

Sexual Violence Prevention and Response

Category: Operations

Approval: Board of Governors

Responsibility: AVP Students and Director, Campus Safety

Date approved: June 24, 2022

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](http://www.trentu.ca/sexualviolence/) (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. Note that a complainant in residence will not be moved as part of a safety plan unless it is by their own request or is absolutely necessary for their safety. The Sexual Violence Prevention Manager can assist students in obtaining necessary accommodations.
- (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 under the age of 16 years.
- (d) **Complainant:** is the person formally reporting they have experienced sexual violence. This term is used in the sections (3) Formal Investigation Process and (4) Determination of Outcomes Process.
- (e) **Consent:** is an active, direct, voluntary, unimpaired, continual and conscious choice and agreement between persons to engage in physical contact or sexual activity.
 - 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.
- (f) **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.
- (g) **Cyber-harassment:** means harassing messages, photos and videos sent on-line or posted to social media sites.
- (h) **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.
- (i) **Imminent Physical Harm:** There is clear evidence that another incident of sexual violence 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 ideations from any party to the incident.
- (j) **Interim measures:** The University may impose temporary restrictions pending the outcome of the processes included in this policy when doing so helps ensure the safety of those involved. Interim measures may also be imposed if this policy's processes are superseded by a police investigation or criminal process.
- (k) **Investigator:** The Director of Campus Safety, or designate, or external investigator, who has been formally trained in trauma-informed investigation.
- (l) **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. For the purposes of formal investigation and outcomes processes the term "complainant" will be used.
- (m) **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.
- (n) **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.

- (o) **Respondent:** the person alleged to have committed sexual violence.
- (p) **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.
- (q) **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.
- (r) **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.
- (s) **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.
- (t) **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.
- (u) **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.
- (v) **Stalking:** is behaviours as defined by the Criminal Code as Criminal Harassment in the context of sexual or intimate partner violence.
- (w) **Stealthing:** is the act of secretly removing a condom during sex without the consent of the partner. It is a form of sexual assault.
- (x) **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.
- (y) **Victim-blaming:** Sexual violence is never the fault of the person who has experienced it. Language or accusations that the person experiencing sexual violence could somehow have prevented it constitute victim-blaming. This can make it harder 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. For respondents, this policy applies to those who are currently enrolled as students at Trent. 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. Please refer to the chart in the Policy Guidelines on p. 3.

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. Where there is an ongoing police investigation, the University will cooperate with local police and may put the internal investigation 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.

Trent University recognizes:

- Sexual violence impacts people of all genders.
- How people experience the harm of sexual violence can be different, and can be related to lived experience of gender and socio-political context.
- Sexual violence is committed against women at higher rates, and in particular women who experience the intersection of multiple identities such as, but not limited to, Indigenous

women, Black women, Racialized women, Trans women, women experiencing poverty, and women with disabilities.

- Those whose gender or gender expression does not conform to historical gender norms are also at increased risk of sexual violence.
- Men may experience additional challenges reporting incidents of sexual violence due to social attitudes and stereotypes.

Due to the complexities of violence experienced by people with intersecting identities, the university is committed to ensuring that its responses, prevention efforts and supports take an anti-oppressive and trauma-informed approach so that all community members can access these supports and services.

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. They are responsible for providing representation for the Charter Adjudication Panel in the event that a sexual violence investigation outcome of suspension or expulsion needs to be reviewed (names redacted).
- (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 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 and Response website.
- (e) **Sexual Violence Prevention Manager (SVPM):** 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 SVPM is responsible for appropriate referrals, support, and advocacy for students who have experienced sexual violence. The SVPM also develops and facilitates educational opportunities on campus focused on prevention and intervention.

The SVPM is responsible to maintain a database of disclosures, minus personal identifiers, and report to the Ministry of Colleges and Universities.

- (f) **Student Wellness Center:** 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 determining outcomes for formal student investigation 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, Campus Safety and/or Security Manager:** is responsible for ensuring formal investigations of reports of sexual violence are conducted, documented, and forwarded to the AVP Students for appropriate determination of outcomes. 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 web site and provide report information, minus personal identifiers, to the SVPM for reporting purposes.
- (j) **Vice-President, Human Resources:** is responsible for hearing appeals of formal sexual violence investigations and outcomes, and 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, Campus Safety

Date for Next Review

Every three years by the Sexual Violence Steering Group with participation from all student governments and interested students. May 2024 is the next review.

Related Policies, Procedures and 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

5. Policies Superseded by This Policy

Nil

Sexual Violence Prevention and Response Procedures

Associated Policy: Sexual Violence Prevention and Response

Contact Officers: AVP Students and Director, Campus Safety

Approval Authority: Board of Governors

Date approved June 24, 2022

1. Purpose

This procedure describes the sexual violence disclosure and reporting process as well as supports, resources and options available to the person who has experienced sexual violence.

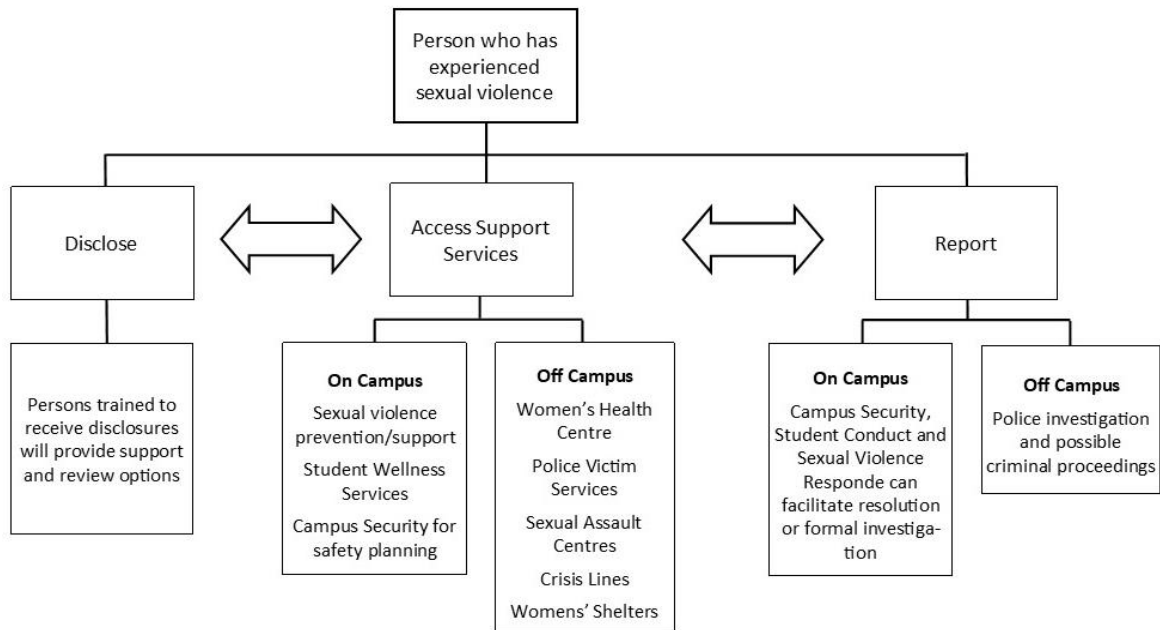
2. Principles

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, and not to be asked irrelevant questions, when disclosing, accessing support, reporting, or participating in an investigation, from the University's staff or investigators, such as those relating to past sexual history or sexual expression.
- Be accompanied by a supportive person of their choice throughout this process
- Be informed about and obtain on- and off-campus sexual violence services and supports, regardless of whether or not they report an incident of sexual violence.
- Be indemnified from any University disciplinary consequences related to drug or alcohol use at the time the sexual violence took place.
- 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 within it 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.

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, or family member, or the office of a member of the Housing staff, a colleague or a supervisor. If there is an immediate personal safety concern, contact Campus Security 705-748-1333 (Peterborough campus), 905-435-5111 (Durham campus) or local Police by dialing 911 (off campus).

A student 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 Center 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 on the [Trent Sexual Violence Prevention and Response website](#) 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

experiencing sexual violence 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 imminent risk of physical harm to someone. The person experiencing sexual violence does not need to participate in any investigation and their confidentiality will be maintained unless it is necessary for the purpose of protecting members of the Trent community. 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, including provision of a taxi chit if necessary;
2. Facilitate contact with Campus Security to assist if there is an imminent safety threat, including interim measures such as relocating or trespassing the respondent 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 Manager (SVPM) who will facilitate housing, academic, counselling, employment and community supports and accommodations.
4. Maintain confidentiality unless there is a threat of physical harm to any person.
5. Document the circumstances of the incident, omitting any personal information, and forward the circumstances to the SVPM.

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 duties of the respondent. Campus Security will:

1. Take the person's contact information 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, Security will explain the investigative 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 wishes to access this type of resolution, Campus Security will refer them to the Sexual Violence Prevention Coordinator. If the process is not successful, they still may 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, trespass the 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. The person experiencing sexual violence may file directly or ask Peterborough Campus Security or Durham persons trained to receive disclosures and reports 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 them with access to supports and services. They 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.

3. Formal Investigation Process

- a) If a complainant* requests a formal investigation, a trained internal investigator (e.g. Director of Campus Safety or designate), or a trained external investigator, will conduct the investigation. The complainant may request an investigator of a preferred gender, on the understanding the investigator of their choice may not be immediately available. To ensure fairness of process, the investigator should not have a bias or conflict of interest towards either party to the complaint. Following each interview in this process, the investigator will prepare a written summary and provide the interviewee with an opportunity to provide comments on the accuracy of the summary. The investigator may redact information (such as witness names) solely to protect the privacy of individuals involved.
- b) The investigation will be conducted using trauma-informed interviewing techniques. During this process, students who share their experience of sexual violence will not be asked irrelevant questions such as those relating to past sexual history or sexual expression.
- c) Both the complainant and respondent are entitled to have supportive people with them throughout the process, with the understanding that they will be speaking for themselves during any interviews.
- d) The investigation process will involve collection of evidence and interviews with the complainant, 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.
- e) If the complainant has already made a report of sexual violence, the investigator will review the details of the report and determine if further information is needed in order to prepare a full complaint.
- f) If the complainant has not already made a report, or if further information is needed, the investigator will work with the complainant to obtain any necessary additional or clarifying information, to ensure that the full complaint includes the following:
 - 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 evidence or documents that may be relevant to the complaint.
- g) The investigator will assess if the respondent poses a threat to anyone's personal safety. If so, the investigator will assess the effectiveness of any safety plan that has been put in place and, in consultation with the complainant, initiate any further action necessary to mitigate the threat for the duration of the investigation and outcomes determination. This can include the establishment or extension of interim measures.
- h) 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 witnesses where possible, will be taken. Witnesses will be advised to maintain confidentiality regarding the allegation.

- i) Once the investigator has collected all available evidence, 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 copy of the complaint and a copy of this policy.
- j) The investigator will advise the respondent that they have the right not to participate in the investigation process but that if so, a decision may be made without their input. If they choose to participate, they may bring a supportive person. The investigator will explain the process and timelines to the respondent. The investigator will explain that the respondent is expected to maintain confidentiality other than with supportive people, adhere to any interim safety plan requirements, and may not retaliate against the complainant or any witnesses, and that any such reprisals will result in disciplinary action.
- k) The respondent may choose to reply in writing to the complaint, or to schedule an interview with the investigator, within 10 business days of the receipt of the complaint.
- l) If the respondent chooses to be interviewed, the investigator will ask questions pertaining to the allegations, witness statements and any other documentation or other evidence gathered. The respondent may provide information during or after the interview, including any additional evidence, witnesses, or documents that may be relevant to the complaint. The investigator will take detailed notes and/or record all interviews. The investigator will write a report on the respondent's interview and evidence.
- m) If the respondent chooses not to address the complaint, then the investigator will make a finding on the basis of existing evidence.
- n) Following the written reply or interview of the respondent, the investigator will provide the written response or interview report to the complainant, and give them the opportunity to provide any additional information they feel is relevant. If new information is received from the complainant, the investigator will next provide it to the respondent for any further comment.
- o) At the conclusion of the investigation, the investigator will prepare a draft written report that includes relevant information and a finding if, on a balance of probabilities based on the evidence collected, the respondent is found to have committed an act of sexual violence against the complainant.
- p) A copy of the draft report will be provided to the complainant and respondent on a confidential basis. 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.
- q) In the case of a finding that an act of sexual violence was committed, these comments can include feedback from the complainant and respondent about what they consider appropriate outcomes. On receipt of any comments, the investigator will include them.

- a) The investigator will provide the final report to the AVP Students, the complainant, and the respondent. The report 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 University, or for seven years, whichever is greater.
- r) Normally the investigative process should be concluded within 40 University working days of the complaint being received.
- s) If the finding is that on balance of probabilities the respondent did commit the act of sexual violence, the respondent may appeal this finding. If no appeal is received then the case will be referred to the Associate Vice President Students for determination of outcomes.
- t) If the finding is that on balance of probabilities the respondent did not commit the act of sexual violence, the complainant may appeal this finding.
- u) An appeal can be on the basis of the following:
 - a. A significant error in following the Formal Investigation Process
 - b. Clear evidence of a significant conflict of interest involving the investigator
 - c. Significant new evidence, that was not available at the time of the investigation, that has the potential to change the investigative finding
- v) Appeals must be submitted in writing to the Associate Vice President Students within five (5) University working days of the receipt of the final report. The appeal must inform the AVP Students of the desire to appeal, the grounds of the appeal, and any evidence that supports the grounds for the appeal.
- w) Results of the appeal may include a finding of error, conflict of interest or validation of new evidence. If any of these are considered to be likely to have affected the investigative finding, the AVP Students may designate another investigator to review the case, or may overturn the investigative finding. Otherwise the investigative finding will be upheld. All Formal Investigation appeal decisions are considered final.

* Note that in this section the terms “complainant” and “respondent” are used as this is a formal investigative process.

4. Determination of Outcomes

This process will take place with an investigator's finding that on balance of probabilities the respondent committed the act of sexual violence against the complainant.* The investigator's report will be forwarded to the Associate Vice President (AVP) Students or designate for determination of outcomes.

- a) The AVP Students or designate will review the report and any comments regarding what the complainant and respondent consider appropriate outcomes.
- b) The AVP Students or designate may contact the complainant and respondent to seek clarification of desired outcomes and potential reparative actions, and offer the opportunity for each of them to be interviewed regarding these. Both the complainant and respondent will be informed if the other chooses to be interviewed, and will be given the opportunity to respond to any new comments about appropriate outcomes or reparative actions.
- c) The AVP Students or designate will determine appropriate outcomes based on the following:
 - a. Input from the complainant about their needs, and interest in the respondent's taking responsibility and engaging in reparative actions;
 - b. Input from the respondent about their desired outcomes, and willingness to take responsibility and to engage in reparative actions;
 - c. The safety, needs and impact on the complainant and on other members of the university community;
 - d. Prevention of further acts of sexual violence;
 - e. Safety and impact on the respondent;
 - f. Any mitigating or aggravating circumstances.
- d) Examples of outcomes include those listed in the Student Charter of Rights and Responsibilities, Section 7, pp. 19-22.
- e) If the outcome is a recommendation that the respondent be suspended or expelled, the AVP Students or designate will provide a summary of the case with names redacted to the Charter Adjudication Panel, who will review the recommendation and determine if this is an appropriate outcome.
- f) The AVP Students or designate will communicate the outcomes decision in a letter to both the complainant and respondent. This will include the reasons for the outcomes decision, timelines for outcomes to take place, an explanation of the appeals process, an affirmation of University confidentiality, and information on record-keeping of the investigation and outcomes decision.
- g) 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 outcomes under the appropriate disciplinary policy.
- h) The outcomes 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 University, or seven years, whichever is greater.
- i) Either the complainant or the respondent may appeal the decision of the AVP Students on the basis of the following:
 - a. A significant error in following the Determination of Outcomes process;
 - b. Clear evidence of a significant conflict of interest involving the AVP Students (or the Adjudication Panel if they were involved in the outcomes decision);
 - c. The outcomes are disproportionate with the precipitating incident(s).

- j) Appeals must be submitted in writing to the Vice President Human Resources within five (5) University working days of the receipt of the outcomes decision. The appeal must inform the Vice President of Human Resources of the desire to appeal, the grounds of the appeal, and any evidence that supports the grounds for the appeal.
- k) Results of the appeal may include upholding the original outcomes decision, or modifying the outcomes decision by increasing or decreasing the outcomes. All Determination of Outcomes appeal decisions are considered final.
- l) In the event that the complainant or respondent is still dissatisfied after having exhausted the procedures in this policy, they have the option of filing a complaint with the Ontario Ombudsman. The Ombudsman is an independent officer of the Ontario Legislature who investigates complaints from the public about Ontario government services (including universities), recommending improvements for governance, and resolving individual issues. Information about the Ontario Ombudsman and the complaint procedures is here: <https://www.ombudsman.on.ca/>

* Note that in this section the terms “complainant” and “respondent” are used as this is a formal outcomes determination process.

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, 2024



Sexual Violence Prevention and Response Policy Guidelines

Associated Policy: Sexual Violence Prevention and Response

Approval Authority: Board of Governors

Contact Officers: AVP Students and Director, Campus Safety

Date approved June 24, 2022

Purpose

This guideline outlines 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.

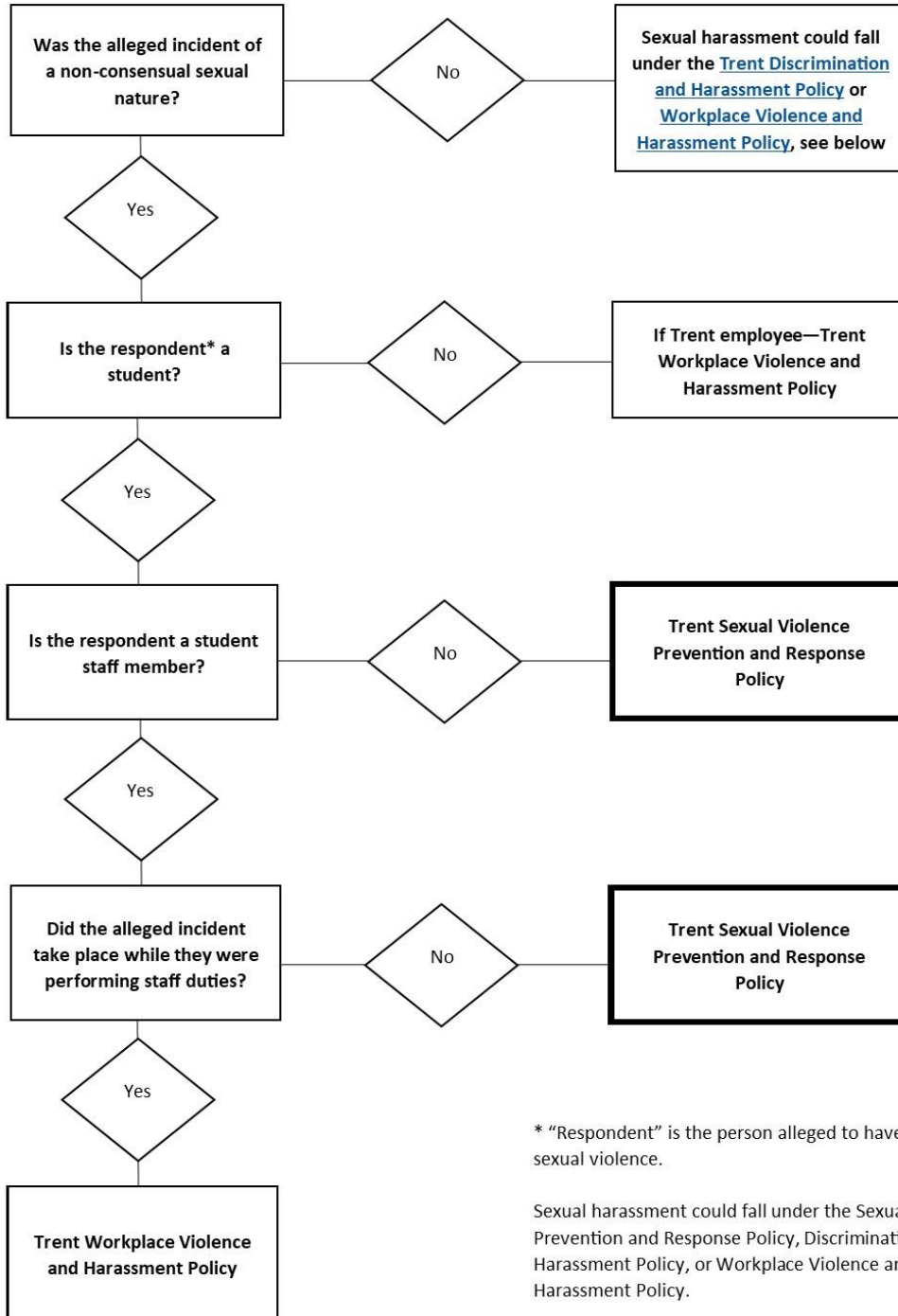
University Approach and Supports

- (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 imminent risk. 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 policies:
- The Sexual Violence Prevention and Response Policy when 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 duties or if the employment status of the respondent put them in a position of authority over the complainant. Otherwise, the Sexual Violence Prevention and Response Policy will be used. In either case, the complaint and the results of the investigation and outcomes 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 or Exempt employee** of Trent, the Workplace Violence and Harassment Policy must be used.
- (e) A complainant 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?



* "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 complainant 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 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 trespassing 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 and processes as follows:
- Complaints must be submitted within 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 maximum time limit, but the judicial process can only proceed while the respondent is a student enrolled at Trent. The Policy does seek a timely resolution.
 - 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 detailed process timelines 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. Sexual activity is not to be used in a manner that takes away from another person’s rights.
- (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, enthusiastic, and voluntary.

Related Policies, Procedures and Guidelines

[Workplace Violence and Harassment Policy \(including Threat Assessment Protocol\)](#)

[Discrimination and Harassment](#)

[Student Charter of Rights and Responsibilities](#)

[Housing Services Residence Standards and Residence Agreement](#)

[Computing Resources Acceptable Use Policy](#)

[Protection of Personal Information Policy](#)

Links

The [Sexual Violence Prevention and Response](#) website provides more detailed information on resources, supports and what to do in the event a person witnesses or experiences sexual violence.

Date for Next Review:

May, 2024

Appendix: Examples of Outcomes

1. Educational Initiatives: Activities that help the respondent to demonstrate they have achieved meaningful learning on issues related to the precipitating incident. Acceptable initiatives require active participation by the learner and include a way of verifying what has been learned.
 - a. Examples of formats for educational initiatives include:
 - i. Participating in a training workshop or community event
 - ii. Researching authoritative information and writing up the findings
 - iii. Making use of a behaviour therapy workbook
 - iv. Enrolling in a relevant course
 - v. Interviewing an expert
 - vi. Participating in a counselling, therapy or peer support group
 - vii. Shadowing an expert to learn more about their lived experience
 - viii. Creating an educational initiative for the community, e.g. a well-researched bulletin board
 - ix. Writing a reflective piece that explores the causes and impact of the behaviour and ensuring it does not reoccur
 - b. Examples of topics for an educational initiative include but are not limited to:
 - i. How alcohol/drug-related situations can escalate unexpectedly and what can be done to mitigate the risk
 - ii. Dynamics surrounding diversity, inclusiveness and oppression
 - iii. Anger management and/or emotional regulation
 - iv. Feminism and gender diversity
 - v. How financial disadvantages affect students
 - vi. Mental health
 - vii. Myths and realities of bullying, coercion and intimidation
 - viii. The impact of sexual violence, harassment and/or sexual objectification
 - ix. Fire safety and emergency response procedures
 - x. Bystander interventions
2. Formal Apology: A written letter of apology, or an oral apology where the respondent and the complainant agree to meet. Effective apologies include the following features:
 - a. Accepting responsibility for one's own conduct
 - b. An explanation of the context that does not minimize the respondent's responsibility
 - c. A genuine acknowledgement of the complainant's perspective and any harm that may have been caused
 - d. Avoiding accusations or blame directed towards others
 - e. Honesty about the facts and emotional significance of what has transpired
 - f. What steps will be taken to ensure the same situation does not repeat itself
3. Behaviour Contract: Where the respondent agrees in writing to any of the following:
 - a. Steps to ensure the safety of self and others
 - b. Limiting contact with the complainant(s)
 - c. Staying away from specific areas of campus where further disruption could be likely
 - d. Avoiding the use of alcohol or illegal drugs

- e. Undertaking educational initiatives related to the precipitating incident
 - f. Voluntarily withdrawing from activities that may have precipitated the behaviour (e.g. social media)
 - g. Making use of professional support services such as counselling to gain better insight into and control over their behaviour
 - h. Avoiding any additional acts of misconduct
 - i. A specific time-frame for undertaking the tasks outlined in the contract and for when/how the contract will come to a conclusion
 - j. Consequences for non-compliance
4. Community service: A project, activity or on-going commitment where the student volunteers their time to improve the well-being of other students or members of the community more generally. Examples include but are not limited to assisting with:
- a. An awareness campaign
 - b. Organizing a community event
 - c. Becoming a member in good standing with a relevant community service organization.
5. Warning: A notice in writing to the respondent that the behaviour in question violates institutional regulations and must cease.
6. Loss of privileges: Denial of specific privileges for a designated period of time. For example, restrictions from accessing recreational facilities, participating in certain events, or making use of particular online resources.
7. Restitution: Compensation for loss, damage or injury. This may take the form of appropriate service or monetary/material replacement. In some circumstances this work must be undertaken by a qualified professional.
8. Probation: A written reprimand for misconduct. Probation is for a designated period of time and may be applied in conjunction with additional outcomes. If the respondent is found to have engaged in further act(s) of misconduct during the probationary period, additional outcomes (typically more severe) may be applied.
9. Suspension: Separation of the student from the campus for a specific period of time after which the respondent may be eligible to return. Conditions for readmission will be specified. The term of the suspension will be dependent on the severity of the misconduct.
10. Expulsion: Permanent removal of the student from the University.