Sexual Violence Prevention and Response

Category: Operations

Approval: Board of Governors

Responsibility: AVP Students and Director, Risk Management

Date approved: November 30, 2018

1. Purpose/Reason for Policy

Trent University is committed to establishing and maintaining an environment free from sexual violence. This policy and its related procedure and guidelines provide direction on sexual violence prevention strategies, guidance on responding to incidents of sexual violence and information on options and resources for persons who have experienced sexual violence. Additional information is available on the Trent University: Sexual Violence website (URL: www.trentu.ca/sexualviolence/)

2. Definitions

(a) Accommodation/Assistance for persons affected by sexual violence: are provisions to protect the physical and/or mental health of a person affected by sexual violence and may include academic accommodation, relocation of residence rooms, voluntary withdrawal from classes with full tuition refund, interim safety plans and provision of supports and services.

(b) Bargaining Agent Representation: is a representative of an employee’s bargaining unit and shall accompany the member in any meeting or related proceedings under this policy. This person is, in addition to any supportive person designated by the individual.

(c) Child: is a person who is, or appears to be, under the age of 16 years.

(d) Consent: is an active, direct, voluntary, unimpaired, continual and conscious choice and agreement between persons to engage in physical contact or sexual activity therefore:
- Consent is active, not passive, coerced or silent. It is a clear "yes", not an absence of "no".
- Consent must be continuous throughout the sexual encounter and can be revoked at any time.
- Consent is the responsibility of the person who wants to engage in sexual activity to make sure that they have consent from the other person(s) involved.
- Consent to one sexual act does not constitute or imply consent to a different sexual act.
- Consent is required regardless of the parties’ relationship status or sexual history together.
- Consent cannot be given by a person who is incapacitated by alcohol, drugs, a medical condition, disability or age, or who is unconscious or otherwise lacks the capacity to give consent. If a participant’s judgement is impaired, consent is not valid; similarly, impaired judgement that leads a respondent to think or believe there was consent is not an excuse.
Consent cannot be given if the instigator is in a position to confer, grant or deny a benefit or advancement to the other person and the instigator knows or ought reasonably to know that the solicitation or advance is unwelcome. This definition applies equally to all persons regardless of sexual orientation.

(e) **Confidentiality:** means protecting the identity and personal information of parties to an incident of sexual violence. Any disclosure or report and information contained therein will be considered confidential except when there is reasonable cause to believe that anyone, including the respondent, is at risk of imminent physical harm, including self-harm, or if there is a concern about the safety or welfare of a child. In accordance with applicable laws, the University will not publicly disclose the identity of persons involved in an incident of sexual violence. However, information may be shared internally as necessary to ensure that the University can take appropriate action to safeguard and protect the interests of the Trent community, ensuring that protecting the confidentiality of the person who has experienced sexual violence is the top priority.

(f) **Cyber-harassment:** means harassing messages, photos and videos sent on-line or posted to social media sites.

(g) **Disclosure:** means advising a trained medical professional, community support worker or trained University support worker in confidence about the sexual violence one has experienced to seek medical care, advice or support. This is not a formal report and there is no expectation of follow up action against the respondent, but the support worker will advise the person who has experienced sexual violence of options to redress the incident. A person disclosing an incident of sexual violence has no obligation to make a formal report.

(h) **Imminent physical harm:** means a situation in which there is clear evidence that another incident of violence, sexual or otherwise, causing physical harm is likely to occur before a thorough threat assessment can be conducted. This could include stranger assault, threats of violence or suicidal intent from any party to the incident.

(i) **Person who has experienced sexual violence:** is the term that will be used throughout the policy in lieu of terms such as victim or survivor, to avoid unintended interpretation and labelling of the impact of the experience on the person who has experienced sexual violence. The person experiencing sexual violence may choose not to request an investigation and has the right not to participate in any investigation that may occur.

(j) **Rape culture:** is a culture in which dominant ideas, language, social practices, media images and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing male sexual violence and by blaming survivors for their own abuse.

(k) **Report:** means to formally advise the University and/or the police so that there is a written record of the incident. A report is required to initiate an investigation that may result in criminal prosecutions or university discipline. Unless there is reasonable cause to believe that anyone, including the respondent, is at risk of imminent physical harm, any action taken will be at the request and with the agreement of the person who has experienced sexual violence. Students are not required to report an incident of sexual violence in order to access sexual violence supports and services or for their needs to be accommodated if they have been affected by sexual violence.

(l) **Respondent:** is the person alleged to have committed sexual violence.
(m) **Sexual assault:** is an assault, as defined in Section 265(1) of the Criminal Code, committed in circumstances of a sexual nature such that the sexual integrity of the person who has experienced sexual violence is violated.

(n) **Sexual coercion:** is unreasonable and persistent pressure to seek consent for sexual activity. Coercion is the use of emotional manipulation, intimidation including blackmail, threats to family or acquaintances or the promise of rewards to persuade someone to consent to sexual activities.

(o) **Sexual exploitation:** involves taking nonconsensual or abusive sexual advantage of another person. It includes, but is not restricted to, the digital or electronic broadcasting, distributing, recording and/or photographing of people involved in sexual acts without the consent of everyone involved, voyeurism and human trafficking of another person.

(p) **Sexual expression:** describes both the consensual sexual activities we engage in, and the ways we communicate and present ourselves to the world as a sexual being.

(q) **Sexual harassment:** means engaging in a course of vexatious comment or conduct against a person because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the person and the person making the advance knows or ought reasonably to know that the solicitation or advance is unwelcome.

(r) **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, stealthing, indecent exposure, voyeurism and sexual exploitation.

(s) **Stalking:** refers to behaviours as defined by the Criminal Code as criminal harassment in the context of sexual or intimate partner violence.

(t) **Stealthing:** is the act of secretly removing a condom during sex without the consent of the partner. It is a form of sexual assault.

(u) **Supportive person:** means a person, including a bargaining unit representative if applicable, selected by either the person who has experienced sexual violence or respondent to assist them throughout the Trent disclosure, reporting and investigation process. Supportive persons are required to uphold confidentiality and are not permitted to intervene and/or disrupt the process. The parties to a formal investigation may choose to obtain legal counsel or advice at their own expense. Such legal advisors may attend meetings as supportive persons but cannot act as legal representatives.

(v) **Victim-blaming:** means language or accusations that the person experiencing sexual violence could somehow have prevented it. Victim blaming can make it more difficult for the person to seek help or report the violence.

3. **Scope of this Policy**

This policy addresses sexual violence involving students enrolled at Trent, regardless of where or when the sexual violence occurred. If the respondent is an employee of Trent University, the Workplace Violence and Harassment Policy or the Discrimination and Harassment Policy may be used.
to respond to reports of sexual violence. In the case of CUPE 1, OPSEU, Exempt, and TUFA respondents the Workplace Violence and Harassment Policy must be used. If the respondent is a student employee, the Workplace Violence and Harassment Policy will be used if the sexual violence incident is related to their employee status. In such cases, the results of investigation and/or adjudication processes will be shared with both Student Affairs and the student employee’s supervisor and Human Resources to coordinate outcomes.

This policy does not preclude a person who has experienced sexual violence from initiating an alternative procedure such as making a police report, initiating civil action, lodging complaints with the Human Rights Commission of Ontario or the Ministry of Labour, or accessing the grievance procedures outlined in their collective agreements (if applicable). Where both external proceedings and a formal report under this policy are initiated, the University may choose to proceed with an internal investigation and adjudication. Where there is an ongoing police investigation, the University will cooperate with local police and may put the internal investigation and adjudication process on hold until the police investigation and any criminal charges are resolved.

4. Policy Statement

The University recognizes that the prevention of and response to incidents of sexual violence is of particular importance in the university environment. Sexual violence is not acceptable at Trent. Any and all reported acts of sexual violence will be addressed in a thorough and timely manner in accordance with the wishes of the person who has experienced sexual violence, with the exception that the University may choose to investigate and take action to safeguard members of the Trent community if there is a risk of imminent physical harm, even if the person who has experienced sexual violence does not want an investigation or wish to participate in the investigation.

The University will ensure that appropriate procedures are in place to respond to reported incidents of sexual violence and to provide supports, services and accommodation for students who have been affected by sexual violence. Members of the Trent community who are found to have committed an act of sexual violence against an enrolled student will be held accountable by the University, regardless of any criminal or other legal action relating to the incident. In accordance with applicable laws, the University will not publicly disclose the identity of persons involved in an incident of sexual violence, however, information may be shared internally as necessary to ensure that the University can take appropriate action to safeguard and protect the interests of the Trent community.

Trent University seeks to create an environment where sexuality can be expressed and discussed openly in order to promote education and self-confidence. This is part of the commitment to creating and maintaining an environment free from sexual violence. The University is committed to on-going education and awareness initiatives about sexual violence, including issues of consent, drug and alcohol use, sexual harassment and cyber harassment.

The University will support these initiatives through a dedicated Sexual Violence Prevention and Response web page and existing programs such as the Student Support Certificate and Bystander Intervention Training. The University will ensure that these initiatives are broadly communicated to all members of the University community.
5. Responsibilities

(a) **All members of the Trent Community**: share the responsibility to create and maintain an environment free from sexual violence by not perpetrating sexual violence, or perpetuating rape culture and, by conducting bystander interventions or getting help if it is not safe to intervene.

(b) **Trent Central Student Association (TCSA), Graduate Student Association (GSA), Trent Durham Student Association (TDSA) and College Cabinets**: are responsible for actively endorsing and supporting this policy by reading the policy, participating in policy reviews and attending, and encouraging others to attend, sexual violence prevention training.

(c) **Senior Administrators, Managers, Supervisors, Instructors, Student Life/Student support staff and Athletics coaches**: are responsible to provide or make available training on the Sexual Violence and Prevention Response Policy to employees, students, contractors and contract employees. Further, persons in a supervisory role have overall managerial and leadership responsibility for ensuring their workplace is free from sexual violence; this includes leading by example in matters of appropriate behaviour, implementing awareness and prevention training programs, responding appropriately to reported incidents and not condoning any aspect of rape culture.

(d) **Persons trained to receive a disclosure of sexual violence**: shall provide the person who has experienced sexual violence with an appropriate level of support and information about supports, services and accommodation options available to them, as provided in the Guidelines to this policy. They will maintain confidentiality unless there is risk of imminent physical harm to a member of the Trent Community. A list of persons trained to receive disclosures can be found on the Trent Sexual Violence Prevention and Response website.

(e) **Sexual Violence Prevention Coordinator (SVPC)**: is a key contact person for students who have experienced sexual violence, as well as for students, staff, and faculty that receive disclosures of sexual violence. The Coordinator is responsible for appropriate referrals, support, and advocacy for students who have experienced sexual violence. The SVPC also develops and facilitates educational opportunities on campus focused on prevention and intervention. The SVPC is responsible to maintain a database of disclosures, minus personal identifiers, and report to the Ministry of Training, Colleges and Universities.

(f) **Student Wellness Centre**: is responsible for providing student health and counselling services for students who have experienced sexual violence. This may include referrals to local Sexual Assault Nurse Examiners if the student so chooses. Services are confidential and accessing these services does not constitute a formal report to the University of an incident of sexual violence.

(g) **Trent Campus Security, Centre for Human Rights, Equity and Accessibility, Accessibility Services Advisor (Durham) and Student Affairs Judicial Staff**: are responsible for providing timely support, services and accommodation options to persons who disclose or report sexual violence in accordance with the procedures and guidelines to this policy, developing safety plans and facilitating reporting to local police when requested.

(h) **Associate Vice President (AVP) Students**: is responsible for ensuring the needs of students affected by sexual violence are appropriately accommodated and for conducting adjudication proceedings under this policy for formal student reports of sexual violence, whether or not criminal charges have been laid. The AVP Students is also responsible for the provision of
sexual violence prevention and awareness training and resources for the Trent Community to include prevention, intervention and receipt of disclosure training.

(i) **Director, Risk Management and/or Security Manager**: is responsible for ensuring investigations of reports of sexual violence are conducted, documented and forwarded to the AVP Students or AVP Human Resources for appropriate resolution. The Director will conduct and/or access anonymous surveys, such as the National College Health Assessments, and consult with all departments receiving disclosures or reports of sexual violence to assess the level of sexual violence at Trent. The Director will include sexual violence in annual Threat of Violence Assessments, and publish sexual violence statistics on the Trent website and provide report information, minus personal identifiers, to the SVP Coordinator for reporting purposes.

(j) **Associate Vice-President, Human Resources**: is responsible for supporting supervisors and managers when implementing corrective disciplinary action for student employees found to have committed an act of sexual violence, whether or not criminal charges have been laid.

**Contact Officer**

AVP Students and Director, Risk Management

**Date for Next Review**

Every three years by the Sexual Violence Steering Group with participation from all student governments and interested students. May 2021 is the next review.

**Related Policies, Procedures & Guidelines**

a) Discrimination and Harassment
b) Student Charter of Rights and Responsibilities.
c) Workplace Violence and Harassment Policy
d) Residence Code of Conduct
e) Threat Assessment Policy

**Policies Superseded by This Policy**

a) Nil
Sexual Violence Prevention and Response Procedures

Associated Policy: Sexual Violence Prevention and Response

Contact Officers: AVP Students and Director, Risk Management

Approval Authority: Board of Governors

Date: November 30, 2018

1. Purpose
These procedures describe the sexual violence disclosure and reporting process as well as supports, resources and options available to the person who has experienced sexual violence.

2. Principles
Sexual violence is never the fault of the person who has experienced it. In responding to a disclosure or report of sexual violence, Trent is committed to ensuring that the person who has experienced sexual violence has the right to:

- Be treated with dignity and respect
- Be treated with sensitivity and compassion
- Be accompanied by a supportive person of their choice throughout this process
- Be informed about and obtain on- and off-campus sexual violence response services and supports, regardless of whether or not they report an incident of sexual violence
- Have their needs appropriately accommodated by contacting the office of Student Affairs
- Decide whether or not to access available services and to choose those services they feel will be most beneficial
- Decide whether or not to report to Student Affairs/Trent Campus Security and/or local police
- An immediate safety plan that will include reasonable and necessary actions to protect the safety and security of the person who has experienced sexual violence that preserve the rights of the respondent to natural justice
- If requested, a prompt and thorough on-campus investigation in accordance with the appropriate Trent University policy and procedures

Confidentiality: Any disclosure or report and information contained therein will be considered confidential except wherein there is reasonable cause to believe that anyone, including the respondent, is at risk of imminent physical harm, including self-harm, or if there is a concern about the safety or welfare of a child. In accordance with applicable laws, the university will not publicly disclose the identity of persons involved in an incident of sexual violence. However, information may be shared internally as necessary to ensure that the University can take appropriate action to
safeguard and protect the interests of the Trent community, ensuring that protecting the confidentiality of the person who has experienced sexual violence is the top priority.

The following chart depicts the options available to persons who have experienced sexual violence:

Person who has experienced sexual violence:

An individual who has recently experienced sexual violence is encouraged to go to a place where they can find physical safety and emotional support. This may be with a friend, family member, or the office of a member of the Housing staff, a colleague or a supervisor. If there is a concern of imminent physical harm, contact Campus Security 705-748-1333 (Peterborough campus), 905-435-5111 (Durham campus) or local Police by dialing 911 (off campus).

A person who has experienced sexual violence has the following options, which may be accessed in any order or simultaneously:

- **Option 1** - Accessing external resources such as a Sexual Assault Nurse Examiner at the Peterborough Regional Health Centre or the Durham Region Domestic Violence/Sexual Assault Care Centre at Lakeridge Health, Oshawa if the person is concerned about Sexually Transmitted Infections (STI), Human Immunodeficiency Virus (HIV) prophylaxis, Hepatitis B test and vaccine, emergency contraception or may wish to file criminal charges at some point. Further information on available resources is included in the Guideline to this policy and on the Trent Sexual Violence Prevention and Response website.

- **Option 2** - Disclosure to a person listed at http://trentu.ca/sexualviolence/ to access Trent supports, services and accommodations. The person receiving the disclosure does not need to know all the details of the incident and will assist the person making the disclosure in obtaining supports and services. A disclosure is not a report; the University will not investigate or take disciplinary action against the respondent unless there is clear evidence that there is an risk of imminent physical harm to someone. The person making the disclosure does not need to participate in any investigation. The person receiving the disclosure will:
1. Advise the student of all internal and external support services and processes available to them and facilitate access to support services and resources, including provision of a taxi chit if necessary;

2. Facilitate contact with Campus Security to assist if there is threat of imminent physical harm, including interim measures such as relocating or prohibiting the respondent from campus and development of a safety plan;

3. At the request of the person who has experienced sexual violence, refer the student to the Sexual Violence Prevention Coordinator (SVPC) who will facilitate housing, academic, counselling, employment and community supports and accommodations.

4. Maintain confidentiality in accordance with the provisions noted below.

5. Document the circumstances of the incident, omitting any personal information, and forward the circumstances to the SVPC.

- **Option 3 - File a Report with Campus Security.** In Durham, reports are filed with persons trained to receive disclosures, not the contract security guards. Durham students may contact Peterborough Campus Security by phone at 705-748-1333 if they wish to file a report after regular working hours. This option formally notifies the University of an incident of sexual violence in order to initiate the investigation and resolution process. If the respondent is a Trent employee, the Workplace Violence and Harassment Policy will be used. In the event the respondent is both an employee and a student, the Workplace Violence and Harassment Policy will be used if the incident was related to the job responsibilities of the respondent. Campus Security will:

  1. Take the contact information of the person making the report and any details of the incident they wish to share at this point. In addition to providing the information and support listed in Option 2, they will explain the investigation and adjudication process (see next section).

  2. Explain that non-judicial resolution such as shuttle mediation or negotiation is available if both the person who experienced sexual violence and the respondent agree. If the person making the report wishes to access this type of resolution, Campus Security will refer them to the Sexual Violence Prevention Coordinator. If the process is not successful, the person making the report may still proceed with the investigation and adjudication process.

  3. Advise the Security Manager or Director, who will investigate the complaint, and arrange a meeting.

  4. If there is an imminent threat to someone's safety, prohibit the respondent from the campus respondent for up to 72 hours so that the Threat Assessment Team can be expeditiously convened to determine appropriate safety measures during the investigation and adjudication process.

  5. Arrange a safety plan and access to supports as necessary.
• **Option 4** - File a report with local police. A person who has experienced sexual violence may file directly or ask Peterborough Campus Security or Durham persons trained to receive disclosures and to facilitate the report. If the University is made aware of a police investigation, Campus Security or persons trained to receive disclosures can still assist the person who has experienced sexual violence with access to supports and services. The person who has experienced sexual violence may consider also filing a report with Campus Security in the event the Police decline to pursue charges. Campus Security will provide any necessary interim safety measures if the case proceeds, or initiate the internal investigation and adjudication process should charges not proceed or be successful.

**Confidentiality** - Any disclosure or report and information contained therein will be considered confidential except wherein there is reasonable cause to believe that anyone, including the respondent, is at risk of imminent physical harm, including self-harm, or if there is a concern about the safety or welfare of a child. In accordance with applicable laws, the university will not publicly disclose the identity of persons involved in an incident of sexual violence. However, information may be shared internally as necessary to ensure that the University can take appropriate action to safeguard and protect the interests of the Trent community, ensuring that protecting the confidentiality of the person who has experienced sexual violence is the top priority.

3. **Investigation Process**

(a) Either the Security Manager, the Director of Risk Management or an external investigator will conduct the fact-finding investigation. The person who has experienced sexual violence may request an investigator of a preferred gender identity on the understanding the investigator of their choice may not be immediately available. The investigator should not have a bias or conflict of interest towards either party to the complaint to ensure fairness of process.

(b) The investigator will meet with the person who has experienced sexual violence and take their statement which should include:

- Name(s) of the person(s) who has experienced sexual violence(s) and contact information
- Name(s) of the respondent(s), position and contact information (if known)
- Name(s) of the witness(es) (if any) or other person(s) with relevant information to provide information about the incident (if any) and contact information (if known)
- Details of what happened including date(s) and location(s) of the alleged incident(s)
- Any supporting documents that may be relevant to the complaint.

(c) If at any point in the process there is clear and unambiguous proof that the complaint is erroneous, the Director, Risk Management and the AVP Students will decide whether or not to proceed with an investigation or adjudication. If they decline to proceed, they will notify the person who has experienced sexual violence and provide brief reasons supporting the decision. If the respondent already knows of the complaint, they should be advised that the University has declined to conduct an investigation and the reasons for that decision.

(d) The investigator will review the complaint details with the person who has experienced sexual violence to obtain any necessary clarifying information. The investigator will determine if the respondent poses a threat to anyone’s personal safety. If so, assess the effectiveness of any
safety plan that has been put in place and initiate any further action necessary to mitigate the threat, including involving police.

(e) The investigator will advise the person who has experienced sexual violence of the date and time they will notify the respondent that an investigation has been initiated. Notification will include a brief synopsis of the allegations. The investigator will advise the respondent that they have the right not to participate in the investigation process. If they chose to do so, they may bring a supportive person. The investigator will explain the process and time lines to the respondent and advise that all parties are expected to maintain confidentiality and adhere to any interim safety plan.

(f) The investigation process will involve collection of evidence and interviews with the person who has experienced sexual violence, the respondent, and any witnesses the investigator deems necessary. Due to the sensitive nature of a sexual violence allegation, the investigator will only interview witnesses if necessary to corroborate facts or to establish a pattern of behaviour to help assess probability.

(g) Witnesses will be advised that their names will not be released to the person who has experienced sexual violence or respondent unless necessary to provide the context needed for the respondent to fairly answer a question or as required by legal proceedings. The content of witness statements will be protected to the extent required by, or permitted by, freedom of information and privacy legislation. Detailed notes, quoting the witness where possible, will be taken. Witnesses will be advised to maintain confidentiality regarding the allegation.

(h) Once the investigator has collected all available evidence, they will interview the respondent by asking questions pertaining to the allegations, witness statements and any other documentation or other evidence gathered.

(i) The investigator will allow the respondent to provide any additional information that may clarify the issue. The investigator will take detailed notes or record all interviews. The investigator will remind the respondent that reprisals to the person who has experienced sexual violence are prohibited and will result in disciplinary action.

(j) The investigator will complete a fact-finding report. A copy of the draft report will be provided to the parties on a confidential basis and shall not be shared with anyone not a supportive person, expert witness, or representative of any of the parties. The parties have the right to comment in writing on the draft report before a final report is issued. The parties must submit their comments to the investigator within five (5) University working days.

(k) On receipt of the comments, the investigator will include them in the fact-finding report and provide the final report to the AVP Students, the person who has experienced sexual violence and the respondent.

4. Adjudication Process

(a) The Adjudication process is explained in the Student Charter of Rights and Responsibilities. The Adjudication Panel is composed of the following:
1) AVP Students or designate (Senior Adjudicator)
2) Designated faculty member
3) Executive representative from the Trent Central Student Association (Peterborough undergraduate student respondent), Trent Durham Student Association (Durham student respondent) or Trent Graduate Students’ Association (graduate student respondent)
4) Assistant to the AVP Students (non-voting) who will record and provide a summary of the hearing for documentation purposes

(b) The formal hearing will be convened within two weeks of receiving the final fact-finding report including comments from the parties. The respondent, person who has experienced sexual violence and witnesses (if applicable) will normally be provided immediate notice of the hearing date.

(c) At the formal hearing the respondent has the right to present evidence and witnesses on their behalf and to question any witness(es) or evidence presented against them.

(d) The respondent and person who has experienced sexual violence each have the right to have a supportive person with them during the process.

(e) The Senior Adjudicator has the right to intervene if the proceedings cease to be respectful and decorous. In addition, either the person who has experienced sexual violence or the respondent may ask the Senior Adjudicator to intervene if they feel unsafe during the proceedings.

(f) The Adjudication Panel will carefully scrutinize the available evidence, including the credibility of all persons providing evidence, to determine whether it is more likely than not that the alleged event(s) occurred, did not occur or if there is insufficient evidence to determine if the event(s) occurred.

(g) If the event(s) are found to have occurred, the Adjudication Panel will impose appropriate outcomes as described in the Charter of Student Rights and Responsibilities. Outcomes can include educational initiatives, formal apologies, behaviour contracts, community service, warnings, loss of privileges, restitution, probation, suspension and expulsion.

(h) The decision of the Adjudication Panel will be communicated in a letter to both the respondent and person who has experienced sexual violence. This will include:
   1) A summary of the incident(s) in question and a finding with regards to responsibility
   2) The reasons for the finding
   3) A description of outcomes (if any) that are to be imposed
   4) A time frame and process for follow-up
   5) An explanation of the appeals process
   6) An affirmation of how confidentiality applies to the case

(i) If a common decision letter would disclose personal information of either party, the Senior Adjudicator will send separate, confidential versions of the letter to each party.

(j) If the respondent is also a Trent employee, a copy of the decision letter will be provided to the respondent's supervisor and Human Resources, who may impose employment related sanctions under the appropriate disciplinary policy if the respondent has been found to have committed sexual violence.

(k) The decision will be kept as a record by the office of the AVP Students for as long as any of the parties are enrolled at Trent.
5. Final Appeals

(a) Appeals can be filed by either the respondent or the person who has experienced sexual violence. A written summary of the appeal, including the stated grounds, can be filed with the office of the Vice President Finance and Administration.

(b) Legitimate grounds for appeals include the following:
   1) A significant error where the procedures outlined in this policy were not followed correctly
   2) Clear evidence of a significant conflict of interest on the part of a decision-maker
   3) The outcome is disproportionate with the precipitating incident(s)
   4) Significant new evidence that was not available at the time of the decision, which has the potential to change the outcome of the case

(c) Whether the grounds for an appeal exists will be determined by the VP Finance and Administration or designate (any designate must not have been involved in the case to this point).

(d) If there are grounds for an appeal, the case will be reviewed by the VP Finance and Administration or designate, who will meet with the Adjudication Panel, respondent, person who has experienced sexual violence and/or witnesses as necessary to determine the validity of the appeal.

(e) If the appeal is on the basis of a significant error, new information or conflict of interest, then the entire case will be considered again by a new Adjudication Panel constituted for the purposes of the appeal, and made up of a senior administrator, student leader and faculty member as designated by the VP Finance and Administration.

(f) If the appeal is on the basis of a disproportionate outcome, then only the impact of the incident, and mitigating or exacerbating factors need be considered. This will be considered by the VP Finance and Administration or their designate, and potentially in consultation with University legal counsel.

(g) Results of an appeal may be:
   1) Upholding the original decision
   2) Upholding the original decision but modifying the outcomes
   3) Overturning the original decision and modifying the outcomes.

(h) All decisions of the appeals process are final.

Related Policies, Procedures and Guidelines:

- Discrimination and Harassment,
- Workplace Violence and Harassment,
- Student Charter of Rights and Responsibilities,
- Housing Residence Standards,
- Threat Assessment Policy

Date for Next Review:

May, 2021
Sexual Violence Prevention and Response Policy Guidelines

Associated Policy: Sexual Violence Prevention and Response Policy
Approval Authority: Board of Governors
Contact Officer: AVP Students and Director, Risk Management
Date of approval: November 30, 2018

Purpose
These guidelines outline institutional approaches, explains policy options and links to support services available to persons who have experienced sexual violence at Trent and in the Peterborough and Durham communities. More detailed information on what to expect from each service, how to prevent sexual violence, consent to and how to assist someone who discloses sexual violence can be found on the Trent Sexual Violence Prevention and Support website.

University Approach and Supports
(a) Every effort will be made to limit the number of times an individual who has experienced sexual violence is asked to repeat the story of what has happened to them. Such individuals also have the right to choose how far to proceed in seeking recourse, except when there are reasonable grounds to infer that the physical safety of any individual, including the respondent, is at risk of imminent physical harm. In such situations, every effort will be made to protect confidentiality while ensuring that the risk of harm is appropriately addressed, which may include Police intervention, but confidentiality cannot be guaranteed.

(b) Individuals who are seeking support related to an incident of sexual misconduct have a right to a coordinated approach among support providers. They also have the right to receive competent support, which means persons listed on the Trent Sexual Violence Prevention and Support website are required to complete sexual violence disclosure or investigation training, and to operate within the limits of their training and expertise.

(c) University procedures regarding sexual violence will be used in a manner that protects the safety and wellbeing of all members of the Trent community without interfering with legal proceedings.

(d) Gathering of statistics for the purposes of reporting as per government mandate shall not supersede the privacy rights of someone who has experienced sexual violence.

(e) There is no time limit on when a person may come forward with an allegation of sexual violence. However, the purview of the University to take internal judicial action against alleged perpetrators only extends to those who are actively employed, enrolled or attending the institution in some capacity.
Selection of Appropriate Policy

(a) If a person who has experienced sexual violence wishes to initiate a complaint with Trent University, they may do so under one of three (3) policies:

- The Sexual Violence Prevention and Response Policy if the respondent is a student.
- The Workplace Violence and Harassment Policy if the respondent is a Trent employee.
- The Discrimination and Harassment Policy for all respondents.

(b) If the respondent is a student, the Sexual Violence Prevention and Response Policy must be used.

(c) If the respondent has dual status of student and employee, the Workplace Violence and Harassment Policy will be chosen if the violence occurred in the course of the respondent's work responsibilities or if the employment status of the respondent put them in a position of authority over the person who has experienced sexual violence. Otherwise, the Sexual Violence Prevention and Response Policy will be used. In either case, the complaint and the results of the adjudication or investigation will be provided to Student Affairs and the respondent's supervisor/ Human Resources. Should the respondent be found to have committed an act of sexual violence, sanctions imposed may affect both employment and student status at Trent.

(d) If the respondent is a TUFA, CUPE 1, OPSEU or Exempt employee of Trent, the Workplace Violence and Harassment Policy must be used.

(e) A person who has experienced sexual violence may access the Discrimination and Harassment policy for incidents of sexual or gender discrimination, regardless of the status of the respondent.

(f) The following chart depicts the policy selection decision tree:
What policy should be used?

Was the alleged incident of a non-consensual sexual nature?

No

Sexual harassment could fall under the Trent Discrimination and Harassment Policy or Workplace Violence and Harassment Policy, see below.

Yes

Is the respondent* a student?

No

If Trent employee—Trent Workplace Violence and Harassment Policy.

Yes

Is the respondent a student staff member?

No

Trent Sexual Violence Prevention and Response Policy.

Yes

Did the alleged incident take place while they were performing staff duties?

No

Trent Sexual Violence Prevention and Response Policy.

Yes

Trent Workplace Violence and Harassment Policy.

* "Respondent" is the person alleged to have committed sexual violence.

Sexual harassment could fall under the Sexual Violence Prevention and Response Policy, Discrimination and Harassment Policy, or Workplace Violence and Harassment Policy.
(g) If the person who has experienced sexual violence is a student but the respondent is not a current member of the Trent community, a complaint can go forward under either the Sexual Violence Prevention and Response Policy or Discrimination and Harassment Policy. Depending on the status of the respondent (visitor, contractor, employee of another organization located on Trent property), an internal investigation may not be sufficiently comprehensive to reach a finding. As well, sanctions are limited to prohibit the respondent from Trent property.

(h) Once a formal report has been investigated and adjudicated through any of these policies, and all appeals have been exhausted, the complaint will be considered closed by the University and will not be re-investigated under another policy unless there is a further reported incident of sexual violence.

(i) The three policies have differing timelines for completion as follows:
   - Complaints must be submitted within five (5) months of the incident under the Discrimination and Harassment and Workplace Violence and Harassment policies.
   - The Sexual Violence Prevention and Response Policy does not have a time limit, but the adjudication process can only proceed while the parties are students enrolled at Trent.
   - The Discrimination and Harassment and Workplace Violence and Harassment Policies have timelines for each phase of the process.
   - The Sexual Violence Prevention and Response Policy does not have maximum time limits but does seek a timely resolution.

(j) Investigations under any of these policies must determine on the balance of probabilities - i.e. whether it is more likely than not - that sexual violence did or did not occur. In a criminal case, the courts must decide beyond a reasonable doubt that the crime occurred, which has a higher burden of proof.

(k) As mandated by the Child and Family Services Act, every person who has a reasonable belief that a child under the age of 16 may be at risk of harm has a legal duty to report the situation to the Children's Aid Society.

Resources
An up to date list of resources and support services can be found on the Trent University Sexual Violence Prevention and Response website.

Sexual Expression and Safety
   (a) Every person has the right to sexual expression in a manner that suits their readiness, desires, values, identity, dignity and bodily autonomy.
   (b) It is understood that sexuality is frequently negotiated in the context of power dynamics and as such it is incumbent on those who are in elevated positions of power to recognize and always respect the limits of those with less power.
   (c) Even in equitable and consensual sexual circumstances, pain may be an unavoidable or even desirable part of the experience (e.g. BDSM). Explicit, repeated and coercion-free consent throughout the experience is expected to be obtained. At all times, individuals who might experience pain should have an easy way to stop the activity at their discretion.
   (d) Communication is understood to take many different forms. The absence of the ability to communicate means it is impossible to give consent. In the absence of some other form of explicit and mutually negotiated consent, silence should be understood as a warning that something may be wrong.
(e) Pregnancy, sexually transmitted infections and sexual experimentation may carry tremendous social, psychological and emotional weight. It is therefore understood that disclosure of such information often makes individuals feel highly vulnerable and must be handled with tremendous care.

(f) It is understood that intoxication often reduces an individual’s inhibitions. This does not reduce the duty to negotiate sexual activity in a manner that is mutually agreeable. A person who experiences intoxication is understood to have diminished capacity to understand the implications of what is happening to them, which is a critical component of consent. One must never use the opportunity where another person is intoxicated to take advantage of a person’s vulnerability.

(g) An individual always has a right to decline any sexual activity, regardless of relationship status. Consent may be revoked at any time and that revocation must be respected and the sexual activity must be stopped. Consent is required for each new act, as consent must be ongoing, active, and voluntary.

Related Policies, Procedures and Guidelines
- Workplace Violence and Harassment Policy (including Threat Assessment Protocol)
- Discrimination and Harassment Policy
- Student Charter of Rights and Responsibilities
- Housing Services Residence Standards and Residence Agreement
- Use of Information Technology Guideline
- Protection of Personal Information Policy

Links
The Sexual Violence website provides more detailed information on resources, supports and what to do in the event you witness or experience sexual violence

(URL: www.trentu.ca/sexualviolence)

Date for Next Review
May, 2021