Sexual Violence Policy

Issued by: Provost & Vice-President (Academic), and Vice-President (Finance, Administration & Risk)
Approving Authority: Board of Governors
Policy Effective Date: January 1, 2017
Revised: New (reviewed every 5 years, or earlier as required)

To receive this Policy in an alternate format, contact the Office of Diversity and Human Rights:
Phone: (1) 519- 824-2141 x53000 or Email: dhrinfo@uoguelph.ca

Contents
1. Policy........................................................................................................................................2
2. Scope ..........................................................................................................................................2
3. Policy Goals ..................................................................................................................................2
4. Information on University and Community Resources .................................................................2
5. Definitions ......................................................................................................................................3
6. Disclosure .......................................................................................................................................4
7. Survivor Supports ..........................................................................................................................4
8. Formal Complaint ..........................................................................................................................5
9. Initial Assessment ..........................................................................................................................5
10. General Supports .........................................................................................................................6
11. Right to Withdraw a Formal Complaint ......................................................................................6
12. Protection from Reprisal, Retaliation or Threats .........................................................................6
13. Vexatious Complaints ..................................................................................................................6
14. Multiple Proceedings ....................................................................................................................6
15. Confidentiality ..............................................................................................................................7
16. Reporting and Maintenance of Records .....................................................................................7
17. Related University Policies and Procedures ..............................................................................7
18. Training .........................................................................................................................................7
19. Sexual Violence Awareness and Education Programs ...............................................................7
1. **Policy**

The purpose of this Policy is to set out the principles that apply when allegations of Sexual Violence are brought forward in the University community. The procedures which support this Policy are determined according to the stakeholders involved and are part of this Policy.

The applicable procedures document when a student is affected by Sexual Violence is the *Sexual Violence Procedures Document – Students*. The applicable procedures document when an employee is affected by Sexual Violence are found in applicable University policies such as *Violence Prevention in the Workplace*, *Workplace Harassment Prevention Program*, and employee collective agreements.

2. **Scope**

   a. Subject to subsection b) below, this Policy applies to all University Community Members regardless of where the alleged behaviour took place, if the alleged behaviour occurred when engaged in University programs or if the alleged behaviour materially affects the safety or the learning and working environment of University Community Members.

   b. Incidents of Sexual Violence affecting University of Guelph-Humber students and allegations of Sexual Violence against Humber College employees are covered by policies at Humber College. Allegations of Sexual Violence against University of Guelph employees working at University of Guelph-Humber are covered by this Policy.

3. **Policy Goals**

The goals of this Policy are to:

   a. support Survivors as defined under this Policy. The University believes and respects that Survivors are the final decision-makers about their own best interests;
   b. ensure procedural fairness and due process for all parties when allegations of Sexual Violence are made;
   c. hold those who have committed Sexual Violence accountable; and
   d. safeguard the safety of University Community Members.

4. **Information on University and Community Resources**

Information related to Sexual Violence including who to contact, FAQs, related policies and procedures, University Support Services as well as resources available in the wider community, is available on the University’s *Sexual Violence Support and Information website*. 
5. Definitions

a. “Sexual Violence” means any sexual act or act targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent, and includes sexual assault, Sexual Harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

b. “Sexual Harassment” is included in the definition of Sexual Violence and means engaging in a course of vexatious comment or conduct based on sex, sexual orientation, gender identity or gender expression that is known or ought reasonably to be known to be unwelcome. This can include: implied or expressed rewards or benefits for sexual favours; non-consensual taking or posting of a sexual picture; aggressive or intolerant comment or slur (including cyberbullying or through social media); or uttering any sexual threat.

c. “Consent” is the active ongoing, informed and voluntary agreement to engage in sexual activity. Consent cannot be given by someone whose judgment is materially impaired (such as by drugs or alcohol), unconscious, or otherwise unable to understand and voluntarily give consent. Consent can never be obtained through threats, trickery, coercion, pressure or other forms of control or intimidation and may be withdrawn at any time. Consent may be compromised where individuals are in a position of power, trust or authority over the person whose consent is required. The consumption of alcohol or drugs does not provide any excuse from obtaining consent.

d. “Disclosure”: has the meaning provided in Section 6 of this Policy.

e. “Person Accused”: for the purpose of this Policy means any person against whom an allegation or formal complaint of Sexual Violence is made. Under the applicable procedures or collective agreements, the Person Accused may also be referred to by other terms such as “Respondent”.

f. “Supports”: has the meaning provided in Section 7 of this Policy.

g. “Survivor”: for the purpose of this Policy means an individual who identifies their experience as Sexual Violence. Under the applicable procedures or collective agreements, a Survivor may also be referred to by other terms such as “Complainant”.

---

1 Definition taken from Bill 132, Sexual Violence and Harassment Plan
2 The OHRC’s Policy on “Preventing Sexual and Gender-based Harassment” states that in relation to the Human Rights Code definition of a “course” of unwanted behaviour, in some cases, one incident could be serious enough to be sexual harassment.
h. **“University Community Member”** includes University of Guelph students, employees, members of the Board of Governors or Senate, volunteers and other individuals who are acting in a capacity defined by their relationship to the University.

i. **“University Support Services”**: means University services or programs provided to individuals based on the individual’s relationship to the University.

6. Disclosure

a. Anyone can disclose information regarding Sexual Violence ("Disclosure"). Subject to Section 9 and the University’s legal obligations, a Disclosure does not normally trigger an investigation or formal procedure, but may result in Supports.

b. No actions can be taken against a Person Accused solely on the basis of a Disclosure.

c. Disclosures which raise a reasonable concern regarding broader public safety may result in information being shared with the City of Guelph Police Services.

7. Survivor Supports

Once a Disclosure is made and regardless of whether a formal complaint is submitted, the University will provide Supports which will be sensitive to the circumstances identified by the Survivor and will allow Survivors to:

a. be treated with compassion, dignity and respect;

b. be informed about University Support Services and community resources;

c. be informed about disclosing and reporting options and the limits to confidentiality associated with each option;

d. be provided with appropriate forms of academic consideration and other supports based on demonstrated need;

e. be provided with assistance in formulating a safety plan (a set of objectives and strategies identified by the Survivor to help promote ongoing safety and prevent future incidents);

f. decide whether to file a formal complaint internally (within the University) or external to the University;

g. decide whether to access University Support Services and to choose those services they feel will be the most beneficial; and

h. have reasonable and necessary actions taken to prevent further unwanted contact with the Person Accused.
8. Formal Complaint

University:

a. A Survivor can elect whether to file a formal complaint regarding Sexual Violence. A formal complaint can be filed in accordance with the appropriate University policies or procedures applicable to the Person Accused. (see section 1.0). The filing of a formal complaint will trigger procedures involving documentation, investigation and if appropriate, formal proceedings. Survivors may choose not to request an investigation and have the right not to participate in any proceeding.

b. Formal complaints which raise a reasonable concern regarding broader public safety may result in information being shared with the City of Guelph Police Services.

Criminal:

c. A criminal complaint may be filed directly with the City of Guelph Police or through the Campus Community Police.

9. Initial Assessment

a. The University recognizes that Survivors may wish to control whether or how their experience will be dealt with by the University. Wherever possible, and subject to the University’s legal obligations, a Survivor will retain this control. The University has the obligation to act on information that suggests, for example:

   i. an incident or a pattern of behaviours that is damaging to the safety of the University community, or
   ii. behaviour which poses a clear and ongoing threat to others.

The University’s obligations to act may include investigation, and other interventions consistent with University policies. If the University chooses to act in these instances, attempts will be made to first consult with the Survivor.

b. Following an initial assessment, the University may also impose interim measures. For employees such interim measures will be consistent with University policies or appropriate collective agreements. Interim measures for students are outlined in the Sexual Violence Procedures Document – Students and may include, but are not limited to:

   i. separation of the academic and living situations of any students;
   ii. no-contact orders;
   iii. restricting individuals from certain buildings including student residences;
iv. interim prohibition from certain events; or
v. interim suspension from varsity sports.

10. General Supports
All Parties to a formal complaint will be:

a. treated with dignity, compassion and respect;
b. provided with information regarding relevant policies including limits to confidentiality; and
c. informed about University Support Services as well as support services in the community.

11. Right to Withdraw a Formal Complaint
A Survivor has the right to withdraw a formal complaint which the Survivor initiated at any stage of the process. However, the University may continue to act on the issue identified in the formal complaint to the extent necessary to comply with its legal obligations.

12. Protection from Reprisal, Retaliation or Threats
It is contrary to this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate for:

a. pursuing rights under this Policy;
b. participating or co-operating in an investigation under this Policy; or
c. being associated with someone who has pursued rights under this Policy.

Anyone found to have engaged in such conduct will be subject to sanctions or discipline in accordance with the relevant policy or procedures.

13. Vexatious Complaints
Formal complaints that are found (following an investigation) to have been made in bad faith may result in sanctions or discipline against the individual who lodged the complaint.

14. Multiple Proceedings
Where criminal, civil or administrative proceedings are commenced in respect of allegations of Sexual Violence, the University reserves the right to conduct its own independent investigation into such allegations, or to defer its own investigation. The University will make its own determination in accordance with its policies and procedures. Where there is an ongoing criminal investigation, the University will cooperate with law enforcement agencies.
15. Confidentiality
Confidentiality is important to create an environment in which Survivors feel safe to disclose and seek supports. Confidentiality should therefore be protected to the extent possible, but may be precluded where, for example:

   a. there are reasonable grounds to believe that one or more University Community Members or individuals in the wider community may be at risk of harm;
   b. reporting is required by law (e.g. mandatory reporting of a minor);
   c. an investigation is undertaken pursuant to a formal complaint; or
   d. if accommodation or supports are needed, on a need-to-know basis. In these cases and if appropriate, the University will attempt to first consult with the Survivor.

16. Reporting and Maintenance of Records
   a. Reporting and maintenance of records will be in accordance with provincial regulations.
   b. An annual report will be provided to the Board of Governors by the Office of the AVP (Student Affairs).

17. Related University Policies and Procedures
   a. Human Rights Policy
   b. Residence Community Standards (Student Housing)
   c. Athletic Code of Conduct Discipline Procedures

18. Training
The University will provide or make available appropriate training regarding this Policy to University Community Members including individuals who will be involved in the investigation or decision making process. The Student Affairs Case Director has the oversight for providing or making available training, as appropriate.

19. Sexual Violence Awareness and Education Programs
Working with staff in Student Housing Services, Campus Community Police and the Office of Diversity and Human Rights, the Wellness Education Centre has responsibility for ensuring ongoing Sexual Violence awareness and education programs for students.

---

3 The University’s Human Rights Policy and Ontario’s Human Rights Code protects individuals from discrimination in respect of services. Anyone who feels that the University has failed to protect him or her from such discrimination may pursue a complaint under the Human Rights Policy or the Code.