

**Courtesy of Randy Singh and Glynnis Kirchmeier:**

## **RECOMMENDED UBC STRUCTURES RE SEXUAL VIOLENCE, HARASSMENT AND DISCRIMINATION COMPLAINTS**

To provide an effective and fair response to complaints of sexual violence, harassment or discrimination, UBC must do the following:

### **Policy**

1. Develop and publish a formal sexual violence, harassment and discrimination policy containing detailed requirements for the steps to be taken once an internal complaint is filed and a detailed descriptions of bodies to be created to respond to sexual violence, harassment and discrimination complaints.
2. Ensure that the policy is based on a trauma-sensitive, do no harm approach.
3. Ensure that the policy prohibits reliance on sexual stereotypes about the conduct, motivation and credibility of both complainants and respondents in processing and addressing complaints of sexual violence, harassment and discrimination.
4. Ensure that, in relation to complaints of sexual violence, harassment and discrimination, the policy does not value the interests of respondents over the interests of complainants.
5. Ensure that the policy recognizes the special nature of sexual harassment and sexual violence and the need for specialized and procedures and approaches with respect to sexual harassment and sexual violence.
6. Ensure that the policy recognizes the special nature of the University, including the transience of many members of the University community, the youth and inexperience of many members of the community, the interdependence of members of the community, the loyalty of many members of the community to the University, the hierarchical nature of the University, the significant presence of relationships among those with unequal power, and the wide discretion often present in the evaluation of scholarly work and the dispersal of University opportunities and benefits.
7. Make compliance with an appropriate sexual violence, harassment and discrimination policy mandatory for all members of the University community under the University calendar and under contracts of employment between members of the University community and the University, regardless of whether or not those members of the community were physically present at the UBC campuses.
8. Ensure that the policy accepts and processes complaints about the University's own liability in respect of sexual violence, harassment and discrimination, and in respect of the efficacy of the University's internal processes.
9. Ensure that the policy recognizes that the harm of sexual violence, harassment and discrimination is not limited to specific individuals who are harassed or assaulted, but extends to others who witness or become aware of the harassment or assault.
10. Ensure that the policy accepts third party reporting of sexual violence, harassment and discrimination, regardless of harm to the reporter.

## **Advocacy Centres**

11. Establish and fund a trauma-sensitive advocacy centre for complainants, independent from the University, which is confidential and privileged, and which provides centralized information and advocacy services for complainants, including representation, to which all persons making complaints of sexual violence, harassment and discrimination will be referred by all branches and departments of the University (the “Complainant’s Advocacy Centre”).
12. Ensure that Complainant’s Advocacy Centre can receive complaints for the purposes of information only.
13. Ensure that rape kits and qualified personnel to administer those kits are available at all times on campus.
14. Establish and fund an advocacy centre for respondents, independent from the University, which is confidential and privileged, and which provides centralized information and advocacy, including representation, to which any person subject to a complaint of sexual violence, harassment and discrimination will be referred (the “Respondent’s Advocacy Centre”).
15. Ensure that the Advocacy Centres provide comprehensive information about the formal and informal processes available to address complaints of sexual violence, harassment and discrimination, including processes external to the University such as criminal processes, human rights processes, and civil proceedings in court. Ensure that the Advocacy Centres provide information about the significant differences between internal and external processes, including any differences in the protection for complainants and respondents, and any differences in the ability of such processes to examine the University’s liability as well as the liability of the person whose conduct is in question.
16. Ensure that the Complainant’s Advocacy Centre assists complainants to create a complete written account of their complaint when they are ready to do so, and once they have been provided with full information about the options open to them, and that retelling of the details of the complaint by the complainant is as limited as possible.
17. Ensure that the Complainant’s Advocacy Centre accepts complaints broadly and leaves questions about jurisdiction to be determined in the formal fact-finding process.
18. Ensure that when a complaint is received, an early determination is made about accommodations and services the complainant and others affected by the complaint might require, and that ongoing assistance is provided to complainants and others affected as a complaint is being addressed.

## **Fact-finding process**

19. Establish an independent fact-finding process for complaints of sexual violence, harassment and discrimination to proceed by way of interviews, written submissions, and documents, rather than by way of an adversarial adjudicative process.
20. Ensure that the independent fact-finding process is fully funded by the University, and independent from the University, including from University counsel.

21. Ensure that the fact-finding process makes findings of fact that are binding on the parties and the University, and sets out remedies that are binding on the parties and the University, subject only to collective agreement grievance processes or judicial review by the courts.
22. Ensure that the fact-finding process is staffed by fact-finders trained in trauma-sensitive approaches and best practices for investigations of complaints of sexual violence, harassment and discrimination. Ensure that fact-finders are assisted by the services of an expert in sexual violence. Ensure that fact-finding takes account of the special nature of sexual violence and harassment. Ensure that fact-finding is not based on gendered stereotypes about the conduct or response of complainants or respondents.
23. Ensure that the fact-finding process focuses on the conduct of the respondent in relation to the complainant and the complaint, as well as in relation to the University community. Ensure that the fact-finding process is not based on a disciplinary or criminal model focused only on the relationship between the respondent and the University.
24. Ensure that the fact-finding process can address complaints against the University as well as against respondents, if complainants so choose.
25. Ensure that the fact-finding process limits the complainant's retelling of the complaint to the greatest extent possible, including primarily working from the complainant's written complaint.
26. Ensure that complainants have the assistance that complainants require as they go through the fact-finding processes, including advocates or other support persons at any interviews conducted in the fact-finding process.
27. Ensure that the fact-finding process is fully transparent and treats complainants and respondents as equal participants.
28. Ensure that the fact-finding process proceeds with full cross disclosure to the parties of complaints and responses and of relevant materials from complainants, respondents, and the University, even if the University is not a party.
29. Ensure that members of the University community are required to disclose relevant information to the fact-finding process and the parties, and to participate in the fact-finding process as needed by the fact-finder.
30. Ensure that information obtained by interview is summarized and shared with other parties who may respond to or correct that information.
31. Ensure that parties can pose questions to be asked of other parties by the fact-finder.
32. Ensure that the fact-finder provides a draft report of their findings to all parties for comment before the report is finalized.
33. Ensure that once the report is finalized, all parties and the University, even if not a party, may make submissions about remedial orders.
34. Ensure that complaints, responses and non-documentary evidence provided in a fact-finding process are privileged, and cannot be the basis of civil liability or any other complaint process.

35. Ensure that any negative consequence or response related to making a complaint, responding to a complaint, or providing evidence in a complaint fact-finding process is strictly prohibited.
36. Ensure that when a complaint is referred to the fact-finding process, an early determination is made by someone other than the fact-finder assigned to the file about whether a public warning should be issued about the respondent and/or the complaint, and about whether the respondent should be suspended from the University for the safety of the complainants and the University community.
37. Ensure that when a complaint is referred to the fact-finding process, an early determination is made about whether complaints about a single respondent should be considered together, in which case full cross disclosure among the parties will be required.
38. Ensure that when a complaint is referred to the fact-finding process mediation services are made available to the parties on a consensual basis to be provided by a professional other than the fact-finder assigned to the file, and to be fully funded by the University but entirely independent of it except that the University may participate if agreed by the parties.
39. Ensure that the fact-finding process is confidential except that any party is permitted to comment outside the complaint process about matters pertaining to them, subject to the usual laws of defamation, slander and libel.
40. Ensure that the findings of fact and decision on remedy are made public unless there are compelling reasons against this.
41. Ensure that the Advocacy Centres provide information about how to access judicial review and grievance processes, as applicable.

### **Process Evaluation**

42. Ensure that its reporting, advocacy and fact-finding processes are fully and independently evaluated by establishing an independent person with access to the work of the fact-finding process to report on the process and maintain and publish statistics on an annual basis, including about complaints of sexual harassment and sex discrimination, about the outcome of complaints, and about the rate of reporting compared to the anticipated rate of incidents based on statistics from other settings.

### **Training**

43. Ensure that effective regular training is provided throughout the University about how to receive a complaint of sexual harassment, violence or discrimination, where to refer the complainant, and how to assist complainants and others affected, including respondents.
44. Ensure that effective regular training throughout the University provides specific information about the needs of vulnerable populations in the UBC community, including but not limited to First Nations/Indigenous students, other visible minority students, foreign students, students with disabilities, students who are pregnant or who have children, and other populations defined by the characteristics protected in the BC Human Rights Code.