



**SOUTHERN  
BUTLER PRICE**

Procedure for Protected  
Disclosure

**Review and Recommendations**

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**Submitted to**

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## Overview

In February 2022, Dr. Meddings, Dean of the Cumming School of Medicine (“CSM”), issued a statement in response to an open letter that referenced a specific situation and addressed the broader issue of equitable treatment of students and trainees. In his response, Dr. Meddings identified that CSM would work with the University of Calgary (the “University”) to determine whether there are any gaps in policies applicable to reporting and responding to complaints of harassment and discrimination, and what needs to be done to address the any gaps that are identified.

As a result, I was engaged by Ms. Jacqueline Lacasse, General Counsel to the University of Calgary (the “University”), to review the Procedure for Protected Disclosure (the “Procedure”).<sup>1</sup> I was asked to consider the language contained in the Procedure as well as the processes and practices, resources, and structures that support the Procedure (the “Process”), particularly as they relate to complaints of harassment, sexual and gender-based violence, and human rights violations.

This report does not specifically review every office that interacts with investigations (though most of these offices are referred to throughout the report.) As the Protected Disclosure and Research Integrity Office (the “PDRI”) is the office with primary responsibility for addressing complaints of harassment, discrimination and sexual and gender-based violence at the University, this review focuses on that office with the aim of proposing actionable recommendations for change that will impact a majority of University community members.

The PDRI is responsible for receiving protected disclosures and administering the Procedure. The Procedure applies where it is alleged that an Academic Staff Member, Appointee, Contractor, Volunteer, or Postdoctoral Scholar (the “respondent”) has breached a University policy, including the *Code of Conduct*, *Harassment Policy*, and *Sexual and Gender-Based Violence Policy*.

The PDRI is also responsible for receiving complaints pertaining to research integrity and administering the Procedure for Investigating a Breach of Research Integrity. At the time of this review (the “Review”), the PDRI was staffed with one Advisor, and an administrative support employee.

Important to the context of this Review are two other offices on campus that are responsible for receiving and resolving complaints of the same type, pursuant to two other procedures:

1. The Student Conduct Office,
  - a. Responsible for complaints, including harassment, where the respondent is a student

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<sup>1</sup> Online: <https://www.ucalgary.ca/legal-services/sites/default/files/teams/1/Policies-Protected-Disclosure-Procedure.pdf>

- b. Responds according to the Non-Academic Misconduct Procedure
- 2. The Workplace Investigations Unit,
  - a. Responsible for complaints, including harassment, where the respondent is a MaPS (management and professional staff) or AUPE (Alberta Union of Provincial Employees) employee
  - b. Responds according to the Workplace Investigation Procedure

## Methodology

I consulted with 21 members of the University community, individually, between March and August 2022. I had the opportunity to hear students' perspectives, including students in elected positions. I obtained feedback from individuals across campus who work in academic, leadership, and other professional roles and who represent the interests of the diverse University community. Several of these individuals occupy positions that are closely connected with the PDRI.

Some stakeholders who were invited to participate in the Review did not respond and/or chose not to participate.

Consistent with the assurances made to participants regarding anonymity, comments have not been attributed to specific participants in this report (the "Report").

I reviewed the Procedure and considered best practices for addressing complaints of harassment and human rights violations not only in the post-secondary context, but also provincially and federally. I obtained and considered examples of recent outcome letters and annual reports pertaining to protected disclosures prepared by the PDRI. Several participants shared with me documents and reports related to their department's or school's efforts to educate and support community members in respect of harassment, sexual and gender-based violence, conflict, violence, and human rights violations. I have reviewed and considered each document shared with me in the course of this Review.

I bring to this Review my experience as a University employee (2015–2019) and as a third-party investigator who conducts investigations under the Procedure (2019–present). I have practiced employment, labour, and human rights law since 2006.

## Participant Feedback

The participants were aligned in the concerns they raised. Some identified concerns in respect of specific provisions of the Procedure, and those are included in the *Opportunities for Improvement – Procedures* section below. I have captured the feedback in the following themes:

1. Accessibility

2. Transparency/Communications
3. Support for Participants
4. Resources
5. Disconnect between Offices
6. Record Keeping
7. Accountability

It was evident that each person with whom I met had the shared goal of supporting those who experience mistreatment and ensuring a streamlined and supportive Process. Many participants have worked tirelessly, sometimes off the side of their desks, to further these goals. While some participants had a clear vision or preference as to the changes they wished to see, each was open and willing to support the University in whatever steps the University chooses to take to improve the Procedure and Process.

#### *1. Accessibility (Complex and Unclear)*

One participant explained, *“The system isn’t broken, it’s just not understood.”*

Accessibility was the number one concern raised about the Procedure and Process. Participants said the name of the office ‘Protected Disclosures and Research Integrity’ was confusing, and it was not clear that concerns of harassment or human rights violations ought to be reported to this office.

I was told of University community members getting *“lost”* as they tried to figure out which procedure applied to them, and with which office they should file a formal complaint. That the onus is on the complainant to determine the employment status of the respondent and navigate where to file a complaint was described as *“unfair”* and a *“deterrent”* to people coming forward.

Participants shared a view that the Procedure and Process are not *“trauma informed”* or *“human centric”* and that this is a significant barrier to individuals coming forward, and negatively impacts the efficacy of the Process in many other ways.

The language in the Procedure itself was declared *“cumbersome”* by a few participants, but a larger concern was the lack of resources to assist in understanding what the Process actually looks like.

#### *2. Transparency/Communications*

Participants advised that information updates throughout the Process were sparse. One participant described the PDRI as *“not a super inviting office to work with,”* primarily because they said communications were so limited.

*“Participants are left in the dark”* and it is unclear how or why decisions are made, such as when the PDRI determines not to accept a complaint, or to propose an alternate resolution. When weeks go by without

communication, it “feels [to a participant] like nothing is happening,” even when the PDRI might be taking steps to move the complaint forward.

There is a distinction under the Procedure as to what the complainant and respondent each receive at the end of an investigation. In the case where a complaint is unsubstantiated, the respondent receives only notice that the complaint was “unsubstantiated.” Some raised concerns that the practices between the three offices that conduct investigations vary widely, especially in respect of the communications that participants receive.

The balance between privacy and transparency is complex, and many participants acknowledged this. From a leadership perspective, I heard a strong desire to support and implement the outcomes of an investigation. However, given the confidential nature of the complaints, leaders are often not advised that a complaint was made, which results in a sense of being “blindsided” and unable to properly support the needs of complainants and respondents following an investigation.

### 3. Support for Participants

Many said that participants in a complaint process were left feeling overwhelmed and unsupported largely because they were unclear about the next steps in the process and the PDRI did not communicate with them regularly during the process.

While roles like the ombudsperson exist, some participants were either unaware of or believed there were not any advocacy or support positions on campus that could assist an individual throughout the entire complaint process. The distinction being that an ombudsperson will typically guide an individual in the early stages, but does not continue to support or keep track of the complaint as it moves through a particular procedure. These individuals were concerned that as a result, students, in particular, are left to navigate complex processes alone.

A few participants shared their understanding that MaPS employees were not permitted by the PDRI to involve a support person and were advised not to speak with anyone about the investigation. This, they said, left the individuals feeling anxious and unsupported. Further, the Procedure provides that the complainant may engage an advocate, but the same is not spelled out for the respondent, which some noted did not seem “fair.”

### 4. Resources

Most participants perceived the PDRI to be under-resourced. With only one Advisor, there are times when the office is vacant. Given the important issues with which the office deals, and that individuals coming to the office may be in crisis, participants suggested someone must always be available to intake and move complaints forward.

Many attributed slow action in moving complaints through the Procedure to the limited resources of the PDRI. The Process takes an emotional toll on all participants, and it currently “*takes too long.*” For students, sessional instructors, and Postdoctoral Scholars in particular, their time at the University is typically short, and it is thus imperative their concerns are resolved quickly.

#### 5. *Disconnect between Offices*

Under the Procedure, complaints can be made to a large group of individuals:

- a) a manager, supervisor, or dean;
- b) the Protected Disclosure Advisor, Telephone: 403-220-4086 or Email: [disclose@ucalgary.ca](mailto:disclose@ucalgary.ca);
- c) the President of the University; or
- d) the external service provider established for this purpose: *ConfidenceLine*

It is expected that those identified in a–d above receive the complaint and then forward the complaint to the PDRI. However, it seems that managers, supervisors, and deans may not themselves be clear as to the appropriate process.

Individuals also raise concerns to Safety and Security, Labour Relations, Human Resources, and many other trusted community members in leadership positions. Participants advised this has resulted in complaints being addressed very inconsistently, complainants being “*punted*” from place to place, and the possibility that more than one department takes action to resolve the complaint.

Departments, schools, and institutes have also expressed a desire to be involved in the process so that they may appropriately support their community member through a complaint, or assist to resolve a complaint. One participant highlighted the concern as follows: “*We can’t help if we don’t know.*”

There may be occasions where offices *should* be working together to best support a community member who is participating under the Procedure. However, several participants said they believed this was impossible under the current regime because they have been told that “*nothing*” can be disclosed due to confidentiality requirements.

#### 6. *Record Keeping*

Participants said it was unclear what the PDRI’s reporting obligations were and whether they were meeting their legislative obligations to report, for example, under health and safety legislation.

They said it would be helpful to understand how many complaints are addressed by the PDRI and how many are referred back to the school or department for resolution. Some raised concerns that important details on each file, and the rationale for decisions made, were not consistently reported.



## 7. Accountability

For many, the accountability of the PDRI was unclear. Participants questioned: if an investigation takes too long, who is accountable? The investigator? Legal services?

Who is responsible to ensure a complaint is properly addressed? Who is responsible to ensure recommendations or resolutions are effectively implemented?

The three offices that deal with complaints and investigations of harassment, sexual and gender-based violence, and human rights violations report to different leaders at the University. Some wondered whether, so long as this was the case, there would be inconsistencies in approaches and no real change or forward momentum.

## Opportunities for Improvement

### *Prevention and Support*

The recommendations in this Report focus on the Procedure and Process of intaking, triaging, and investigating complaints. However, the University must not lose sight of the paramountcy of prevention, education, advocacy, and support. There are many individuals, groups, departments, and schools that have created exceptional materials and resources to support these most important tools.

Those groups must be supported, and the University would benefit from encouraging these groups to collaborate and share resources. It is this work that will “unclog” the PDRI and alleviate the need to engage in formal investigations.

These are also the people and groups who will support the complainants and respondents and who will direct them to the appropriate place to make a formal complaint. They will be the drivers of the change management that will be required to effect the recommendations in this Review.

### *Overarching Goals*

Having regard to the stakeholder feedback, certain high-level principles guide my recommendations:

1. **Accessibility:** The Process is easy to understand, creates a complaint mechanism that is easy to access for all groups, and facilitates a climate of trust where participants feel comfortable reporting misconduct and confident that misconduct will be addressed. Barriers to filing claims should be eliminated.
2. **Equitability:** The Procedure and Process treat all participants fairly and equitably regardless of group (e.g., faculty member, employee, or student) or status in the Process (i.e., complainant or respondent).

3. Transparency: The Procedure, Process, and associated resources are clear, consistent, and available to the University community. Those who use the Procedure receive clear and consistent communications throughout the Process.<sup>2</sup>
4. Timeliness: Complaints are processed quickly and handled in an efficient manner.<sup>3</sup>

With these principles in mind, I have developed the following set of opportunities for improvement (or recommendations), which are intended as points for discussion and can be further refined and amended to fit the University's needs. I offer these considering that some of the recommendations may not be possible to action as a result of limitations presented by collective agreements, past practices, or other internal arrangements. There may also be budgetary constraints or considerations, which I am not privy to and have not explored in this Review, that may impact the feasibility of some of these recommendations.

## Structure of the Offices

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### *Information, Education, Support, Advocacy*

Several offices across campus offer training and/or educational resources pertaining to harassment and violence,<sup>4</sup> respectful conduct and conflict resolution,<sup>5</sup> and sexual and gender-based violence.<sup>6</sup>

There are many offices where members of the University community first disclose concerns and seek support. These offices include Staff Wellness, Student Wellness Services, Ombuds people across campus, Human Resources, deans, managers, the Office of Equity and Diversity, CSM's Office of Professionalism, Equity and Diversity.

It is, of course, up to the individuals involved if they wish to engage an advocate and/or to involve their school, institute, or department. However, it is important that communications with the participants,

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<sup>2</sup> Additional thoughts on communication touchpoints throughout the process are included at Appendix A.

<sup>3</sup> Comments about the importance of timeliness are included at Appendix B.

<sup>4</sup> The Office of Environment, Health and Safety provides mandatory Harassment and Violence Training for all faculty and staff: <https://www.ucalgary.ca/risk/environment-health-safety/report-ohs-concern-or-incident/harassment-and-violence>

<sup>5</sup> I highlight in particular the resources developed by the Student Conduct Office to support instructors and students in better understanding [University expectations for behaviour online](#) and [video resources](#) that were launched in May 2022.

<sup>6</sup> Resources and materials for download via the Sexual and Gender-Based Violence Office website: <https://ucalgary.ca/sexual-violence-support/learn>

including information provided on the various University websites, contain a consistent message of support and highlight options available to participants.

One school has proposed the creation of a “Navigator” position. They described the role as a support that is properly resourced, trauma informed, and trained in conflict resolution. They envision that the Navigator could talk with an individual about different options, timelines, and outcomes, so that individual could make an informed and supported decision on next steps.

The proposed creation of a Navigator position is consistent with many of the existing resources on campus, and the more access community members have to support and education/prevention, the better.

These entities have played an important role in supporting and guiding members of the community and in achieving informal resolutions, and they should continue to do so. Collaboration between these groups to learn, share resources, and achieve some consistencies is critical. One participant suggested a one-day session with representatives from each of the many areas on campus who support this work would be a beneficial way to form connections and discuss best practices.

#### *Human Rights, Protected Disclosures and Research Integrity (the “Office”)*

Improvements must be made to the accessibility of the Procedure and Process: both must be standardized and applied consistently. No complainant should get lost or have to recount their story multiple times. All complaints of harassment, human rights violations, and sexual and gender-based violence should be made to a single office, and it should be obvious to those with concerns about these topics where to go to file a complaint.

As such, I recommend the University consider including the words “*Human Rights*” in the PDRI’s title, which to most, will signify that this Office addresses concerns pertaining to human interactions such as harassment and violence, human rights violations (discrimination), and sexual and gender-based violence. An office title such as ‘Human Rights, Protected Disclosures and Research Integrity’ (or a version of this) should clarify where complaints ought to be directed.

A single intake portal will help solve the “*gap*” that presently exists when the identity of the respondent is unknown. The Office will then take responsibility for determining the best course of action. A coordinated decision should be made between the three offices as to which will be responsible when the complainant is unable to identify the respondent.

The title Advisor (defined and used in the Procedure) suggests the position gives advice or guidance, when the role is actually that of a neutral case manager responsible for facilitating a process. In publications (website/guidance documents), it would be beneficial to provide a high-level overview of the Advisor role to clarify any misconception.

Assuming the Office is resourced with one or two full-time equivalent employees, I suggest the best use of the resource(s) is as an Advisor (case manager) with the following duties:

- Intake for reports of harassment, human rights violations, and sexual and gender-based violence against members of the University community;
- Triage the complaint to the appropriate office, having regard to the identity of the respondent;
- Maintain a registry of complaints;
- For complaints that fall within the Procedure:
  - Determine next steps under s. 4.13;
  - Regularly communicate with participants;
  - Explore and facilitate informal complaint resolution options;
  - Appoint and oversee investigator;
  - Distribute investigation outcomes;
  - Case management throughout entire Process; and
  - Gather detailed metrics and produce required reporting.

The Advisor(s) would also continue to execute their responsibilities in respect of the Procedure for Investigating a Breach of Research Integrity.

The Office must ensure that its staff have the requisite skillset and are trained in trauma-informed practices. Ideally, these individuals would also have experience with conflict resolution and conflict coaching.

Eventually, the Office might consider separating the tasks of informal resolution and investigation: one branch dealing with restorative justice, mediation, and conciliation, and the other overseeing the investigation process.

The PDRI website currently references customized training:

*We offer customized training to all members of university community. The workshops create awareness and offer preventive strategies related to Protected Disclosures and breaches of Research Integrity.*

Unless the Office is staffed differently (with more full-time equivalent employees who have specific education/experience in training), it is recommended the Office focuses on the responsive work of receiving complaints and exploring options for resolution. Training and education, as highlighted above, are carried out by a number of different groups on campus.

Figure 1 below depicts the suggested intake process and the coordination between the various offices on campus. Those who educate, advocate, support and inform (and only a small sample of these

people/offices are included in Figure 1) would direct individuals wishing to make a complaint to the Office. The Office would intake the complaint and triage it appropriately.

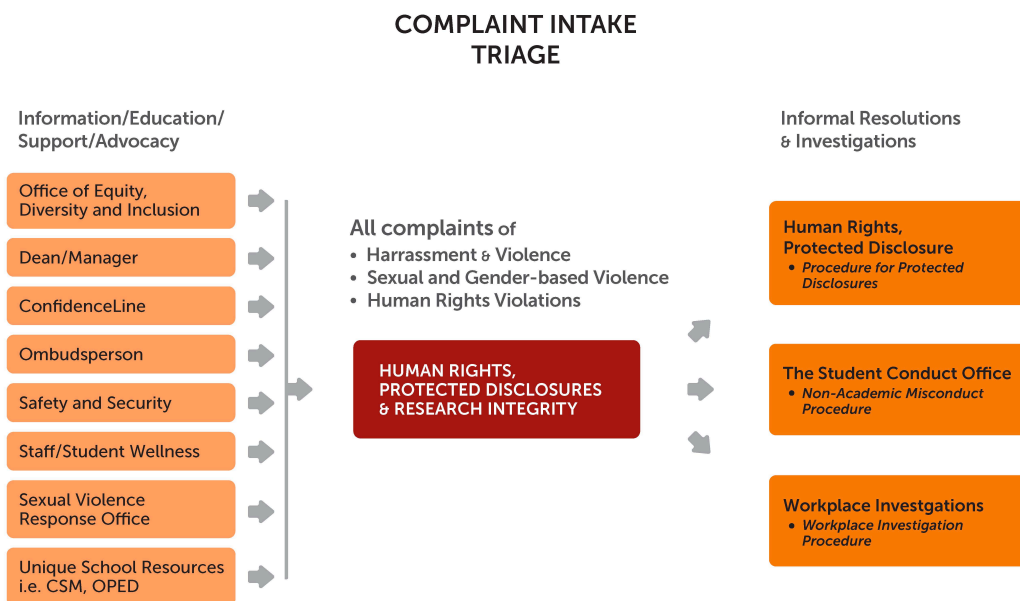


Figure 1. Complaint Intake Triage

Consistency between the three offices on the right of Figure 1 is critical to achieve fairness and equitability for the participants. I strongly recommend the offices collaborate to develop consistent practices and communications in respect of some of the major touchpoints in the investigation process.

This structure will not solve all of the concerns, but it is a good start. While some have championed a complete redesign of the system, that is beyond the scope of this Review of the Procedure.

## The Procedure

I do not find that any provision in the Procedure is contrary to legislation or that concerns pertaining to those provisions cannot be overcome by Process improvements. I am also cognisant that not only does the Procedure apply to complaints of harassment, human rights violations, and sexual violence, it is the Procedure associated with many other University policies.

On a review of some policies that connect with the Procedure, there are inconsistencies that would need to be addressed beyond those considered in this Review.

With some improvement to the Process (and the Office, as outlined above), it is my opinion that the Procedure in its existing form may successfully support complaints of harassment, human rights violations, and sexual and gender-based violence.

In Table 1 below, I outline sections of the Procedure, the concern pertaining to each, and how that concern may be overcome with a modification to the Process.

Table 1. Procedure Provisions and Process Recommendations

Provision	Opportunity for Improvement	Process Recommendation
4.4	What does “respond in writing” mean? What information will be included?	Develop a consistent response that includes information about the process, next steps, and available resources.
4.11	Acknowledging disclosure has been literally interpreted. A participant receives, “We have received your disclosure. Thank you” and nothing about next steps.	Develop a template response that acknowledges receipt, identifies supports available, outlines next steps in the process, and provides an anticipated timeframe for the next communication.
4.12	The PDRI’s review of procedure, alternatives, confidentiality, and record keeping with the complainant is not done consistently or at all.	Develop written materials that explain the items listed in 4.12. This document could be posted on the website, shared in letter format with the complainant, and/or used as a guide for an in-person meeting with the complainant.  The same information should be shared with the respondent when the respondent is advised of the complaint.
4.13	There is lack of clarity in respect of how the Advisor decides whether the complaint will proceed, be referred to an alternate process, or be dismissed.  There is concern that decisions are not recorded and are not consistent.  What is an “alternate process” and who will drive that process?	Develop internal criteria to be used consistently. For example, the Advisor may make a prima facie assessment, may consider the complainant’s desire to participate in an alternate process, may consider the severity of the allegations, etc.  Once internal criteria is established, it should be applied consistently to every case.  Information about alternate processes should be developed and published on the website. It is important that complainants understand their alternatives and be encouraged to explore options beyond a formal investigation to resolve their concerns.  The Advisor, at the time of intake, should discuss alternate processes with the complainant.

4.16	<i>“Protecting the Complainant”</i> is outlined in this provision, but what about supports for the respondent?	Support should be afforded to both the complainant and respondent. Each should be entitled to a support person during the investigation process.
4.22	The investigator is required to update the Advisor, who will keep General Counsel informed. Who keeps participants informed?	Advisor updates participants monthly (or semi-monthly) of the status of the resolution process.
4.26	There is concern that the requirement for confidentiality has been applied too rigidly. The language says information will be kept confidential and <i>may be shared</i> with those who have a legitimate need for the information.	The language allows for flexibility and should be interpreted as such. Similar to the language included in the <i>Sexual and Gender-Based Violence Policy</i> , communications (including those at intake) should identify there are circumstances where confidentiality cannot be guaranteed.  The Advisor may also obtain consent from participants, at any stage, to involve others in the process who can assist with resolution (such as a manager/dean/ Student or Staff Wellness).
4.29, 4.36	There is discrepancy between the communication of outcomes to the complainant and respondent. The complainant receives notice from the Advisor re. whether the complaint is substantiated or not.  It is unclear what level of detail the respondent receives. The outcome is not delivered by the Advisor but by the relevant dean or manager.	Create consistency of practice and parity of information between the respondent and complainant (less any disciplinary outcomes, which are not relayed to the complainant).
4.41 <i>Annual report</i>	There is a perception that data is not being properly tracked, recorded, and reported.	Tracking and reporting should be consistent and detailed.

The Procedure provides minimum standards or expectations which can be exceeded or enriched by modifying the Process, without requiring specific changes to the language of the Procedure.

If the University chooses to adopt any of the proposed improvements in this Report, I highly recommend that it create a guideline document to support the Procedure.

The survivor-driven, trauma-informed, and procedurally fair (for complainants and respondents) approach applied in the *Sexual and Gender-Based Violence Policy*, if applied to the Procedure and Process, would address some of the concerns articulated in this Review. The University might consider including some of the language found in that Policy in a guideline document.

Additional recommendations in respect of the Process improvements are outlined below.

## Complaint Intake

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### *Online Presence*

The University has dozens of web pages that refer to harassment and violence, sexual and gender-based violence, and other human rights violations. Each page captures different information, and it is not clear where to report an incident. All pages should connect to a single page dedicated to the Office, with a clear button for 'reporting a complaint.' All pages should link to consistent supports on campus.

A clear and simple process map should be created and published. The process should include exploring the possibility of an informal resolution. The same information should be published in multiple places.

Each of the steps in the process should be broken down and explained in published materials.

Workplace Investigations and the Student Conduct Office each have published information about their process:

- Workplace Investigations: <https://www.ucalgary.ca/hr/sites/default/files/teams/239/workplace-investigation-process-at-a-glance.pdf>
- Student Conduct Office: <https://www.ucalgary.ca/student-services/student-conduct/report-misconduct>

Other good examples include:

- McGill University – Office for Mediation and Reporting: <https://www.mcgill.ca/omr/harassment-discrimination/make-complaint>
- Queen's University. Of note: this process chart outlines how the Intake Assessment team decides whether a complaint will go to investigation or not: <https://www.queensu.ca/secretariat/harassment-discrimination/policy-procedures-flowcharts/reporting-procedure-flowchart>



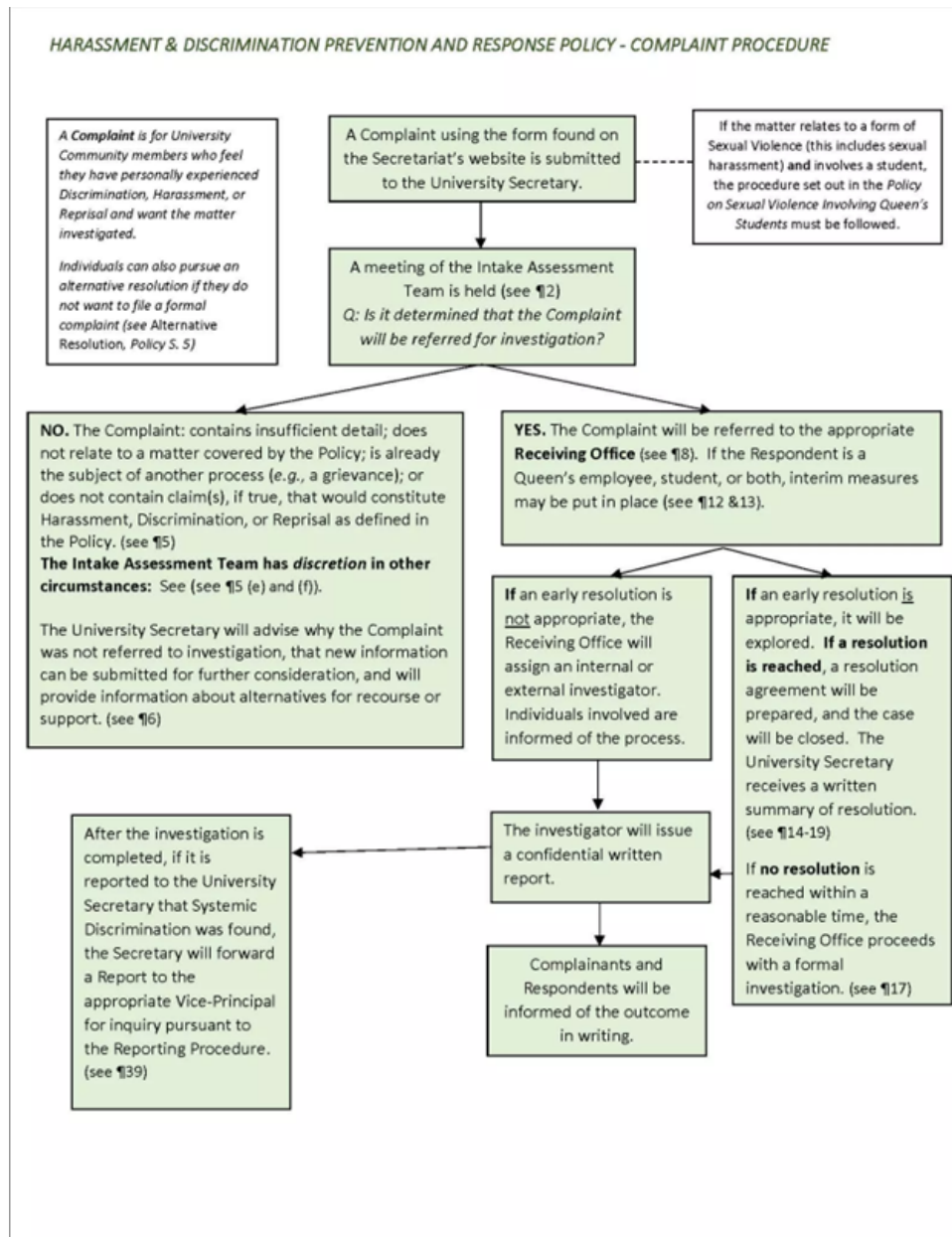


Figure 2. Queen's University Complaint Procedure

### Intake Form

An Intake Form would assist to ensure necessary information is gathered in a consistent way, at the outset of the process. The form would be easily accessible online and would be for use by any community member who wishes to make a complaint. It should also be used by the *ConfidenceLine* during their intake call (consistent with ss. 47–4.10 of the Procedure).

When a manager, supervisor, dean, or anyone else receives a disclosure, they should immediately refer the individual to the Intake Form, which will ensure the individual is connected with the Office and their complaint is appropriately triaged (Procedure ss. 4.4–4.6).

The Intake Form could include:

- Notice that the complainant may include a support person (including a friend or family member) at any time during the process, as well as a link to supports on campus.
- An opportunity for the complainant to highlight if they have already filed a complaint or spoken with another entity on campus. This will assist to avoid duplication of processes.
  - The University of Columbia’s intake form includes such language: [https://cm.maxient.com/reportingform.php?ColumbiaUniv&layout\\_id=5](https://cm.maxient.com/reportingform.php?ColumbiaUniv&layout_id=5)
- A clear statement that while confidentiality is respected in the process, the University will take all reasonable steps to mitigate risks to the health and safety of its community and to meet any legal obligations, which may require the involvement of the Threat Assessment Committee or Student at Risk Team.
- A section requesting authorization to speak with [named] office on campus about the complainant’s file. This section would be optional; however, if the complainant has already engaged with their union, Human Resources, Safety and Security, the Sexual Violence Response Office, etc., and want such a body involved, they may wish to give permission at the outset for the Office to communicate with the other(s).

Once the Intake Form is submitted, the complainant should receive an automatic response advising the complaint was received and will be reviewed shortly. Indicate an estimated timeframe within which the complainant should receive contact from the Office.

### *Registry*

It is recommended the Office create a registry for every complaint received. Consider using a case management system such as Maxient (a secure case management software system that provides triage/case assignment functionality, a dashboard to view active cases, upcoming deadlines, and reporting functionality). The Student Conduct Office currently use this program.

All relevant dates, details, and decision points should be recorded in the registry file, including:

- Employment and other relevant information about the complainant(s)/respondent(s)
- Complaint submitted
- First contact made with the complainant/respondent

- Phone calls/meetings
- Triage and which of the three offices will investigate
- Informal resolution meetings OR date participants declined to participate in informal resolution
- Appointment of investigator
- Deadline to complete investigation
- Investigation updates to participants
- Reports received
- Outcomes delivered

## Confidentiality

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As much as possible, a retelling of the complaint should be avoided. A team approach may be required in supporting particularly complex complaints.

The guideline document should include information about confidentiality. Consider language similar to that in the *Sexual and Gender-Based Violence Policy*:

*Appropriate procedures for responding to a Formal Report will be followed to minimise the risk of re-traumatizing individuals and ensure due process. All reasonable efforts will be made to avoid breaching the privacy of anyone who reports or is involved in a Disclosure or Formal Report. Confidentiality cannot be assured if:*

- *an individual is judged to be at imminent risk of self-harm;*
- *an individual is judged to be at imminent risk of harming another;*
- *there is reason to believe that other University Community members or the broader community may be at risk of harm;*
- *reporting or action is required by law; or*
- *evidence of the reported conduct is available in the public realm.*

If, in the course of the Process, the Office determines it might be necessary to involve another individual, office, or group, it can certainly have that discussion with the relevant participant and obtain their consent to do so.

## Support and Collaboration

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All participants in a complaint under the Procedure should be offered the opportunity to include a support person at any stage in the process. This includes respondents, witnesses, and all categories of employees.

This should be communicated by the Office early in the process, such as in the Intake Form, or when the Office acknowledges receipt of the complaint.

There may also be value and/or a need to collaborate with other groups on campus. Consider whether a cross-functional team should be engaged to support the participants (and other community members) when complaints pertaining to harassment and human rights violations arise. Obtain necessary consents to share information.

## Informal Resolution

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Informal resolution is and should be treated as a critical part of the resolution Process. The Procedure does not identify what “*alternative processes*” are available to participants. Information in this regard should be prepared and provided to individuals at the outset of the complaint.

The Office website should also include clear information about what an informal resolution might entail, and the benefits of considering this approach. Guidelines might also address informal resolution and where it fits into the Process.

Informal resolutions should be encouraged, and parties should be made aware that an informal resolution can occur at any stage of the process. If the informal resolution involves a mediated or facilitated discussion, those participating must consent to that process.

Informal resolutions can be creative and may involve the relevant school or department, or external resources.

If, in the future, resources are added, the Office might benefit from an employee with expertise in conflict resolution, mediation, and facilitation. That individual could oversee the informal resolution, and the Advisor would be responsible for intake and the investigation branch.

For the time being, the Advisor in the Office should encourage and facilitate informal resolutions, leaning on the many resources on campus with capacity to assist or on external mediators/facilitators.

## Investigation

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If the complaint proceeds to an investigation, the Office triages to the appropriate office. Table 2 outlines which office will oversee the investigation process and the applicable procedure.

Table 2. Office Responsible for Investigation Process and Applicable Procedure

Member of the University Community (Respondent)	Office	Procedure
Student	Student Conduct	Student Non-Academic Misconduct Procedure
Employee	AVP Human Resources	Workplace Investigation Procedure
Academic Staff Member, Appointee, Contractor, Postdoctoral Scholar, Volunteer, Senior Leadership Team Member excepting Executive Leadership Team Members (complaints go to President and Vice-Chancellor)	Protected Disclosure and Research Integrity	Protected Disclosure, Procedure for

Each of the offices would continue to be responsible for case management, informal resolution, investigation, and reporting of the files they oversee.

An improved approach would be to see the offices collaborate in respect of setting common delivery standards and communications. While each case is unique, the communications that participants receive during critical touchpoints should be consistent.<sup>7</sup>

### Communication

There are critical points during the investigation process where communication is key. Throughout the investigation process, there are touch points where mistakes connected to communication can be made, or opportunities to build trust can be capitalized. These touchpoints are highlighted in Appendix A. At these stages, the Office should communicate with the participants, and those communications should be consistent in terms of the type of content included.

The *Sexual and Gender-Based Violence Policy* outlines the information a complainant and respondent will ordinarily receive during the process:

**4.14** *A Complainant will ordinarily be informed of the following steps in resolving a Formal Report:*

- a) whether any Interim Measures have been, or will be implemented;*
- b) whether the Formal Report will be investigated, or otherwise addressed by the University;*

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<sup>7</sup> See Appendix A.

- c) *a summary of allegations to be investigated;*
- d) *the availability of a supported conversation (as described at 4.32-4.37), and proposed terms for that conversation;*
- e) *the name of the individual assigned to facilitate a supported conversation;*
- f) *the name of any investigator assigned;*
- g) *when any investigation begins;*
- h) *updates on the progress of an investigation as appropriate;*
- i) *whether the investigator found that the allegations were substantiated or unsubstantiated; and*
- j) *any corrective actions taken. This does not include disciplinary actions or sanctions.*

**4.15** *If a Formal Report will be investigated by the Appropriate Office, a Respondent will ordinarily be informed of the information in 4.15 (other than the information about a supported conversation) as well as any disciplinary action or sanctions imposed following any investigation. The Respondent will be informed about a supported conversation if the Complainant is interested in pursuing that option to resolve a Formal Report.*

Consider adopting a similar practice for complaints under the Procedure, and articulating in a guideline document the type of information a complainant and respondent will receive, and from whom they can expect to receive that information.

### *Timeliness*

Investigations should move fairly quickly, and the risks of delay are outlined in Appendix B. As several participants noted, the PDRI's reputation of delay has caused many not to formally report. It is recommended that the Office adhere to the timelines in the Procedure, and work to complete investigations well before the 110 days.

Timelines for communications should be diarized when a complaint is received.

It is recommended that the Office take responsibility for communicating with participants throughout the investigation. The Procedure requires the investigator to regularly update the Office. Consider establishing a schedule for updates in the terms of reference (perhaps once a month). The Office would then update participants accordingly.

Delays will occur. When they do, they should be communicated to both the complainant and respondent.

## Outcomes

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The format in which the complainant receives outcomes at the end of an investigation should be consistent. Will every participant have an in-person meeting and receive an outcome letter? Who will be present at those meetings?

To support the goal of transparency and consistency, consider having the Office assist in the preparation and delivery of all outcome letters. It is recommended that in establishing standards in this regard, the three offices collaborate and agree to at least a similar format and content.

## Reporting

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Reporting is required under health and safety legislation. It is also critical that the University maintain records so that it can consider the data with a view to preventing future occurrences.

Where a complaint is substantiated, I understand the expectation at the University to be that it must be reported to Environment, Health and Safety. Additionally, section 4.37 of the Procedure requires:

*4.37 In accordance with the Occupational Health and Safety Act (Alberta), if a workplace harassment Complaint has been substantiated, the university will notify the Complainant of the corrective action(s) the employer is taking to eliminate and prevent workplace hazards.*

The Office's reporting should be shared with Environment, Health and Safety in a consistent manner and on a set schedule.

As highlighted above, the Procedure requires annual reporting (4.41–4.42). I note the Workplace Investigations Procedure and the Student Non-Academic Misconduct Procedure do not require annual reports. Nonetheless, record keeping and reporting should be consistent and comprehensive between the three offices.

I had the opportunity to review the Workplace Investigations Unit's Harassment Case Review. The report is comprehensive and analyzes data in a meaningful way. I recommend the Office adopt similar reporting practices. It will require that the Office maintain useable records including, but not limited to:

- Number of complaints by issue
- Employment characteristics of complainant and respondent (staff group, department, position)
- Number of complaints within each school or department
- Number of complaints resolved by informal resolution
- Number of complaints referred to investigation
- Number of complaints substantiated/not substantiated

- Length of investigation

The three offices that oversee investigations of harassment, human rights violations, and sexual and gender-based violence should collaborate in their reporting in order to provide a complete institutional picture. It is recommended they, at a minimum, use the same metrics even if they choose not to use the same software, dashboard, etc.

## **Conclusion**

Thank you for the opportunity to work with the University on this important project. I enjoyed meeting with the stakeholders and appreciated the thoughtful consideration they brought to this Review.

Attempting to alter a process that involves the coordination of many stakeholders will require a multifaceted management approach. Please do not hesitate to reach out if there is anything I can do to assist.



## Appendix A – Transparency and Communications

The expectations of the parties may be a consideration of whether the investigation is fair. Communication with respect to these expectations, and with respect to the investigation process as a whole, is key to creating a process and an outcome that are acceptable to the parties.

A procedure is unlikely to please all connected to an alleged incident. However, a procedure that incorporates elements of accessibility, fairness, timeliness, and transparency can be accepted by the parties. In achieving the goal of acceptability, setting expectations for the parties and clearly communicating with them are crucial.

Throughout the process, there are communication-related touchpoints that provide opportunities to set expectations and build trust; conversely, there are touchpoints where mistakes connected to communication can erode trust (and more). These touchpoints include: when the complaint is brought, when the complainant is interviewed, when the respondent is notified and interviewed, when witnesses are brought into the process, after the report is submitted, and after the investigation is complete.

Developing a communication strategy specific to the investigation process that helps set expectations and build trust in the process increases the likelihood that investigation outcomes are accepted by those involved.



## Appendix B – Timeliness

Of all the process concerns or problems that can arise in an investigation, concern about timeliness should be a priority. Balanced with this, though, is the need to take sufficient care to ensure that fairness is met. Fairness cannot be sacrificed for urgency.

Investigation work is reactive work, many times triggered by circumstances that involve emotional, difficult issues for the parties and/or conflict. There is almost always a sense of urgency with respect to the process, and most clients want action and answers immediately. We understand why this is the case. But the urgent, reactive nature of complaints cannot be the driver for how a process is conducted. Timely answers are desired, and delays should be avoided wherever possible, but no one is served by a rushed, flawed process. The “sweet spot” in this work is a timely, fair, thoughtful, and respectful process. Barring exceptional circumstances, most investigations can be completed within a two- to three-month window. It is extremely rare that a well-conducted process can happen in days or even two to three weeks. That timeframe is unrealistic, and places urgency and reaction above fairness and thoughtfulness. If urgency becomes the driver, there is risk that more substantive errors in process will occur.

Delay can impact the investigation process in a number of ways:

- Delay in obtaining witness evidence can undermine the quality of the evidence, as it impacts the memory of the witnesses and therefore, the reliability of their evidence
- Delay undermines the confidence the participants have with the process
- Delay creates unnecessary confusion, angst, and uncertainty for the parties and their workplace
- Delay undermines the acceptability of the conclusions and findings
- Delay can be interpreted incorrectly that the issues/allegations were complex or difficult, and/or that the findings were hard to make
- Justifying delay can lead to unnecessary work (including conducting more interviews, asking for documents that are not required, and writing more than is needed)