

January 8, 2020

## EXAMPLES OF DISCLOSURE AND CONFIDENTIALITY STATEMENTS IN SEXUAL VIOLENCE POLICIES

### I. **WESTERN UNIVERSITY**

Policy (updated November 2019): <http://studentexperience.uwo.ca/docs/Policy-on-GBSV-updated-2019.pdf>

Information on Western's recent sexual violence policy review can be found here:  
[http://studentexperience.uwo.ca/student\\_experience/policy\\_review/index.html](http://studentexperience.uwo.ca/student_experience/policy_review/index.html)

#### **CONFIDENTIALITY (section B)**

1.00 The University will treat Disclosures and Complaints of incidents of Gender-Based and Sexual Violence in a confidential manner and in accordance with the provisions of the Freedom of Information and Protection of Privacy Act and Personal Health Information Protection Act.

2.00 The University will limit sharing of information to those within the University who have a need to know the information for the purposes of implementing the Policy, including providing support, accommodation and interim measures, and the investigation and decision-making processes.

3.00 Confidentiality cannot be maintained where information needs to be disclosed in order to address a risk to the health and safety of a Member or Members of the University Community or where required by law.

4.00 Where a Complainant files a Complaint against a Respondent, the name of the Complainant, if known, and the material allegations being made will be disclosed to the Respondent.

#### **DISCLOSURES (section C)**

1.00 A Disclosure can be made to any Member of the University Community. A Disclosure by a Survivor may involve a perpetrator who is or is not a Member of the University Community. A Disclosure does not initiate a formal Complaint process.

2.00 If personal security is an immediate concern, staff at Community Campus Police Services (CCPS) are available on a 24/7 basis and can provide guidance, support and response.

3.00 A Disclosure does not result in a Complaint being made and does not initiate a process to address the act of Gender-Based and Sexual Violence. The decision to make a Disclosure and the decision to file a Complaint are separate decisions to be made by a

Survivor. A Survivor who has made a Disclosure is not required to file a Complaint and is not required to request or participate in an investigation by the University.

4.00 The University recognizes that some individuals may be hesitant to make a Disclosure or Complaint or participate in an investigation process in cases where they have been drinking while under-age or were using drugs at the time the Gender-Based and Sexual Violence took place. A Survivor or witness acting in good faith who makes a Disclosure or Complaint or participates in an investigation process will not be subject to sanctions for violations of the University's policies related to drug and alcohol use at the time that the Gender-Based and Sexual Violence took place.

5.00 Any Member of the University Community who receives a Disclosure should listen to the Survivor, inform the Survivor of the Policy and refer the Survivor to the Gender-based Violence & Survivor Support Case Manager and other available supports. For a list of supports, please refer to Schedule A of these procedures.

6.00 Members of the University Community who receive a Disclosure should refrain from judging and taking steps to address the alleged act of Gender-Based and Sexual Violence on their own initiative and outside of formal processes. Unless trained in providing counselling to those who have experienced Gender-Based and Sexual Violence, Members of the University Community who receive a Disclosure should refrain from providing counselling.

7.00 Except for healthcare providers, Health & Wellness employees, and members of the Student Emergency Response Team who receive a Disclosure in the provision of healthcare services to the Survivor, University employees, emeriti, visiting professors, contractors, affiliated persons and Student Leaders who receive a Disclosure (hereinafter called a "Disclosee") shall follow the following steps:

Step 1: The Disclosee should ask the Survivor if they are feeling safe in the current moment and address any immediate danger, including proximity of perpetrator or thoughts of self-harm or suicide. If the Survivor is concerned for their physical safety, the Disclosee should offer to call Campus Community Police Services at 519.661.3300. All Survivors should be offered a referral to medical care, especially if they are injured, express thoughts of self-harm or suicide, or are interested in evidence collection for criminal investigation. The Disclosee should offer to call, or should refer to the Survivor, to one or more of the supports and resources listed in Schedule A.

Step 2: The Disclosee shall explain the limits of confidentiality to the Survivor. In particular:

- Emphasize that you are here to help; part of that help means connecting them with the Resource and Support Adviser on campus who can provide professional support and advice on options moving forward;
- Explain that you will be filling out an online referral to the University's Resource and Support Adviser for the sole purpose of ensuring the Survivor has all of the information

they need to make an informed decision; emphasis that the Survivor will get to choose what happens next. Emphasis that an online referral is confidential and that it does not mean a Complaint is filed. Your role is just make sure they have the information to inform their choices.

- Explain that if the Disclosee makes statements disclosing plans to self-harm, harm another person, or end their own life, that you may involve emergency services.

Step 3: The Disclosee shall inform the Survivor that:

- the Resource and Support Adviser will be contacting them with an outreach email or phone call the next business day to offer support and resources; and
- it will be up to the Survivor to decide whether they wish to access supports/resources or to submit a Complaint.

Step 4: The Disclosee shall ask for the Survivor's email address or telephone number and shall collect the email address or telephone number of preference, not necessarily the University email address or telephone number for the Survivor.

Step 5: After receiving the Disclosure, the Disclosee shall complete and submit the online referral form to allow the Resource and Support Adviser to provide outreach and support to the Survivor. [Insert link to online form].

Step 6: Upon submitting the form:

- the Survivor will receive an automated email from Resource and Support Adviser outlining support options in the moment, if the Survivor's email was provided; and
- the Disclosee will receive an automated email from the Resource and Support Adviser offering to schedule a meeting to debrief the Disclosure.

**Note:** Additional information on how to respond to a disclosure outside of regular business hours is outlined on pages 3-4 of the Procedures:

<http://studentexperience.uwo.ca/docs/Policy-on-GBSV-updated-2019.pdf>

## II. CARLETON UNIVERSITY

Policy (updated in April 2019):

<https://carleton.ca/secretariat/wp-content/uploads/Sexual-Violence-Policy.pdf>

### **CONFIDENTIALITY (section 7)**

7.1 All reports and disclosures of sexual violence to the University will be treated in a confidential manner and in accordance with the Freedom of Information and Protection of Privacy Act (FIPPA) and with the provisions of applicable collective agreements.

7.2 All members of the University community who receive a report or disclosure of sexual violence or who are involved in addressing or investigating it must keep the matter confidential. This is in order to protect the rights of those involved in the

allegations; to prevent an unjustified invasion of their personal privacy; to preserve the integrity of the investigation, and to safeguard individuals against unsubstantiated allegations. See [paragraph 8.5](#) of this Policy for more details on confidentiality related to the formal complaint process.

7.3 The University will make every reasonable effort to maintain confidentiality when it becomes aware of an incident of sexual violence and will limit disclosure of information about individuals to those within the University who need to know for the purposes of, or those consistent with, addressing the situation, investigating or taking corrective action. Under the following circumstances, however, the University might face additional legal obligations and may not be able to guarantee complete confidentiality if:

- a) An individual is at risk of self-harm;
- b) An individual is at risk of harming others;
- c) Members of the University community or the broader community may be at risk of harm; and/or
- d) Investigation or reporting to authorities where required by law (the following list of examples is not meant to be exhaustive: an incident involving a minor, obligations related to occupational health and safety, human rights legislation and/or community safety).

7.4 If a person requests that the University not act on a report of sexual violence, the University must weigh that person's request against the University's legal obligation to take action and provide a learning, living and work environment that is safe and free from sexual violence for all members of the University community. Decisions required under section 7 will be made by the Vice-President, Students and Enrolment following consultation with the General Counsel and Privacy officer as appropriate.

## **SUPPORT SERVICES AND DISCLOSURES (section 6)**

6.1 General provisions about reporting and disclosure:

- a. At any time, a person who has experienced sexual violence may consult with or seek advice and support from the relevant student association, union or other employee group.
- b. If an incident of sexual violence is disclosed to a member of the University community, the person to whom it is reported has a duty to refer the person to this Policy and inform the person that the Sexual Assault Support Centre within Equity Services (hereafter "Equity Services") is the office to contact in order to get information about the availability of supports and services.

### III. UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY

Policy (updated April 2019): <https://studentlife.ontariotechu.ca/sexualviolence/policy.php>

#### **CONFIDENTIALITY (section 19)**

Accessing support from a Support Worker or a Case Manager occurs in a protected space and information will be kept confidential, except under the following circumstances:

- a. The Student seeks Accommodations and consents to sharing information with relevant members of the Sexual Violence Response Team on a need-to-know basis in order to make the appropriate arrangements;
- b. The Student chooses to proceed with Reporting an incident of Sexual Violence, in which case information will be shared only to the extent necessary to achieve Administrative Fairness, and as otherwise required by law;
- c. Information is received suggesting there is a clear risk of harm, including self-harm, to the Student or other individuals;
- d. The Student has experienced Sexual Violence by someone employed by the University (e.g. faculty or staff member, or teaching assistant), in which case a confidential investigation will be conducted under the Policy against Violence, Harassment and Discrimination in the Workplace and information will be disclosed only to the extent necessary to achieve Administrative Fairness;
- e. Reporting is required by law (*g.*, the suspected abuse or neglect of someone under 16 years of age, which will be reported to the Children's Aid Society, or sexually inappropriate behaviour by another health professional is disclosed and their name is provided, which would be reported to their regulatory body.); and
- f. Information is required for a police investigation, or for litigation purposes.

#### **DISCLOSING (section 16)**

1. The University recognizes that Students who have experienced Sexual Violence may initially disclose to a friend, peer leader, or trusted faculty or staff member. The individual receiving a [disclosure](#) should act in a caring and supportive way and maintain confidentiality, except where the individual making the disclosure consents to further information sharing in order to access support.
2. Any individual who receives a disclosure from a Student should:
  - a. Inform the Student about this Policy and about the supports and assistance that are available to them. Help for those who have received a disclosure is posted [online](#);
  - b. Help the Student access a [Support Worker](#) as needed to explore pathways to wellness and healing;
  - c. Help the Student access the Case Manager as needed to explore reporting options; and

- d. Email [disclosure@uoit.ca](mailto:disclosure@uoit.ca) sharing only the time of the disclosure and confirming that the disclosing Student has been provided information about available supports and assistance and/or directed toward the [website](#). Available supports and assistance are also listed at Appendix B
3. If the information received from the disclosing Student suggests either of the following circumstances, those receiving the disclosure must promptly share that information with the Office of Campus Safety, and in doing so, must inform the Student of this action:
  - Where there is an imminent threat or risk of serious harm, including self-harm, to the Student or other individual; and
  - Where the actions constitute harassment and result in an individual feeling as though their personal safety is at risk, whether in person or online.
4. If the information received from the disclosing Student suggests that an incident has occurred involving Workplace Violence or Workplace Harassment under the *Occupational Health and Safety Act*, those receiving the disclosure must promptly share that information with Human Resources, and in doing so, must inform the student of this action.
5. Those requiring advice about whether, and to what extent, the information must be shared may consult with the Director, Campus Safety. The Office of Campus Safety will use and share the information provided to the extent that is required by law.

### **Anonymous Disclosures**

1. A Student may anonymously disclose Sexual Violence in accordance with the University's [Safe Disclosure Policy](#). Students may choose not to provide their name or other personal information in the anonymous disclosure. Students who make anonymous disclosures will be provided with information about the supports and assistance that they may choose to access. Information about the number of anonymous disclosures received by the university will be used for statistical purposes only.

## **IV. SAINT FRANCIS XAVIER**

An independent review of the university's sexual violence policy was completed in spring 2019. The reviewer's final report included a proposed policy, which can be found here:

[https://docs.wixstatic.com/ugd/4b52bd\\_17b6d70a460f4f02a3b2b5d84fb4603b.pdf](https://docs.wixstatic.com/ugd/4b52bd_17b6d70a460f4f02a3b2b5d84fb4603b.pdf).

*The policy begins on page 14 of the report.*

## **CONFIDENTIALITY (section 9)**

### **Disclosures are Confidential**

9.1 Ensuring confidentiality is a key principle in creating an environment and culture in which Survivors feel safe to Disclose and seek support and accommodation. StFX is committed to ensuring that such an environment and culture exists at the university.

### **Limits on Confidentiality of Disclosures: Sharing Information for Access to Accommodations**

9.2 In order to access various employment, residence or academic accommodations, it may be necessary for the Survivor to provide consent to share some information with persons responsible for those accommodations, for example in order to ensure no contact with the Respondent.

- Employment accommodations will be discussed with the Human Resources Director
- Residence accommodations will be discussed with the Director of Student Life or their delegate
- Academic accommodations will be discussed with the appropriate Dean(s) and faculty members as necessary.

### **Limits on Confidentiality of Disclosures: StFX Duty to Act**

9.3 StFX cannot guarantee absolute confidentiality in all cases of a Disclosure. StFX may be required to disclose information and/or undertake its own investigation where:

- i. There is a serious risk of harm to self or others
- ii. There is objective evidence of sexual violence, such as evidence of sexual violence in the public realm (e.g. a video posted on social media) or otherwise recorded or documented and available to StFX
- iii. There is a risk to the safety of the university and/or broader community
- iv. Where records are subpoenaed v. Reporting or other action is required or authorized by law.

9.4 Examples of cases where StFX may have a duty to undertake its own investigation or take other steps without the consent of the Survivor include cases where there are multiple complainants or Respondents, multiple Disclosures have been made against the same person or the sexual violence is in the public realm (e.g. a video-recorded act against an intoxicated person). In such cases, StFX will provide notice and support to the Survivor where the Survivor is known, and the Survivor has the right to decide whether to participate in any investigation.

### **Disclosures to Trusted Faculty or Staff**

9.5 If a Disclosure is made to a trusted person at StFX who is someone other than a staff member at the Safe Disclosure Office, the trusted person may have an obligation to inform the Responsible Authority or the Safe Disclosure Office, who will assess whether StFX has a legal duty to act as set out above.

9.6 If a Disclosure is made to a StFX health professional, the Personal Health Information Act only permits release of information without an individual's consent in narrow circumstances, such as where the health professional believes the Disclosure will avert or minimize an imminent and significant danger to the health or safety of any person.

#### **Confidentiality to Maintain the Integrity of an Investigation**

9.7 Following a Report, information about the investigation and Report will only be shared by the Investigator and/or StFX staff, as is necessary for the purposes of the investigation.

9.8 StFX recognizes that a Respondent may need to share some information in order to facilitate their response; a Reporting Party may need to share some information in order to identify witnesses and assist the investigation; and both parties may need to rely on their respective circles of support, such as close friends, family, therapists or legal counsel.

9.9 StFX further recognizes that silencing persons who have Disclosed or Reported sexual violence, by telling them that they cannot talk about the experience because of an ongoing reporting process, is a barrier both to reporting and to healing.

9.10 Having regard to the above, StFX encourages Reporting Parties and Respondents to ensure that any communications about an incident(s) of sexual violence during a reporting process do not taint or undermine the integrity or fairness of the process. If communications adversely impact the integrity of the investigation, the outcome of the process may be negatively impacted.

#### **Confidentiality and Compliance with Law**

9.11 StFX must comply with the requirements of Nova Scotia legislation, including the Freedom of Information and Protection of Privacy Act and Personal Health Information Act, as well as the Human Rights Act and the StFX privacy and records management policies.

9.12 Personal information is confidential, except as outlined in this Policy or where release of personal information is required by law, such as where records are subpoenaed or where a Disclosure or Report is made that impacts a child under the age of sixteen.

9.13 Information that a Respondent was found to have breached this Policy and any disciplinary or remedial measures ordered, are collected for the purposes of implementing and enforcing this Policy, including promoting the principles and purposes of this Policy and respecting the statutory human rights of the person who Reported sexual violence, and may accordingly be released to the Reporting Party in keeping with these purposes.

#### **Statements Compellable in Other Proceedings**

9.14 Information or statements provided by a Reporting Party or Respondent to StFX following a Disclosure or Report may be compellable in any related civil or criminal proceeding.



## **DISCLOSURE (section 8)**

### **First Disclosure Often to a Person in Trust**

8.3 StFX recognizes that persons who have experienced sexual violence, frequently first disclose to a trusted person, such as a friend, colleague, faculty member, union representative, Residence Assistant or custodial services staff.

### **Faculty/Staff Must Provide Information About the Safe Disclosure Office to the Survivor**

8.4 All StFX employees who receive confidential Disclosures must provide information to the Survivor about the availability of the Safe Disclosure Office as the central site to receive confidential support and information about options. It is the choice of the Survivor whether to access this service.

8.5 StFX will offer annual training on this Policy, the Safe Disclosure Office, and best practices for Members of the StFX Community in responding to Disclosures of sexual violence. Such training shall be mandatory orientation training for all new staff and faculty. Each department and faculty of StFX is encouraged to develop training appropriate to their role within StFX.

### **Amnesty from Drug/Alcohol Misconduct by Survivors**

8.6 StFX recognizes that some individuals may be reluctant to come forward to Disclose or Report sexual violence if they were drinking or using drugs at the time the sexual violence took place, particularly if to do so violated an employment, student, or athletic code of conduct. A Member of the StFX Community who makes a Report in good faith will not be subject to disciplinary actions by StFX for violations of StFX policies related to drugs or alcohol at the time the sexual violence took place.

### **The Role of the Safe Disclosure Office and Recording Names of Alleged Perpetrators**

8.7 StFX acknowledges that sometimes Survivors Disclose sexual violence because they want StFX to 'know' or they want there to be some form of 'record', but don't want to take further steps. The Safe Disclosure Office is responsible for keeping track of this information. Initial Disclosures to trusted persons, such as to a faculty member or colleague, are not sufficient for this purpose. While the trusted person may have an obligation to inform the Responsible Authority or the Safe Disclosure Office (see s.9.3 of this Policy), Survivors are encouraged to Disclose to the Safe Disclosure Office directly or give permission to the trusted person to provide information to the Safe Disclosure Office if their goal is for there to be some "record" of their experience, but not take any further steps.

### **Co-ordination of Information**

8.8 Where StFX campus security, Residence Life, or Human Resources, receive a Disclosure or Report of sexual violence, a copy of the incident Report or information on the incident and the persons involved, shall be provided to the Safe Disclosure Office (except to the extent this is inconsistent with the terms of a collective agreement).

## V. **UNIVERSITY OF TORONTO**

Policy (updated December 2019):

<https://governingcouncil.utoronto.ca/sites/default/files/2020-01/Sexual%20Violence%20and%20Sexual%20Harassment%20Policy%20on%20Jan%201%202020.pdf>

### **CONFIDENTIALITY AND PRIVACY (section 4)**

24. The University will treat Disclosures and Reports of an Incident of Sexual Violence in a confidential manner and in accordance with the Freedom of Information and Protection of Privacy Act.

25. The University will limit sharing of information to those within the University who need to know the information for the purposes of implementing this Policy, including providing accommodation, interim conditions and interim measures, and the investigation and decision-making processes; and taking corrective action resulting from those processes. For example, where a Complainant wishes to make a Report, fairness to the Respondent will require disclosure of the Complainant's identity and the material allegations being made.

26. Confidentiality cannot be maintained where information needs to be disclosed in order to address a risk to the health and safety of Members of the University Community or where the University is obliged by law to disclose the information. For example, confidentiality cannot be maintained where:

- a. an individual is at risk of imminent and serious harm to themselves or others;
- b. Members of the University Community may be at risk of harm; and/or
- c. reporting or investigation is required by law (for example, but not limited to, an incident involving a minor, or obligations related to occupational health and safety or to human rights legislation).

### **DISCLOSURE (section 6)**

32. A Disclosure does not result in a Report being made and does not initiate a process to address the Incident of Sexual Violence. The decision to Disclose and the decision to Report are separate decisions.

33. A Disclosure can be made to any Member of the University Community. A Disclosure may relate to a Respondent who is or is not a Member of the University Community.

34. The Centre is the first point of contact for a Member of the University Community affected by an Incident of Sexual Violence to obtain academic, employment, or other accommodations and services. A Member of the University Community who receives a Disclosure should inform the Complainant about this Policy and direct them to the Centre.

35. The University recognizes that such Disclosures are often shared in confidence, that the Complainant may have an expectation of confidentiality, and that in many cases confidentiality is essential in order for Complainants to come forward. The person to whom the Disclosure is made may consult with the Centre for advice but except as directed by the Complainant or as indicated by the provisions in the “Confidentiality and Privacy” section of this Policy, is expected to hold such information in confidence.

36. Members of the University Community outside of the Centre who receive a Disclosure of an Incident of Sexual Violence and who receive the Complainant’s permission to do so can provide to the Centre the name and contact information of the person who made the Disclosure and the date of the Disclosure to them for follow-up support and services.

37. The University respects a Complainant’s right to choose whether and how to pursue action related to an Incident of Sexual Violence, subject to the provisions set out in the “Confidentiality and Privacy” section of this Policy. In particular, when the University is made aware of an Incident of Sexual Violence that poses a risk to the health and safety of Members of the University Community, the University will take steps to maintain their health and safety.

38. The University will make support and services, including counselling, access or referrals to medical services, and academic and other accommodations, available to Members of the University Community who Disclose having been affected by an Incident of Sexual Violence. Support services will also be made available to Members of the University Community who are Respondents. Persons affected by an Incident of Sexual Violence should contact the Centre to obtain such support and services. See also paragraph 55.

39. A Complainant is not required to make a Report about an Incident of Sexual Violence in order to obtain the support and services or accommodations referred to in this Policy.

40. The Centre will make support staff available by phone, email, or through Campus Police on a 24/7 basis. These staff members can provide guidance and support to a Complainant through the process of Disclosure and/or Reporting.

41. The Centre can, on a confidential basis, consult or seek the assistance of other internal personnel or resources of the University to facilitate the safety, follow-up, and support of those involved in a Disclosure of Sexual Violence.

## VI. QUEEN'S UNIVERSITY

Policy (updated in May 2019): <https://www.queensu.ca/secretariat/policies/board-policies/sexual-violence-involving-queen%E2%80%99s-university-students-policy>

### **INCIDENT RESPONSE AND DISCLOSURES**

#### Right to Disclose

8.1. Any Student affected by Sexual Violence may make a Disclosure.

8.2. If personal security is a concern, Campus Security & Emergency Services (CSES) staff are available on a 24/7 basis and can provide guidance and support. Otherwise, Students should contact the SVPRC.

#### A Disclosure alone will invite support and accommodation

8.3. If a Student chooses to Disclose an incident of Sexual Violence but does not want to report the incident to the police or Complain under this policy, they remain entitled to access available personal supports and accommodations/considerations appropriate to their circumstances.

#### Confidentiality and Disclosures

8.4. The University will assess and respond appropriately to every Disclosure with a view to maintaining a living, working and learning environment free of Sexual Violence. This may require the sharing of information.

8.5. The University encourages students to contact Counselling Services or the off campus resources listed in the Appendix to this policy to obtain confidential support.

#### Employees should listen and refer

8.6. University employees and representatives to whom a student Discloses an incident of Sexual Violence should listen, be supportive, and refer the student to the SVPRC or support.

8.7. University employees and representatives should refrain from judging and, unless trained in providing support to those who have experienced Sexual Violence, refrain from providing advice and from counselling.

#### Employees must notify

8.8. All University employees who are not health care providers<sup>2</sup> and who have received a Disclosure shall immediately notify the SVPRC and shall answer the SVPRC's inquiries about the Disclosure. A notification to the SVPRC alone does not initiate a formal process.

8.9. University health care providers shall convey any Disclosure of Sexual Violence to CSES, the police or another person as they deem necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to the discloser or others.

8.10. CSES will notify the SVPRC about all Disclosures.

Sexual Violence Prevention and Response Coordinator (SVPRC)

8.11. When the SVPRC receives a Disclosure of an incident of Sexual Violence involving a Student, the SVPRC will, if feasible and deemed by the SVPRC to be appropriate, contact the Student to offer support and information and to provide options tailored to the needs, wishes and circumstances of the Student.

8.12. The SVPRC may make referrals to both on and off campus resources, discuss and facilitate appropriate accommodations and safety planning, and provide information about submitting a Complaint under this policy.

8.13. The SVPRC may, on a confidential basis, consult with and seek the assistance of other internal personnel or resources to facilitate the safety, follow-up and support of those who have Disclosed an incident of Sexual Violence.