



Sexual Harassment of Women
at Workplace
(Prevention, Prohibition and
Redressal) Act, 2013



PREFACE

The Government of India is committed to ending all forms of violence against women that negatively impact society, hamper gender equality and constricts the social and economic development of the country.

Since, sexual harassment results in violation of the fundamental rights of a woman to equality as per Articles 14 & 15 and her right to live with dignity as mentioned under Article 21 of the constitution, the Government of India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Act is an extension of Vishaka Guidelines issued by the Supreme Court in 1997. The Supreme Court of India, for the first time in the Vishaka Guidelines, acknowledged Sexual Harassment at the Workplace as a human rights violation.

With the enactment of the Act, India is now a part of a select group of countries to have prohibited sexual harassment at workplace through national legislation.



THE MANDATE

Today, all workplaces in India are mandated by law to provide a safe and secured working environment free from sexual harassment for all women.



THE GENESIS

In a landmark judgement, *Vishaka vs State of Rajasthan* (1997), the Supreme Court of India created legally binding guidelines basing it on the right the equality and dignity accorded under the Indian Constitution as well as by the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

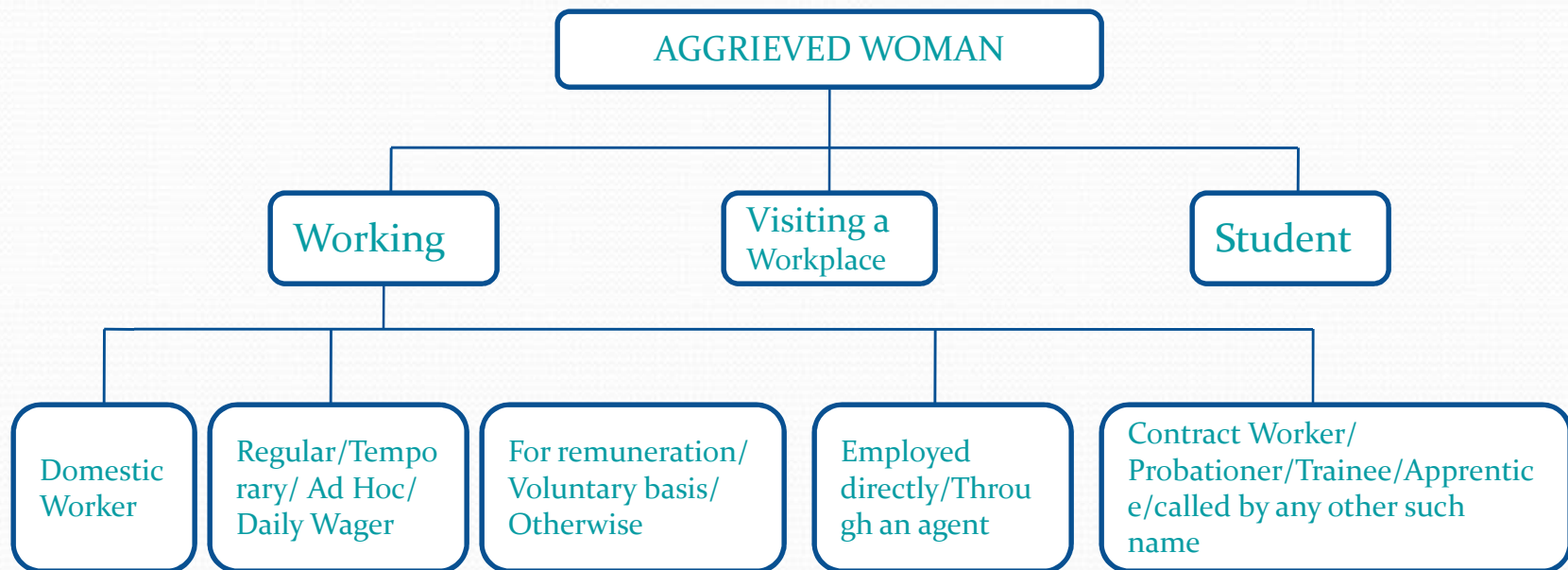


THE ACT

In 2013, the Government of India notified the Sexual Harassment of Women at Workplace (Prevention, Prohibition and redressal) Act (referred to as Act hereinafter). Consistent with the Vishaka judgement, the Act aspires to ensure women's right to workplace equality, free from sexual harassment through compliance with three elements namely,

- Prohibition
- Prevention
- Redress

WHO IS AN AGGRIEVED WOMAN?





WHAT IS A WORKPLACE

A workplace is defined as “any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such a journey.” As per the definition, a workplace covers both the organised and un-organised sectors.

It also includes all workplaces whether owned by Indian or Foreign company having a place of work in India. As per the Act workplace includes :

- Government Organizations, venture, trust, NGO or service provider etc.
- Hospitals/ Nursing Homes.
- Sports Institutions/ Facilities.
- Places visited by the employee (including while on travel) including transportation provided by the employer.
- A dwelling place or house.

The Act defines the un-organised sector as:

- Any enterprise owned by an individual or self employed workers engaged in the production of sale of goods or providing services of any kind.
- Any enterprise which employs less than 10 workers.



WHAT IS SEXUAL HARASSMENT AT THE WORKPLACE

“Sexual Harassment” includes anyone or more of the following unwelcome acts or behaviour (whether directly or by implication), namely:

- Physical contacts or advances;
- A demand or request for sexual favours;
- Making sexually coloured remarks;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.



WHO IS AN EMPLOYER

An employer refers to :

1. The head of the department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the Appropriate Government or local authority of such officer specified in this behalf.
2. Any person (whether contractual or not) responsible for the management, supervision and control of a designated workplace not covered under clause (i).
3. A person or household who employs or benefits from the employment of domestic worker or women employees.



Complaints Committee

The Act provides for two kinds of complaints mechanisms :

- Internal Complaints Committee (ICC).
- Local Complaints Committee (LCC).

All Complaints Committees must have 50% representation of women. ICC or LCC members will hold their position not exceeding 3 years from the date of their nomination or appointment.

Internal Complaints Committee (ICC)

Every employer is obliged to constitute an ICC through a written order. The ICC will be composed of the following members :

No	Member	Eligibility
1	Chairperson	Women working at senior level as employee; if not available then nominated from other office/units/department/workplace of the same employer
2	2 Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/ experience in social work
3	Members	From amongst NGO/associations committed to the cause of women of a person familiar with the issue of Sexual Harassment

Local Complaints Committee (LCC)

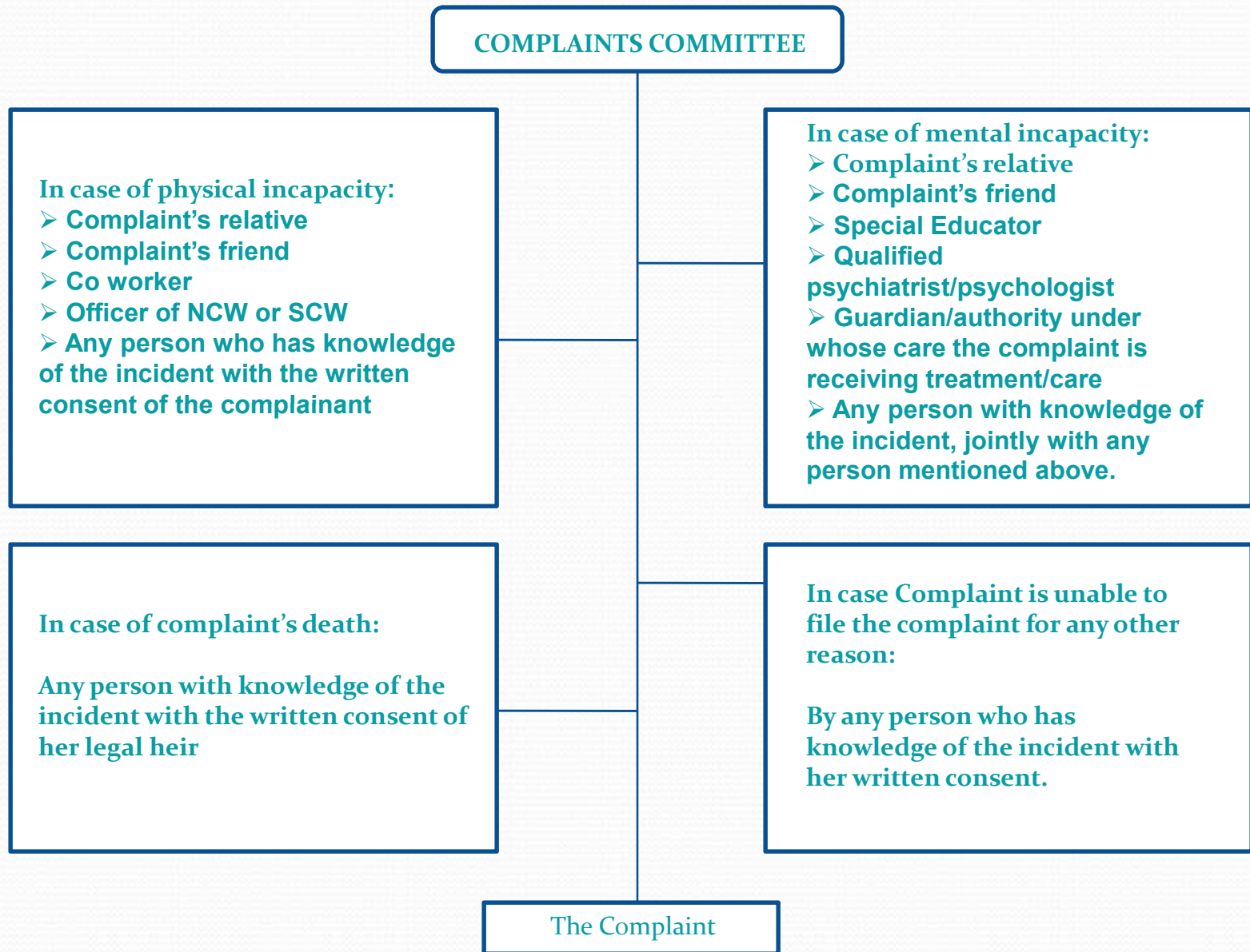
The District Officer will constitute an LCC in every district so as to enable women in the un-organised sector or small establishments to work in an environment free of sexual harassment. The LCC will receive complaints :

1. From women working in a organisation having less than 10 workers.
2. When the complaint is against the employer himself.
3. From domestic workers.

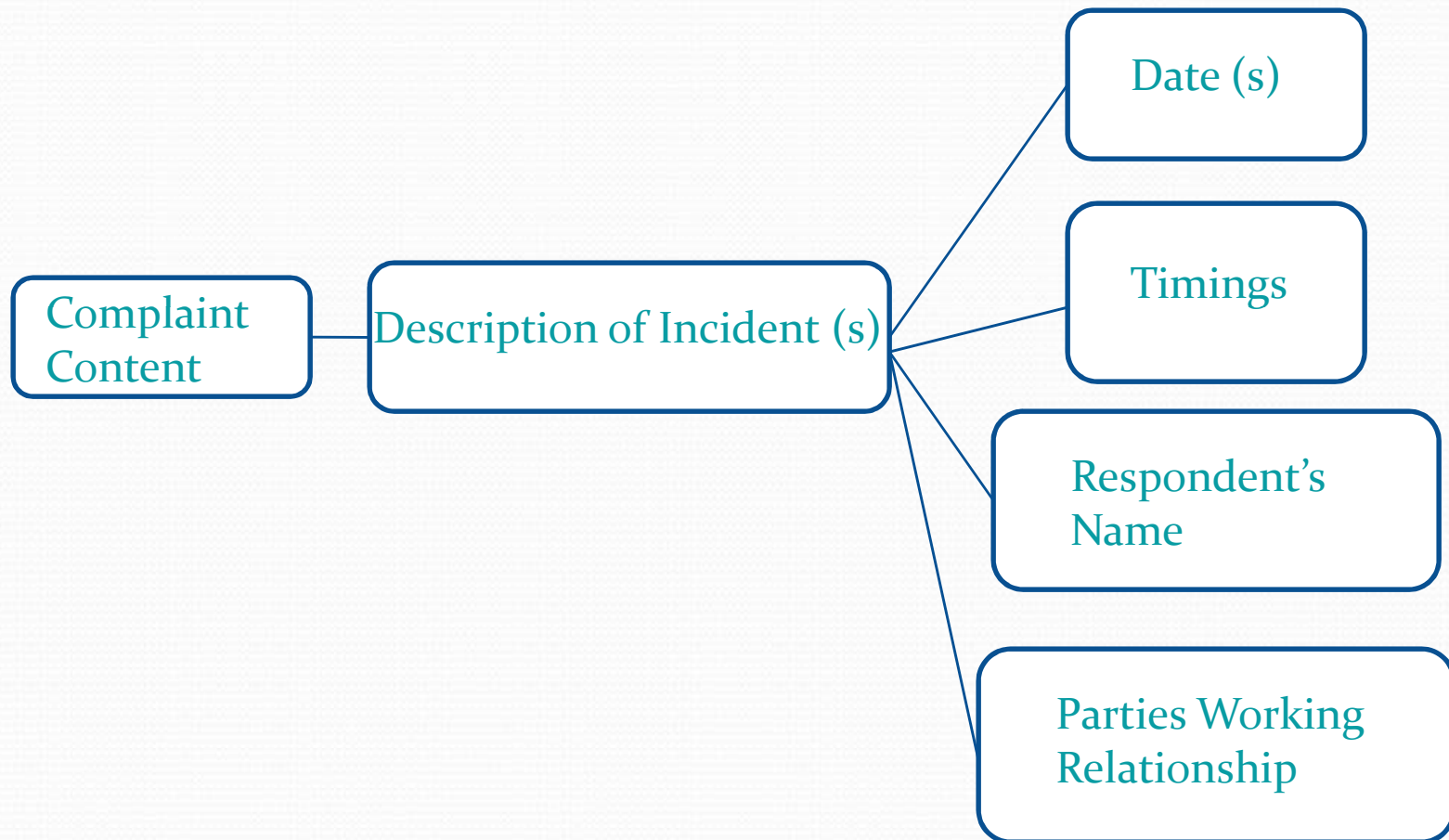
No	Member	Eligibility
1	Chairperson	Nominated from amongst the eminent women in the field of social work and committed to the cause of women
2	Member	Nominated from amongst the eminent women working in the block, taluka or tehsil or ward or municipality in the district
3	2 Members	Nominated from amongst such NGO/associations/persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that : ➤ At least one must be a woman ➤ At least one must have a background of law or legal knowledge
4	Ex Officio Member	The concerned officer dealing with social welfare or women and child development in the district

*One of the nominees shall be a woman belonging to the SC/ST/OBC/Minority community notified by the Central Govt.

WHO CAN COMPLAIN AND WHERE?



WHAT SHOULD THE COMPLAIN CONTAIN?





RIGHTS OF THE COMPLAINANT

- An empathetic attitude from the Complaints Committee so that she can state her grievance in a fearless environment.
- A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent.
- Keeping her identity confidential through out the process.
- Support, in lodging FIR in case she chooses to lodge criminal proceedings.
- In case of fear of intimidation from the respondent, her statement can be recorded in absence of the respondent.
- Right to appeal, in case, not satisfied with the recommendations/ findings of the Complaints Committee.



DO'S AND DON'TS FOR COMPLAINTS COMMITTEE

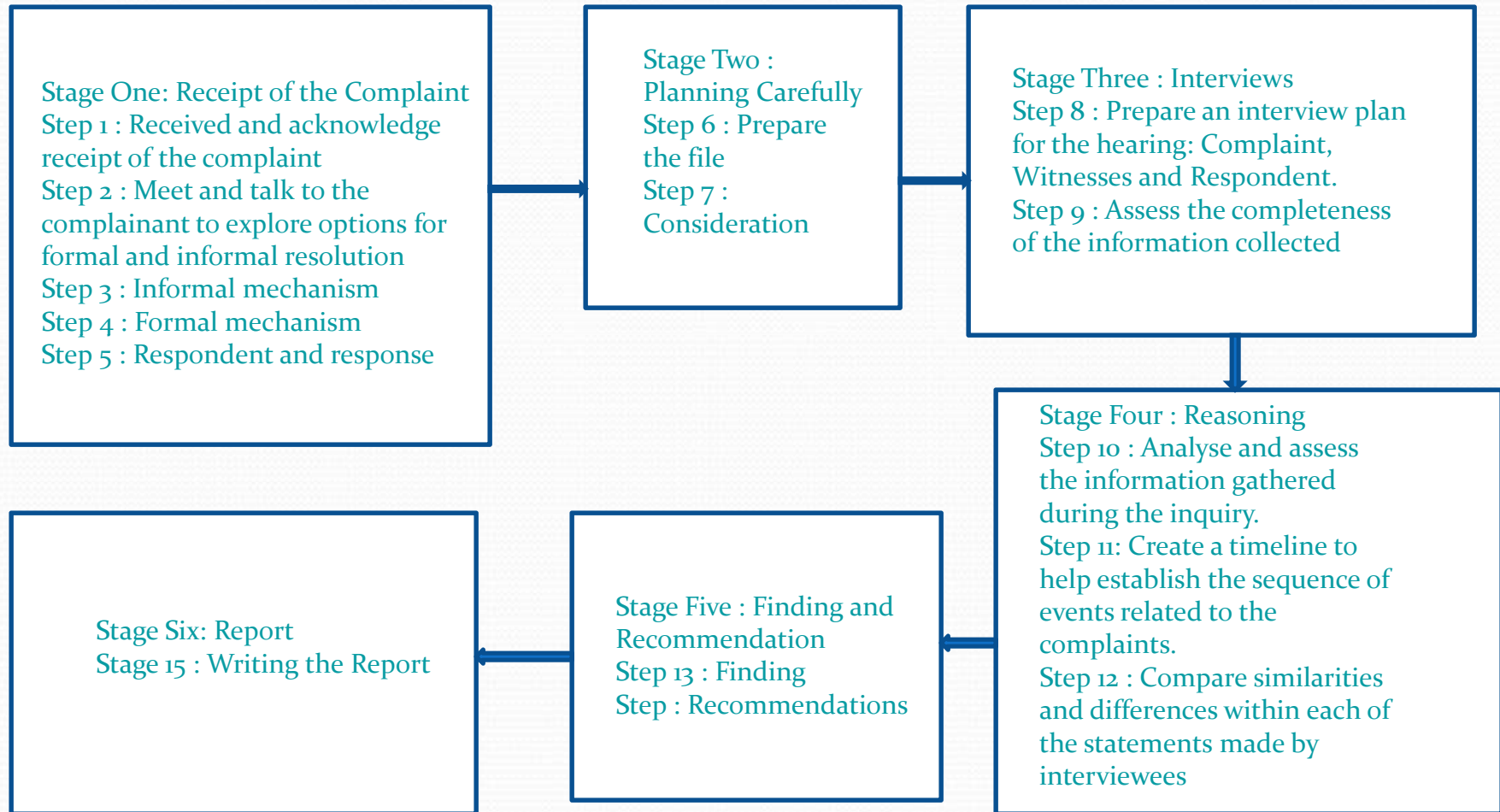
DO'S

1. Create an enabling meeting environment.
2. Use body language that communicates complete attention to the parties.
3. Treat the complainant with respect.
4. Discard pre-determined ideas.
5. Determine the harm.

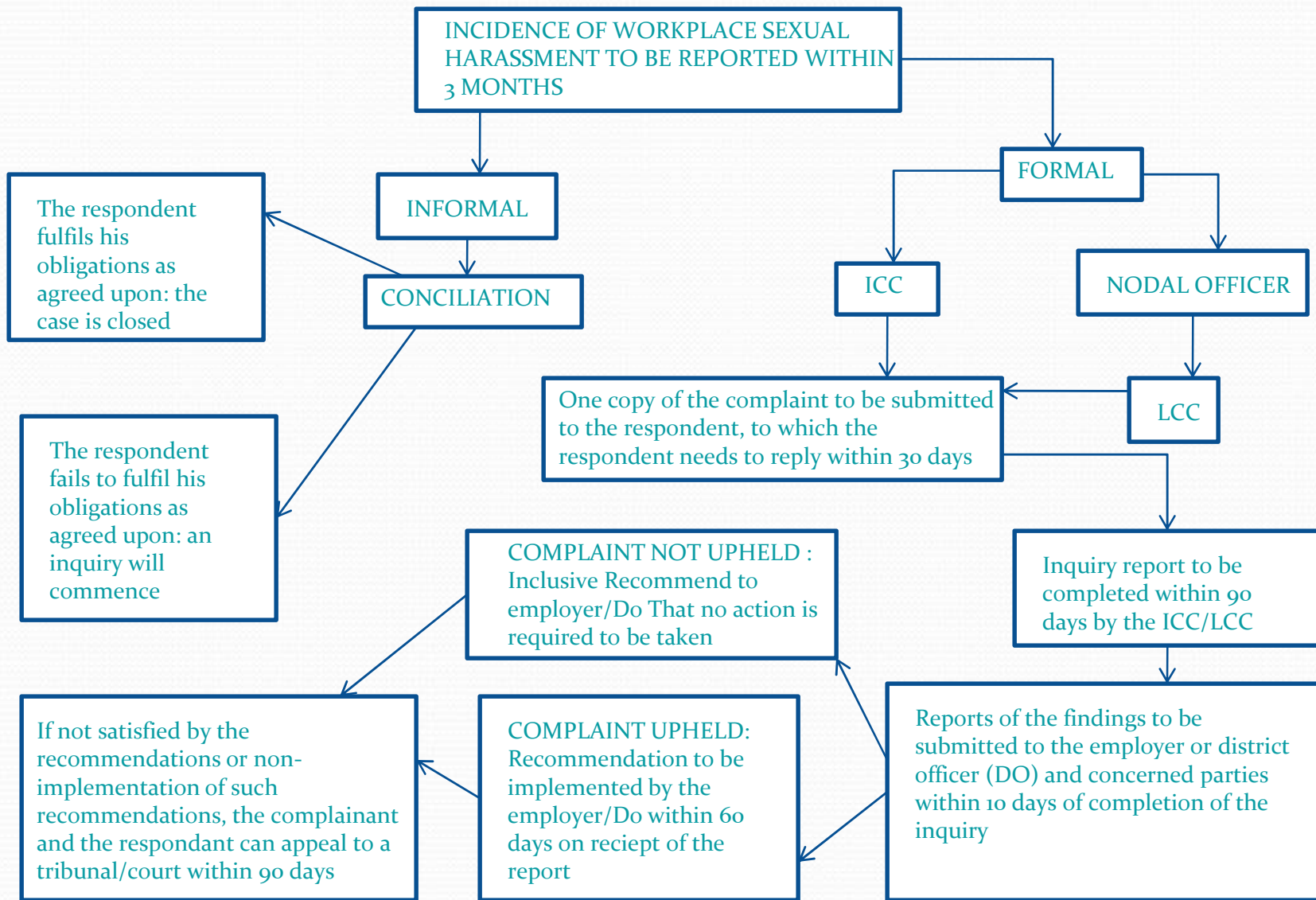
DON'TS

1. Get aggressive.
2. Insist on a graphic description of the sexual harassment.
3. Interrupt.
4. Discuss the complaint in the presence of the complainant or the respondent.

THE SEXUAL HARASSMENT COMPLAINT PROCESS



INQUIRY PROCESS AT A GLANCE





TIMELINES AS PER THE ACT

Submission of Complaint	Within 3 months of the last incident
Notice to the Respondent	Within 7 days of receiving copy of the complaint
Completion of Inquiry	Within 90 days
Submission of Report by ICC/LCC to employer/DO	Within 10 days of completion of the inquiry
Implementation of Recommendations	Within 60 days
Appeal	Within 90 days of the recommendations



THANK YOU