

INFORMATION SHEET: STEPS IN CONDUCTING AN INQUIRY

How the ICC conducts an inquiry

The procedure below will generally be followed. However, given that determining what constitutes sexual harassment depends upon the specific facts of each case, the ICC may make modifications in the procedure in accordance with the policy and the principles of natural justice. The standard of proof in an inquiry is 'preponderance of probability'.

Receipt of complaint

- 1) A formal complaint is received, with available evidence and list of witnesses.
- 2) ICC determines if there is prima facie a case of sexual harassment.
- 3) If the determination is a yes, the respondent is informed and provided with the complaint filed and given 10 days' time to respond with evidence and a list of witnesses, if any.
- 4) The respondent's response is shared with the complainant.

Inquiry process

- 5) ICC hears the complainant and complainant's witnesses once or more than once.
- 6) ICC hears the respondent and respondent's witnesses once or more than once.
- 7) Both parties and their witnesses read and sign the transcripts/statements of their depositions.
- 8) The statements/depositions of the complainant and their witnesses are provided to the respondent and those of the respondent and their witnesses to the complainant. (Identities of the witnesses may be withheld on request.)
- 9) During the course of the inquiry, copies of all evidence material provided by each party are shared with the other.
- 10) In the course of the inquiry, ICC may call other persons who it thinks may be able to help with the inquiry and may also call for any documents, material from the Institute which may be relevant – such as CCTV footage, mail server evidence in case of e-mails and so on.
- 11) Cross-examination is conducted through the ICC and may not be face-to-face. Each party may send to the ICC questions for the other party and their witnesses. These questions will be posed to the party concerned by the ICC and the responses documented.
- 12) ICC will normally allow all questions except those that it has reason to believe are irrelevant, mischievous, slanderous or derogatory.
- 13) The responses under cross-examination to the questions posed are shared with the party concerned.
- 14) The ICC will deliberate on the statements, evidence, responses under cross-examination and any other material placed before it and will write its report after due discussion.
- 15) The period of inquiry and final report writing shall be within 90 days + 10 days from the date of receipt of the complaint.
- 16) In any case concerning an employee, the preliminary report of the ICC is given to them and a fixed time period is given for the receipt of their response.
- 17) The ICC will take into consideration the responses of complainant/respondent in preparing its final report.

Action on ICC report

- 18) The final report of the ICC is tabled before the Director who is the disciplinary authority for students, and before the Board of Governors (BoG), which is the disciplinary authority for employees.
- 19) In case of students, the Director will decide the action to be taken on the basis of ICC's recommendations in its report.
- 20) An office order will be issued to respondent, who may appeal to the Director who will take a final decision in the event of such an appeal.
- 21) In case of employees, BoG will decide the action to be taken on the basis of ICC's recommendations in its report.
- 22) The action to be taken will be communicated to respondent and time will be given to appeal/respond.
- 23) BoG will take into consideration the respondent's response and will issue the final order on action.