

# Supporting the Whole Campus Community:

A Roadmap Tool for Working with  
People Who Have Caused Harm



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## LAND ACKNOWLEDGEMENT

We would like to begin by acknowledging that this work is taking place on and across the traditional territories of many Indigenous nations. We recognize that gender-based violence is one form of violence caused by colonialism that is used to marginalize and dispossess Indigenous peoples from their lands and waters. Our work on campuses and in our communities must centre this truth as we strive to end gender-based violence. We commit to continuing to learn and grow and to take an anti-colonial and inclusive approach to the work we engage with. It is our intention to honour this responsibility.

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## DEDICATION

The Working with People Who Have Caused Harm Community of Practice dedicates this tool in honour of all campus complainants, survivors, and GBV frontline workers who strive to build a safer world where we can all live, learn, love and play without fear.

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## WORKING WITH PEOPLE WHO HAVE CAUSED HARM COMMUNITY OF PRACTICE

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## ABOUT POSSIBILITY SEEDS

We are a leading project management and policy development social purpose enterprise that works alongside communities, organizations, and institutions to cultivate gender equity. Courage to Act, a national initiative to address and prevent gender-based violence at Canadian post-secondary institutions, is led by Possibility Seeds, a social purpose enterprise that works alongside clients to create, connect and cultivate gender justice. Learn more about our work at [www.possibilityseeds.ca](http://www.possibilityseeds.ca).



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## TO REFERENCE THIS DOCUMENT, PLEASE USE THE FOLLOWING CITATION

Rico, K., Mendoza, J., Anderson, L., Robertson, L., Wolgemuth, S., Cook, A., Avelar, C., Hagen, E., & Rentschler, C. (2021). *Supporting the Whole Campus Community: Working with People Who Have Caused Harm*. Courage to Act: Addressing and Preventing Gender-Based Violence at Post-Secondary Institutions in Canada.

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## FUNDING ACKNOWLEDGEMENT

“Supporting the Whole Campus Community: Working with People Who Have Caused Harm,” a project by Possibility Seeds, was graciously funded by Women and Gender Equality Canada.



Women and Gender  
Equality Canada

Femmes et Égalité  
des genres Canada

Canada

# Table of Contents

<b>ACKNOWLEDGEMENTS</b>	<b>2</b>	<b>INTERIM MEASURES/RISK ASSESSMENT</b>	<b>48</b>
<b>DEDICATION</b>	<b>2</b>	Meeting to Impose Interim Measures	51
<b>INTRODUCTION</b>	<b>6</b>	Prepare for the Meeting	52
<b>THE ROADMAP</b>	<b>9</b>	Communication with the Complainant	54
<b>FRAMING THE ROADMAP</b>	<b>12</b>	Key Considerations	56
<b>INITIAL ACCUSATION</b>	<b>23</b>	Risk Assessment	58
Initial Accusations as First Steps	23	<b>HEARINGS, MEETINGS, AND INTERVIEWS</b>	<b>60</b>
Initial Disclosure or Formal Report	24	Scheduling	60
Formal Reporting Procedure	25	Timing	62
Reporting on Behalf of Third Party	25	Location	63
Self-Reporting	26	Length of Meeting/Hearing/Interview	64
Intersectionality and Initial Reporting	26	Support Persons/Legal Representatives	64
Alternative Resolution Processes	27	Determinations/Findings	66
Acknowledging Complexity	28	Timing of the Determination/Finding	66
Key Considerations	29	How to Deliver the Determination /Finding	67
<b>COMPLAINT NOTIFICATION</b>	<b>31</b>	What to Include in the Determination /Finding	68
Essential Elements of the Notification Meeting	33	<b>SANCTIONS</b>	<b>69</b>
Notifying the Respondent in the Virtual Environment	35	Insights from our Research	72
Key Considerations	37	Key Considerations	74
Working With Respondents and PWHCH	38	<b>REINTEGRATION AFTER SUSPENSION</b>	<b>76</b>
Insights from Research	41		
Key Considerations	44		



Process Considerations in a Return to Campus and Academic Life	76	<b>SUMMARY</b>	<b>88</b>
What the Data Suggests	78	<b>APPENDIX A</b>	<b>89</b>
Key Considerations	82	Research Method	89
<b>APPEALS</b>	<b>83</b>	Participant Survey Coding Chart	90
Notifying Respondents and/or PWHCH of their Right to Appeal	84	<b>APPENDIX B</b>	<b>91</b>
Ensuring Complainant Safety During an Appeal	85	Resources	91
Deciding on a Respondent and/or PWHCH Appeal	86	<b>APPENDIX C - INTERSECTIONALITY</b>	<b>94</b>
Key Considerations and Appeals as an Opportunity for Reflection	87	<b>APPENDIX D</b>	<b>96</b>
		<b>REFERENCES</b>	<b>102</b>
		<b>RECOMMENDED READING</b>	<b>104</b>

# Introduction

At their core, post-secondary institutions (PSIs) are learning communities, and such communities of higher education are not immune to the larger societal problem of gender-based violence (GBV) (Clarke, 2020). Historically, PSI responses to GBV have focused primarily on providing support to complainants, victims and survivors. However, campus GBV is not solely a complainant, victim and survivor issue. It is a social and community problem that requires a coordinated community response<sup>1</sup> - one that centres and prioritizes the rights and safety of complainants, victims and survivors, while recognizing the rights and safety of respondents, those who have been alleged to have committed GBV, and people who have been adjudicated and found to have caused GBV harm (Clarke, 2020). The element of safety for all, but particularly for the complainant, is critical if a PSI genuinely aspires to create a holistic, survivor-focused response to GBV while still upholding due process.

In order to achieve complainant- and survivor-focused safety, campuses across Canada and the United States are beginning to work more comprehensively with respondents and people who have been found to cause harm. The work is innovative in addressing the greater social dilemma of GBV and seems promising. The hope - as stated by victims and complainants themselves - is to prevent future GBV harm and to interrupt the relentless, creeping hegemony of rape culture and toxic masculinity on campus (Koss, 2020). But more importantly - and more immediately - this work signals a PSI's ethical commitment to a complainant's, victim's and survivor's personal safety during the complaints process. It constitutes an ethical commitment to secure a complainant's trust in the very institution in which complainants invest significant time and money to nurture lifelong aspirations. Far too often, the return on investment that PSIs offer complainants threatens those very aspirations.

Complainants who experience GBV often withdraw from studies, feel revictimized by the university's disciplinary process because of inappropriate redress measures and/or sanctions; having to endure ongoing threats to personal security by the aggressor and by the aggressor's peers, including inappropriate contact that minimizes the negative impact on the survivor and maximizes the negative impact on the respondent and, by extension, suffering mental health consequences (Schwartz, 2018).

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<sup>1</sup> See the Courage to Act's Response and Support Working Group tool referencing coordinated community response.

Without question, a more holistic approach to campus work with respondents and people who have caused harm (PWHCH) is complicated, challenging, and complex. Common questions persist. How does a PSI:

- Ensure a rigorous due process that stems a growing tide of respondent litigation that ultimately nullifies a complainant's experience? (Jesse, 2019)
- Deal with a respondent's resistance to admitting the harm?
- Create an environment to encourage a respondent's readiness and willingness to take responsibility?
- Create meaningful sanctions that also promote awareness and responsibility?
- Determine and respond to online COVID-exacerbated GBV?
- Balance a complainant's right to on-campus safety with a complainant's right to their education?
- Furthermore, when do PSIs start moving resourcing PWHCH work to base budget funding?



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These and other questions are thorny. Each campus is unique, and therefore the challenge becomes how each PSI faces and answers the above questions according to their principles, policies, and resource availability.

Still, *not* working with respondents and PWHCH at PSIs risks leaving the root cause of serious and consequential violence unaddressed and unassisted. It is thus a wholly inadequate response. Beyond leaving the campus vulnerable to ongoing harm, this policy and procedural deficiency amounts to an enduring institutional practice of willful denial that leaves complainants without adequate opportunity to make sense of and heal from the trauma, while respondents lose the opportunity to learn how to authentically take responsibility for their disruptive and destructive actions.

The authors of this tool understand that PSIs may feel daunted and deterred by the challenges posed above. Yet, we believe they *can* be addressed. This tool offers a guiding framework for working with respondents and PWHCH. We do not regard this tool as the “definitive” answer to working with respondents. At the same time, we also acknowledge that frameworks typically imply a degree of definitiveness. Words won’t ever capture the breadth, depth, and intimate details that occur when assisting and working with respondents and PWHCH. Thus, we offer this instrument to help readers figure out how to design, develop, and implement a principles-based, trauma-informed, and culturally humble process for working with respondents and PWHCH - one that centres complainant, victim and survivor safety while also taking into account the strengths and strictures in any given PSI. As such, the authors acknowledge that this tool is a work in progress. Alongside the knowledge captured herein, we also highlight the challenges and gaps that come with this work. Most importantly, we present this tool to the reader as a living *community* document. As you read through the tool, we wholeheartedly invite your feedback about what you found helpful and thoughts about where we still need to go.

# The Roadmap

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The centrepiece of the tool is a Roadmap whose primary purpose is to capture emerging thinking about working with respondents and PWHCH who are engaged in a PSI's student judicial procedures for GBV. On the surface, policies and procedures addressing GBV may present as a cohesive and efficient step-by-step path that ensures due process and thoroughly adjudicated (read "fair") results and decisions. In reality, these pathways are akin to obstacle courses, fettered with snags and stalls that respondents and PWHCH find the process difficult to navigate. The blocks and hurdles weaken trust in the integrity of the process and, by extension, in the institution's ability to manage such affairs competently.

Importantly, delays prolong the pain for complainants, victims and survivors, resulting in a secondary injustice. Thus, it is in the interest of all parties involved in a student judicial procedure to provide assistance to respondents and PWHCH in order to provide them with procedural justice *and* create a process that will be more humane towards complainants, victims and survivors. We present the Roadmap as a way to better navigate the process.

The Roadmap is divided into seven sections that comprise a prototypical PSI respondent process. Each section does not necessarily represent a step that a PSI *must* take in a given process. Rather, each section is presented as a step that a PSI *typically takes*, but that also presents obstacles or dilemmas in providing a more trauma-informed, rights- and values-based approach for respondents and PWHCH that also prioritizes the safety of the complainant.

**We thus present each section as an *area of reflection* (AOR) that will:**

- 1) Present what typically occurs in the given stage of the process,
- 2) Describe the current research and our primary research data about this area of the process,
- 3) Provide typical concerns and common scenarios experienced at that particular stage.

**From there, we offer suggestions about working through those concerns and scenarios. Each section will also include “reflecting pools of questions” based on the following four categories:**

- Considerations
- Possible Challenges
- Research Needed
- Calls to Action

As previously stated, this roadmap tool is a living, document and we hope the questions stimulate ongoing reflection that will help institutions customize a process for their PSI to help reduce delays that negatively impact the complainant/survivor while simultaneously providing due process for the respondent.



# Roadmap for Respondents and People Who Have Caused Harm

## Initial Accusation

An individual within a PSI may disclose an incident of GBV or request a formal report in a variety of forms. Staff who are responsible for actions at this juncture should, depending upon the scenario, consider certain elements relating to the respondent's involvement to ensure those actions are more trauma-informed.

## Complaint Notification

Following the initial accusation and formal complaint submission, the PSI is now tasked with notifying the person accused of causing the harm alleged in the complaint. This person is now considered the 'respondent'.

## Interim Measures / Risk Assessment

After a PSI has received a disclosure or formal GBV complaint, interim measures are meant to address immediate safety concerns of a complainant in the learning, living, and work environment on a campus and to discourage retaliation by the respondent. The conditions must be non-disciplinary, non-punitive, and have no impact on their status as a student.

## Determinations / Findings

When a determination has been made as to whether the respondent has breached policy, it is important to think about the timing and delivery of this decision. Upon a finding being made and the decision communicated, the respondents is now consider a PWHCH at this point in the process.

## Hearings, Meetings, and Interviews

When working with PWHCH, it is possible they will have to attend a hearing, meeting, or interview as part of a process to determine a finding under a GBV policy, responsibility and/or outcome. While due process frameworks and the applicable policy will guide the hearing/meeting/interview process, there are many factors to consider when planning, scheduling and/or facilitating these sessions.

Safety planning is the result of a risk assessment, where the mental, physical, emotional, and spiritual safety of all students is considered. Assessing risk is helpful for identifying possible patterns of behaviour and identifying risk factors.

## Working with Respondents and PWHCH

Workers that provide services for respondents and PWHCH should follow similar frameworks as those established for survivors. They should draw their frameworks of practice from philosophies that are trauma-informed, intersectional, feminist, anti-oppressive, based in restorative and transformative justice, and human rights-informed.

## Sanctions

The implementation of sanctions and measures should be founded upon ideas rooted on progressive discipline where PWHCHs have the ability to learn from their GBV misconduct, their mistake in the choices that they made, and what better choices PWHCH can make with respect to social and intimate relationships. Sanctions and measures should essentially be corrective, and can range from reprimands and restrictions to suspensions and expulsions.

## Transferring Institutions

A PWHCH may transfer institutions at any time, while in process, and may do so for a number of reasons. Such events may create dilemmas for the PSI where careful consideration and consultation of what action to take is needed when this occurs.

## Reintegration After Suspension

To be most effective in responding to campus-based GBV violence, and to ensure procedures on campus remain survivor-centred, it is also important to plan for the return and reintegration on campus of PWHCH.

## Appeals

An important component of any process is the right of the respondent and/or PWHCH to appeal decisions at any point in the procedure (i.e., complaint, investigation, adjudication, and sanctioning), as it ensures that all available and appropriate evidence is reviewed and decision-making is reasonable and appropriate in the circumstances.

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## Framing the Roadmap

This Roadmap, as part of the Courage to Act Report, is informed by certain **values, themes and principles**, so we take the time to define them. It is also grounded in a **values-based approach**. As such, we first list some of the common beliefs outlined in the Working Group's Policy Compendium for PSI's Support and Response of People Impacted by GBV and reproduce those that are relevant to working with Respondents and PWHCH. We will then explain key principles that will be incorporated into each area of reflection. A brief **description of the research**, how we conducted our primary research, and a table listing the research participants is outlined in Appendix A. We have also included **various appendices** that reference various resources, including practitioners, organizations, research, and materials related to working with people who have caused harm.



### IMPORTANT TERMS

The purpose of defining key terms is to provide a common language to describe what a respondent and PWHCH experience in a student judicial affairs process. However, despite using the common language and providing a definition, such language is not without its limitations. The value of its usage in this tool is to indicate utility, and yet we recognize that such language can sometimes fall short of being trauma-informed.

#### RESPONDENT

The person alleged to have committed gender-based violence on or off-campus, in other words, the subject of the complaint(s). A respondent can be any member of a post-secondary institution (student, staff, faculty, librarian, administrator, employee).



### **PWHCH (PERSON WHO HAS CAUSED HARM)**

If a finding of misconduct is made under a given PSI's policy, that individual ceases becoming the respondent in the student judicial affairs process and now becomes a PWHCH for the duration of the procedure. Such language focuses on the behaviour being problematic as opposed to the person. This distinction is important because it recognizes that PWHCH should also be afforded some basic dignity. The language to describe the individual at this point in the process is also pro-feminist in orientation, as it implies that those who have committed GBV did so because of choice. Despite the above description of an individual who has been found to commit GBV, this term can sometimes fail to fully encompass and capture the harm that a survivor and victim have endured.

### **BIFURCATION OF ROLES BETWEEN RESPONDENT AND A PWHCH**

It is easy and a common mistake to conflate the roles of being a respondent and a PWHCH. A person can enter into a student judicial process because of a complaint of GBV and, if a finding of GBV has occurred, that person, as explained above, would be assigned the role of PWHCH, despite being the same individual. However, on the occasion that no finding of GBV has occurred, that individual remains a respondent and subsequently a party to a completed student judicial process. The critical point when a respondent either remains a respondent and later a party, or is seen as a PWHCH, is when the decision-maker in the student judicial process makes a finding. It is at this point the process can be seen as bifurcated for an individual who has been alleged to have committed GBV. This important point in the process is reflected in the Roadmap Tool below and is a distinction that we would like you, as the reader, to keep in mind.

### **WORK WITH RESPONDENTS AND PWHCH**

Providing assistance to respondents and PWHCH is tricky because traditional forms of support can lead people into colluding with such individuals where such individuals, may be slow to take responsibility or not take it all. The support offered to respondents and PWHCH is a different and specific type of work, where such assistance prioritizes everyone's safety and holds respondents and PWHCH accountable. As such, and to not confuse the specific type of support being offered to Respondents and PWHCH, we have used throughout this roadmap tool the umbrella term of work with respondents and PWHCH. The specific features with respect to working with Respondents and PWHCH will be



discussed within each section to provide the reader with greater detail of how this work is carried out. Finally, the work described throughout this Roadmap Tool is specific and thus requires training. Any work undertaken here should be subject to an honest reflection of one's ability to provide this work to Respondents and PWHCH. To help the reader with this reflection, we have included in Appendix D an audit of the training needed to work with both Respondents and PWHCH.

## VALUES AND THEMES

As described earlier, this roadmap tool is grounded on certain beliefs taken from the parallel work of the Working Group's *Policy Compendium for PSI's Support and Response of People Impacted by GBV* and reproduced here for easy reference. Infusing the Roadmap Tool with these belief systems is important because they help drive towards a common goal where working with respondents and PWHCH in a fair and accountable manner can ultimately increase the safety of victims, survivors and the PSI community as a whole. Without such a grounding, this roadmap tool runs the risk of not having a direction or a direction that is misaligned with those harmed by GBV.

## UNDERSTANDING THEIR RIGHTS

When a respondent becomes involved in a student judicial affairs proceeding, the power of those proceedings flows from a policy. Knowledge of one's rights not only protects the respondents under the policy they are subject to, but ensures that that the policy is applied in a fair and just manner. This fair and just application of the policy minimizes any misuse of that policy and its associated procedures and instruments. It is in everyone's benefit for the respondent to know their rights, as it minimizes appeals, prevents relitigation or repeat investigations, thereby avoiding any more potential harm to a complainant, which is in keeping with trauma-informed principles.

## NAVIGATIONAL AWARENESS

Participating in a student judicial affairs process may seem like an exercise in completing a number of steps, when in fact, it may be a series of complex decisions that a respondent may need to make when proceeding through the system. For respondents, each step in the process may be perceived as a barrier because of the complexity of the step itself and what might be

required at each step. Thus, those charged with assisting respondents can help outline the system, as well as assist each respondent in making an informed decision when exercising their choices throughout the student judicial affairs process. Such assistance can help respondents overcome any possible perceived barriers in the process and can hopefully expedite their progress through the proceedings.

## ACCESSING CAMPUS AND COMMUNITY RESOURCES

Progressing through a student judicial affairs process, as mentioned above, is a series of complex decisions that a respondent may need to make, and that this can be inherently stressful, impact their mental health, create isolation, and interfere with their academics. Such disruptions may mean that the respondent will need assistance to address the impact that participating in such a process can create and that referrals are thus necessary. Those charged with working with respondents will not only need to be aware of what campus and community resources exist, so as to make necessary referrals, but also build relationships with such offices. Building such relationships with resources both on campus and in the greater community is important because a respondent may need access to timely referrals. Being in receipt of timely referrals can be critical because it can help respondents fully participate not only in their academic and personal lives, but throughout the course of their involvement in a student judicial affairs proceeding.

## REPRESENTATION

As respondents progress through a student judicial affairs proceeding, those appointed to work with them may come to discover that a respondent may experience a procedural irregularity, an abuse of policy, differential treatment, or a lack of proper application of adjudication principles. It is incumbent upon workers providing assistance that they are attuned to possible violations of a student's rights relative to the GBV policy, to the procedures within the policy, and to natural justice/procedural fairness.

Being attuned to such possible violations before the procedure(s) are completed and advocating for procedural fairness along the way can ensure that procedures are fairly executed, that a respondent is treated fairly, and most importantly, minimizes the chance for an appeal. Minimizing appeals is important to both the respondent as well as to the complainant because having an investigation or adjudication process appealed and later being allowed would mean that both the respondents

and complainants may need to participate in a “re-do” of those procedures. A redo of the procedures, after a successful appeal, could retraumatize both the complainant and the respondent and is thus not in line with trauma-informed principles, which articulate how repeating processes is very ill-advised. Thus, it would be important to spend some time, for those charged with working with respondents, to deeply understand the concepts of procedural fairness, progressive discipline and right to appeal.

## PROCEDURAL FAIRNESS

Procedural Fairness revolves around decision-makers and the process they use to come to a decision. If processes are done fairly, the decisions that flow from such processes should also be fair and thus correct. Procedural fairness thus requires that respondents have:

- a. The right to fair notice,
- b. The right to hear the case against them,
- c. The right for respondents to be given a reasonable time to consider their position,
- d. The right to make a considered reply,
- e. The right to properly have the decision-maker fully consider all of a respondent’s submissions,
- f. The right to impartial treatment by the decision-maker,
- g. The right to have a decision be based on evidence.

Much more can be said on this topic and readers can refer themselves to the Complaints Processes Working Group’s material on procedural fairness for more discussion on this topic.

## PROGRESSIVE DISCIPLINE

Implies that there is an opportunity for change and learning. Progressive discipline is also an opportunity to clarify a PSI’s expectations of what it means to act and behave as an academic citizen within an educational/ learning community. From a community perspective, if respondents have been found to cause harm under a PSI’s GBV policy, PWHCH should be given the opportunity to correct themselves. Discipline should also be appropriate to the person, applied in a stepwise manner, and not only meet the PWHCH’s needs, but the needs of the community, and especially that of the complainants. Matching fairly the discipline to the misconduct, with all of the considerations mentioned earlier, is thus crucial.



## RIGHT TO APPEAL

Can be considered a natural extension of procedural fairness. Nevertheless, it is important to make a particular mention here. Errors in the application of procedural fairness may occur, and if procedural cures have not been provided along the way, respondents should have the right to appeal. Appeals may also occur on the grounds that procedural fairness was not properly followed or applied. Grounds for appeal may also be based on the belief that bias exists with respect to the decision-maker or if new evidence comes to light that was not available at the initial hearing of the case at hand.

## DIGNITY

Every person has worth. Those who have been found to cause harm are no different. Recognizing that people who have been found to cause harm have inherent worth would mean that they also have the right to be treated with respect. They would also have the right to have the opportunity to reconcile with the campus community and take responsibility for their misconduct. Working with those who have caused harm from a place of dignity believes that such individuals can change, can do better and learn from their mistakes. Such an approach and position is not only dignified but also developmentally focused and wholly appropriate as PSIs are places of learning and developing.

## PERSON-CENTRED

Being Person-Centred flows from believing and treating those who have caused harm with dignity. Being person-centred involves recognizing where those who have been found to cause harm are at with respect to their change process. Such recognition allows one who is charged with supporting such individuals to also recognize the choices they make, whether helpful or harmful, while encouraging them to engage in better and more constructive ways of relating to others. Acceptance of where they are at while recognizing that such individuals are free to make choices creates conditions for those who have caused harm to possibly change. Thus, being person-centred in one's approach to working with those who have caused harm is a non-judgmental stance and an adopted attitude that recognizes their autonomy. Not adopting such a stance and attitude runs the risk of stigmatizing those who have caused harm.

## AVOID SHAME

Based Interactions. It is sometimes easy to conflate the idea of holding accountable those who have been found to cause harm and making judgements on how they should act. However, such judgements fail to contextualize the experience of those who have been found to cause harm and may also induce shame. Shame ultimately does not foster conditions for learning socially constructive behaviours or unlearning behaviours based in toxic masculinity.

## ACCOUNTABILITY-FOCUSED

Assisting those who have caused harm means placing focus on being person-centred and accepting them where they are at. It also means being able to hold them accountable for their past misconduct and mistakes. Being person-centered, non-judgemental and viewing such individuals from a lens of dignity while holding them accountable invites tension to the assistance offered. Nevertheless, such tension can be healthy in that it may promote change in those who have caused harm. Being accountability-focused means being able to continually encourage people who have been found to cause harm by naming one's conduct without minimizing, denying, or blaming the complainant and survivor.

## PRINCIPLES

When designing a tool, principles are needed to help create an instrument that will be effective and sensitive to those that would use the tool, as well as to those who would benefit from it. In designing our roadmap tool, four major principles and practices were used. Below are brief descriptions of these major principles and practices. As each principle and practice has a body of scholarship, where possible, we will point you to further resources for more in-depth knowledge.

## SURVIVOR-CENTRED

UN Women's [Virtual Knowledge Center to End Violence Against Women and Girls](#) describes a survivor-centred approach as a human rights-based framework that ensures "all those who are engaged in violence against women programming prioritize the rights, needs, and wishes of the survivor" and ensures that their dignity, autonomy of choice in the course of action to deal with the harm, privacy and confidentiality, receiving comprehensive information to support informed decision-making, and non-discrimination are upheld. Global Rights issued [a recent blog](#) on

survivor-centred approaches that enhances this principle from local, global, and intersectional perspectives. In working with and designing processes for Respondents and PWHCH, this means that the focus on survivors (i.e., ensuring their priorities and rights are met) remains top-of-mind.

## TRAUMA-INFORMED

Recommendation #2 of the Courage to Act Report calls on PSIs to use a trauma-informed approach when delivering support services, education. We include it here:

Trauma-informed means acknowledging the harm endured by complainants and survivors along with having awareness of the impacts that trauma has on an individual's emotional, cognitive, physical and sexual wellbeing. Such acknowledgement and understanding should guide the creation of processes, procedures and support. Adopting such a lens should serve to not re-traumatize individuals further; it should maintain their dignity throughout the process, procedure or support they receive. In addition to processes, procedures or support that are infused with trauma-informed principles, trauma informed also implies that those individuals charged with creating processes, procedures or documents need specific training in trauma-informed practices as well.

This descriptor is enhanced by noting the Substance Abuse and Mental Health Services Administration's (SAMHSA) four Rs in a trauma-informed approach:



*A program, organization, or system that is trauma-informed realizes the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; and responds by fully integrating knowledge about trauma into policies, procedures, and practices, and seeks to actively resist re-traumatization.*

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Graphic: SAMHSA's Trauma and Justice Strategic Initiative. (2014, July). Concept of Trauma and Guidance for a Trauma-Informed Approach. National Association of State Mental Health Program Directors. Retrieved from [http://nasmhpd.org/sites/default/files/SAMHSA\\_Concept\\_of\\_Trauma\\_and\\_Guidance.pdf](http://nasmhpd.org/sites/default/files/SAMHSA_Concept_of_Trauma_and_Guidance.pdf)

A trauma-informed approach to addressing GBV centers the survivor in the design and provision of services. Thus, applying these principles in working with Respondents and PWHCH requires a delicate balance. In essence, guidelines are applied to uphold the well-being and safety of the respondent and PWHCH while simultaneously ensuring the safety and well-being of the complainant, survivor, and victim. Each AOR will consider those applications in greater detail.

## REINTEGRATION

The principles underlying reintegration of a campus community member rest on the assumption that an individual has the right to “belonging in community” and the right to one’s dignity. Furthermore, GBV harm does not occur within a vacuum but within contexts, cultures and communities that, in varying degrees, permit the offence to occur. Campus PRISM’s [Report on Promoting Restorative Initiatives for Sexual Misconduct on Campuses](#) recognizes that PSIs have typically not instituted robust systems to manage student return post-suspension (Karp et al., 2016). Associated risks that contribute to a campus culture of harm include: the lack of strong risk assessment protocols; sanctions that promote isolation over belonging and responsibility; complainant and/or community resistance to reintegration; and emotionally charged community reactions (Karp et al., 2016). However, the report also acknowledges that people who commit socially harmful acts are more prone to change when presented with opportunities to recognize their behaviour and learn healthier and safer tools for living (Karp et al., 2016). The right to belong to community needs to be met with the community’s responsibility to foster the change it envisions. We, therefore, regard respondent and PWHCH reintegration as not only an opportunity to establish safety for complainants, victims and survivors, but to create a stronger and safer community.

## INTERSECTIONALITY

A term coined by Dr. Kimberlé Crenshaw, intersectionality “is the acknowledgement that an individual can occupy a number of political and social identities and the impact that this has on that individual. Those identities and social categorizations can be understood under racial, gender, sexual, religious, disabled, class, and religious lines, to name a few. The overlap of any of these identities creates a complex system of discrimination where individuals face multiple oppressions. Any policy, procedure or support should adopt this lens, so as to be mindful and delineate who is being excluded from such processes.

How then do we fully appreciate and mindfully consider how these identities disadvantage - or advantage (in the case of white privilege) - respondents and PWHCH in a survivor-centred and trauma-informed process?

We invite you to review Appendix C to consider how to do so more in-depth. Additionally, each section in the Roadmap will pose questions to reflect upon.

## SUMMARY

The Roadmap attempts to capture the emerging and current thinking on working with respondents and PWHCH as they progress through a PSI's student judicial affairs processes and procedures. This tool both graphically depicts the *typical* process and recognizes that it will vary according to your PSI's local context. To help you, the reader, determine how the roadmap might be designed and applied at your PSI, we have created a series of AORs that correspond to each section of the roadmap tool. Each AOR helps you reflect upon: what might be occurring for a respondent or a PWHCH at that point in the process; what considerations would be relevant and useful; and what questions need to be asked in order to help you tailor this roadmap tool for your institution. Each AOR is informed by the values, themes and design principles articulated above and includes recent research conducted by the CP. Finally, each AOR challenges us to further consider what action we need to take at our respective PSIs in order to provide a proper response when working with respondents and PWHCH.



# Initial Accusation

## Initial Accusations as First Steps

The manner in which steps are taken during the initial accusation stage is of critical importance. This juncture sets the tone for the entire process and determines *if* and/or *how* the complainant and respondent engage throughout the entire investigative or alternative resolution process. Therefore, it is important to reflect upon how the actions taken at this point affect and relate to actions taken at every point in the process. As such, we suggest regarding the initial accusation stage as an opportunity to establish a trauma-informed framework in order to develop trust with both the complainant and the respondent.

### THE KEY PRINCIPLES IN DOING SO ARE:

- Ensuring complainant safety on- and off-campus during this portion.
- Treating respondents with dignity and respect in order to divert focus away from a punitive framing of the investigative process toward transformative learning opportunities about accountability.

Importantly, dedicating time to mitigate a respondent's reluctance or resistance resulting from the accusation will help encourage them to remain in the process and reduce potential repercussions against the complainant. Overall, institutions should strive to integrate support for the complainant and assistance for the respondent throughout the entire procedure. We offer the following considerations for delivering services in this with all these points in mind.



### CONSIDERATION AND CHALLENGE:

How would your PSI and the person assigned to assist the respondent address their reluctance and/or resistance? What approaches, strategies and skills can help in this regard?

## Initial Disclosure or Formal Report

An individual within a PSI may disclose an incident of GBV or request a formal report in a variety of forms. Staff who are responsible for actions at this juncture should, depending upon the scenario, consider certain elements relating to the respondent's involvement to ensure those actions are more trauma-informed.

The first priority is to mindfully consider the complainant's safety when preparing to engage the respondent in a formal report or consider them for an alternate resolution process. This is critical. *Whatever* action your institution deems appropriate, it becomes more trauma-informed when the complainant is informed about, has consented to, and has *willingly* decided to participate in that action. Requiring a complainant to participate in any proceeding without their consent heightens the risk of re-traumatizing them and/or increases the potential or real threats to their personal safety. Only when a complainant has agreed to participate in adjudication or alternative resolution process should the respondent be notified of the concerns and be required to participate in the PSI's policy and procedure.

**The one exception to this rule may occur when a respondent self-reports, which will be discussed later below.**

safety of the complainant by either potentially retraumatizing them or by increasing the respondent's reluctance or resistance against the party or the institution. This could lead to increased threats against either or to disincentivizing the complainant from any further engagement with the process.

It is also important to consider when to inform the respondent and the complainant of any actions the institution plans to take and how to sequence the delivery. Ensuring that all parties are apprised of any pending procedural actions allows them the opportunity to take proactive measures to ensure their respective safety. The complainant and respondent are likely to interact on- and/or off-campus, which is why sequencing is critical. Imagine what may happen if a respondent is notified of an investigation before the complainant. What if they see each other on campus and the respondent refers to the investigation? This affects the

Equally, notifying the respondent of disclosures and of timelines and important deadlines related to their required involvement in the process will allow the respondent to duly prepare for those appointments. Details of these components will be touched on in the next section.



## Formal Reporting Procedure

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Should the complainant request a formal investigation, or an alternate resolution process be deemed inappropriate, the procedures on how to involve a respondent in the process are a little more clear. Respondents are an integral part of the investigation process, and they are provided with the right to hear the allegations against them, respond to the allegations, and provide evidence to support their understanding of events. Once a respondent(s) are identified in a formal report, the PSI should ensure they are incorporated early into an investigation when possible, informed of their rights, and provided with the occasion to present and respond to evidence. Again, the same considerations should be taken for informing the complainant of any action taken by the institution when proceeding with an investigation.

## Reporting on Behalf of Third Party

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Some PSI's policies or procedures allow for a third party to submit information about witnessing an incident of gender-based violence (this should *not* be confused with Third-Party Reporting procedures available through the criminal justice system in some provinces). While these reports may be helpful for the institution, we recommend *not to* proceed with a formal investigation until consent to proceed is provided by the individual who experienced the harm.



## Self-Reporting

Some practitioners have experienced PWHCH independently disclosing and admitted to committing GBV. This is commonly referred to as “self-reporting.” A person may self-report in order to seek assistance to prevent future harm or because the instance involves a more intimate relationship in which both (or all) individuals concerned have caused harm. Individuals who self-report may do so out of fear of further harming individuals or their community. Self-reporting demonstrates a person’s willingness to be accountable for their actions, to be open to learning and understanding, and to prevent further harm. As such, this Community of Practice strongly encourages PSIs to consider integrating a self-reporting mechanism within their procedures for people who have either committed harm or feel that they might commit an act of gender-based violence on campus or within their community.



### CONSIDERATION AND RESEARCH NEEDED:

| What would a self-reporting mechanism look like at your PSI?

## Intersectionality and Initial Reporting

A trauma-informed approach to respondents is also cognizant of how systemic oppression affects a respondent’s well-being and engagement in the process. For example, given the high rates of accusation, indictment, incarceration, and mistreatment that Black and Indigenous men have historically faced in relation to the criminal justice system, how does a PSI implement a “bottom-up commitment to improve the substantive conditions for those who are victimized” by such systems, Kimberle Crenshaw suggests.

### Pertinent questions may include:

- How does a PSI understand and effectively engage Black and Indigenous respondents whose lived experience involves greater mistrust of colonial governing institutions and disciplinary procedures?
- How does a PSI fully value and include the use of Aboriginal justice in relation to disciplinary procedures?

### Questions geared toward complainant safety could look like this:

- How does the process assess the real effects of power between a third-generation Canadian white male respondent who is economically well-resourced and a complainant who is a first-year female student from India living on her own in Canada? Or a BIPOC woman whose scholarship depends on active attendance in classes, but cannot now due to the mental health fallout?

The precise questions will vary depending upon each instance, but they are required in order to assess real impact and design effective safety and engagement measures.

## Alternative Resolution Processes

There is a growing body of work about applying alternative resolution practices to both incidents of gender-based violence and to general policy violations in PSIs. These options may include a facilitated dialogue process or other forms of restorative justice or transformative justice. Regardless of form, it is still important to bear in mind the initial disclosure stage will fit in or relate to the overall process. For example, it may impact when and how the PSI decides to contact and incorporate the PWHCH into said procedure. Specific note should be taken to ensure that all parties in an alternate resolution process are provided access to support, assistance and resources all throughout during an alternate resolution process. To consider how to best implement, we advise reviewing the noteworthy recommendations offered by Towards a Justice that Heals CP and their corresponding workbook.



### CHALLENGE AND CALL TO ACTION:

Alternative resolution practices implies that it is the alternative to the official formal complaints process and in the end, may serve to undermine the validity and viability of this non-punitive approach to accountability and justice. How can your PSI promote this practice as a bonafide procedure in its own right? Readers can also refer to Towards a Justice that Heals CP Workbook for more of a discussion on this point.



## Acknowledging Complexity

This Community of Practice also acknowledges the complexities that attend GBV. For example, research indicates that some individuals who have experienced sexualized violence may, in turn, commit sexualized violence against others. Moreover, relationships within which GBV occurs do not neatly align with an oversimplified 'hero' and 'villain' binary. PWHCH may also experience harm in the same relationship. Therefore, thorough consideration should be given to understanding how complicated patterns and continuums of harm may present within the history of an individual within the context of a relationship between complainant and respondent. In the latter instance, we note clearly that the intention in doing so is not to minimize the harm or set up a dynamic in which allegations are set in competition with each other. Rather, the intent is to accurately assess all the harm, analyze the inherent power dynamics, and move toward responses that increase awareness and prevent further harm.



### CASE EXAMPLE

A student complainant came to the office to submit a complaint. This student had indicated that they wanted to file a complaint as they did not feel comfortable on campus because of another student who occupied the same classroom as well as other social spaces. During the initial interview, this complainant had identified how the other student was someone that they had experienced sexual assault during the course of their intimate relationship together. Further, the complainant identified how both them and the other student were part of the 2SLGBTQ++ community, that this was both their first sexually active relationship, and that both also had a diagnosis of being on the Autism spectrum.

Additionally, the complainant noted that both them and the other student struggled with understanding and communicating boundaries in their relationship. The complainant had characterized their history as being both complicated and traumatic.



## Key Considerations

This specific case presents complexities and nuances given that both parties are Queer, neurodiverse, have a history of trauma, and are known to each other. Their individual needs and the power dynamics in how the harm occurred will take time to understand and will require a particularly sensitive approach. It is also critical to recognize that how individuals are treated at this stage will set the tone for the entire process. Some key considerations to ensure a trauma-informed, intersectional approach in this instance are:

### Frame this stage as an opportunity to build trust in the system via

- Consider planning 1 - 3 sessions for this stage.
- How would you phrase inviting the individuals to talk about the accusation?
- Is a de facto investigative process required in this instance, or is there an aperture to discuss another option according to the complainant's needs?
- How would you sequence and/or scaffold discussing details of the incident and explaining the process in tandem with understanding their needs?
- What steps would you need to take to accommodate those needs? Who would you need to contact within the PSI or within the adjacent community?
- How would you approach discussing the power dynamics in this instance?

#### CONSIDERATION:

Workers can practice cultural humility in this instance by asking the individuals a wide range of exploratory questions in a way that invites the individual to describe their lived experience in their own words and on their own terms rather than in a way that probes them for answers. This will allow the individual to be heard, will build trust, and will also provide rich detail about their experience that will help guide you in meeting their emotional, psychological, spiritual, and logistical needs throughout the process.

### Apply an intersectional lens

- Invite the individuals to talk about how they manage their trauma triggers as someone on the autism spectrum. How do sessions need to be paced? How is information best organized? Listen to their needs and collaborate with them in designing accommodations into the process.
- How will this instance affect their relationships and needs within the wider 2SLGBTQ++ community that they're both a part of?

Think about how to communicate information with other practitioners at later stages in the process that can support the individuals' wellbeing and continued engagement.

Overall considerations of this section revolve around the various ways an initial accusation can be made. A PSI's response is dependent on what the individual who has been harmed might feel appropriate as a possible action for the PSI to take. Any action by the PSI to reach out to the respondent will be discussed in greater detail in the next section. However, reluctance and resistance are to be expected, and being prepared for this is crucial in setting the tone for the remainder of the process.

### To assist in your thinking, it may be helpful to consider the questions below:

- If allegations are pending - would someone reach out? Is assistance provided? Who would be assigned to do this?
- How can a PSI mitigate reluctance or resistance on behalf of the respondent when informing them of the initial accusation? How may the respondent be encouraged to engage in any future proceedings?
- What conversations, resources and assistance would encourage engagement on the part of the respondent in future proceedings?
- How may complainant safety be ensured throughout the initial accusation and all future proceedings?

# Complaint Notification

## ISSUING THE NOTIFICATION & RISK MANAGEMENT

Following the initial accusation and formal complaint submission, the PSI is now tasked with notifying the person accused of causing the harm alleged in the complaint. This person is now considered the 'respondent.' Prior to issuing any notification, it is critical for the responsible worker to assist the respondent in gathering as much information as possible about the respondent's student status and the allegations. The purpose is two-fold: to first identify any further risks of GBV or harm to the complainant and to the broader community, and then to assess any risks to the respondent. Both are intended to plan for and manage any mitigation strategies to prevent that harm.

## TRIAGING RISK FACTORS

Depending on the nature and degree of identified risk factors, appropriately identified and trained staff may conduct a risk triage or a full risk assessment<sup>2</sup> (e.g., case managers) to assist the respondent(s) manage those risks and prevent further GBV harm. These steps provide a greater understanding of how the respondent may react and respond to the allegations. Reflecting on the following themes & questions can help you consider how to design a trauma-informed and survivor-centred notification meeting:

**Mental health concerns:** Conduct an inquiry with the campus behavioural intervention team (or the equivalent campus group) or any office able to disclose this information. Possible questions include: Could any mental health concerns emerge or escalate as a result of the complaint notification (e.g., suicidality)? Are there any concerns related to prior incidents of GBV? Is there information indicating that the respondent is a victim or survivor of GBV themselves?

**Academic status:** Will any academic concerns escalate as a result of the notification? If so, can these be managed with modifications or accommodations? Is the respondent on academic probation, a work or co-op term, or interacting with vulnerable populations as part of their program? Do they share any classes with the complainant? If so, what steps can be taken to eliminate or limit these interactions?

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<sup>2</sup> A short discussion on risk assessment can be found in this tool's Interim Measures/Risk Assessment section. For more of a comprehensive discussion on this topic of risk assessments within PSIs, readers are directed to Prevett's (2020) Sexual and Gender-Based Violence Community Risk Assessment Policies, Procedures and Protocols: A Framework for Implementation at Canadian Post-Secondary Institutions.



**Housing status:** Does the respondent live in campus residence or off-campus? If they are in residence, can you predict any impact in the residence community as a result of the notification? How can that impact be managed? Have there been issues with regard to the respondent's conduct in the residence community?

**Relationship with the complainant:** What do you know about the relationship and interaction between the respondent and complainant? How will the notification affect that relationship? Is there a supervisory relationship or a power imbalance? If both parties are students, are they in the same faculty, cohort and/or classes? Are they on the same co-op cycle?

**Existing support system:** What is known about the respondent's support system and community? The level and type of support that may be needed after the notification may be informed by the respondent's access to localized support. Considerations should be made on possible impacts to the respondent's support system as a result of the complaint process. Will this process remove them or ostracize them from their communities? Is their family close to the PSI or located elsewhere?

**Previous conduct history:** Are there any prior or ongoing GBV-related sanctions (i.e., conduct probation) that should be taken into consideration as part of a risk triage or assessment in the event that there are known escalating factors?

**Social media:** Is there any publicly available information, such as from the respondent's or complainant's social media, that could provide relevant information?

**What other considerations are relevant to your PSI?**

## Essential Elements of the Notification Meeting

Though minimal research and data exist about promising practices for complaint notification, Karen Busby and Joanna Birenbaum note in *Achieving Fairness: A Guide to Campus Sexual Violence Complaints* that affected parties need to be apprised of the crux of the matter under determination, any potential outcomes and repercussions, what is required to respond to the matter and any fallout for not doing so (Busby & Birenbaum, 2020). Furthermore, the Task Force that reviewed the Dalhousie Faculty of Dentistry incident noted that “all affected individuals are entitled to know what the allegations are and to know what policies and procedures will govern the situation. They are entitled to this information before any steps are taken under the applicable policies... with enough time so they can be prepared to participate” (p.63). With this in mind, we offer the following considerations. We also encourage the reader to thoroughly reflect on the principles and themes covered in the introduction to - at minimum - ensure a person-centred, trauma-informed, and procedurally fair approach that considers the needs of those involved.

When the respondent is invited to participate in the notification meeting, be sure to communicate that a support person can be present at the meeting. It will also be important to inform the respondent what steps will be taken if they choose not to meet or participate. Consider including the following elements and actions as a part of your notification meeting. It would be valuable to provide this information in a document that the respondent can refer to in the meeting or afterward:

- Purpose of the meeting
- Expectations regarding confidentiality
- Description of the allegations
- Date(s) of the alleged incident(s)
- Policies applicable to the incidents
- The name(s) and title(s) of the decision-maker(s)
- An opportunity for the respondent to agree with or dispute the facts presented in the allegation. Ensure that the respondent understands what is being discussed and provide an opportunity to ask questions about any of the information.

- A description of next steps (i.e. interim measures, no contact, investigation, etc.). In the event that interim measures are imposed, discuss the non-punitive nature of the measures and their relationship to encouraging accountability and providing complainant safety.
- Resources and assistance available to the respondent
- What happens post-notification meeting (leading into working with respondents)

In an ideal world, the notification meeting should occur face-to-face (either in person or virtually) wherein the notification document is also shared with the respondent.

#### **CONSIDERATION:**

- At your PSI, who would be considered a support person to the respondent? Would a friend, family member, advocate and/or lawyer be considered an appropriate support person to the respondent? Why or why not?
- Should the respondent know the reason for the meeting beforehand? Or should they be told the meeting is a matter of concern, and that the reason will be shared at the meeting?



#### **CHALLENGE AND CALL TO ACTION:**

- Increase research about best practices in how to invite a respondent to a notification meeting.
- When meeting face-to-face is not possible or the respondent is unreachable, how will your PSI communicate the notification in a person-centred and trauma-informed manner?



## Notifying the Respondent in the Virtual Environment

With the COVID-19 global pandemic moving notification meetings to the virtual space, certain elements need to be included at the top of the meeting to ensure the meeting's confidentiality and respondent's safety. These are especially important if your information-gathering indicates the notification may have triggered the respondent or escalated the risk of harm to self or others. We offer the following suggestions:

- Establish whether or not the respondent has private space and can access the virtual technology required to participate in the notification meeting: “Do you have a laptop, tablet, or smartphone in order to participate?” If not, consider how the respondent can access the required technology.
- Decide on a backup plan if the platform you are using ceases to function during the notification meeting. Example: “If any of our internet connection fails and we are unable to immediately reconnect, (name of staff person) will email you to reschedule the meeting.”
- Request the respondent's phone number in the event of disconnection or the need to provide emergency services arises. For example, “If we get disconnected, what is the best number for me to reach you at?” “We want to ensure that should you get disconnected from our meeting, we have another way of contacting you.”
- Determine where, geographically, the respondent is joining from: “Where are you joining me from today?”
- Determine whether the student/respondent lives in residence, has roommates, or lives at home with family in order to ascertain if someone else is in the room who is not immediately visible. This is critical to ensure confidentiality: “Is there anyone [other than your support person] who is in the room? Who is the person and what is their role/relationship to the respondent? Will this person's presence prohibit you from feeling open to engaging fully in the meeting?”

- If an Advisor or Ombudsperson is assisting the respondent, provide the option for them to turn off their microphone or camera if they need to talk privately or need to take a moment for themselves. Alternatively, you may offer a separate room (like a breakout room on Zoom or a similar function) so that the advocate and respondent can caucus. Clearly explain how to operate these functions at the beginning of the meeting.



### CASE EXAMPLE

You are preparing a complaint notification for a student and are gathering information. The student is a domestic student and is a member of a varsity sports team. You know that they live in one of the traditional-style residence halls and on the floor above the complainant. Residence staff have shared that the student typically participates in residence activities, but has not been as active over the past few months. You note in the student's transcript that they appear to be struggling academically, as their grades dropped in the most recent term. You reach out to your campus' Behavioural Intervention Team (BIT) to inquire if there are any concerns you should be aware of, relevant to this situation. The staff member from the BIT shares that they have a recent report showing evidence of threat of self-harm. Their social media suggests that they are typically social but have significantly reduced their online posts over the past few months.

## Key Considerations

During this phase of the process, the key consideration is knowing how to firmly but sensitively communicate the notice of a formal complaint against the respondent in a trauma-informed and survivor-centred manner. These last set of questions can hopefully help your PSI establish a practice that is in keeping with our recommendations:

- How will you use the information gathered to plan an effective notification meeting?
- What will those essential elements look like given these facts?
- What campus resources or referrals for assistance should your PSI offer the respondent?
- Have you advised the respondent about their right to bring a support person, Advisor, or Ombudsperson?
- How does your office or institution handle a student who indicates they will be bringing a lawyer?
- If a lawyer is in attendance, are you clear on the relationship of their involvement, if any, to your institution's administrative process?
- Have you advised the respondent and accompanying individual that the support person will not be speaking on behalf of the respondent or otherwise interfere with the conduct of the interviews?

### CONSIDERATION:

Develop a document outlining the guidelines and parameters for a support person or a lawyer's participation. Issue the document prior to their participation, requesting their review and signature to ensure that the parameters of participation are acknowledged and will be upheld. Offer availability to discuss these with the support or legal counsel.



# Working With Respondents and PWHCH

Many PSIs seek resolution processes that can serve the needs of GBV victims and also provide services to respondents. Some PSIs have developed dedicated services for respondents to ensure they are receiving procedurally fair treatment. Others recognize a larger set of issues that are tied to a vision of accountability - one that encourages and assists respondents in understanding why they harmed, if indeed they did; identifying and addressing the root causes of the harm in their own life experiences; and helping them make amends. As such, some campus services for people who cause harm address both their status as complaint process respondents *and* their experiences and struggles in causing the harm, as well as potential barriers to taking accountability.

Practitioners in our research agree that effective services for respondents mean treating them with dignity and recognizing them as full human beings. Adopting this mindset challenges some PSIs, and subsequently, it fails to become a part of campus conversations about eliminating GBV. An extenuating challenge comes with holding PWHCH accountable when they, too, have experienced harm or trauma, which has implications for the type of services offered them.

If a respondent has been found to cause harm, it is even more imperative that this person's inherent dignity and personhood be recognized. This does not excuse the harm that they have caused. Rather, the aim, as experts in our research note, is to better understand 1) *why* and *how* PWHCH enact GBV harms, and 2) what strategies might be most effective in addressing the underlying reasons. This is key because taking accountability is predicated on understanding the factors that led to the choice to enact GBV harm. Fundamentally, it also means that we must recognize PWHCH as members of our community - as people who themselves might need help, and who might have life histories that have led to harming others. It also represents a vision of addressing harm

#### CONSIDERATION:

What systemic factors may lead someone to cause harm?



#### CHALLENGE:

- How do practitioners working with PWHCH continually work with their own triggers and biases in order to uphold this tool's principles of integrity and avoid shame-based interactions?
- How does a practitioner assess how their biases, mindset, and/or communication style are further including or excluding the respondent during the process?
- How does a practitioner humbly assess whether to engage in a given case or defer to another practitioner due to the reality of their own triggers or biases?
- How do we focus on working with respondents from a place of care and integrative accountability, instead of performance?

that seeks to potentially re-integrate PWHCH, as well as respondents, into the community after fulfilling appropriate sanctions.

Conversations about humanizing respondents and PWHCH can be difficult for some people, but they are nonetheless important. As one community practitioner working in the field for thirty years explained:

“They’re challenging conversations to have because the pushback has always been, ‘Why should we care about these people?’ ‘Why should we invest any energy in this?’ That’s fair for people steeped in working with survivors. But for me, it always comes back to ‘because there’s always going to be another person they harm.’ So getting in between them and a person they may harm in the future is an important part of the work.” (COM-1)

People working in the field advised through our research that services for respondents should follow similar frameworks as those established for survivors. They draw their frameworks of practice from philosophies that were mentioned in the introduction of this tool and are reiterated here for your review:

- Trauma-informed
- Intersectional
- Feminist
- Anti-oppression
- Restorative justice, Transformative justice, and other alternative models of non-criminal justice
- Human rights-informed



## Insights from Research

As outlined in the *Courage to Act Report*, it is imperative for PSIs to recognize that PWHCH are part of the PSI community and that they may have “their own histories of trauma and violence and thereby have support needs that must be addressed” (Khan et al., 2019, p.78). Unfortunately, there is “limited research on best practices and services for people who have caused harm at PSIs - specifically in the case of GBV or sexual violence” (p. 79).

It is critical for PSIs to create an understanding that providing campus assistance and services for PWHCH is part of an overall survivor-centric practice. Without this starting point, any attempts to create these resources for respondents and PWHCH may be harmful to survivors and potentially collude with them in avoiding accountability. Additionally, it will be difficult to implement resources for respondents and PWHCH in an environment where survivor supports are not prioritized and seen as inadequate or not robust. A faculty member researching sexualized violence who responded to our survey echoed these concerns:

“[I]f services for people who have caused harm were put into place without first addressing the problems that exist for survivor support services, there would be a situation of even more distrust of the university and the administrations' response to sexual violence.” - PSI-2



## CASE EXAMPLE

A respondent has been recently notified of allegations made against them, and an investigation is being undertaken under the PSI's sexual violence policy. The respondent has been advised of interim measures including: an adjustment to their on-campus work schedule so that they do not work the same shift as the complainant; restricted access to the athletics facility, which impacts their participation in recreation activities and attending the gym; and a change in two class sections so that they are not in the same class as the complainant. The respondent lives off-campus, so housing adjustments are not required. The respondent has agreed to the interim measures and to remain connected to a worker offered to them from the University.

### CONSIDERATION:

- Are there points within the investigation process that can cause harm to the respondent? What influence does the GBV policy have on the way a worker assists the respondent?
- What identity does this person take on in your mind? Are they straight, male, neurotypical etc.? What biases are informing this image, and how might you account for that as a worker who assists respondents and PWHCH?

As the months progress, you become aware from the worker that the respondent's academics have been suffering, resulting in their withdrawal from three of their five courses that term. As a result, you learn that the respondent's OSAP (Ontario Student Assistance Program) financial funding is impacted, which in turn is putting their ability to pay rent at risk. The respondent has also experienced isolation from their peer group, with whom they share a cultural background. As a result, they have become withdrawn and are displaying what seem to be depressive symptoms. The decision-maker checks in with the investigator, who indicates that they anticipate that the investigation will not be complete for another two months.

### CONSIDERATION:

- How might the worker assist respondents and PWHCH to reduce their community isolation, especially in smaller sized PSIs?

The worker, decision-maker, and other key stakeholders on campus meet to discuss ways to assist the respondent over the coming months. The worker indicates that the respondent has requested assistance with academic accommodations, advocacy letters for a petition process, and guidance in navigating the financial aid system to request their full funding be reinstated due to extenuating circumstances. The team discusses ways to address the needs expressed by the respondent, including identifying key community resources accessible to the respondent.



#### **CALL TO ACTION:**

- Does any mechanism or policy expectation need to be integrated into your PSI's investigative procedure to ensure that all parties related to the respondent meet regularly to assess the respondent's well-being and academic progress?
- How can you ensure that supports identified have experience working with respondents, and are aware of biases, myths etc. that could impact their work?

#### **CONSIDERATION:**

With the right resources in place, interventions can be explored with the respondent, as well as connections to the appropriate resources to address their challenges.



## Key Considerations

While there is limited research on Canadian PSIs providing services for respondents and PWHCH, other institutions within the United States<sup>3</sup>, as well as Canadian and global correctional systems, can provide further insight into their approaches to reducing recidivism and increasing successful reintegration into society (NASPA, 2020)<sup>4</sup>. Our own research with conduct officers, sexual violence prevention practitioners, and other workers appointed to assist respondents and PWHCH brought forward the following list of key considerations and recommendations to adopt:

- Frame services for respondents and PWHCH as necessary forms of early intervention and violence prevention.
- Connect student conduct systems to on-campus resources and services, but consider services external to the PSI as well.
- Frame services for respondents and PWHCH as non-punitive.
- Ensure respondents' and PWHCH's' privacy and confidentiality. *This is a key condition for working with respondents and developing rapport.*
- Model accountability for respondents and PWHCH.
  - Taking responsibility is something respondents and PWHCH must learn. It also must come from their own self-understanding, which service providers can help elicit through safe and encouraging conditions.

**"The person may not take 100% accountability at first. Provide a trauma-informed approach and don't lose track of supporting the person through the program." (COM-2)"**

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<sup>3</sup> Campus PRISM (Promoting Restorative Initiatives for Sexual Misconduct on Campuses) is one such research and knowledge hub that runs out of the Center for Restorative Justice at the University of San Diego. See Appendix B - Resources.

<sup>4</sup> An additional example is the human rights-based Good Lives Model (GLM) used within the sex offender program at the Ontario Correctional Institute (OCI) in Brampton, Ontario, Canada. OCI is also a correctional institution that applies a feminist, anti-oppression lens to their programming. A WWPPWHCH Community of Practice member works with many men who were sentenced to OCI for criminal sexual offences (via the Revive Program at Community Justice Initiatives of Kitchener-Waterloo; see Appendix B). She notes that these men (compared to others who served sentences at other correctional facilities) repeatedly express their gratitude - despite the circumstances - for the supported and deep, self-reflexive work they were offered at OCI. They consider it to be the turning point in their ability to understand the root causes of their offending behaviour, to cultivate victim empathy, to assume responsibility for the harm they caused, and to make safer choices for themselves and others post-incarceration. See Appendix B for a more detailed description and link to Good Lives Model.

- Understand respondent's and PWHCH's complexity as a person.
  - Working with respondents and PWHCH needs to be person-centred and change-oriented.
  - The needs of respondents and PWHCH, while progressing through a complaints process, should be considered and assessed.

“I really want universities to believe that they can do it, that they're not dealing with monsters. The majority of these people literally have a lack of information. It's to go forward with the belief that we actually can work with students that cause harm, and to not conflate that with "sexual predators," as portrayed in the media. The way we talk about GBV as a whole in this culture is problematic, and universities need to be aware that GBV does not play out in ways that are typically portrayed in the media. It actually gets played out among people that know and care about each other on some level. So, let's start at the baseline with educating people versus being punitive.” - PSI-I4

- Meet PWHCH “where they are at.”
  - Determine their level of understanding about the harms they have committed and their level of preparedness for doing the work of accountability.
  - Recognize their developmental stage.
  - Develop an understanding of their intersectional identity, and the additional/systemic factors exerting influence over them.



#### **CHALLENGE:**

Would this be a place to recommend offering educational opportunities to respondents re: consent, healthy relationships, impacts of trauma, etc.?

- Develop education toward the needs of survivors and PWHCH, as well as to the larger campus community.





### CALL TO ACTION:

Be aware of and challenge your own biases when working with respondents. How might you approach one type of student vs. another, and what guides this change in approach?

- Develop education and support for those who are friends of the respondent so that they have space to share the impacts they may be experiencing as they progress through the complaints process, as well as learn ways to work through what has happened as a peer group/ community (e.g., think about small class, or close friend group, residence floor, club or society, athletics team).
- Develop relationships with service organizations within the broader community.
- Ensure a separate staff member is designated to work with the complainant/victim/survivor and the PWHCH. Ideally, locate each staff member in different offices to ensure parties to the harm do not unexpectedly cross paths during the entirety of the complaints process.
  - Where a separate office space is not possible, consider having a schedule arranged that is shared between the staff members to reduce the likelihood of the respondent and complainant crossing paths.
- Refer respondents to counselling on campus or within the community, whichever is most appropriate to their needs.
  - Those working with PWHCH should be very familiar with community resources to complement those offered on campus.
- Provide educational and psycho-educational sanctions, which could be provided on campus, or through an agreement with community partners.
  - Consider what information will be needed by the PSI from the community agency who may be providing the psycho-educational sanction or disciplinary counselling (i.e., attendance record, respondent articulating to the PSI what they have learned, etc.).
- Consider alternative resolutions within conduct processes.
- Create a coordinated approach for campus referrals and services (e.g., academic accommodations, housing, finance, counselling, spiritual needs, community referrals).
- Collaborate with Students' Unions/Associations and Sexual Violence Prevention and Response Coordinators.
- Intentionally consider how to reintegrate a respondent into the community, including the use of Circles of Support and Accountability.



### **CONSIDERATION:**

- In addition to assessing risk with respondents or PWHCH's, think about needs and protective factors, too.
- What resources are PSIs committing to this work? Is it centrally resourced, provided via volunteers or interns, or serviced off the side of desks? Where are respondent supports housed within the system? Are separate staff providing support to complainant and respondent to avoid conflict of interest/potential bias?
- Be mindful of the power and impact that language and labels confer. Think about how terms such as "respondent" vs. "person who has caused harm" vs. "offender" vs. "sexual predator" influence behaviour to positive or negative effect.
- Utilize tools, such as Gender-based Analysis Plus by Status of Women Canada, to fundamentally incorporate an intersectional lens into any educational materials.
- Does your PSI actively advertise respondent AND complainant supports? Where is this information located? How is it shared?

# Interim Measures / Risk Assessment

After a PSI has received a disclosure or formal GBV complaint, interim measures are meant to address immediate safety concerns of complainant in the learning, living, and work environment on a campus and to discourage retaliation by the respondent. *The Courage to Act Report* describes interim measures as “non-disciplinary conditions or restrictions placed on a person who is alleged to have committed GBV” (Khan et al, 2019, p. 127). The conditions must be non-disciplinary in nature, as without a complete investigation, there is no finding of responsibility for a respondent.

Even though interim measures are non-disciplinary, they can feel punitive to the respondent. It is important to explain how the interim measures intend to maintain the integrity of the investigation process, but still allow respondents to seek social, academic and well-being assistance on campus, as well as their necessary access points to learning and on-campus participation. Examples of interim measures may include no-contact conditions, space restrictions, academic accommodations and should be clearly explained to the respondent for the protection of both parties. In the *Courage to Act Webinar A Primer on Interim Measures*, Karen Busby encouraged participants to think about interim measures “as about interaction, presence, and proximity.”

## CONSIDERATION:

It can be helpful to consider that interim measures can limit a student's privileges but not their rights.

Those who have experienced GBV harm are sometimes provided the opportunity to address some of the ways they may be triggered or negatively affected without making a formal complaint, provided that the complainant consents to her name and the details of the accusation being shared with the respondent. This allows those who have experienced GBV a voice and greater sense of safety, control, and predictability in the spaces they use on campus. However, it is worth noting that many institutional policies only allow the imposition of interim measures as part of a formal complaint process, and many institutions have formalized interim measures within GBV Policies.

Courage to Act's Complaints Processes Working Group covers interim measures in detail in Chapter 8 of the *Comprehensive Guide to Campus Gender-Based Violence Complaints: Strategies for Procedurally Fair, Trauma-Informed Processes to Reduce Harm*. The guide suggests a number of strategies that aim to address the safety concerns but also ensure procedural fairness.



#### CHALLENGES AND CONSIDERATIONS:

- What are the risks and benefits associated with disclosing the identity of the complainant in the meeting request email?
- If the identity of the complainant is disclosed, what risk mitigation measures have you put in place to ensure their safety in the event of any retaliation?
- If the identity is not disclosed, how can you clearly communicate that the specific details of the allegations will be provided in the meeting?
- How can you ensure the respondent does not make any assumptions on the identity of the student who disclosed or engage in any behaviour that could be considered retaliation?
- Can interim measures be imposed through some other means?



Each one of the strategies reproduced here has opportunities to reinforce the principles listed at the beginning of this tool:

**Strategy 1: Make interim measures strictly non-disciplinary**

This is an opportunity to reinforce that the interim measures are not reflected on the respondent's student record or related to a criminal process. It can help maintain their dignity and sense of belonging within the community.

**Strategy 2: Design interim measures that are minimally restrictive**

This can be challenging if the respondent sees the interim measures as having an impact on parts of their identity. How would you explain to a student athlete that restriction from the fitness centre during certain hours is necessary to create a safe space? How would you balance broader campus building restrictions with the respondent's right and need to access support services?

**Strategy 3: Take steps to mitigate the negative effects of interim measures**

This may include the respondent feeling their privacy is being infringed upon with gossip within the community; worries relating to outcomes of a complaint or criminal charges; possible impacts to their reputation or career; possible triggers to their own past GBV experiences; and the possible isolation, mental and emotional stress of the situation. As long as they remain a member of the community, their integration and reintegration should be carefully considered and supported.

**Strategy 4: Customize the interim measures to the situation at hand**

This will reinforce that it is the respondent's behaviour that is problematic and not them as a person. It creates space to have a conversation that focuses on the harm caused and to educate them that despite their intent, their behaviour had a significant, harmful impact on the complainant.

This should emphasize that the resulting interim measure is not interfering with the respondent's rights. How can you highlight that their ability to achieve their academic goal has not been interfered with?

### **Strategy 5: Design interim measures to adapt to evolving circumstances**

Ensure that the respondent is aware of how to request a reconsideration and how the interim measures may be adjusted based on changes in the environment. For example, space restrictions may be adjusted at the start of a new term.

This is an opportunity to have continued engagement with the complainant and the respondent and to understand the complaint's changing environment and how the respondent is adapting to or being impacted by the conditions.

### **Strategy 6: Put decisions about interim measures in writing**

This should be done in clear language that gives specific information about the allegations. It would be impossible to ask the respondent to engage in educational conversations without them having an understanding of the specifics of the GBV. Consultation on the language used should be done with the complainant to ensure that they feel it is accurate and they are not being misrepresented.

## **Meeting to Impose Interim Measures**

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Once the interim measures are created in collaboration with the complainant, a meeting should be set up with the respondent. The Complaint Notification section in this tool has a helpful list of the information that should be included in the meeting request email. In addition to that list, it should be clear that:

- The decision-maker is considering imposing interim measures under the applicable policy;
- Whether or not the PSI has received a formal complaint (and if not, that the respondent is not under investigation)

In either approach, plan to meet with the respondent as soon as possible after sending the meeting request to de-escalate any negative or impulsive behaviour and reactions.



## Prepare for the Meeting

When meeting with a respondent to impose interim measures, many of the same information gathering steps as described in the complaint notification section should be considered, including a risk assessment. Additionally, the preceding *Working with Respondents and PWHCH* area of reflection included some helpful considerations on how a worker might engage with a respondent. Those same considerations apply at this stage of the process as well.



### CHALLENGES AND CONSIDERATIONS:

- How would you plan your meeting with the student to try and minimize any reaction or escalation?
- Sending the meeting request early in the work day at the beginning of the week allows more time to hold the meeting and monitor any follow up (offering meeting times that appear to work with their class schedule)
- Remind them of their right to bring an Advisor and recommend an Ombudsperson
- Communicate that while this is not an investigation, they are able to respond to the allegations made and share their account of the situation
- If the meeting is in person (versus a virtual meeting), ensure that you have it set up with your own safety in mind

Clear communication with the respondent is critical in ensuring a procedurally fair process. Be mindful that the respondent is likely coming to the meeting with a variety of emotions. Your ability to do your best to communicate the concerns while also offering to work with them is critical. The respondent may be less likely to engage in reflection or counselling if they feel judged or shamed. While the intent of their behaviour does not affect the interim measures, it can be useful to explore the incident with them and to look for opportunities for education, such as around consent. Oftentimes, the respondent may not have any other space or person with which to have these conversations.



**The following should be communicated to a respondent when imposing interim measures:**

- Identification of language in the relevant policy showing the criteria for interim measures to be used;
- Emphasis that interim measures are nondisciplinary, non-punitive, and have no impact on their status as a student;
- The allegations of GBV, including the name of the complainant;
- What the specific interim measures are;
- How to request a reconsideration of the interim measures;
- What behaviours would be considered retaliatory, harassing, or further GBV;
- Information on campus services and how to request academic accommodations;
- Who or where they can engage in counselling or conversations to learn more about GBV and their behaviour;
- That a case manager (in some PSI's) or worker will be following up with them.

If staffing allows, it is best practice to have different staff persons support the complainant and work with the respondent. This addresses concerns of bias, minimizes overlap, and allows the staff member working with the respondent to fully focus on their needs.

**CONSIDERATION:**

Exploring the incident can be a highly sensitive and emotionally charged interaction and is best done over the course of 2 - 3 sessions (or more, if needed). The purpose of the first one or two sessions is to build trust with the respondent by exploring their academic & life goals and aspirations, positive on-campus social interactions, and successes to date. This provides a positive, solution-oriented basis upon which to build towards the more difficult conversation. It also offers insights into the PWHCH's value system, supports, positive personality traits, ongoing stressors, and the like. These are things that can be drawn on when discussing accountability and making positive changes.

When the time comes to talk about the incident, consider situating the conversation in the PWHCH's values and ethics identified in the first sessions. Clarify that the goal of the session is review the incident in a non-judgmental way - for both respondent and complainant. Emphasize support, while also posing challenging questions. Provide ample time and space for the PWHCH to process and reflect on the incident and the questions so they can provide heartfelt answers. Let the PWHCH know that as much time or as many sessions as needed can be scheduled to work sincerely through the process.

## Communication with the Complainant

It is also important to plan your communications with the complainant and any staff who needs to know to ensure that the interim measures will be implemented and monitored. We suggest informing the complainant once the meeting request has been sent, when the meeting is occurring, and then updating the complainant afterwards to confirm that the conditions are in place. Transparency with the complainant supports a trauma-informed approach and reinforces that the process is survivor-driven. It also allows one to monitor any violations of the interim measures, which would necessitate a revised risk assessment. For example, if the respondent immediately reaches out to the complainant after a no-contact condition is imposed, your level of concern for more GBV and risk of harm to others would increase because of the respondent's noncompliance. An additional step should also be taken to inform the relevant staff and faculty members who can assist in the implementation and monitoring of the interim measures. It is also strongly suggested to inform the respondents about which staff and faculty know of the interim measures imposed upon them.

### CONSIDERATIONS:

- Who is in a position to help monitor the interim measures?
- When violations of interim measures occur, who should be informed?
- Of who needs to be informed, what information should they have?





## CASE EXAMPLE

A student living in residence discloses that she experienced sexual assault from another student who lives in a different residence hall. She also discloses that the student appears to be exhibiting signs of stalking-like behaviour, showing up in numerous places on campus at the same time as her. After learning about her options under her PSI's GBV Policy, she decides that she'd like to pursue interim measures but has not yet decided on whether she would like to make a formal complaint. After the interim measures are explained to her and her input is actively sought, the following interim measures are issued:

1. A no-contact order that will name her and limit the respondent from contacting her directly or indirectly, through any electronic or in-person means, including contact through other people. If the two students find themselves in a shared space such as a hallway, elevator, stairwell, etc., it will be the respondent's responsibility to leave if they are not there for any academic purpose.
2. The following space restrictions: the respondent will be restricted from her residence hall and from the campus fitness centre during certain hours of the day.

The Student Conduct Officer of your PSI arranges to meet with the other student where interim measures are to be imposed upon. Upon review of the interim measures, that student expresses disagreement with the letter and notes that "this is not a fair process." The Student Conduct Officer emphasizes how these interim measures are non-disciplinary, non-punitive, and have no impact on their status as a student. Despite the explanation, the student exclaims that he wants some legal advice. The Student Conduct Officer provides contact information to the Student Union's lawyer and outlines how they can make an appointment for this particular resource.

### CONSIDERATION:

How would you work to have a respondent understand that the interim measures are non-disciplinary and minimally restrictive?



## Key Considerations

Working with respondents who have interim measures imposed upon them can present many challenges as it may be a source of shock for the respondent and instantly generate reluctant (and sometimes resistant) feelings within the respondent. Consider the following:

**“It's about the approach and making that person understand that you're not supporting the harm caused, you're supporting them.” (COM-2)**

- Upon the issuing and imposing of the interim measures, if the respondent denies the allegations and feels they are being targeted, how would you respond?
- After the issuing of an interim measure, the respondent subsequently withdraws from the institution a month later. Who and how would one explain the scope of your institution's processes to the complainant in this situation?
- You receive a third email asking to reschedule a meeting where it is intended to communicate the interim measure to be imposed on that student. What might be your next step?

In a PSI setting, the imposition of interim measures should also include regular check-ins to assess the impact of the conditions on a respondent, the complainant and the community. There will inherently be conflict when assessing the needs of the respondent and those of the complainant and community (e.g., privacy considerations, restrictions in participating fully on the campus and in campus life), and it is best to expect and address them with creative problem-solving as opposed to avoiding this conflict altogether.

### **CONSIDERATION:**

Consider denial as an invitation to know more and an opportunity to meet the respondent "where they're at." Acknowledge the respondent's feelings and invite them to a session to talk more about it. Provide the time for them to discuss their feelings and resentment as a way to de-escalate anger and build trust. Ask considered, exploratory questions on the basis of the information. This may provide you with a wealth of detail that can potentially help identify the underlying causes and conditions for the harm and provide appropriate apertures for asking respectfully challenging questions.



### **CHALLENGES AND CONSIDERATIONS:**

During a check-in with the student, the topic of consent arises. Would your conversations on consent look any different with a respondent who shares that the GBV incident was their first sexual encounter versus someone who you have multiple disclosures about? Would the supports you offer look different with these two respondents?

## Risk Assessment

Safety planning is the result of a risk assessment, where the mental, physical, emotional, and spiritual safety of all students is considered.

“What’s essential in this work is to understand that the client isn’t the person sitting in front of them, in that what we’re trying to do is to create safety for the person they’re affecting. We’re doing that through unpacking and challenging and creating safety in their behaviour. The key question is, ‘How am I going to create safety for the person harmed?’” (COM-1)

In their approach, Changing Ways reviews each individual’s unique context and how it may elevate certain risk factors for violence. Specifically, they determine how mental illness or poor mental health, addiction, and housing status may inhibit or disinhibit an individual’s violence risk. When asked about possible risk factors within a PSI context, the ED noted the possible isolation a student may experience after the institution intervenes as a result of a disclosure or complaint. The following quote by the ED is incredibly relevant in a community or PSI setting:

The 2020 global pandemic prohibited in-person groups at Changing Ways, but the staff continued online weekly client check-ins to monitor for emerging risk factors. They realized that many risk factors were escalated with the negative impacts of unemployment, kids being at home, and families generally being more confined together. The check-ins were highly structured and focused on the client’s current experience and their needs.



Assessing risk is helpful for identifying possible patterns of behaviour and identifying risk factors, which is not dissimilar to the *Triaging Risk Factors* discussion in the earlier section on *Complaints Notification* section. Such a review of these previously mentioned factors can be used to create clear risk mitigation and management plans. Any interim measure imposed should be clearly linked to the allegation(s) or risk(s) identified in the risk assessment. Regardless of what risk assessment your PSI uses, the following should be considered:

- At what point do you conduct a risk assessment? When, in your process, is this most effective?
- What person or team conducts the assessment?
- How can the assessment be trauma-informed and incorporate an intersectional and survivor-centred approach?
- What, if any, information is shared and with whom?
- Does your process build in regular review of the risk triage or assessment to continually reevaluate your level of concern?

Throughout the complaints process, the interim measures should be reviewed for their effectiveness in increasing safety for the complainant.

Risk assessment tools that are used by PSIs are either informal evaluations or highly structured tools that are either actuarial or based on structured professional judgement principles. Nevertheless, there is not currently a standard or reliable risk assessment tool for Canadian PSIs, and institutions may thus approach risk assessment in different ways. For more of a comprehensive discussion on this topic of risk assessments in PSIs, readers are directed to Prevett's (2020) *Sexual and Gender-Based Violence Community Risk Assessment Policies, Procedures and Protocols: A Framework for Implementation at Canadian Post-Secondary Institutions*.

# Hearings, Meetings, and Interviews

When working with PWHCH, it is possible they will have to attend a hearing, meeting, or interview as part of a process to determine a finding under a GBV policy, responsibility and/or outcome. While due process frameworks and the applicable policy will guide the hearing/meeting/interview process, there are many factors to consider when planning, scheduling and/or facilitating these sessions.

## Scheduling

It is essential that whoever is appointed at the PSI to schedule any meetings/hearings/interviews has an understanding of trauma-informed communication. It is critical to be ever mindful that the parties they are communicating with may be experiencing stress, trauma, and/or anxiety. The language used and the approach taken to scheduling should be thorough yet simple, thoughtful, and person-focused. Care should be taken to provide adequate notice and information to the respondent.



### **CALL TO ACTION:**

Train any and all employees involved in any part of a process in trauma-informed communication.

### **CONSIDERATION:**

Is it an employee trained in this field or are you relying on administrative support who might not have the specific training and skills in GBV?

It may be acceptable to rely on administrative employees to assist with scheduling and outreach, but they must understand the importance of the communication and have some awareness of trauma-informed communication when dealing with all parties.



**Typically communicated by email, a notification of a meeting/hearing/interview should include the following:**

- Explanation of who is reaching out and for what purpose, e.g. “My name is [name of scheduler], and I am reaching out to you today to schedule your interview time which is required as part of the investigation into the sexualized violence complaint dated [date]”



**CALL TO ACTION:**

Trauma-informed investigation training is recommended for anyone involved in GBV processes, even if they are not the one conducting the investigations.

- Description of what the meeting/hearing/interview will entail and how it will work. Example: “Please see the attached agenda for the hearing. You will be called to provide an opening statement at [time]. Your opening statement should include...”
- Who can attend the meeting/hearing/interview with them, e.g. “You are entitled and encouraged to bring one person with you to the meeting. This can be a support person or legal representative. A support person is someone who...”
- A list of who will be in attendance and their role
- Notification if they are expected to prepare anything in advance
- The location of the meeting/hearing/interview with detailed instructions. Example: “The location of the hearing is the Grand Hall meeting room, which is located off of the main lobby in the Grand Hall building. Upon arrival to the Grand Hall, please wait in the seating area located...”
- If relevant, a description of the materials provided. Example: “Attached you will find a copy of the hearing package, which includes the...”
- Who they can contact if they have further questions
- A request that they confirm receipt of the email



## Timing

Timing is important when booking a meeting/hearing/interview. Adequate notice should be provided, unless a respondent wants to meet sooner and it can be accommodated. There should be some flexibility built into the scheduling without causing undue delays in the process. For instance, a student requesting to meet after an upcoming exam or major assignment would be acceptable. Requesting a number of delays because they “are busy” would be considered an unacceptable request. We recommend using the principles outlined in the introduction to guide any decisions made regarding scheduling and accommodations. With student respondents, it is essential to consider the typical student schedule, avoiding scheduling during intense exam periods, if possible. It also helps to understand the specific program requirements, as certain academic programs may have an atypical schedule with periods of assessments/assignments outside the norm.

### CONSIDERATION:

What would you consider in terms of what an adequate notice period could be?



### CALL TO ACTION:

When working with student respondents, look up their academic program and schedule. Know the academic expectations of specific programs to keep in mind when scheduling meetings/hearings/interviews.

Anecdotally, our Community of Practice practitioners have seen examples where a student respondent was not provided with flexibility and adequate notice when scheduling a meeting/hearing/interview. In one example, the respondent was provided only 24-hours notice to appear at a hearing. When the student wrote back to explain they had a work shift during that time slot, they were told that it was the only one available, everyone else was already scheduled, and that they should reschedule their shift. Pressuring a student to miss a work shift and not knowing how that will affect them financially does not invite an impression of fairness in our processes. A more person-centred approach would allow for consideration of the respondent’s schedule as well as the other hearing members.

## Location

When selecting a location, it is essential to ensure that a private and comfortable waiting area is available for the respondent and their support person/representative until they are called into the meeting/hearing/interview. Additionally, this must be a space where the complainant and their support(s) will not accidentally meet the respondent and their support(s). This will require canvassing class schedules and considering spaces where the respondent may be banned or restricted from accessing. If a respondent has an interim suspension or ban from campus, consider using either an off-campus location or ensure that the respondent knows that an exception is being made for them to access campus for this specific purpose and for a limited timeframe. The complainant must also be notified that the respondent will be on campus for a limited period of time and provided with a general location. Spaces should be accessible and have access to non-gendered washrooms. If both the complainant and respondent are appearing at a hearing together, staff and/or support persons should be available to ensure there are no accidental encounters in washrooms, hallways, common spaces, etc.

### **When setting up a room for a meeting/hearing/interview, consider having the following available:**

- Water
- Tissues
- Writing tools (paper, pens, etc.)
- Copies of relevant policies/collective agreements, etc.
- Other refreshments
- Sensory objects/fidget toys

#### **CONSIDERATION:**

As a practitioner working with respondents, it is important to think about a time when you had to attend a really important meeting, hearing, or interview. What helped you prepare and stay calm? What about the room was helpful or harmful? What did the interviewer do to help you feel comfortable? What could you have used in the room with you? What was missing? Taking the time to think through these questions is a helpful activity that will help ensure your spaces are equipped to support all parties.



## Length of Meeting/Hearing/Interview

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The length of time for the meeting/hearing/interview will vary depending on the circumstances of the case. The process may require multiple meetings or interviews.

**A standard interview or meeting within an administrative process should not take longer than two hours.**

More time can be scheduled on a different date if two hours is not enough to gather the required information. Breaks should be offered and the respondent should be reminded at the start of the meeting/interview that they can request a break at any time throughout. For a hearing as part of an adjudicated process, more time may be required; but again, breaks should be scheduled and refreshments provided if you anticipate the meeting to run longer than two hours.

## Support Persons / Legal Representatives

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The specific GBV policy should address whether the respondent may have a support person or legal representative present at various stages of the process. Ensure the respondent clearly understands who can accompany them to a meeting/hearing/interview and what that person's role is. Be specific and refer back to the policy, so they know where to look for more information. If the policy is silent on this issue, it is encouraged to allow the respondent to have someone with them at all times, whether a friend, family member or legal representative, and perhaps even some combination of these.

**Busby and Birenbaum (2020) suggest that case law in Canada presumes that students facing serious sexual violence complaints have the right to counsel all throughout a given process.**



Of the twenty-five policies across Canada that they reviewed, under half explicitly permitted legal representation without restrictions at hearings or meetings. It should be duly noted that when a counsel's presence is barred, the probability of the case being called into question is high, especially if the student has been expelled or suspended.



#### **CALL TO ACTION:**

- Ensure your PSI provides access (referrals, funding, etc.) to legal counsel for those who want it but do not know how to access it or cannot afford it.
- Update policies to include information on respondent supports and role of support persons and legal representatives.

Finally, ensure that the respondent has access to PSI-provided assistance if they are not able to rely on personal or legal support persons. The respondents should also always be aware of who they can speak to if they have any questions or concerns about the process, and it is ideal if this person is different from the decision-maker in the process.

# Determinations/ Findings

At the determination/finding stage of the process, considerations for the respondent will be similar to those provided to the complainant. When a determination has been made as to whether the respondent has breached policy, it is important to think about the timing and delivery of this decision.

## Timing of the Determination / Finding

Though it is important for decisions to be timely and delivered to the parties without unnecessary delay, a person-focused approach would take into consideration the exact timing of when the decision is delivered to the respondent.



### **CALL TO ACTION:**

Consider the timing and delivery of the determination/finding and employ a person-focused approach when communicating the determination/finding.

For example, decisions should not be sent on a Friday afternoon when services are about to close for the weekend. This leaves the respondent with nobody to contact for at least two days if they have questions or require immediate assistance from campus service organizations. Such an action could engender more reluctant and resistant feelings. Similarly, consider the timing before reading week or holiday breaks. It might be better for the respondent to receive the decision if they are planning to be home with supportive family and friends. Conversely, it would be less helpful to receive it if they are scheduled to take a vacation. These factors might not seem important, but will instill a sense of trust and fairness in the process, provided they are offered to all parties to the investigation. Additionally, it is helpful to know the respondent's academic program and class schedule in order to time the delivery in a way that will have the least effect on the respondent's academics. Receiving a decision right before a major exam or when a project or assignment is due could have detrimental effects on the respondent. A simple way to address this is to reach out to the respondent to notify them that a decision has been made and to seek feedback as to when and how they would like to receive it.



## How to Deliver the Determination / Finding

Depending on the nature of the decision and the impact it will likely have on the respondent, consideration should be made as to whether the decision should be delivered in person. This allows for a clear explanation of the decision and next steps, as well as an opportunity for the respondent to ask questions and clarify anything that is unclear to them. If possible, they should be encouraged to bring a support person to this meeting. If this is a standardized practice within your process, this will avoid assumptions being made as to the finding (responsible or not responsible) when the respondent is contacted for the meeting. It should be explained in advance that a meeting will be booked to deliver the determination, regardless of the finding.



### **CALL TO ACTION:**

Standardize an approach for meeting with a respondent to deliver a determination/finding.

## What to Include in the Determination / Finding

The communication of the determination should once again include information on the resources that are available to the respondent. This should include specific respondent supports, Health and Counseling Services, after-hours assistance such as a crisis line, etc.



### **CALL TO ACTION:**

All communication should reiterate support resources, expectations, next steps, and who to contact for process questions.



The determination should also be clear on the next steps, including options for appeal or review, and who the respondent can speak to if they have any questions about the process. These are likely items that have already been addressed throughout the process, but it is important to reiterate them again so that they are reinforced and easily accessible to the respondent. Whether this stage in the process includes sanctions or not, the communication should clearly indicate any restrictions that remain in place and what is expected of the respondent. Similarly, if there is no finding of responsibility or violation, a clear explanation of what this means for the respondent should be included.

**CONSIDERATION:**

In cases where there is no finding of responsibility against the respondent, what happens next? Does the case end and there is no further contact? It is important to consider that even though the formal process might be concluded, there are still repercussions on individuals and their relationship to communities that might need to be supported. Does your PSI have someone who can connect with the respondent and find out what this decision means for them? Do they have friends, family and other supports in place to allow them to move forward successfully?

# Sanctions

Upon establishing a finding that a respondent has been found to cause harm, and rendering a decision with respect to that finding, such an individual may be subject to sanctions and measures. The implementation of sanctions and measures should be founded upon ideas rooted in progressive discipline where PWHCHs have the ability to learn from their GBV misconduct, their mistake in the choices that they made, and what better choices PWHCH can make with respect to social and intimate relationships. Sanctions and measures should essentially be corrective, and can range from reprimands and restrictions to suspensions and expulsions. Such sanctions and measures need to not only be corrective, but proportionate to the GBV misconduct committed. For a decision-maker to choose a sanction or measure that under-addresses the misconduct would not promote the safety of the survivors and victims. Conversely, over-addressing the misconduct with unfair sanctions and measures can be punitive to PWHCH and prevent them from possibly learning healthier and pro-social behaviour. Thus, the sanction or measure should be matched carefully to the nature and severity of the GBV harm, as well as to the strengths and abilities of the PWHCH themselves.

## CONSIDERATION:

- What is your definition of "progressive discipline?"
- What sanctions lie on the spectrum of measures that can be assigned to PWHCH?
- Can your institution create a Sanctioning Matrix for decision-makers? Consider how the creation of a sanctioning matrix can create predictability for survivors and victims, and instill faith in this part of the roadmap.

**How these sanctions and measures are determined is typically at the discretion of the decision-maker.**



#### **POSSIBLE CHALLENGES:**

What kind of training does a decision-maker need in making a decision regarding sanctions or measures?

Apart from the finding itself, with respect to the nature and severity of the GBV harm, a number of other questions and considerations need to be taken into account by the decision-maker with respect to making such a decision:

- What do the survivor and victim see as an appropriate sanction or measure?
- What aggravating factors exist with respect to the PWHCH? (e.g., PWHCH was in a position of power over the Victim; the PWHCH had demonstrated retaliatory behaviour or thinking; the GBV misconduct was a long-standing pattern and occurred multiple times)
- What mitigating factors exist with respect to the PWHCH? (e.g., the GBV misconduct was brief in occurrence; the GBV behaviour has a low probability of occurring)
- What are the compounding factors that exist? In other words, what is the disciplinary history of the PWHCH? (i.e., is this finding part of a set of cumulative violations?)
- Does any precedence exist, and can such precedence be followed in the case being considered with respect to sanctions?



Taking these questions into consideration can assist decision-makers with making a fair decision that promotes the safety of victims, survivors and the campus community as a whole.

Also at this stage in the roadmap for PWHCH to navigate is working with those who implement, monitor and deliver these sanctions and measures. Such work may be done by multiple offices, depending on the resources of each PSI.

#### **CONSIDERATION:**

Does your institution have multiple offices that fulfill the roles of implementing, monitoring and delivering sanctions? If not, why not?

If a PSI implements, monitors, and delivers these sanctions and measures through one person or office, it runs the risk of creating role confusion for a PWHCH. The difficulty with role confusion emerging from working with PWHCH is that it could prevent or delay a PWHCH from engaging with the sanctions or measures in a meaningful manner. If separating out these functions is not possible, it becomes important for that individual or office to clearly outline what role is being performed at any one moment during this part of the process. Additionally, if there is more than one sanction or measure to be completed by the PWHCH, this process of implementing, monitoring and delivering may all be concurrently occurring and that the need for role clarification is even more pressing to consider.



#### **POSSIBLE CHALLENGES:**

What kind of training does a decision-maker need in making a decision regarding sanctions or measures?

## Insights from our Research

Some practitioners interviewed in our research suggest that sanctions and measures should have the goal of holding PWHCH accountable for the harm they have committed. Such models consist of “provid(ing) education groups and support groups for people who have caused sexual harm.” Others warned that the “optics of putting resources into something like this may not be well received by everyone.” (PSI-9). Although it may seem that resources are being dedicated to PWHCH, they are ultimately in the service of increasing the safety of the survivors and the campus community as a whole. Not losing sight of this is important.

Most participants in our research acknowledged that a gap in knowledge exists about employing sanctions and measures that promote healthier behaviours and that they are eager to adopt new, evidence-informed programs.

**Survey participants agreed that any service or program serving as a measure or sanction would need to include conversations about GBV, gendered norms, and the relationship between masculinity norms and GBV.**

These discussions may present opportunities for PWHCH to explore the GBV harm they have caused in a substantive and meaningful way.



### RESEARCH NEEDED:

The efficacy of certain sanctions and measures on the future behaviour of PWHCH.



## CASE EXAMPLE

The PWHCH received his “decision letter” and expressed much frustration with its delivery. He wondered how fair the sanctions have been and felt that they were too harsh. He had been contemplating an appeal of the sanctions and could not find a satisfying answer on how the decision-makers came to their conclusion.



### POSSIBLE CHALLENGES:

- At your institution, where can a PWHCH find information on whether the sanction that they received was unjust or unfair?
- Should the articulation of the conclusion occur in the decision letter and/or in a face-to-face meeting?

The sanctions that had been assigned to him were a written assignment, restricted movement on campus and access to facilities, and disciplinary counselling to explore issues of accountability, responsibility and toxic masculinity. The written assignment would be due after the completion of his course of disciplinary counselling, and he was asked to continue reporting to the Student Conduct Office on a monthly basis for a period of one year. He was expected to comply with these conditions and to have completed the disciplinary counselling and the written assignment before the year’s end, or face more sanctions and measures.



### RESEARCH NEEDED:

More inquiry is needed on the curriculum of disciplinary counselling and its effectiveness.



## Key Considerations

At this section of the Roadmap, working with PWHCH requires an understanding of progressive discipline, proportionality, and procedural fairness. Knowledge of these subject areas is important because it helps determine if sanctions are unjust. Being punitive or being too lax in dispensing discipline can create disengagement for PWHCH, which in the end is an ultimate disservice to survivors, victims, and the campus community. Such disengagement prevents PWHCH from truly learning to take accountability and responsibility for the GBV harm that they chose and committed. For those working with PWHCH at this stage, it is also important to consider how taking responsibility is not the first response that PWHCH do when called to account.



### RESEARCH NEEDED:

Strategies need to be tested and evaluated on how to engage PWHCH that do not increase their resistance and reactivity.

Despite finding(s) of responsibility being made, a decision being rendered and sanction(s) or measure(s) being assigned to a PWHCH, resistance and reluctance to taking responsibility may also be high at this point in the process.



### POSSIBLE CHALLENGES:

What kind of training do I need to work with PWHCH at this stage of the process?

“Offenders are predisposed to minimize, displace, or deny responsibility and adversarial processes reinforce this. When offenders are found responsible for sexual or gender-based misconduct, their sanctions may promote separation and isolation rather than reconciliation and reintegration. In addition, most campuses do not have effective risk assessment protocols or treatment options for offenders, making their safe and successful reintegration a challenge.”

[https://www.sandiego.edu/soles/documents/center-restorative-justice/Campus\\_PRISM\\_Report\\_2016.pdf](https://www.sandiego.edu/soles/documents/center-restorative-justice/Campus_PRISM_Report_2016.pdf)

As such, it is important for those who work with PWHCH at this stage to invite them to this part of the process, avoid shame-based interactions, not personalize the resistance and reluctance displayed, and find creative ways of challenging and exploring the resistance and reactance as opposed to being confrontative.

It is worth repeating that having this knowledge is critical if a PSI wants a PWHCH to learn and engage in better behaviours. Otherwise, there is not only a lost learning opportunity for the PWHCH; the opportunity to increase safety for victims, survivors and the campus community as a whole is also lost.



#### RESEARCH NEEDED:

A general study is needed on what sanctions have a positive impact on PWHCH and increase the safety of the victims, survivors and the campus community.



#### CALL TO ACTION:

The proper implementation of sanctions and the engagement of PWHCH with such measures is important to creating safer campus communities and the reintegration of the PWHCH. How do we mobilize resources, energy and time into this endeavour being done well?

# Reintegration After Suspension

When a student is found in violation of a PSI's GBV policy, common disciplinary measures can include either temporary exclusion from campus (suspension), restricted access to specific areas of campus, or permanent exclusion from the institution (expulsion). Although expulsion permanently removes the PWHCH from an Institution's jurisdiction, issuing a suspension or restricted access means that the PWHCH remains a member of the Institutional community on some level. PSIs are increasingly and rightfully focused on support for the survivor and the development of effective policy and disciplinary actions in cases of gender-based violence (Khan et al., 2019). To be most effective in responding to campus-based GBV violence, and to ensure procedures on campus remain survivor-centred, it is also important to plan for the return and reintegration on campus of students who have been found to have caused harm. Most importantly, the process of campus reintegration for PWHCH who have been sanctioned by temporary removal must keep survivor's needs and concerns directly in mind.

## Process Considerations in a Return to Campus and Academic Life

Many universities lack a process for the reintegration of PWHCH onto campus once their temporary exclusion is completed. After the conclusion of the exclusion period, PWHCH often return to campus without further administrative consequence, and often without mandatory follow-up procedures in place. For many universities, there is an assumption that the PWHCH's exclusion or suspension represents the entirety of the disciplinary action, such that they are not required to go through any reintegration process for returning to campus.



Yet, in cases of GBV harm, a PWHCH's return to campus could create feelings of unsafety for the survivor and others on campus. The safety and security of the survivor is all the more significant if they are still present at or associated with the institution.

Too often, students who return to campus after being sanctioned by disciplinary procedures are not subject to any sort of safety assessment upon their return to determine their potential for ongoing risk. Additionally, they are not provided with learning opportunities during or following suspension, nor are they provided with adequate resources to help them understand the harm that they have caused. A thoughtful and comprehensive reintegration process is necessary to ensure the safety of the survivor and the campus community as a whole. A comprehensive reintegration process will analyze the possible risk that the return of the PWHCH may cause.

**CONSIDERATION:**

Who, at your PSI, should be responsible for this planning process with the PWHCH?

Based on this assessment, such a process would promote and provide measures to establish harm reduction measures and, if possible, actions that could mitigate further risk and provide education to the returning student. Such a process could provide the PWHCH with access to the necessary social, academic, and well-being resources they will need to face the challenges of returning. Those challenges can include their exclusion, isolation, or ostracization from peer groups, academic challenges related to the gap in their studies, and mental health issues, among other possible challenges.

## What the Data Suggests

Transparency and expectation setting in the reintegration process is an important part of ensuring campus safety. If reintegration requirements have been clearly established, they can be addressed at the moment that the disciplinary decision to suspend or temporarily exclude a student has been made. The disciplinary letter provided to the student at the conclusion of the conduct process can outline what the expectations will be of the PWHCH upon their return to campus following their suspension/exclusion. Sample wording could include:

**“Your ability to return to the University/College following your period of suspension is contingent on your participation with the following re-entry plan...”**

Re-entry procedures can also be clarified in your PSI's Code of Conduct or GBV Policy. Doing so would establish expectations for what campus reintegration would involve and can articulate the importance of creating a safer environment for survivors and others on campus. The policy could also establish a model for the process of reintegration and what kinds of services and planning it would involve. Reentry processes should be accessible, clear, and visible to both the respondent and the survivor. Students can also be made aware that they will not be able to return to the institution until certain conditions established for their re-entry are met.

Re-entry conditions can be individualized and should be focused on the student's behavioural concerns that necessitated the removal/suspension. Reentry conditions can also take into account any cultural considerations that may impact reintegration. Jacoby et al. (2021) recommend using the Risk Needs Responsivity (RNR) model to best determine what interventions may be appropriate.

### **CONSIDERATION:**

Who at your institution can determine these re-entry conditions?

The RNR model requires the following considerations:

1. Risk: what level of risk does the PWHCH represent to campus? High? Medium? Low?

Ideas to assess risk include:

- a) Requirement of a professional assessment prior to return<sup>5</sup>. This will ensure a full and appropriate assessment is made of the level of risk the student may pose upon return\*
- b) Disciplinary Counseling (Mendoza, 2021), either prior to or after return\*\*

#### CONSIDERATION:

How might we use this information? For example, if a student is determined in this assessment to be high risk, what will the response be? Must a student be deemed low risk in order to return? What are the implications of this?

2. Needs: Static/non-changeable (i.e., no. of prior incidents) versus Dynamic/changeable (i.e. anger, substance abuse, supporting peer groups, etc.). It is important that interventions work to target the needs that are dynamic and/or changeable.

Ideas to address needs may include:

- a) Requirement to attend community programming during the exclusion period (anger management, alcohol awareness, sexual offender group, etc.). Proof of attendance required prior to return\*
- b) Disciplinary Counseling\*\*
- c) Meeting with an Academic Advisor.

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<sup>5</sup> Jacoby, et al. recommend obtaining a release of information agreement, which should be signed by the student prior to the provision of services. This should be done by a community based licensed clinician with training in working with problematic and abusive sexual behaviour. They also note that some forensic psychiatric programs at PSIs may have specialized clinicians available that can assist with this assessment.



3. Responsivity: What is the PWHCH's learning style? What motivates them? What are their abilities? Identities?

Ideas to address responsivity may include:

- a) Meeting with the Conduct Coordinator (or relevant campus personnel) to discuss behavioural concerns, outline University expectations, create a behavioural plan etc. This could be a single meeting, or required monthly meetings for a defined period of time upon return to campus.
- b) Culturally appropriate assistance\*\*\*: Meeting with an Elder/Knowledge Keeper, regular check-ins with International Student representatives, 2SLGBTQ+S+ support services, etc.
- c) Disciplinary Counseling\*\*
- d) Circles of Support and Accountability (Karp et al., 2016).

When using Disciplinary Counseling or Community Resource Programs as a condition of return for the PWHCH, it is important to consider the following:

- Are they able to access on-campus resources and services during the exclusion period and, if so, what does this look like? Are they able to come to campus to access services, or are they banned from campus? Is the option of an online service available to them?
- Does your community provide adequate services that are accessible to the PWHCH during the removal period?
- Is there a fee associated with the community program/service, and is the cost prohibitive to the PWHCH? Should your PSI consider funding/subsidizing these external services?
- Are there cultural concerns that need to be considered? For example, does the PWHCH have access to multicultural or culturally appropriate counselling? Are there language barriers that will impact their access to services? Will the suspension impact their student visa, and if so, do they have the ability to access services in their home country if they are required to leave the country temporarily?

Consider these other factors when drafting a reintegration plan: How are the survivor's safety needs assessed at the respondent's point of return to campus?

- How are the survivor's needs integrated into the reintegration plan?
- Is the survivor given notice regarding the respondent's return date? If yes, what does that notice look like?
- Are there any confidentiality concerns with providing re-entry information to the survivor, or can this be included as a condition of reintegration?
- Were there no-contact measures enacted prior to suspension? If so, can they be continued as part of the reintegration conditions?
- Are there other people (Faculty? Departments? Housing?) that need to be informed of the PWHCH's return to campus? In what capacity and for what purpose do they need to be informed?



#### **RESEARCH NEEDED:**

More research is required in this area to better understand the range of factors to be considered in developing comprehensive, safe reintegration plans.

#### **CONSIDERATION:**

How could the worker assisting the complainant and the worker assisting the respondent collaborate throughout the process to ensure the complainant's needs are fully understood and integrated into safety plans and the reintegration process?

## Key Considerations

We believe it is important to establish reintegration processes for PWHCH returning to campus after suspension or other temporary campus exclusions. Such processes can be part of a larger process of creating safer campus spaces to prevent GBV. By establishing clear and transparent reintegration processes, respondents and survivors can both know what to expect when a PWHCH returns to campus after having been disciplined. These processes can be written into policy and can be documented on the PSI's websites and in institutional communications with the PWHCH, the survivor, and the relevant staff and offices that would be responsible for overseeing the reintegration processes.

More importantly, ensuring that the safety needs of the survivor are at the forefront of reintegration plans is key. When creating the conditions of reentry, survivors' needs should be a central part of the process. Allowing survivors to voice their needs during the disciplinary process may help to develop the most appropriate and survivor-centred reintegration conditions. More research is needed to determine some other ways that could best promote safety for survivors upon a PWHCH's re-entry.

Reintegration, then, can be part of the process through which PSI's create safer, anti-oppressive campuses. Reintegration conditions can promote accountability by offering opportunities for PWHCH to better understand how their behaviours caused harm to the survivor. Including opportunities within the reintegration plan to educate the PWHCH about GBV, power and privilege, and the participant's role in contributing to individual and collective harm is important to developing accountability and creating safety on campus following removal.



# Appeals

An important component of any process is the right of the respondent and/or PWHCH to appeal decisions at any point in the procedure (i.e., complaint, investigation, adjudication, and sanctioning). Providing respondents and/or PWHCH with the ability to appeal ensures that decisions made throughout the process are procedurally fair. It meets the expectations of PSIs under Canadian administrative law, and it ensures that all available and appropriate evidence is reviewed and decision-making is reasonable and appropriate in the circumstances. PSIs should be certain to have both the appeal process and the grounds for a respondent and/or PWHCH appeal clearly noted and available for respondents and/or PWHCH to review.

**The following points are just some of the common grounds that PSIs agree upon regarding an appeal of a decision of a respondent and/or PWHCH misconduct:**

- Relevant evidence has become available that was not available at the time of the original decision, and there is a strong possibility that the evidence would have a significant effect on the decision;
- The student was denied:
  - An opportunity to know the case against them;
  - An opportunity to respond to the case against them;
  - An unbiased decision; or
- The severity of the sanction is disproportionate to the nature of the violation.

**Additional information to be included in the appeal process and procedure may include, but is not limited to:**

- How and where a respondent submits an appeal;
- Specific elements of the appeal process itself (i.e., Will the appeal include a meeting? Will the appeal be presented to a review board? Who will review the appeal? etc.);
- Whether the respondent will be permitted to have a support person during the appeal process;
- What resources (mental health counselling, assistance with submitting an appeal, etc.) are available to the respondent;
- When the respondent can expect to have their appeal reviewed or decided.

#### **CONSIDERATION:**

- At your institution, what role will the support person play in an appeals process?
- Does your institution have an office that may act as a recommended support person for respondents (ex. Ombudsperson)? If not, does your office provide individualized recommendations for respondents depending on the case?

## Notifying Respondents and/or PWHCH of their Right to Appeal

Ideally, respondents and/or PWHCH are notified of all their rights early in the formal reporting process. At minimum, a respondent and/or PWHCH's right to appeal may be included on the list of respondent rights (see Working Group's Policy Compendium for PSI's Support and Response of People Impacted by GBV for an example) in the initial investigation process, and repeated once a decision is communicated to the respondent. Ideally, respondent rights may be touched on throughout the process of a formal report and investigation.

In order to ensure that respondents and/or PWHCH understand their right to appeal, and the institutional procedures and policy related to an appeal, the office managing the investigation should consider:

- Including information related to the appeal process and procedure in the respondent's decision letter
- Reviewing the appeal procedures with the respondent and/or PWHCH, or providing the respondent and/or PWHCH with information regarding campus services that may assist them with their appeal (e.g., a case manager, institutional Ombudsperson).
- Ensuring that appeal procedures and policy is provided in clear, accessible, plain language
- Ensuring that the institutional appeal procedure and policy is available on the PSI website

**CONSIDERATION:**

At your institution, who can assist respondents and/or PWHCH in submitting an appeal?

PSI policies and procedures may be overwhelming and confusing to individuals navigating them for the first time. In order to ensure decisions are procedurally fair, PSIs should make all best efforts that respondents have easy access and information regarding the assistance and resources available to them throughout this procedure if needed.

When respondents and/or PWHCH are notified of their rights, complainants should also be informed of the respondent right to appeal and what this entails. It should also be ensured that the complainant has access to on- and off-campus supports, should they find this process difficult.

## Ensuring Complainant Safety During an Appeal

Complainant safety should be an important consideration when a respondent submits an appeal. If the respondent is returning to the campus community, then the institution should consider whether the complainants should be notified ahead of this possibility; an unforeseen interaction with the respondent may lead to retraumatization on behalf of the complainant. Some key considerations may include:

- Does the respondent have the right to be on campus and attend appeal procedures, or can the appeal procedures occur off-campus?
- Will the respondent be asked to only appear at pre-agreed locations and times on-campus? If so, should the complainant be notified of these details?
- Does the complainant understand the appeal process and the respondent's right to appeal?



## Deciding on a Respondent and/or PWHCH Appeal

As appeals may be subject to legal review should the respondent and/or PWHCH decide to proceed with litigation in the face of a denied appeal, PSIs must ensure that the decision-makers deciding the appeal have knowledge and training of both procedural fairness and informed trauma practice (and how these concepts may overlap). Further, in order to be procedurally fair during an appeals process, the decision-maker of the appeal must ensure that they are separate from the decision-maker in the initial investigation and to review all of the evidence and grounds submitted in both the original investigation and the submitted appeal.



### **CONSIDERATION AND CHALLENGES:**

What challenges might your PSI face with a respondent and/or PWHCH who takes legal action against the PSI?

There is also the question of whether respondent and/or PWHCH learning and accountability have shifted since the initial decision. There is no time limit on when and where transformative learning may take place on behalf of the respondent and/or PWHCH. Respondents and/or PWHCH may undergo a shift in their understanding of the GBV misconduct in question prior to submitting an appeal or through the process of reflection during the process of submitting an appeal. Institutions may wish to take into account genuine remorse and accountability-taking on behalf of respondents, or a shift in these factors during the appeals process, if indeed these were key considerations in the initial decision.

### **CONSIDERATION:**

Where can your decision-makers obtain training in procedural fairness and informed trauma practice?

Additionally, appeals are inextricably linked with the sanctions applied in the initial decision. Severe sanctions, while sometimes necessary, may lead to a higher likelihood of the respondent and/or PWHCH appealing a decision if they believe a sanction is unfairly disproportionate to the representation of the harm (whether this belief is real or not). Therefore decision-makers should take careful consideration when reviewing appeals: Was the initial decision appropriate? Were there any educational sanctions considered? If educational sanctions were applied, were they appropriate? Was there a place for creative sanctions in this case?



### CASE EXAMPLE

A PWHCH has accepted the findings of an investigation that he participated in but comes to the student case manager expressing distress at the sanctions imposed. The PWHCH admits to their GBV misconduct, but feels that the conditions they have to fulfill are unfair, and would like to understand the reasoning behind such a decision. Despite the student case manager's explanation, the PWHCH is interested in seeking less conditions, and wants to speak personally to the decision-maker about their rationale. The student case manager advises that an appeal could be launched and provides referral information on who could provide assistance in submitting their appeal of the sanctions imposed upon them.

## Key Considerations and Appeals as an Opportunity for Reflection

The appeal process may be another opportunity to engage with the respondent and/or PWHCH in order to encourage and foster accountability. Through the appeals process itself, the respondent and/or PWHCH will be required to re-review their case in detail in order to argue their appeal. As time has passed from the initial finding or decision, strong emotions and reactions may have subsided. If this is a possibility, this may be an opportunity for empathy-building on behalf of the respondent in order to encourage some form of transformative learning with respect to their behaviours complained about by the complainant and/or survivors.

The workers who guide the PWHCH and/or the respondent through this process may be in a unique position to encourage this self-reflection. Consideration should be taken into ensuring that these personnel receive training in trauma-informed processes and philosophies in order to allow them to be attuned and open to the possibility of these conversations occurring with PWHCH and/or the respondents throughout the appeal process.

## Summary

This concludes our journey through the Roadmap. Along the way, we have aimed to provide as much of a detailed understanding as possible of what a PSI has to undertake to work with respondents and PWHCH that is both survivor-focused and trauma-informed. Throughout this Roadmap, we have provided opportunities to reflect on how your institution can design an approach that upholds the dignity and respect of respondents and PWHCH while also promoting accountability and responsibility-taking, which in the end increases the safety of complainants, victims, survivors and the entire campus community.

Our wish is that you use this tool as a framework for your own PSI. However, we understand that this document, despite how detailed we've tried to be, is an ever-evolving work in progress, and as noted in the introduction, this tool is a living document. This tool might not fully capture your PSI and its response to GBV with respect to respondents and PWHCH. Thus, we invite you to provide input on this tool, as we recognize that you too also have a rich experience and imagination on how this work can be done.

Additionally, we invite you to review the resources listed in Appendix B. There, we offer publications, community resources, and knowledge hubs to assist you with designing context-appropriate processes and finding training with people who are carrying out the work. Finally, our Community of Practice cannot help but think that we are at the cusp of an exciting momentum among those working in the field of addressing and preventing GBV at Canadian PSIs. We thank you for your commitment to undertake this work. We hope you take up the call to join us in making all our campus communities safer.



# Appendix A - Research Method

The data informing this tool draws on current research, established practices from Canadian and American PSIs, and direct feedback from campus and community-based practitioners.

## Data Gathering Method

The CP designed and issued a survey and conducted three virtual interviews between August 28 - October 1, 2020. The survey and interview questions solicited experience and suggestions related to developing dedicated services for respondents and PWHCH based on the following themes:

- Existing accountability models and related services
- Types of campus services
- Designing services
- Service provider roles and responsibilities
- Service provider training
- Education for people who harmed
- Campus governance considerations
- Process documentation and information-sharing
- Service evaluation

The survey was sent to PSI practitioners within this Community of Practice's (CP) professional networks. We received fifteen survey responses from across twelve Canadian campuses. Survey respondents are student care, student conduct, student life, and/or sexual assault centres practitioners, and each works directly with people who caused harm or are positioned to consider the importance of providing such services.

Additionally, three two-hour Zoom interviews were conducted with one PSI practitioner who developed a campus model for working with men who have harmed; a community practitioner who has worked for twenty years within a restorative justice model for sexual harm; and a community practitioner with thirty years experience in men's violence prevention models. The detailed and robust feedback provided key insights into the kinds of services campus practitioners need in order to work with people who have harmed, and the kinds of campus and community services and models that already exist.

## Participant Survey Coding Chart

CODE	PARTICIPANT'S TITLE
PSI-1	Assistant Director, Student Culture and Experience
PSI-2	Associate Professor
PSI-3	Student Conduct Officer
PSI-4	Program Manager, Violence Reduction & Incident Response
PSI-5	Coordinator, Student Conduct
PSI-6	Director, Sexual Violence Prevention and Response
PSI-7	Coordinator, Gender-Based and Sexual Violence Response
PSI-8	Director, Student Conduct Office
PSI-9	Assistant Dean, Student Life
PSI-10	Director, Sexual Assault Centre
PSI-11	Director, Helping Individuals at Risk
PSI-12	Acting Manager, Student Care
PSI-13	Director, Student Conduct and Accountability
PSI-14	(Former) Director, Anti-Violence Project
COM-1	Executive Director, Changing Ways
COM-2	Service Coordinator, Family and Supporter Services, REVIVE program

# Appendix B - Resources

The resources below expand upon our tool and offer support in helping you design processes and services specific to working with PWHCH. We also strongly recommend reviewing the Workbook designed by Courage to Act's Can Justice Heal Community of Practice.

## Publications & Workbooks

Lamade, R.V., Lopez, E. Koss, M.P., Prentky, R., & Brereton, A. (2018). Developing and implementing a treatment intervention for college students found responsible for sexual misconduct. *Journal of Aggression, Conflict and Peace Research*, 10(2), 134-144. Retrieved from <https://doi.org/10.1108/JACPR-06-2017-030>

*From the article's abstract: "This paper identifies specific factors of this population that ought to be considered to successfully develop an effective program, and the complexities of implementing treatment programs to this population, within a higher education system. This will include a discussion of barriers to implementation and challenges of employing treatment. This paper will present steps for implementing a treatment program and outline the core components of a treatment intervention for this population."*

Henke, J.E., Dunlap, J. & Tabachnik, J. (2020). Expanding the Frame: Institutional Responses to Students Accused of Sexual Misconduct. [Report]. National Association of Student Personnel Administrators (NASPA). Retrieved from [https://www.naspa.org/files/dmfile/Expanding\\_the\\_Frame\\_DOWNLOAD.pdf](https://www.naspa.org/files/dmfile/Expanding_the_Frame_DOWNLOAD.pdf)

*From the report's Acknowledgements: "The current study investigated the landscape of services that are provided to students accused of some form of sexual misconduct, relationship violence, sexual harassment, stalking, or other forms of sexual violence...[and] provides an overview of the current state of respondent services at institutions of higher education. The results will be relevant to senior-level leaders who are interested in ensuring equitable services for both parties in sexual misconduct cases, as well as those who provide these services."*



The Good Lives Model (n.d.) Retrieved from

<https://www.goodlivesmodel.com/information.shtml>

From The Good Lives Model webpage: “[T]he Good Lives Model of Offender Rehabilitation (GLM) has been... adopted by many different jurisdictions both locally and internationally. Its ethical core is that of human rights and it starts from the assumption that while offenders have obligations to respect other peoples’ entitlements to well being and freedom, they are also entitled to the same considerations... Two fundamental intervention aims follow from this ethical starting point, the enhancement of offenders’ well-being and reduction of their risk of further offending. According to the GLM, these goals are inextricably linked and the best way to create a safer society is to assist offenders to adopt more fulfilling and socially integrated lifestyles.”

Jenkins, A. (2009). *Becoming Ethical: A Parallel Political Journey with Men Who Have Abused*. Portland, OR: Russell House Publishing.

This process-driven book shows the reader how to design and organize a support and accountability program for people who have harmed sexually and includes assessment tools. From the [Goodreads review](#): “This book is a practical guide... [that] argues that intervention practices must move beyond attempts to coerce, confront, or educate a seemingly unwilling or unmotivated man. Instead, it offers respectful intervention practices, necessitating a parallel journey by the therapist, which includes: assisting men in finding an ethical basis and the means to cease abusive behavior and to develop new ways of relating; being informed by political, rather than psychological, metaphors of explanation and understanding; seeing intervention in terms of power relations and practices within families and communities, and within the institutional, statutory, and therapeutic settings in which men participate; moving to a restorative project which promotes the cessation of violence and abuse; promotes the restitution for harm done to individuals, community, and culture; and promotes a reclamation of a sense of integrity for the person who has abused.”

Miriam, M. & Hassan, S. (2019). *Fumbling Towards Repair: A Workbook for Community Accountability Facilitators*. Chicago, IL: Project NIA/Just Practice

From the [Just Practice](#) website review: This workbook “includes reflection questions, skill assessments, facilitation tips, helpful definitions, activities, and hard-learned lessons intended to support people who have taken on the coordination and facilitation of formal community accountability (CA) processes to address interpersonal harm & violence.”

**CANADIAN COMMUNITY ORGANIZATIONS WITH PROGRAMS FOR PEOPLE WHO HAVE HARMED** (Each of the following organizations offers training to people working with PWHCH.)

**Changing Ways** (London, ON) *“We provide alternatives for those wishing to end and take responsibility for their abusive behaviour. We help men and women who are emotionally, psychologically, verbally, sexually and/or physically abusive towards their partners.”*

**Community Justice Initiatives of Kitchener** (Waterloo, ON) *“CJI’s Revive program supports women and men over 16 who are impacted by sexual trauma through supportive group services. CJI assists both people who have caused sexual harm, as well as people who have experienced sexual harm. We also offer services for partners, families, and communities impacted by sexual harm. Revive program participants discover that they are not alone and that it helps to talk with others with similar experiences.”*

**Mennonite Central Committee Canada**’s Circles of Support and Accountability. *“Circles of Support and Accountability (CoSA) is an MCC restorative justice project that works to help reduce the risk of re-offence by assisting and supporting persons with a history of sexual offences [to] re-integrate back into the community and lead safe, responsible, and accountable lives.”*

## **ASSOCIATIONS AND KNOWLEDGE HUBS**

**Campus PRISM** *“The Campus PRISM Project (Promoting Restorative Initiatives for Sexual Misconduct) includes an international team of researchers and practitioners who are deeply invested in reducing sexual and gender-based violence by exploring how a restorative approach may provide more healing and better accountability.”*

**The Association for Treatment of Sexual Abusers (ATSA)** *“The Association for the Treatment of Sexual Abusers is an international, multi-disciplinary organization dedicated to making society safer by preventing sexual abuse. ATSA promotes sound research, effective evidence-based practice, informed public policy, and collaborative community strategies that lead to the effective assessment, treatment, and management of individuals who have sexually abused or are at risk to abuse.”*

**Transform Harm** *“TransformHarm.org is a resource hub about ending violence. We are not an organization. This site offers an introduction to transformative justice. Created by Mariame Kaba and designed by Lu Design Studio, this site includes selected articles, audio-visual resources, curricula, and more.”*

## Appendix C - Intersectionality

In 1989, lawyer and feminist legal scholar Kimberlé Crenshaw originated the term “intersectionality” in her groundbreaking paper, “Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics”. There, she demonstrated how “single axis analysis” (i.e., legal analysis based on race and gender as singular factors rather than on the combined experience of both) led to rulings in anti-discrimination cases that distorted and erased “the “multidimensionality of Black women’s experience” (Crenshaw, 1989). At the time, Crenshaw recognized that conventional conceptions of race and gender, based solely and singularly on a limited scope of experience (i.e., those of Black men and white women respectively), interfered with rendering legal outcomes that accurately reflected how the experience of being both Black and a woman in the U.S. more deeply disadvantaged advancement opportunity in the workplace. Since then, the concept has been applied “to deal with the fact that many of our social justice problems [are] often overlapping, creating multiple levels of social injustice” (Crenshaw & Dobson, 2016).

In essence, intersectionality offers “a prism” to assist those working within the arena of social advocacy to more clearly understand “how different forms of inequality or disadvantage sometimes compound themselves”(National Association of Independent Schools [NAIS], 2016, 0:16) and how complex it becomes when those designed debilitations need to be illuminated and redressed within limited and/or standardized paradigms of social advocacy that originated and/or still perpetuate them. It is for this reason that, in the realm of education, for example, Crenshaw “encourage[s] people to think about how race stereotypes and gender stereotypes might play out in the classroom, between teachers and students, between students and other students, between students



and administrators” (0:47) and to commit themselves to more deeply understanding how multiple identities, when not properly identified, interfere with providing students with “equal educational opportunities.” It is important to note, too, just how Crenshaw considers identity: “[It is] not a self-contained unit. *It is a relationship between people and history, people and communities, people and institutions*” (emphasis added) (1:11). She goes on to note that student development is more successful when schools understand this and commit to integrating this understanding into curriculum development. It is not a stretch to extend this consideration to policy development, too.

In her original work, Crenshaw demonstrates that justice for Black women could not be established within the court system because the standard definitions of race and gender - as expressed in legal precedent - were not only limited in scope and experience, but also “process-based” and “not grounded in a bottom-up commitment to improve the substantive conditions for those who are victimized by the interplay of numerous factors” (emphasis added) (Crenshaw, 1989). *This tool is by no means legal doctrine development, but this principle is nonetheless essential when designing a process for respondents and PWHCH.*

Adding Crenshaw’s view on identity to this, then, we propose two distinct but equally important considerations for this work:

1. How does “the interplay of numerous factors” - based upon relationships with history, community, and institutions - advantage or disadvantage those moving through a complaints process?
2. How does a PSI implement a “bottom-up commitment to improve the substantive conditions for those who are victimized”?

The answers to these questions will certainly differ within each context and for each individual case. We offer these two questions as a mere starting point to prompt the user of this guide to genuinely reflect upon and assess the lived experience of respondents and PWHCH in order to ensure the integrity of the process.

# Appendix D

## Training and Knowledge Self-Audit for Working with Respondents and People who Have Caused Harm

The self-audit below is intended to be used as an annual, self-reflexive tool to help those working with respondents and people who have caused harm (PWHCH) determine knowledge gaps and identify skills to develop or enhance. It may not capture all the skills and knowledge areas required to competently work with respondents and PWHCH, but it provides a thorough foundation upon which practitioners can build. The tool is only as effective as your ability to honestly assess yourself, your knowledge, and your skillset. The authors encourage you to treat this self-audit less as an “exercise” and more as an opportunity to cultivate openness with yourself.

The tool consists of three sections. The first section helps you identify your skill and knowledge areas and rate your corresponding proficiency level. The proficiency levels are structured as follows: **Beginning Proficiency** usually entails gaining a basic understanding of concepts and techniques where learning is the typical focus of professional development activity. **Approaching Proficiency** involves having a working knowledge of the concepts and techniques and having some experience. At this proficiency level, the focus is gaining experience. **Being Proficient** means that there is a regular demonstration of skills and knowledge through their daily practical experience. At this level, enhancing one’s knowledge and skills is the focus of professional development. Finally, **Extending Proficiency** means being able to perform the work at a high level without much assistance. At this level, the focus is spent understanding the broader professional issues.

The second section involves your reflection on the first section and prioritizing three areas to develop for yourself for the upcoming year. The third section is a planning instrument to help you concretize how you will enhance and develop your proficiency in your self-identified areas. Any professional development plans that were not completed for this year can be transferred to the following year’s use.

SKILLS AND KNOWLEDGE AREAS	PROFICIENCY LEVEL			
	BEGINNING (Basic Knowledge)	APPROACHING (Limited Experience)	PROFICIENT (Practical Experience)	EXTENDING (Extensive Experience and Understanding)
<b>GENDER-BASED VIOLENCE KNOWLEDGE &amp; ANALYSIS</b>				
I am able to define GBV and the various ways/forms it may be committed.				
I can articulate who is affected by GBV.				
I understand and articulate the philosophical underpinnings that identify GBV as a social/community problem and as a form of oppression.				
I am aware of how my PSI's policies and practices either help prevent GBV or contribute to a culture of risk. With this knowledge, I work to enhance prevention or prevent risk in my practice.				
<b>SURVIVOR-CENTRED KNOWLEDGE</b>				
I am able to recognize the various needs of survivors and victims of GBV harm.				
I am able to articulate how and why the primary goal of working with respondents and people who have caused harm is to increase the safety of victims and survivors.				
I have the ability to give voice to survivors in all processes that involve work with people who have caused harm.				
I understand how to use survivor-centred language and articulate power differences when providing information about the rights, responsibilities, and resources for PWHCH.				



## TRAUMA-INFORMED PRACTICE

I understand and articulate what trauma is and its lasting effects.

I can reflect and articulate the five trauma-informed principles.

I have developed my skill set at trauma-informed practices (e.g., collaboration, de-escalation, choice offering, safe coping, non-judgemental acceptance, validation, compassion perseverance building).

I understand how to centre a complainant's trauma when having to address a respondent's own trauma while delivering appropriate services.

## KNOWLEDGE OF NON-PUNITIVE JUSTICE APPROACHES AND PHILOSOPHIES

I understand the fundamental principles, practices, and purpose of justice approaches that centre the safety and integrity of the individual and the community, and aim to prevent violence (e.g., restorative justice, transformative justice, community justice.)

I understand how to discern - on a case-by-case basis - whether to apply these principles and practices and to what degree.  
I understand how to creatively apply or integrate principles of human-centred justice approaches in ways that align and enhance the spirit of my PSI's policy and deliver just outcomes to those harmed.

## CULTURAL HUMILITY AND INTERSECTIONALITY LENS

I am knowledgeable about cultural humility.

I am knowledgeable about intersectionality.

I maintain awareness of and manage my inherent biases.

I practice cultural humility in my work with respondents and people who have caused harm.

I actively apply an intersectional lens to understand my work with respondents and people who have caused harm.

I understand how to apply an intersectional lens with both survivors and respondents in relation to their positions of power in the process.

## SELF-REFLECTIVE SKILLS

I practice regular awareness of my own personal reaction to the work of trauma.

I can recognize and then manage my compassion fatigue.

I am able to balance my personal and professional activities.

I can identify and employ self-care strategies.

### CULTURAL HUMILITY AND INTERSECTIONALITY LENS

I am skilled at relationship-building.				
I am skilled at interviewing.				
I am skilled at problem-solving.				
I am skilled at advocacy.				
I am skilled at communicating about difficult topics.				

**BASED ON THE SELF-AUDIT ABOVE, I COMMIT TO WORKING ON THE FOLLOWING THREE AREAS OVER THE NEXT YEAR TO INCREASE MY CAPACITY AND PROFICIENCY IN WORKING RESPONDENTS AND PEOPLE WHO HAVE BEEN FOUND TO CAUSE HARM:**

1.

2.

3.



PROFESSIONAL DEVELOPMENT AND PROFICIENCY PLAN FOR THE UPCOMING YEAR			
Area to develop proficiency	Professional Development Activities to be pursued (e.g., journal and specialized readings, review of research, review of relevant literature, discussion of articles with colleagues, workshops, conference, conventions, specialized/relevant training, seminars, academic coursework, case conferences, peer consultation, mentorship.	Supports needed to pursue this activity (e.g., time off, funds)	Check off to signify completion

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