

## Summary of Key UW Sexual Violence Prevention Policy Provisions

- The Sexual Violence Prevention Policy prohibits all acts of Sexual Violence
- Sexual Violence is an umbrella term and is defined as “any sexual act or act targeting a person’s sexuality, gender identity, or gender expression whether that act is physical or psychological in nature, that is committed, threatened, or attempted against a person without that person's Consent. This includes but is not limited to Sexual Assault, Sexual Harassment, stalking, indecent exposure, voyeurism, and sexual exploitation (examples of which include the distribution of sexual images or video without that person's Consent), and cyber harassment of a sexual nature” (definition taken from The Sexual Violence Awareness and Prevention Act, in Definitions section of the Policy).
- Sexual Assault falls under Sexual Violence and is defined as “any type of unwanted sexual contact by one or more person(s) to another in which the person has not freely Consented to, or is incapable of Consenting to, the sexual contact. Kissing, fondling, sexual penetration, and oral sex are all examples of sexual assault if they occur without Consent.” (Definitions section of the Policy)
- Consent is defined as “The active, ongoing, informed, knowing, and voluntary decision to engage in mutually acceptable sexual activity. More specifically: a) Consent is active. It is not passive or silent; it must be affirmative and ongoing; it can never be assumed or implied; b) Consent cannot be coerced through harassment, manipulation, threats, or abuse of power; c) It is the responsibility of the person who wants to engage in the sexual activity to make sure that they have ongoing Consent from the other person(s) involved; d) Consent to one sexual act does not constitute or imply Consent to a different sexual act; e) Consent is required regardless of the parties’ relationship status or sexual history together; f) Consent cannot be given by a person who is incapacitated by alcohol or drugs or who is unconscious or otherwise lacks the capacity to give Consent; g) Impaired judgment on the part of the person accused that leads them to think or believe there was Consent is not an excuse for an act of Sexual Violence; h) Consent can be revoked at any time by any participant; i) There is no Consent where one person abuses a position of trust, power, or authority over another person.” (in Definitions section of the Policy).
- Sexual Harassment is also a form of Sexual Violence prohibited under the Policy. Sexual harassment is defined as a) A course of abusive and unwelcome conduct or comment undertaken or made on the basis of an individual’s actual, perceived, or imputed sexuality, gender identity, or gender expression; b) a series of objectionable and unwelcome sexual solicitations or advances; or (c) a sexual solicitation or advance made

by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance (definition taken from The Human Rights Code, in Definitions section of the Policy).

- Retaliation for reporting sexual violence or being a witness, and breaching confidentiality are also prohibited. (section 6 of the Policy)
- There is no time limit for submitting a report under the Policy (section 11.3) and it covers sexual violence committed on or off campus, where the Respondent is a UW student or another UW community member (section 5 of the Policy)
- You are allowed to have a support person of your choosing to assist you during this process. Your support person should be reminded of the requirement to maintain confidentiality, and must agree to maintain confidentiality. Your support person should not be someone who is a potential witness.

### **Summary of Investigation Process**

- An investigation means that a third party investigator who is trained in sexual violence investigations, usually a lawyer, is asked to interview the parties and any witnesses and to review any evidence, which can be things like emails, text messages, photos, etc. The investigator gathers this information and writes a report setting out their findings including summarizing the evidence and an analysis of whether the policy has been breached, on a balance of probabilities.
- Balance of probabilities is the standard of proof in the policy, similar to a civil standard of proof. This means that it is more likely than not to be a breach of the policy. Put another way, that it is 51% likely that what happened was a breach of the policy.
- During an investigation, both parties are given a chance to respond to all material aspects of the allegations and evidence.
- After the investigation, the University's Registrar and Associate Vice-President Academic/Provost, with advice from the Human Rights and Diversity Officer is to consider the report and meet with the Respondent (along with a support person if desired), to decide on the sanctions. Sanctions could be nothing (if no breach is found),

or it could include continuing any interim measures, or suspension or expulsion from the University, for example. (section 9 of Appendix A, Procedures)

- There is an Appeal process under the Policy. (section 10 of Appendix A, Procedures)

## **Rights of the Complainant and Respondent**

### **A Complainant has the following rights:**

- a) to be treated with fairness, dignity, and respect;
- b) to not be questioned about their past sexual history;
- c) to be given access to available support and resources throughout the process;
- d) to timely assistance with safety planning;
- e) to timely information about referrals to available on-and off-campus support services and resources;
- f) to have the process explained to them in an accessible manner, including the possible outcomes;
- g) to have their personal information kept confidential, unless they have consented to it being shared except in limited cases where disclosure is required by law (such as in criminal, collective agreement, or civil proceedings) or University policy (see section 17, Confidentiality);
- h) to be informed when it may be necessary that information collected be disclosed;
- i) to present their side of the story, and to respond to other participants' information;
- j) to be accompanied by a support person;
- k) if the Complainant is a unionized employee, to representation by their union as defined by their respective collective agreement;
- l) to decline to participate in aspects of the investigation;
- m) to appeal (within the appropriate time frame) or file a grievance in relation to a decision by the University not to investigate;
- n) to regular updates on the status of the process;
- o) to opportunities to engage in alternative resolution processes where appropriate;
- p) to written notice of any resolution or determination that affects the Complainant;
- q) to written notice of the outcome of any appeal or grievance that affects the Complainant;
- r) to an impartial decision-maker.

### **A Respondent has the following rights:**

- a) to be treated with fairness, dignity, and respect;
- b) to be given access to available support and resources throughout the process;
- c) to receive timely notice and information about the allegations against them;
- d) to be presumed to have not violated this policy until a fair investigation is completed;

- e) to have the process explained to them in an accessible manner, including the possible outcomes and consequences;
- f) to have their personal information kept Confidential, unless they have consented to it being shared except in limited cases where disclosure is required by law (such as in criminal, collective agreement, or civil proceedings) or University policy (see section 17, Confidentiality);
- g) to be informed when it may be necessary that information collected be disclosed;
- h) to present their side of the story, and to respond to other participants' information;
- i) to be accompanied by a support person;
- j) to decline to participate (however, the process may still proceed in the absence of the Respondent);
- k) to notice about the outcome of an investigation and any sanctions against them;
- l) to appeal the decision (within the appropriate time frame) and to receive written notice of the outcome of any appeal;
- m) to regular updates on the status of the process;
- n) to opportunities to engage in alternative resolution processes where appropriate;
- o) to written notice of any resolution or determination that affects the Respondent;
- p) to an impartial decision-maker.