Procedure for Policy 1.4 Sexual Violence Policy - Procedures for Faculty and Staff

Issued by: Provost & Vice-President (Academic), and Vice-President (Finance, Administration & Risk)
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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

Table of Contents

Sexual Violence Policy - Procedures for Faculty and Staff.................................................................1

1. Preamble........................................................................................................................................2

2. Reporting Incidents of Sexual Violence .........................................................................................2

3. Disclosure.......................................................................................................................................2

4. Resolution Options .......................................................................................................................3

5. Penalties.........................................................................................................................................5

6. Interim Measures............................................................................................................................5

7. Additional Contacts for Emergencies, Inquiries and Support.....................................................5
1. Preamble
   a. This Procedures Document for Faculty and Staff (“Procedures Document”) is part of the University’s Sexual Violence Policy (“Policy”). This procedure document provides specific information regarding Disclosure, Interim Measures and Complaint Procedures for incidents of Sexual Violence where the Person Accused (or Respondent is faculty or staff member. These procedures are consistent with the University’s obligations under the University’s Human Rights Policy, Workplace Harassment Prevention Policy and the Occupational Health and Safety Act.
   b. Where the Respondent is a Student, the University will follow the Sexual Violence Procedures for Students.
   c. Defined terms in the Policy apply to this Procedures Document. In the event of a discrepancy between the Policy and the Procedures Document, the Policy will apply. Unless otherwise stated, Section numbers refer to this Procedures Document.
   d. To receive either the Policy or this Procedures Document in an alternate format, contact the Office of Diversity and Human Rights (DHR) Ext. 53000 or dhinfo@uoguelph.ca

2. Reporting Incidents of Sexual Violence
   a. Incidents of Sexual Violence and Workplace Sexual Harassment can be reported to the University in two ways; by making a Disclosure (Section 3) or by initiating one of the Resolution Options (Section 4).
   b. A criminal complaint may be filed directly with a police service or through the Campus Community Police.
   c. Information provided either through Disclosures or one of the Resolution Options which raise a reasonable concern regarding broader public safety may result in information being shared with the Campus Community Police or other police services.

3. Disclosure
   a. Anyone can make a Disclosure. A Disclosure can be made to the Survivor’s immediate Supervisor, a representative of Human Resources (HR), Faculty and Academic Staff Relations (FASR), Diversity and Human Rights (DHR), or Campus Community Police (CCP). The Sexual Violence Support and Information website provides a number of contacts both internal and external for individuals who may be affected by Sexual Violence: https://www.uoguelph.ca/sexualviolence/resources.
   b. Subject to the University’s legal obligations, a Disclosure does not normally trigger any of the Resolution Options (Section 4). Survivors may choose not to participate in any of the Resolution Options.
   c. Once a Disclosure is made and regardless of whether any of the Resolution Options are initiated, the University will provide Supports, as appropriate (Section 7 of the Policy).
   d. Except where the University has an obligation to act as determined under Section 8 of the Policy or applicable workplace legislation, no actions will be taken against a Person Accused by the University solely on the basis of a Disclosure.
4. Resolution Options

In relation to a specific allegation, a Respondent or Complainant may initiate one or more of the Resolution Options under these Procedures. The Resolution Options are Alternative Resolution or the Formal Complaint Process described below.

a. Alternative Resolution (AR)

i. At any time, either the Complainant or Respondent may request an AR process through DHR, HR or FASR. An AR process is voluntary and will only be used if the parties agree and the University determines this process is appropriate in the circumstances.

ii. In response to a request for an AR process, the University will initially review the allegation(s) to determine if it has jurisdiction. The determination of jurisdiction will consider whether the allegation(s):
   1. falls within the scope of the University’s Sexual Violence Policy or other related policies (see Workplace Harassment Prevention Policy as it relates to Workplace Sexual Harassment)
   2. contains sufficient evidence which, if true, would support a finding that Sexual Violence occurred (prima facie case).

iii. If it is determined that the University has jurisdiction, an assessment will be made by the University as to whether an AR process is appropriate in the circumstances. The University will consider factors including but not limited to:
   1. the University’s obligations under its own policies and applicable legislation;
   2. other legal procedures that may be initiated to protect statutory rights; and
   3. the wishes of the parties.

iv. In order to initiate an AR process, a written statement of the particulars of the allegation (“Statement”) will be provided to the Respondent. An AR process involves no investigation or fact-finding but is an opportunity for the parties to resolve a complaint with the assistance of a University representative or a trained external facilitator, as appropriate.

v. If an AR process is not successful or if the Parties choose not to undertake an AR process, the Complainant can choose to proceed to the Formal Complaint Process. The Statement will form part of the materials for the Formal Complaint Process. Other documentation submitted during an AR will not automatically be part of the materials for the Formal Complaint Process.

vi. Individuals involved in facilitating an AR process will not be a witness in any proceeding related to the subject matter of the complaint, unless required by law.

vii. Subject to University’s legal obligations AR processes are confidential and without prejudice. Information obtained by the Complainant or the
Respondent solely through an AR process cannot be introduced as evidence in any internal disciplinary process.

viii. Any tentative agreement reached through an AR process must be mutually accepted by the parties and approved by the University. In some cases, agreements may also require the input/involvement of one or more employee group.

ix. Allegations of a breach of a settlement may be pursued under the disciplinary provisions of the relevant employee agreements, or Human Resources policy.

b. Formal Complaint Process
   i. Recognizing assigned areas of expertise and accountability within the University for the various employee agreements, a Formal Complaint can be received as follows:
      1. by DHR for all members of the University community;
      2. by HR where the Respondent is a member of staff;
      3. by FASR where the Respondent is a member of the faculty or academic staff;

     Upon receipt of a Formal Complaint, the University will conduct an investigation that is appropriate under the circumstances.

   ii. The University’s investigation will be consistent with investigation procedures outlined in the employee collective agreement, or if no collective agreement exists, the existing employee agreements, relevant Human Resources policies or the Human Rights Procedures and will adhere to the following principles of procedural fairness:

      1. The respondent will be provided with a copy of the complaint and have an opportunity to respond;
      2. individual or individuals affected should have the opportunity to present their case fully and fairly; and
      3. the decision affecting an individual’s rights, interests, or privileges must be made using a fair, impartial and open process, appropriate to the statutory context of the decision.

   iii. The University may, at its discretion, choose either a qualified internal or external investigator to carry out an investigation into the matter.

   iv. Both the Complainant and the Respondent will be notified of the investigation procedure prior to the commencement of the investigation.

   v. Both the Complainant and the Respondent will be notified of the outcome of the University’s investigation and whether there is an opportunity to challenge the outcome through a grievance or appeal process.

   vi. The outcome of the investigation into a Formal Complaint will be provided to the appropriate AVP or VP as appropriate.
5. Penalties
   i. A faculty or staff member who is found to have breached the Policy or Workplace Harassment Prevention Policy may be subject to discipline up to and including the termination of their employment with the University. Any disciplinary outcomes arising from a breach of either Policy will be determined by the relevant collective agreement, or where no collective agreement exists, the employee’s Dean or Department Head, in consultation with HR, FASR, AVPDHR as applicable, and consistent with the relevant employee agreement.

6. Interim Measures
   a. Once one of the Resolution Options is initiated, the University may impose Interim Measures as may be appropriate under the circumstances. Interim Measures will be determined by the AVP HR or the AVP FASR (as appropriate), in consultation with the applicable Dean or Department Heads and AVP DHR as required. The decision to impose Interim Measures will balance the safety and security of the Complainant and University Community Members with the rights of the Respondent to procedural fairness and due process. Interim Measures will vary based on the nature of the allegations and may include, but are not limited to:
      i. separation of individuals;
      ii. issuing “no-contact” orders; and
      iii. restricting individuals from certain buildings or work locations or interim prohibition from certain events.

   b. Interim Measures do not indicate a finding of a breach under this Policy. Normally, Interim Measures imposed will continue until the complaint is resolved through the respective Resolution Option(s) or as otherwise determined by the University.
   c. Allegations of a failure to abide by the Interim Measures may considered a breach of this Policy and may be pursued under the relevant and applicable disciplinary process.

7. Additional Contacts for Emergencies, Inquiries and Support
   - Campus Community Police
     o Emergency - 2000
     o Inquiries - 519-840-5000
   - Guelph Police Services
     o Emergency – 911
     o Inquiries – 519-824-1212
   - Sexual Assault Centre
     o 519-823-5806
   - Women in Crisis
- 519-836-5710 (or)
- 1-800-265-7233 – toll free

- **Unions and Employee Groups**
- **Employee Assistance Program**