



**PROCEDURE TITLE:** Sexual Violence Prevention Procedures

**EFFECTIVE DATE:** June 18, 2018

**APPROVAL BODY:** Board of Regents

## PROCEDURE PURPOSE

The purpose of these Procedures is to outline the specific actions that will be undertaken by the University to implement the Sexual Violence Prevention Policy.

## PROCEDURE ELEMENTS

### 1. Making a Disclosure

- 1.1 The University has trained employees available to receive Disclosures of Sexual Violence. Students who wish to make a Disclosure to the University regarding an incident(s) of Sexual Violence are encouraged to contact the Sexual Violence Response Team (SVRT), and employees are encouraged to contact the Human Rights and Diversity Officer (HRDO).
- 1.2 Options for Survivors and those affected by Sexual Violence in relation to the University may include:
  - a) a Disclosure to a member of the UW Community;
  - b) a Report to the University under the Sexual Violence Prevention Policy or Respectful Working and Learning Environment Policy.

### 2. Receiving a Disclosure

- 2.1 At times Disclosures may be made to UW Community members other than the SVRT or HRDO. Individuals disclosing should be referred to information about the Policy and Procedures. If the individual Disclosing is a student, they should be informed that the SVRT can



provide detailed information about the availability of supports and services. If the individual Disclosing is an employee, they should be referred to the HRDO for assistance.

- 2.2 In addition, the UW Community member receiving the Disclosure is advised to treat the information Confidentially except in rare circumstances outlined in section 17 (Confidentiality) of the policy.
- 2.3 Any individual receiving a Disclosure may seek advice and direction from the HRDO on how to best advise and support a Survivor.
- 2.4 If the person receiving the Disclosure believes the safety of the Survivor is at risk, the UW Community member receiving the Disclosure should discuss with the Survivor possibilities for addressing their safety including contacting police and/or Campus Security. It is up to the Survivor what information is shared with others, including police, except in limited circumstances outlined in section 17 of the Sexual Violence Prevention Policy.
- 2.5 In the event that a Disclosure is made to Campus Security then Campus Security is required to advise the HRDO while taking reasonable efforts to protect an individual's Confidentiality.
- 2.6 In order to maintain statistical information (on an anonymous basis), and to assist the UW Community member who receives a Disclosure, any individual who receives a Disclosure shall contact the HRDO to provide a general overview of the Disclosure, while making reasonable efforts to maintain and respect Confidentiality. The information provided shall not include the name of the Survivor or anything that might identify the Survivor such as the department or unit of the Survivor unless the Survivor gives approval to do so.

### **3. Support**

- 3.1 Each Survivor's needs are different. The SVRT in the case of students, and the HRDO in the case of employees, will work with individual



Survivors on a case by case basis in determining their support needs, and shall assist them in accessing these supports.

- 3.2 Some of these supports are available on campus and some will require referral to external agencies. The SVRT or the HRDO can assist the Survivor in accessing off-campus supports. It is the choice of the individual who experienced the Sexual Violence as to which on-campus or community services they want to access.
- 3.3 If a Survivor decides to file a Report support remains available through the ensuing processes.

#### **4. Accommodation**

- 4.1 Survivors have opportunities to seek accommodation under this policy. For students the SVRT will work with the HRDO and the Registrar or other relevant Administrator in assessing and facilitating accommodation needs. This will be done in accordance with The Human Rights Code and any relevant University policy or procedures.
- 4.2 Survivor accommodation needs will differ depending on the situation. Both academic accommodations and/or other accommodations (i.e. change in on-campus housing, adjustment of work schedule) may be available on a case by case basis.
- 4.3 In certain circumstances the Survivor may request that the SVRT or the HRDO make the necessary accommodation arrangements with the appropriate Administrator on their behalf. This will be decided on a case by case basis with the agreement of the Survivor.
- 4.4 Accommodations will continue as is needed and appropriate.
- 4.5 Any accommodation that affects a Respondent will require notification to the Respondent and an opportunity to respond.



## **5. Making a Report**

- 5.1 Any person affected by Sexual Violence may pursue any of the following Reporting options:
- a) External Reporting: Report to either Police or a third-party organization. If an individual chooses this route, the HRDO or the SVRT can facilitate making a report to the police.
  - b) Report to the University: All Reports are to be made to the HRDO.
- 5.2 In instances where the Respondent is an employee of the University, Reports will follow the RWLE Policy and Procedures. If the Respondent is a student the Procedures outlined in Appendix A will be followed.
- 5.3 The University does not have the authority to compel individuals who are not members of the UW Community to participate in an investigation. The University can restrict a person's access to the University to provide a safe working and learning environment for the Complainant and/or UW Community.
- 5.4 If any incident(s) occurs on campus between visitors to the University campus who are not otherwise considered part of the UW Community, or involving a former member of the UW Community, the University may investigate the incident to identify any risks that can be addressed to mitigate future incidents, to review any security response, and/or to revoke access to the visitor(s) or former UW Community member responsible for the incident.

## **6. Maintenance of Statistics and Records**

- 6.1 The HRDO shall maintain annual, anonymized records of Disclosures and Reports.
- 6.2 All records related to the workings of this policy, regardless of format or medium (e.g., paper records, emails, voice messages, and all electronic records), which contain personal information are protected



under FIPPA and/or PHIA and must remain confidential. This includes all records created or received in relation to:

- a) Disclosures;
- b) the work of the SVRT;
- c) accommodation and supports;
- d) the work of the HRDO;
- e) interim measures;
- f) Reports;
- g) investigations;
- h) informal/alternative resolutions;
- i) remedies and sanctions; and
- j) appeals.

6.3 In implementing this policy, only the fewest number of copies reasonably necessary of any record containing personal information shall be maintained. Unnecessary copies should be destroyed.

6.4 The President will provide information to the Board of Regents each year on the implementation and effectiveness of this policy. The University will provide an annual report to members of the public regarding its activities under the Policy and the results of those activities.

## **7. Privacy in Investigation and Sanction**

7.1 Everyone participating in an investigation, including Complainants, Respondents, witnesses, and others, must keep any information they learn through the investigation Confidential, both during and after the investigation.

7.2 Privacy may be limited in instances where an employee has the right to grieve or take other legal action. Individuals may be required to testify and evidence can be subpoenaed in a legal proceeding.



7.3 Where a finding is made that the Policy has been breached, the Complainant will be informed that appropriate discipline has been imposed on the Respondent and will only be informed of the specifics of such discipline if there is a safety risk affecting the Complainant and knowing is paramount for their on-going safety, or in limited cases to support other sanctions such as no contact orders. The discipline imposed on Respondents is their personal information under FIPPA, and only the Respondent may decide to release it to the Complainant. A decision regarding discipline, including any applicable sanctions, will be provided to the Respondent in full.

7.4 Complainants, Respondents, and witnesses are free to speak about their own experiences. However, individuals are not permitted to divulge information that they learned solely as a result of the investigation process, which they did not know beforehand unless the other parties give permission to do so, and by doing so, they would be in breach of this Policy.

## **8. Conflict of Interest**

8.1 In the event that any decision maker or participant in the investigation process (including the Registrar, HRDO, Administrator, investigator, or any party involved in this process) is in a conflict of interest in regard to the incident in question or regarding any party to the incident (including a witness), they must declare the conflict and recuse themselves from any decision making or a position of influence over the outcome of a particular matter, in accordance with the University's Conflict of Interest Policy.

### **ASSOCIATED POLICY**

- Sexual Violence Prevention Policy

### **RELATED POLICIES & PROCEDURES**

- Respectful Working and Learning Environment Policy and Procedures



- Student Non-Academic Conduct and Discipline Policy and Procedures
- University Records Policy and Procedures
- Violence Prevention Policy and Procedures
- Conflict of Interest Policy
- Student Accommodation Policy (in development)

## RELEVANT DATES

**Originally Issued:** June 18, 2018

**Revised:** \_\_\_\_\_

**Effective:** June 18, 2018

**Scheduled Review: June 2022**

**Note:** The University will continue to monitor best practices and research and will review and update this policy and its associated procedures whenever it is reasonable or necessary to do so. In any event, the university will review this policy at least once every four years, as outlined in *The Advanced Education Administration Act*, which will include consultations with students.



## **Appendix A: Reports, Investigation, Remedy/Sanction Procedures for Student Respondents**

*Note: Reports involving employee Respondents follow the Procedures outlined in the RWLE*

### **1. Making a Report**

- 1.1 If a Complainant chooses to make a Report to the University that individual should contact the HRDO at 204-988-7508 or by email at [hrdo@uwinnipeg.ca](mailto:hrdo@uwinnipeg.ca) or through an online Reporting option available on the University Human Rights and Diversity Office [website](#). The Complainant can have a support person with them when they chose to meet in person to make their Report.
  
- 1.2 In response to a student Complainant requesting that a Report be made on their behalf, the SVRT may make a Report to the HRDO. Where such Report is made the student shall remain the Complainant and may be required to provide further information and to participate to allow the Report to be investigated. If the Complainant declines to provide such further information or participate in the investigation, the University reserves the right not to proceed further with the Report. In exceptional circumstances, the University may choose to act as the Complainant.
  
- 1.3 Reports should include the name and contact information of the person making the Report. Reports should also include as much information about the incident(s) as the Complainant (or other person) can provide, including:
  - a) a description of what happened;
  - b) information about the Complainant and Respondent including their identity and contact information, if available;
  - c) the time(s), date(s), and location(s) of the incident(s); and
  - d) potential witnesses, including people to whom the Complainant Disclosed the details or impact of the incident upon them.



- 1.4 If a Complainant would like to make a Report they are encouraged to do so regardless of whether that individual has all of the information outlined in 1.3.
- 1.5 Anonymous or Third Party Reports or Reports with incomplete information will generally limit the University's ability to investigate.
- 1.6 Upon receipt of a Report the HRDO will:
  - a) address any immediate safety needs of the Complainant;
  - b) explain in plain language to the Complainant all relevant elements of the policy and procedures.

## **2. Notification to the Respondent**

- 2.1 If the Complainant wants any type of action to be taken in relation to the Respondent, including alternative resolution, an investigation, or any other type of Remedy/Sanction, the HRDO will notify the Respondent requesting a meeting. These actions will only be taken with the approval of the Complainant.
- 2.2 The HRDO will notify the Respondent of the complaint against them, the identity of the Complainant, along with sufficient detail of the specific allegations, and will explain in plain language to the Respondent all relevant elements of the policy and procedures. The Respondent will also be provided with an opportunity to respond to any allegation(s), and this response will be considered in any decision making regarding the requested action.
- 2.3 The HRDO may redact information in response to health or safety concerns, although this may impact proceedings that may be taken under this Policy.

## **3. Preliminary Assessment**

- 3.1 Based on the information available from the Complainant and Respondent, the HRDO will determine a course of action, subject to the Complainant's consent to any action being taken. This may include but is not limited to:



- a) accessing further supports and/or accommodation;
- b) implementing interim measures in conjunction with the appropriate Administrator;
- c) approaching the Respondent, with the agreement of the Complainant, on the possibility of alternative resolution, if appropriate;
- d) initiating an investigation for purpose of remedy/sanction; or
- e) no further action being taken.

3.2 A Report can be revoked at any time by the Complainant. Where a Report was made but a Complainant is unable or unwilling to proceed, the University may proceed with an investigation and for purposes of any proceedings arising therefrom assume the status of Complainant where:

- a) there is a significant risk to the health and safety of the UW community; and/or
- b) an investigation is required by law or University policy.

## **4. Interim Measures**

4.1 The HRDO shall determine whether interim measures are required, based on their preliminary assessment of factors such as risk of safety, retaliation, and accommodation needs of either the Respondent or Complainant. Consequences for violating interim measures will be clearly communicated to the Respondent and Complainant at the time they are applied.

4.2 As part of the resolution/remedy/sanction process it may be determined that certain interim measures may continue or become permanent.

## **5. Informal/Alternative Resolution**

5.1 The HRDO may determine that the incident referred to in the Report is resolvable by contacting the Respondent, informing them of the incident, that their conduct has caused offence or harm, is unwelcome and not to be repeated. The Complainant shall be consulted prior to this action being taken and will be informed of the results of such



contact, including whether the Respondent has acknowledged the incident and agreed to alter their behaviour or conduct so as not to cause the offence or harm complained of, and where the HRDO is satisfied that they genuinely have, the matter will be treated as resolved. The HRDO shall maintain a record of such resolution and may monitor the Respondent's conduct to determine compliance. Where the Respondent has refused to acknowledge the incident or not agreed to alter their behaviour or conduct, the Complainant may request an alternative form of resolution or that the investigation continue and that such other sanctions or remedies as are determined under the policy to be appropriate be applied.

- 5.2 In appropriate circumstances, a Complainant and Respondent may request to resolve the matter through alternative resolution before an investigation is commenced or completed.
- 5.3 If the Respondent or Complainant desires alternative resolution (i.e. facilitated mediation, a written apology, restorative justice) they must first notify the HRDO who will follow up with the other party to determine their willingness to participate in an alternative resolution process. For it to be a meaningful process, participants must engage voluntarily and remain free from reprisal. A face to face meeting will only take place where agreed to by the parties. At any stage during the process, the Complainant or Respondent may indicate they would like the complaint to move to an investigation and decision-making process.
- 5.4 If the Complainant and Respondent are able to reach a resolution, a written record of the resolution will be prepared by the HRDO to be signed by both parties. A copy of the signed written resolution will be provided to the Complainant and Respondent, and may be provided to relevant University Administrators if it is required to implement the terms of resolution.
- 5.5 The HRDO will monitor the implementation and compliance with alternative resolution dispositions. A failure to comply with the terms of an alternative resolution disposition may result in the commencement or resumption of an investigation and such other sanctions or remedies as are determined under the Policy to be appropriate.



## 6. Investigation

- 6.1 Where the HRDO has determined that an investigation be commenced, they shall appoint a trauma-informed and trained investigator, outline the University's requirements/expectations for the investigation process, and provide all relevant documents. In addition the HRDO will:
- a) notify the Complainant and the Respondent of the investigation and their obligations of Confidentiality under the Policy and Procedures;
  - b) provide the Respondent with a summary of the formal Report and a copy of the Policy and Procedures;
  - c) inform the Respondent of the date by which their written response to the formal complaint must be provided to the investigator (normally within 10 working days of notification of the formal complaint); and
  - d) advise the Respondent of their right to consult with a support person, or legal counsel (at their cost).
- 6.2 The HRDO may choose not to commence an investigation where:
- a) there is either insufficient information to proceed with an investigation, or the Complainant requests no investigation be commenced;
  - b) it would be more appropriate to proceed under another University policy or process;
  - c) the allegation has already been resolved by another process such as informal/alternative resolution;
  - d) the allegation should be put in abeyance pending the resolution of another process in order to protect the integrity of that process or because it is a more appropriate process in the circumstances (including but not limited to a criminal investigation); or
  - e) the complaint is not consistent with the principles and intent of the Policy.
- 6.3 If the HRDO determines that an investigation will not take place for the reasons listed in section 6.1 the reasons will be provided in writing to the Complainant and Respondent.



## **7. Conducting the Investigation**

- 7.1 After reviewing the Report, the written response, and any relevant documentation, the investigator will contact the Complainant and the Respondent to arrange separate interview times. At the time of initial contact the investigator will explain to all parties the investigation process, their duty to make their findings on a balance of probabilities, and their role as investigator.
- 7.2 The investigator will conduct interviews with the Complainant and the Respondent separately and may need to meet with each party more than one time during the course of the investigation. The investigator should however try to avoid multiple Complainant interviews unless required. The Complainant and Respondent will have the opportunity to provide the investigator with information, documents, names of witnesses, and other submissions or evidence that they believe are relevant to the complaint. The investigator may request and shall be provided with any evidence they deem relevant to the investigation. The investigator will interview relevant witnesses and review documentary or other evidence obtained.
- 7.3 The University will always aim to complete an investigation as expeditiously and thoroughly as possible. Depending on the complexity of the case and/or the availability of parties and witnesses, the investigation could take several months.
- 7.4 The investigator will ensure that both the Complainant and Respondent have had a full opportunity to review and respond to all material aspects of the allegations, and the evidence upon which the investigator will rely, in order to ensure procedural fairness.
- 7.5 The Complainant or Respondent may still request alternative resolution of the complaint before the final investigation report is sent to the HRDO.

## **8. Investigation Report**



- 8.1 The investigator will upon conclusion of the investigation prepare an investigation report based on the guidelines provided by the HRDO. The investigation report will contain:
- a) a summary of the complaint and the response;
  - b) relevant legal authority(ies) and issue(s);
  - c) a summary of the documentary and other evidence provided and relied upon;
  - d) a summary of interview evidence from the parties and witnesses; and
  - e) an analysis setting out the findings of fact, and a finding as to whether the policy has been breached on a balance of probabilities.
- 8.2 Prior to finalizing the investigation report, the investigator will send the draft report to the HRDO. Within 5 business days after receiving the investigation report, the HRDO will review the findings of the investigator to ensure that:
- a) the investigation process was fair and thorough;
  - b) the investigation process and report was completed in accordance with the guidelines provided by the HRDO;
  - c) the analysis is clear and complete; and
  - d) the analysis and determination complies with the policy and law.
- 8.3 If the investigation or report does not adequately comply with the above criteria, it will be sent back for further investigation and/or revisions to the report, following which it will again be reviewed based on the criteria above.

## **9. Remedy/Sanction**

- 9.1 A summary of the investigation report including the investigator's determination as to whether there is a breach of this policy and a copy of the complaint and the response will be sent to the Registrar (or other appropriate Administrator if the Registrar lacks the appropriate authority to decide on a particular matter of sanction), and the Deputy



Provost, Associate Vice-President Academic (AVP). Prior to making such a decision about sanctions, the Respondent will be provided with an opportunity to meet with the Registrar (or appropriate Administrator) and the AVP. The Respondent will be advised that they may bring a support person with them to said meeting.

- 9.2 Upon reviewing and considering the investigation report and the investigator's determination as to whether there is a breach of this Policy, and the Respondent's response to the findings (if any), the Registrar (or other Administrator) and AVP shall determine the appropriate resolution, remedy, or sanction, with advice from the HRDO.
- 9.3 The Registrar (or appropriate Administrator) will ensure the resolution, remedy/sanction is implemented and a copy of the determination will be kept with the HRDO.
- 9.4 The Registrar (or appropriate Administrator) and the AVP may impose any remedy or sanction they determine to be appropriate which may include various remedy(ies) or sanction(s) up to and including expulsion from the University.

## **10. Appeal Process**

- 10.1 A Respondent or Complainant may appeal the finding (or not) of breach on a procedural basis, or the remedy/sanction(s) imposed (if known).
- 10.2 To appeal the decision the appellant shall contact the HRDO to request an appeal within 15 working days of the original decision. The appellant shall set out the reasons for the appeal, in writing.
- 10.3 The appeal will be determined by a three person appeal committee formed by the HRDO. The composition of the appeal committee shall include the Vice-President of Human Resources or delegate; the Provost and Vice-President Academic, or delegate; and an excluded senior manager responsible for Student Services. In forming the



committee, the HRDO shall, where possible ensure committee diversity.

- 10.4 Upon the request of the appellant, the imposition of the discipline may be suspended by the Registrar (or applicable Administrator) in consultation with the HRDO, pending the outcome of an appeal. Where such request is granted, interim measures may be implemented or maintained through the appeal process.
- 10.5 The appeal is a pure appeal on the record, not a re-hearing of the evidence. The appeal committee will review the information available to the Registrar and AVP but will not rehear evidence unless it is new evidence that was not reasonably available during the investigation. The other party will be given a reasonable opportunity to respond to new evidence. The determination of whether the evidence is new and was not reasonably available during the investigation is made by the appeal committee, after giving both parties an opportunity to respond to this issue.
- 10.6 The appeal committee shall make their determination based on the following:
- a) whether there was a substantial procedural or legal error in the application of the policy;
  - b) whether there is new evidence that could not have reasonably been presented earlier, and would have materially affected the decision as to breach and/or sanction;
  - c) whether the findings as to breach are consistent with the evidence; and/or
  - d) whether the remedy/sanction are reasonable in the circumstances.
- 10.7 The appeal committee will have received training provided or arranged by the HRDO in the sensitive issues surrounding Sexual Violence, in procedures leading to fair resolution, and in consequences or measures that may be appropriate responses to an incident of Sexual Violence and which act as deterrents to further occurrence of Sexual Violence.



- 10.8 Where an appeal is brought by a Complainant or Respondent, the other party will be notified that an appeal has been submitted. They will also be invited to make a written submission for consideration during the appeal process. Either party may receive assistance from a support person in preparing their written submission.
- 10.9 In deciding the appeal, the appeal committee will review the investigation file, the investigation report (in particular, the investigator's findings), the reasons for appeal provided by the appellant and any response by the other party(ies), and (if applicable) the remedies/sanctions imposed.
- 10.10 The appeal body will make a determination on a basis of consensus and will communicate their reasons for decision in writing to the Registrar (or appropriate Administrator) and HRDO, normally within 15 working days of commencement of the appeal process. The Registrar (or appropriate Administrator) remains responsible for the implementation of any recommendation from the appeal committee. If consensus is not reached by the appeal body the original decision will hold.
- 10.11 A decision of the appeal body is final.



## **Appendix B: University and Community Supports for Survivors**

Support services available to individuals who have experienced Sexual Violence:

### **UW Student Counselling Services**

[studentwellness@uwinnipeg.ca](mailto:studentwellness@uwinnipeg.ca)

Wellness Centre, 1st floor, Duckworth Centre;

<https://www.uwinnipeg.ca/index/counselling-services>

UW Counsellors meet with students regarding a wide variety of issues and are experienced in supporting students who have experienced sexual violence. Open during business hours.

### **UW Klinik on Campus**

204-786-9496;

Wellness Centre, 1st floor, Duckworth Centre;

[www.uwinnipeg/index/services-klinik](http://www.uwinnipeg/index/services-klinik)

Clinic staffed by Nurse Practitioners who can provide medical assistance and referrals for additional services. Open during business hours.

### **University of Winnipeg Student's Association**

Vice President Student Affairs

204-786-9780, [vpsa@theuwsa.ca](mailto:vpsa@theuwsa.ca))

Advocacy available for students.

### **Klinik Sexual Assault Crisis Program**

204-786-8631 Sexual Assault Crisis Line in Winnipeg

1-888-292-7565 Toll Free in Manitoba:

204-784-4049 Sexual Assault intake for in person counselling

870 Portage Avenue

<http://klinik.mb.ca/in-person-counselling/sexual-assault-crisis-counselling/>

Support and counselling is provided which is specifically related to sexual assault or sexual harassment. Information about options for additional services and assistance in accessing the options is also provided. Services available 24/7.

### **Sexual Assault Nurse Examiner (SANE)**

Health Sciences Centre, Emergency Department



204-787-2071

700 William Avenue

<http://www.hsc.mb.ca/emergencynurseexam.html>

SANE provides options and choices about medical care and/or police reporting, provides medications to prevent infection and pregnancy, and connects patients with counseling services. Patients are referred to SANE through the emergency department. Services available 24/7.

### **Winnipeg Police Sex Crimes Unit**

204-986-6245 or 911

[http://www.winnipeg.ca/police/Units\\_and\\_Divisions/sex\\_crimes.stm](http://www.winnipeg.ca/police/Units_and_Divisions/sex_crimes.stm)

Specially trained team of professionals which investigates and supports people who have experienced sexual violence. Services available 24/7

### **Third Party Reporting of Sexual Assault**

The Winnipeg Police Service, in partnership with community agencies offers an option for anonymous third party reporting. Third-party reporting allows a survivor to report an assault to a community agency, which will pass the report along to Winnipeg Police or the RCMP.

*Community Agencies for Third Party Reporting include:*

#### **Klinic Community Health Centre**

204-786-8631 Sexual Assault Crisis Line in Winnipeg

1-888-292-7565 Toll Free in Manitoba:

204-784-4049 Sexual Assault intake for in person counselling

870 Portage Avenue

<http://klinik.mb.ca/in-person-counselling/sexual-assault-crisis-counselling/>

#### **Heart Medicine Lodge (Ka Ni Kanichihk)**

204-953-5820

455 McDermot Ave

[admin@kanikanichihk.ca](mailto:admin@kanikanichihk.ca)

<http://www.kanikanichihk.ca/>

#### **Sage House (Mount Carmel Clinic)**

204-943-6379

886 Main Street

[https://www.mountcarmel.ca/health\\_service/sage-house/](https://www.mountcarmel.ca/health_service/sage-house/)