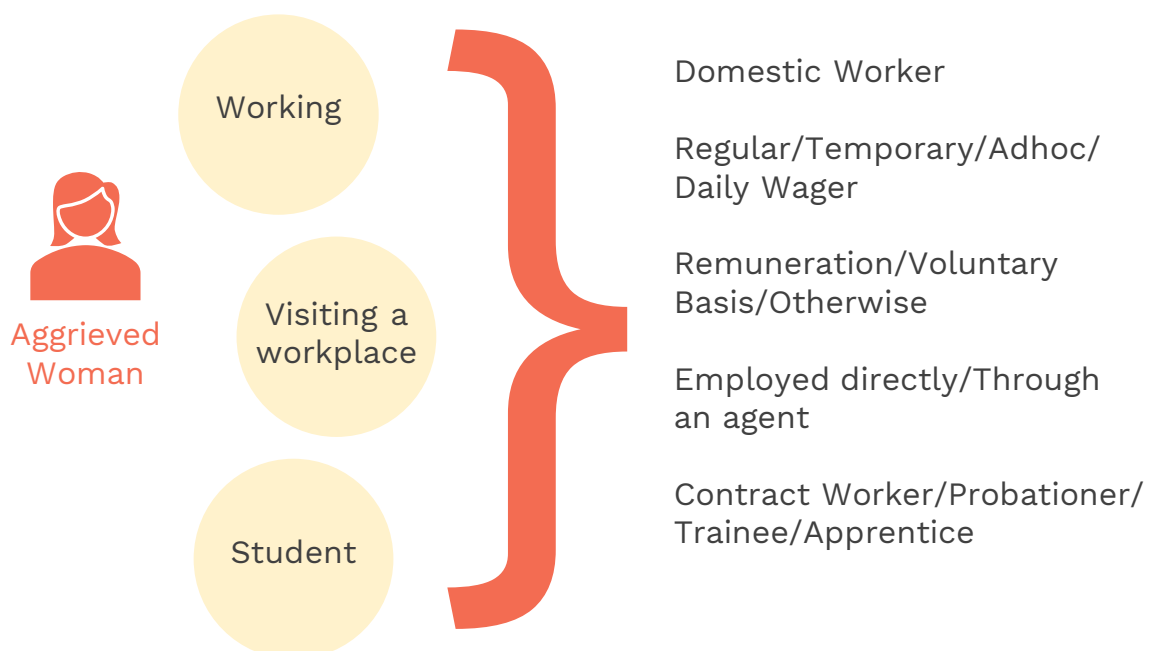
- (i) physical contact and advances
- (ii) demand or request for sexual favours
- (iii) making sexually coloured remarks
- (iv) showing pornography
- (v) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

The below behaviour might also be construed as Sexual Harassment :

- implied or explicit promise of preferential treatment in employment;
- implied or explicit threat of detrimental treatment in employment;
- implied or explicit threat about present or future employment status;

This applies to any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey. It includes office premises, canteen facility, guest houses provided by the organization, seminars, client or vendor offices etc.

The act applies to women who fall in any of the below categories:



Brief History on the Act

Vishaka case and Guidelines



Vishaka is the women’s rights group that filed a PIL in the Supreme Court of India — the case of Bhanwari Devi vs. the State of Rajasthan in 1997. Bhanwari Devi was employed as “Sathin”, a grassroot worker employed as a part of Womens Development Project run by Govt. of Rajasthan. She was trying to prevent a child marriage that was being held in her native place. She was raped by the landlords of the community in order to teach her a lesson. The rape survivor did not get justice from the Rajasthan High Court and the rapists were allowed to go free.

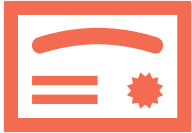
This resulted in the Vishaka guidelines, which dealt with Sexual Harassment of women at the workplace. The verdict defined Sexual Harassment, laid down duties of employers in dealing with complaints and stipulated formation of committees to address complaints from victims of harassment.

Prior to this verdict, the person facing Sexual Harassment at workplace had to lodge a complaint under Section 354 or 509 of the Indian Penal Code (IPC).

On 9th December 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into force. This statute superseded the Vishaka Guidelines for prevention of Sexual Harassment introduced by the Supreme Court of India.

● The Need for Compliance ●

Why should employers be compliant with the Act?



To avoid impact on company's credibility arising out of non-compliance to the Act. Provides a safe and secure work culture for employees. Avoid punishment as per Law. Failure to comply with the requirements can lead to an immediate fine of up to INR 50,000 and further consequences for repeated / continued non-compliance.

An employer can be subjected to a penalty of up to INR 50,000 for :



- Failure to constitute Internal Committee ;
- Failure to act upon recommendations of the Committee;
- Failure to file an annual report to the District Officer where required;
- Contravening or attempting to contravene or abetting contravention of the Act or Rules.

Where an employer repeats a breach under the ACT, they shall be subject to:

- Twice the punishment or higher punishment if prescribed under any other law for the same offence
- Cancellation/Withdrawal/Non-renewal of registration/license required for carrying on business or activities

4 Key steps to be compliant with the Act:



Create: Sexual Harassment Policy in compliance to the Act – detailing the Employee and Employer's roles and responsibilities; Internal Committee and Redressal mechanisms.



Setup: The setting up of an Internal Committee (IC) as per the guidelines, that is equipped to ensure prevention and redressal. IC should resolve complaints after a thorough investigation and recommended actions to be taken.



Ensure: Ensuring awareness among the Internal Committee and Employees by way of training on the Act and Redressal mechanisms as detailed in the policy.



Report: Statutory reporting of the cases filed and action take, IC's efforts on creating awareness. This should also be filed with Company's annual report.

● Key Observations on the Act ●



- Employment rules/ service rules should also be amended to include: **Termination or action taken due to Sexual Harassment** at workplace based on and in compliance with the Internal Committee (IC) report or findings.



- Victim has the **right to ask for a transfer or leave** during pendency of enquiry



- Per law, there should be **an IC formed at every branch** of the company in the country, where there are more than 10 employees. The District Officer is required to constitute a Local Committee at each district, and if required at the block level.

- IC is also **applicable for an all-men branch**. As even a lady vendor or a lady visitor to the workplace needs to have the option of raising the complaint.

- IC can also be headed by a Senior male employee in case a Senior woman is not available in a particular branch. But in all, **there should be 2 women as part of the IC** including the 3rd party NGO representative.



- IC is required to **complete the inquiry within a time period of 90 days**. The IC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for the purpose of inquiry.



- **Annual Statutory reporting as part of the Annual report** that every company files, the number of cases reported and action taken should be published.



- **Sexual Harassment at the workplace is a criminal offence** as per the changes made in IPC. So a victim can raise a criminal complaint case as well as a case with the IC and both can run in parallel.

Role of the Employer



Provide a safe working environment for persons coming in contact with the workplace.



Create and empower the Internal Committee as defined in the Act.



Ensure your organisation's Anti-Sexual Harassment policy is **aligned with the provisions of the new law.**



Display conspicuously at the workplace, the penal consequences of Sexual Harassment and the composition of the Internal Committee.



Organise workshops and awareness programmes periodically for sensitizing employees on the Act and organising orientation programmes for members of the Internal Committee.



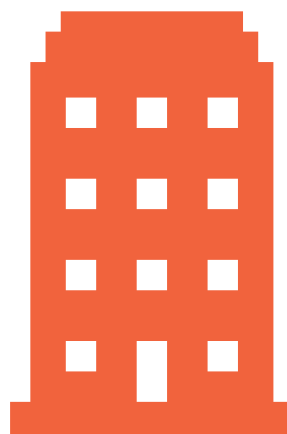
Changes to the employment contracts/service rules to **make the employees legally bound** for the acts of Sexual Harassment at the workplace.



Submit necessary information pertaining to Sexual Harassment to specified authorities while maintaining confidentiality about the victim and details of the cases reported.



Help your employee to initiate legal action against the perpetrator (if the perpetrator is not an employee) under criminal law.



● Role of Internal Committee ●



Shall provide assistance to the victim to make the complaint in writing. Complaints need to be filed within 3 months from the last incident occurrence date.



IC may extend the time limit by another 3 months. Before initiating an inquiry, at the request of the aggrieved woman, IC must take steps to settle the matter through conciliation.



Shall recommend action during pendency of inquiry like granting leave or transferring either the victim or respondent.



If IC arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required.

If IC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer:



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.



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.

If Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or witness or any other person making the complaint has made the complaint knowing it to be false or has produced any forged or misleading document, IC may recommend to the employer or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules or as may be prescribed.



- Shall record the settlement of an inquiry and forward to the employer to take action as per the recommendations.
- Shall share copies of the settlement with the victim and respondent.
- Committee to submit annual report in each calendar year and prepare the cases received, disposed, pending and preventive measures during the year and submit the same to the employer and the District Officer.

The role of the Committee will not be restricted to complaint resolution but will encompass prevention measures as well.

● Annual Report Filing Simplified ●



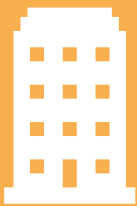
Annual Report filing is becoming a big discussion point at all our Internal Committee meets as there is a lot of ambiguity among HR leaders, Compliance Officers about how to go about it.

- As per Prevention of Sexual Harassment Act, 2013, there are 2 reports to be submitted by the employer:
 - It is the duty of the IC to submit an annual report, which includes the number of cases filed/disposed of every calendar year to the employer and district office.
 - Section 21 – Internal Committee to submit annual report: For a copy of the Annual report template and the district officer list, write to us at info@kelphr.com and we would be glad to help!
- The employer has a statutory obligation to ensure this report is included in the annual report of the organisation filed to the Registrar of companies.
- Section 22 – Employer to include information in the Annual report. As per the Act, – “The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.”

Overview and Purpose



The term 'sexual harassment' includes conduct of associates, managers, vendors and/or customers who engage in verbally or physically harassing behaviour, which has the potential for humiliating or embarrassing an associate of the Company.



A workplace is any place where a working relationship exists. This relationship can take many forms such as colleagues/peers, superior-subordinate, employee employer, vendor-customer, mentor-mentee, reporting manager – reportee, team lead – team member etc.

- The purpose of this survey was to compile an industry report on the “Awareness and Prevalence of Sexual Harassment” across corporate India.
- The survey was conducted online, which the employees had accessed anonymously. It took 5 minutes with 42 questions to complete the survey which covered various aspects of organizational culture that ensure workplace safety.
- The Survey participants were HR Heads, Internal Committee (IC) presiding officer, HR and all employees across India. This survey was launched in the month of May 2019 and was closed by Jun 2019. It received more than 2000 responses from different organisations like Merit Software Solutions, Sail Point, PEAK, KREA, BankBazaar, LogicInfo, JAMMs, Toppr and Sulekha.
- The survey was developed based on extensive research and previous experiments conducted on this subject. All this was to ensure an unbiased end result for the survey. We have evaluated the results and findings are disclosed at a high level.

KelpHR's Observations

Survey Period: Tuesday, May 21, 2019 to Sunday, June 30, 2019

15

No. of states surveyed

65

No. of cities surveyed

10

No. of companies participated

2053

Total employees responded

Victims



4%

Are victims to sexual harassment across organizations

1

out of 7 victims are men



It is good to observe that the victim percentage seems to have reduced as compared to industry reports of 16% to 22% victims in the past years.

Action



12%

of victims were **not aware** of where to report the incident



34%

of victims who reported the case said **no action was taken**



32%

of victims have experienced harassment at **Junior Level**



50%

of the victims **didn't report** the incident



Employees are comfortable reporting to HR or Managers. Awareness on reporting to PoSH committee needs to be enhanced.

KelpHR's Observations

Types



Verbal



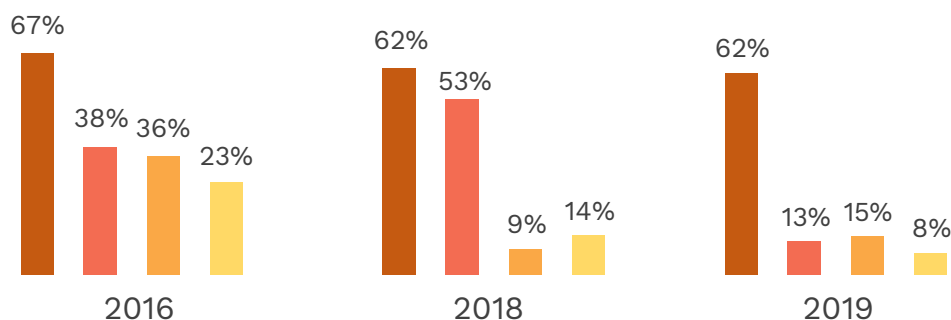
Visual



Physical



Written



Source : Survey done by KelpHR across 3 different years

40%

of victims have been harassed more than 3 times –

This makes it evident that harassers pick on certain type of person/persons and target them, which is important for organizations to be aware of.

48%

harassed by colleague/peer – Which means that it is not

always about power play where a manager or leader is harassing his team member/direct report/junior employee. This is a serious observation where someone at an equal level feels more powerful or is possibly made to feel more powerful due to the organization's culture, that harassing someone who is equal or their counterpart, does not seem to worry them.

62%

of the victims face verbal harassment – indicating

that people feel this is easier to “get away with” and many harassers do not even probably think of this as harassment



Solutions - Dealing with the harasser: The indirect or non-confrontational methods such as ignoring, changing the job do not seem to reduce harassment or make the harasser stop. The solutions lie in reporting and dealing with it, with the use of the Internal committee and facts. Victims need to be trained to speak up and say ‘No’.

KelpHR's Observations



40%

of victims reported were from IT & Communications.

(Unless this is a factor of majority of the respondents belonging to this sector, it seems to be a trend in this industry and one needs to evaluate why that is so.)



50%

of the victims **didn't report** the incident



36%

have reported that the harassment happened in the **age of 21 to 25**



It is good to observe that PoSH committee has **closed 53% of the cases within a week** of reporting the incidents



73%

of the incident happens **during office hours** and 27% during non-office hours



86%

of harassers were **male**



10%

felt **safe** at work place

KelpHR's Observations



40%

expect the policies to be more **stringent**.



16%

have experienced workplace harassment on the grounds of age/gender/marital status/skin colour/religion/language etc



48%

expect more **awareness & training** to prevent workplace harassment



13% have said that there is no training happening at all –

Which indicates that while a policy has been put in place, it is only done to meet a compliance need and there is no serious intent to drive awareness about why the process exists and how employees should use it.

KelpHR's Recommendations

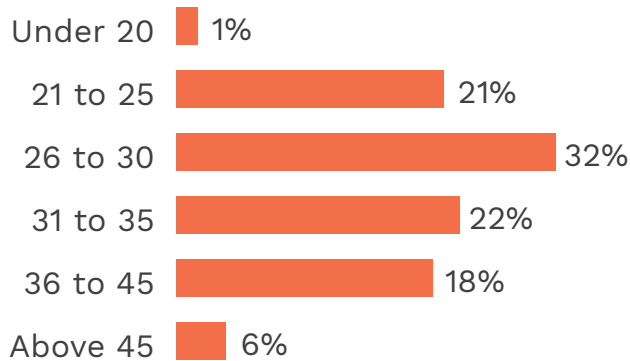
With reference to PoSH, sensitization is required on the below:

- Double meaning jokes and sexual jokes seem to top the list of harassment, followed by gossips, comments on physical appearance, nicknames. Create posters or awareness based on these.
- **28% of employees** are not aware about the scope of their organisation's policy i.e. whether their policy is women's only or gender neutral.
- **21% of victims** say that awareness has to be enhanced. Posters or case scenarios based on the incidents reported can be shared with all employees as PoSH lessons learnt.
- **50% of victims** were scared to report an incident. Need to encourage employees to speak up without fear. Posters may help. A strong and trusted Internal Committee will also help.
- Workplace harassment clarity is required for employees. We recommend an awareness session on Workplace Harassment and code of business conduct/professional ethics for employees as many have suggested that the work culture needs to be enhanced overall.

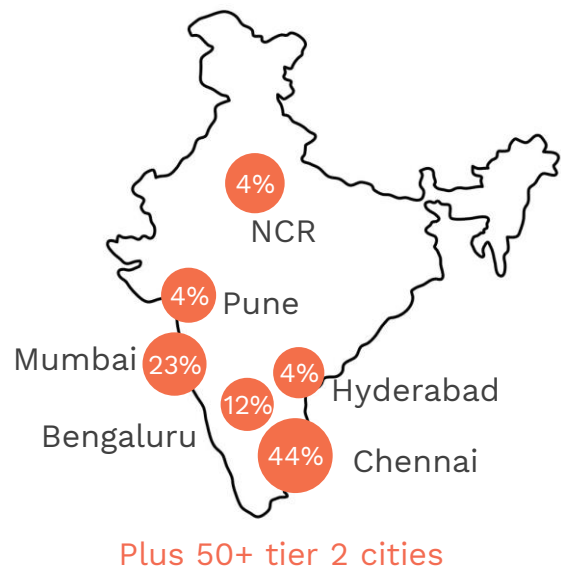
Demographic Analysis

Total Responses

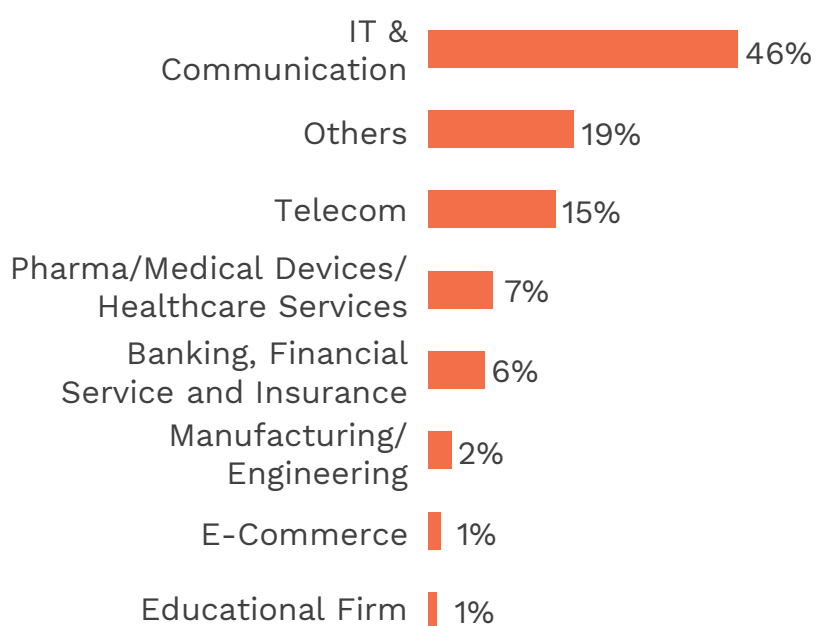
Age



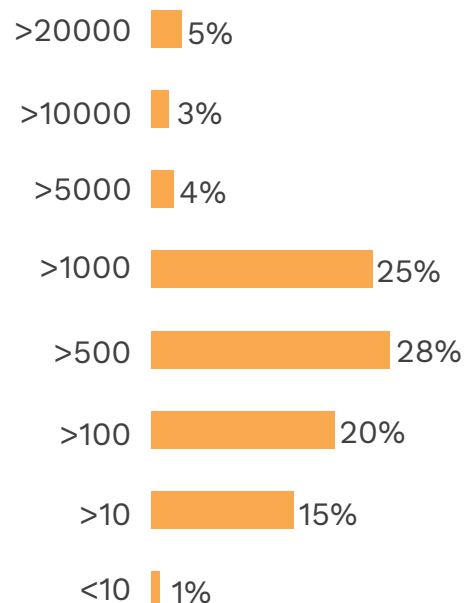
City



Industry

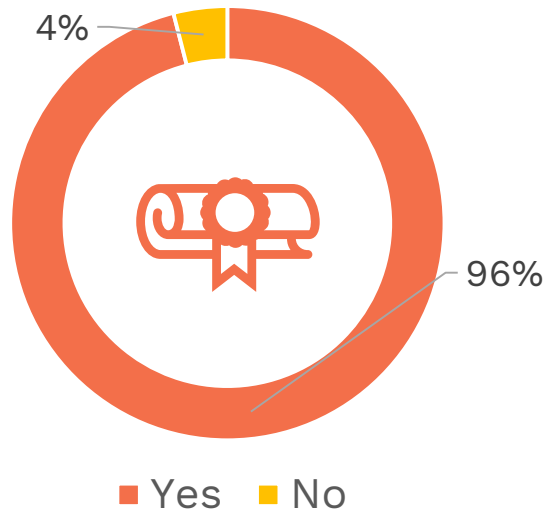


Size of the Organization

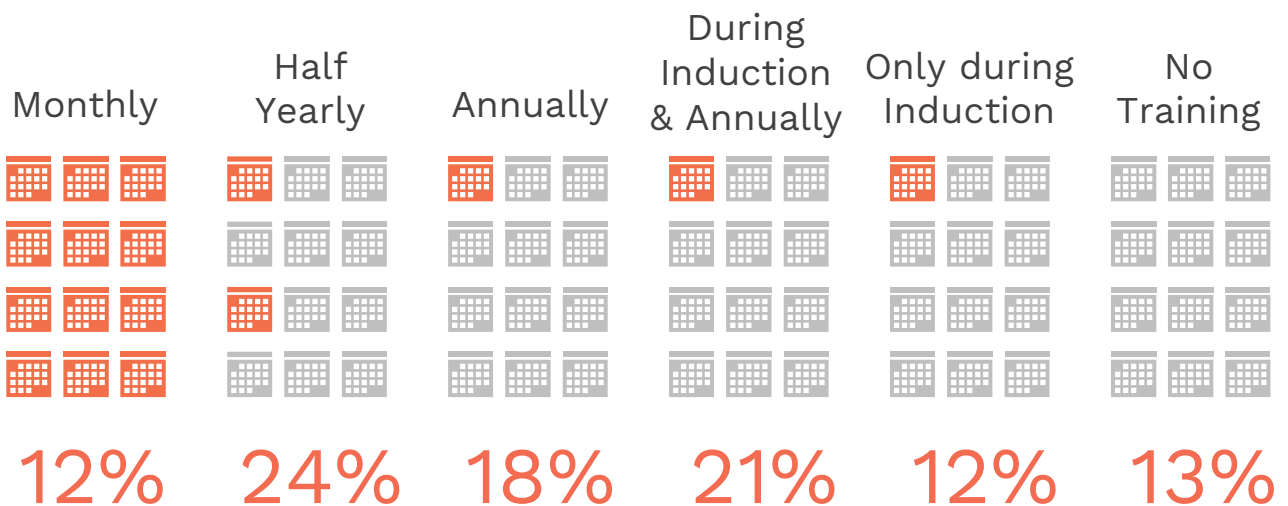




Does your company have a policy on Prevention of Sexual Harassment (PoSH) at workplace?

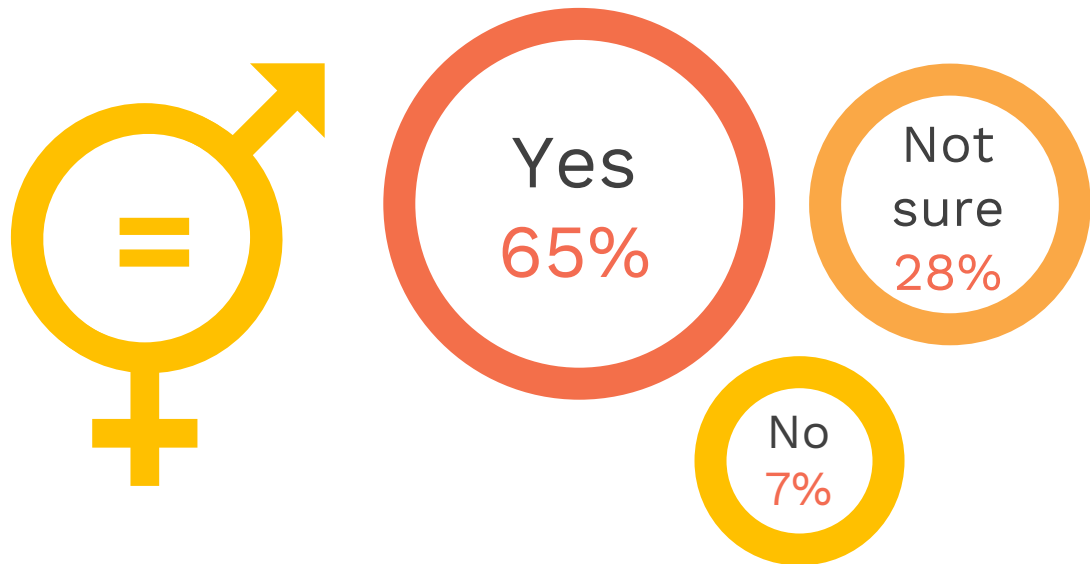


How frequently do Training/Awareness sessions on PoSH occur at your organisation?

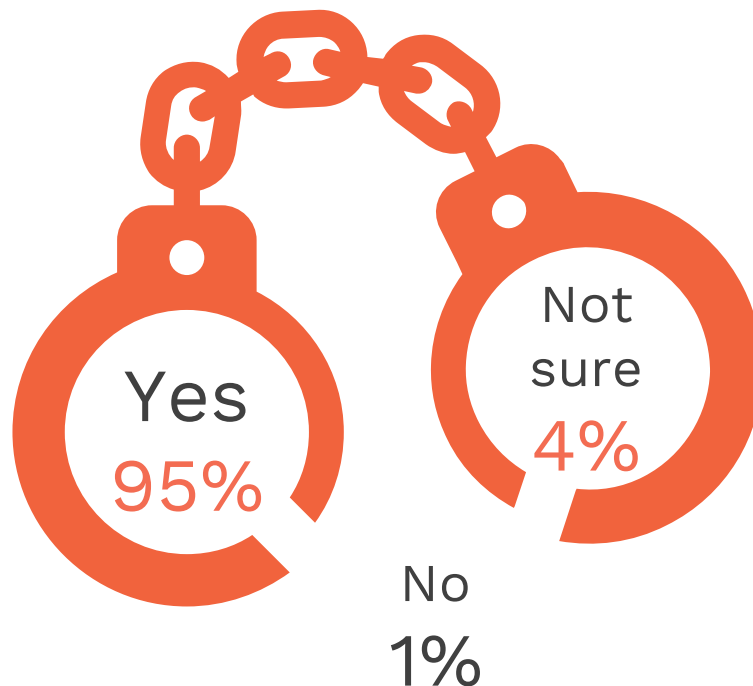




Does your organisation have a gender neutral policy?



In India, is Sexual Harassment at workplace a crime?





Have you ever been a...?

Victim

4%



Witness

4%



If you were a victim, how many times have you experienced Sexual Harassment in any form (visual/written/verbal/physical) at your workplace?



Once

34%



Twice

16%



Thrice

10%

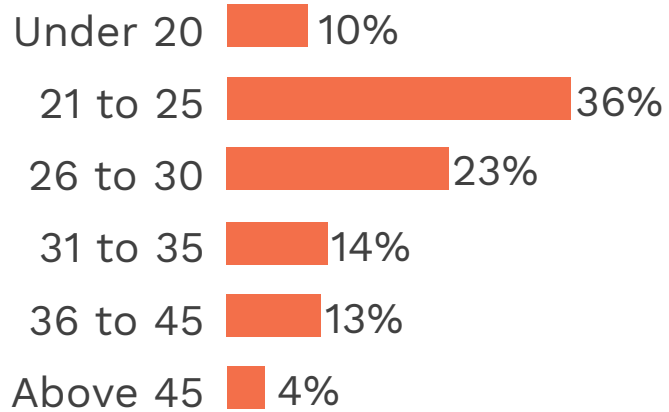


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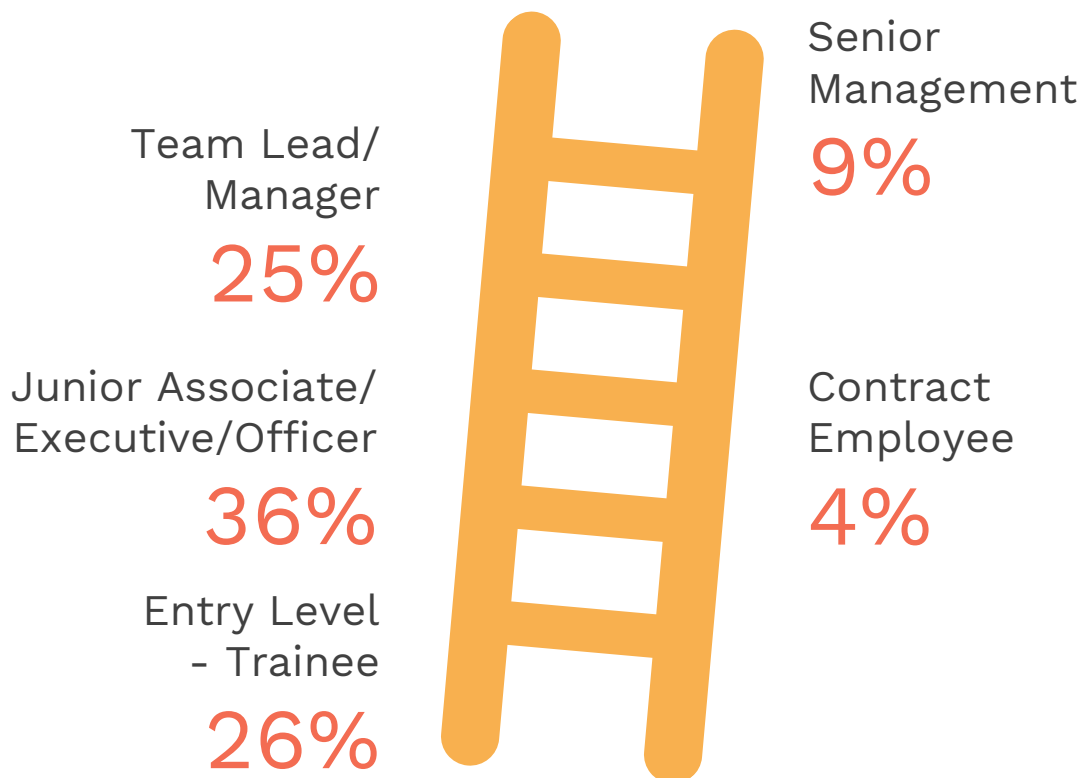
40%



Age at which Sexual Harassment occurred?

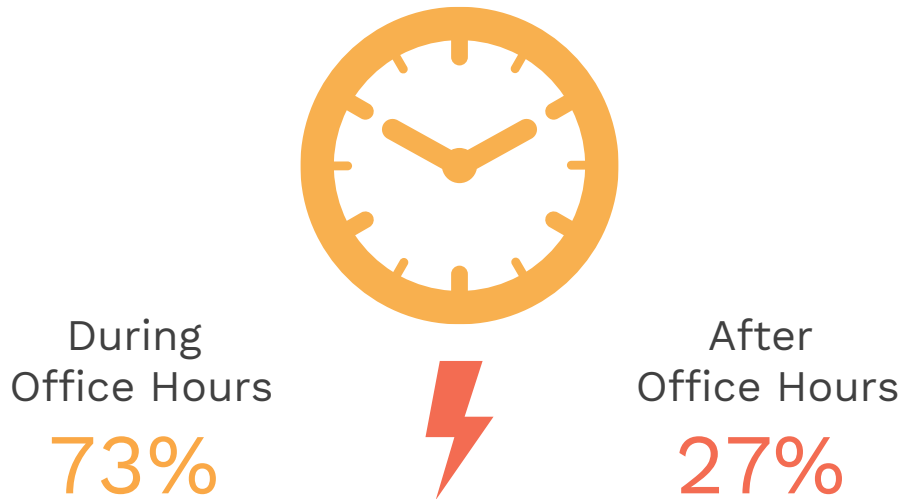


Designation when Sexual Harassment occurred?





When did the incident occur?

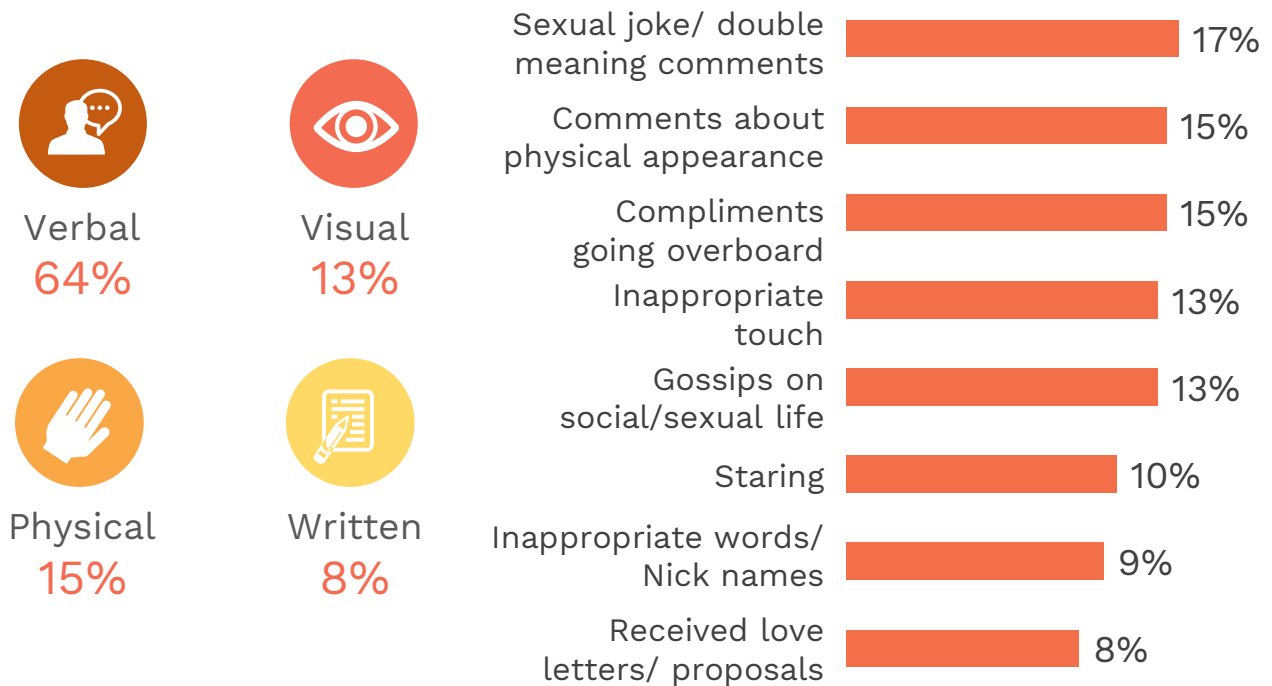


Where did the incident occur?

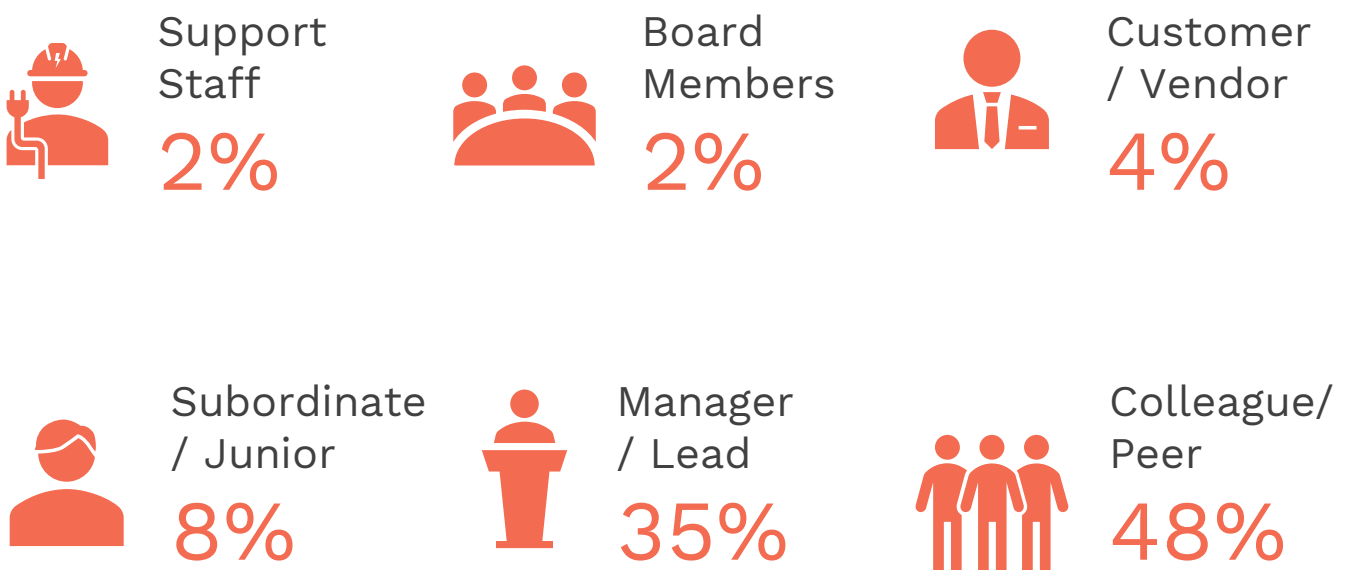




Have you experienced any of the below at workplace?

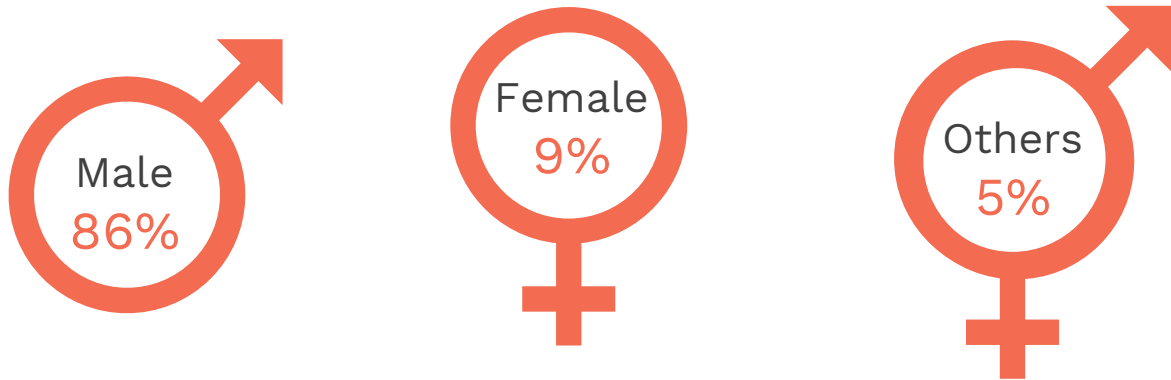


Who was the harasser?

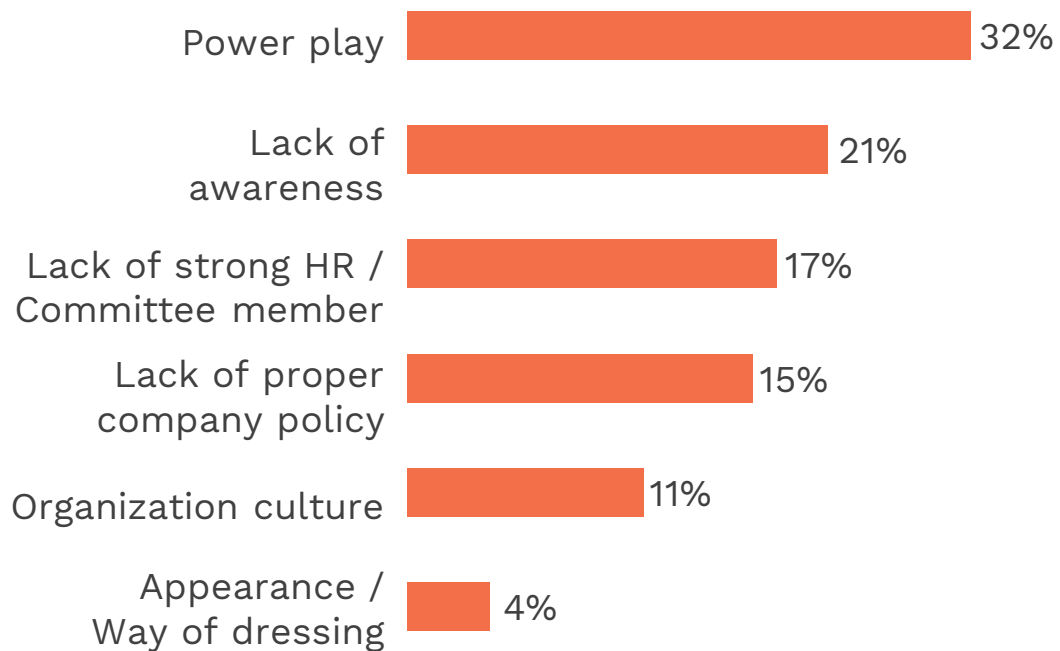




Gender of the harasser?



Why did the victim think they got harassed?





According to you, which of the following is an effective method to approach the problem?



35%

Tell the harasser to stop their behaviour



26%

Gather evidence and complain to HR



15%

Speak up to friends / colleagues



12%

Avoid contact with the harasser



7%

Change work location/ Resign from job



3%

Ignore the behaviour of the harasser



3%

Inform the harasser's family

Did you report the incident?



Yes

50%

No

50%



Reasons for 50% of victims not reporting the incident?



31%

Fear of losing job/opportunities



14%

Was embarrassed



14%

May disturb personal life



10%

Waited for issue to resolve itself



10%

Did not trust PoSH committee



8%

Did not know the procedure to report



7%

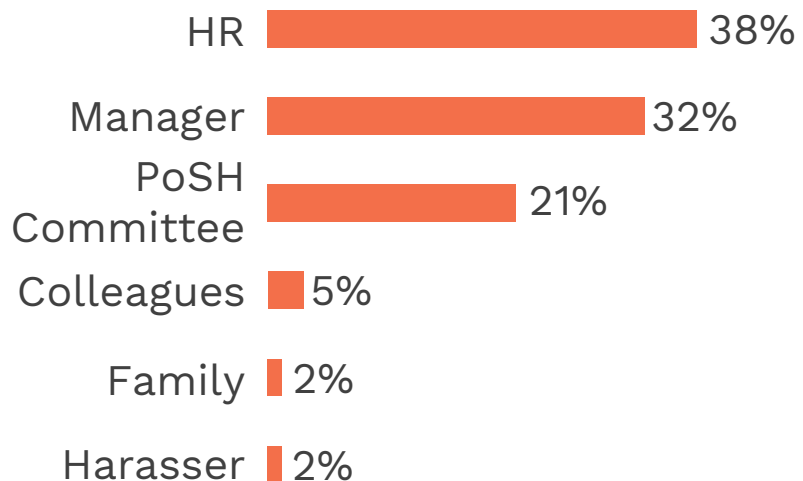
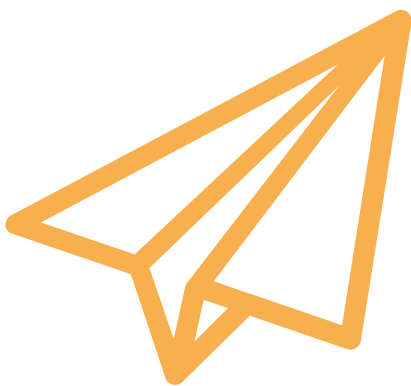
Had no proof or evidence



6%

Moved to a different department/organization

Who did you report the incident to?





When reported, did the concerned authority take action against the harasser?



Yes 57%

No 43%

After reporting, how soon was the action taken against the harasser?

53%

< 1 Week

42%

Within 1 month

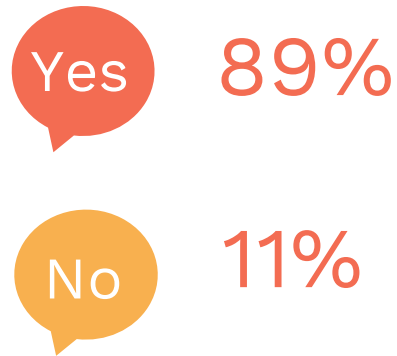
5%

Within 3 months





After the incident was reported, did the harassment stop?



How many victims do you know at your workplace?





How many harassers do you know at your workplace?



13%

>5 harassers

11%

<5 harassers

84%

<2 harassers

As a witness what can you do to prevent Sexual Harassment?



28%

Support the victim

19%

Confront the harasser

53%

Report to authorities



How do you know you are a harasser?

28%

Someone raised a complaint on me

19%

Some people are uncomfortable when I'm around

53%

I have been asked to stop or change my behaviour



Trigger for the harassment?



28%

Provocative behaviour

19%

Unintentional impact



What made you change the behaviour?

25%

Better awareness
of the law

19%

Based on PoSH
committee's
guidance

53%

Realized the
impact on career



Have you ever experienced workplace harassment or discrimination on the grounds of age/gender/marital status/skin colour/religion/language etc ?



16%

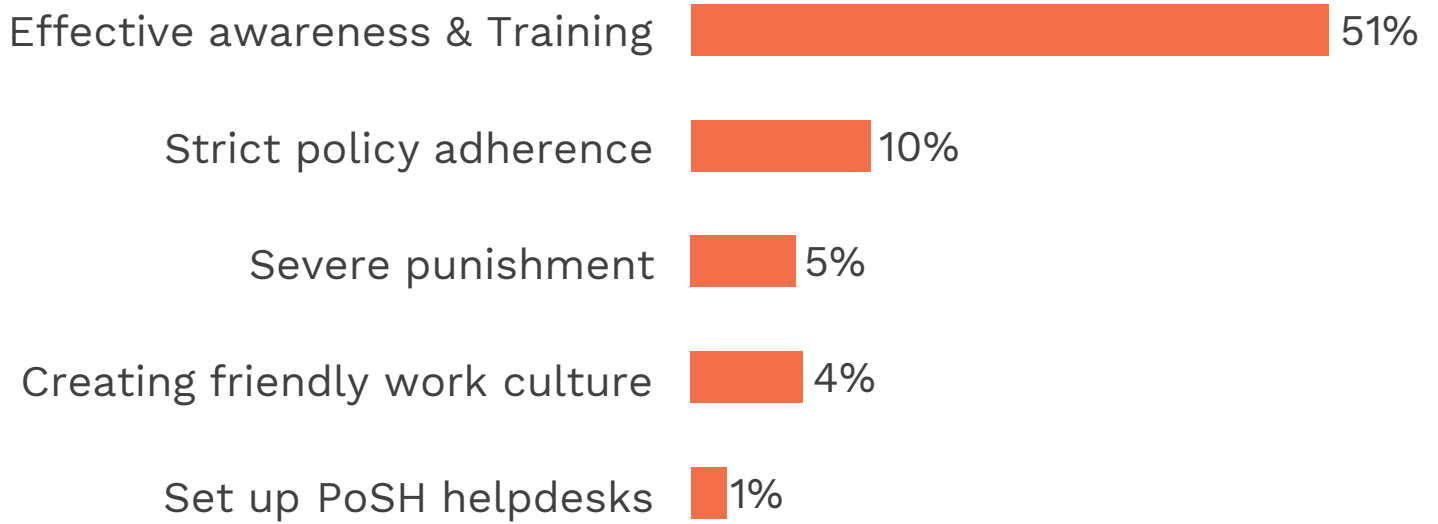
Yes

84%

No



Methods to prevent Workplace Harassment



Verbatim - Employees voices to open ended questions

- Assurance of preventive and corrective action.
- The work place should be pressure free.
- Providing cabs with security personnel.
- Regular counselling for all employee and Awareness camps.
- Unbiased IC committee.
- Not making a big gang of male friends only and maintaining a limit in all relationships.
- Cameras fixed everywhere.
- Bring the topic up in workplace-wide meetings, and ask for feedback from employees.
- Conduct such a Survey on regular basis to prevent the same.
- To prevent an incident - Frequent refresher sessions to make everyone in the organization realize that such acts of any nature will not be tolerated. In case of an incident - Open door policy on matters of sexual harassment across all departments/people who have the authority to take the necessary steps.
- People should stop being prejudiced.
- There is no need for a survey link to fill. The committee should conduct 1 to 1 for each individual for all types of harassment.
- Requirement for an unbiased committee which goes into background and in-depth verification of a complaint.
- Install Alarm Monitoring Systems & Post Emergency Response Plans.
- Third Party Surveillance.



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Team KelpHR



Viji Hari

Co-founder & CEO of KelpHR

Viji is an Expert in Creating Diverse and Inclusive workplaces and specialises in creating safe workplace by Preventing Sexual Harassment at the workplace.

With 19+ years of industry experience in MNC's in India & USA, she co-founded KelpHR in 2013.

She has authored the book **'BCC: Behind Closed Cubicles'**.

She did her Gender Diversity programme from INSEAD university and has hosted India's first Online Diversity Summit

www.OnlineDiversitySummit.com



Smita C Kapoor

Co-founder of KelpHR

Smita is a first time entrepreneur and a subject matter expert at KelpHR. She is an experienced HR professional with a demonstrated history of working in the IT, manufacturing and services industry.

A post graduate in Human Resource Development Management (MHRDM) from Narsee Monjee Institute of Management Studies has 21+ years of corporate experience in the area of core Employee relations, Training & Development, Grievance Redressal of complex workplace issues including complaints of discrimination and Sexual harassment, Conflict Resolution and many more with organisations including Mphasis an HP Company, India Life Hewitt Ltd, Gujarat Ambuja Cements Ltd. to name a few.

We wish you a Safe and
Inclusive workplace.



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