

Deep Dive Final Recording

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Laura: Hi, everyone, and a warm welcome to the Deep Dive into procedurally fair, trauma-informed interim measures to reduce harm. I'm really excited to welcome you into this space. My name is Laura Murray and I'm the project coordinator of Courage to Act.

Today's training is part of our national skill-share series, where we feature subject matter experts in conversation about urgent issues, emerging trends and promising practices and strategy to address gender-based violence on campus.

Our presenters today are the author of the toolkit, A Comprehensive Guide to Campus Gender-based Violence Complaints, upon which this training is based. The guide is now freely available for download via the Courage to Act Knowledge Centre, so please download a copy, share it widely – it's a wonderful resource.

Before we begin, a quick note on language and accessibility: attendees can do live captions for this session by clicking on the link in the chat box. You can also listen to this session in French by selecting the French language channel, using the interpretation menu. Today's session is also being recorded and will be available on our website along with the transcript.

Possibility Seeds leads the Courage to Act project. We are a leading social change consultancy, dedicated to gender justice, equity and inclusion. With over twenty years' experience working with community organisations, governments, private and public institutions, we care deeply about the impact of our work.

Courage to Act is a multi-year national initiative to address and prevent gender-based violence on postsecondary campuses in Canada. It builds on the key recommendations within Possibility Seeds' final report, Courage to Act, developing a national framework to address and prevent gender-based violence at postsecondary institutions.

Our project is the first national collaborative of its kind to bring together over a hundred and seventy experts, advocates and thought leaders from across Canada, to address gender-based violence on campus.

I also want to take a moment to acknowledge our funders. Our project is made possible through the generous support and funding from the Department for Women and Gender Equity, federal government of Canada.

This work is taking place on and across the traditional territories of many Indigenous nations. The land I'm currently on is the territory of the Anishinaabe, Haudenosaunee and Leni-Lunaape. The territory was the

subject of Treaty 21, also known as the Longwoods Treaty, and agreement between Chippewa of the Thames First Nation and the British Crown, to peacefully share and care for the resources. This agreement was broken by European settlers.

The process of colonisation in Canada over the past two centuries has enacted systemic genocide across the Indigenous peoples of this land. We see these acts of colonisation and genocide continuing even today in the forced sterilisation of Indigenous women, the epidemic of missing and murdered Indigenous women, girls and two-spirit people, the over-representation of Indigenous children in care, the criminalisation of Indigenous people resulting in over-representation in prisons and environmental racism and land theft of Indigenous territories.

As we come together to respond to experiences of gender-based violence, we must acknowledge that this is a decolonial struggle; they cannot be separated. Supporting decolonisation and Indigenous sovereignty is critical to working towards the culture of consent and accountability.

We honour and take direction from the experience and wisdom of Indigenous survivors, activists, frontline workers, writers, educators, healers and artists. Today we will take action by inviting you all here today to read the calls for justice within Reclaiming Power and Place, the final report of the national inquiry into missing and murdered Indigenous women and girls. You can also download the worksheet on how your institution can answer these calls to action through the link in the chat.

This work can be challenging. Many of us may have our own experiences of survivorship and of supporting those we love and care about who've experienced gender-based violence. A gentle reminder here to be attentive to our wellbeing as we engage in these difficult conversations. You can visit the self-care section of our skill-share web page or visit our self-care room by visiting the link in the chat.

Before I introduce the speakers today, a brief note on the format. You are invited to enter questions into the Q&A box throughout the session and we will pose these to our presenters at the end of the webinar. We will try to engage with as many questions as we can in the time we have together.

At the end of the session, you will find a link to an evaluation form, and we'd be very grateful if you took a few minutes to share your feedback, as it helps us improve. This is anonymous.

Following the session, we will also email you with a copy of the evaluation form and a link to the recording, so you can view it again and share it with your networks.

OK, I'm excited to introduce you to our speakers today. Deborah Eerkes is the Sexual Violence Response Coordinator at the University of Alberta and co-lead of the Courage to Act Reporting, Investigations & Adjudication working group.

Britney De Costa leads the Sexual Harassment in Experiential Learning project for Courage to Act and is the co-lead of the Courage to Act Reporting, Investigations & Adjudication working group. I'm excited to turn it over to our speakers now.

Britney: Thanks so much Laura and thank you everyone for being with us this afternoon. We're really excited to dive into this topic today. We really want today's session to be a jumping-off point like our other Deep Dive sessions for continued conversations in practice, as well as a way to connect with each other as peer support.

So, as we get started, we invite you to introduce yourselves in the chat, share your name, your institution and your role. And we also want to know what's a challenge that you face around interim measures. We hope that over the course of today's session, we'll be able to give you some strategies for addressing these challenges, and that you'll find others with similar challenges to connect with.

Deborah: All right, sorry, folks; I seem to be having tech issues today, so apologies in advance if my audio is not perfect. If you do have difficulty hearing me, please put something in the chat or let us know, so that I can try to adjust.

So, as you might know, the Courage to Act tools are designed to be used by any post secondaries across the country, no matter how big or small, whether it's a technical school, a CEGEP, research university, remote, rural or urban. So, as you can imagine, this poses some logistical challenges for us as we try to provide detailed advice.

We've done our best to design our strategies in the guides, so that no matter where you work, you can find a way to apply it. If you can't see how it might apply to your postsecondary, please don't hesitate to ask questions.

So, in this session, we'll be defining interim measures, discussing their purposes and applying the foundational standards to interim measures with specific strategies. In addition, we'll be using the Deep Dive case study that we started in our intake Deep Dive webinar, and applying some of the strategies to that case, so you can see how it works in action.

Just to clarify again, we're talking about campus policy complaints and not a criminal complaint. While there may be times when an incident is reported to both the police and the campus, and where those processes unfold concurrently, they should look and feel very different from each other to the parties involved.

We also want to acknowledge that the complaint process is going to be difficult, no matter what, and it may not be the preferred option for everyone. Allowing a survivor options, voice and choice, is a key trauma-informed and survivor-driven way to respond, and it respects cultural differences as well as intersectional experiences.

Just a note on language as well: we use the terms complainant and respondent as a form of shorthand for the individual who is subjected to gender-based violence and the individual under allegation respectively. This is important, especially in this session, because as you'll hear, we'll be advocating for the use of interim measures, even in the absence of a complaint.

Britney: So, we're going to start off with a quick introduction to our case study. As Deb mentioned, we first introduced this case study in our Deep Dive into Intake, and we're going to be building on it in each Deep Dive session, so that you can follow one example through each stage of the complaint process.

I want to add a quick note here, that as we get into the case example, we'll be sharing details about incidents of violence. So, please remember to check in with yourselves and if you need to, step away from your computer, or visit the self-care room that Laura introduced earlier. The link is up higher in the chat.

Our case study centres around Sarah. Sarah is a first-year student living in residence and she's living away from home for the first time. Her family lives in another province. Sarah was referred to an intake worker by her residence advisor. From intake, we know that Sarah no longer feels safe in her current room. She was presented with some accommodation options that primarily revolved around support to change her living situation, including the option to change residences, support with the housing search or helping her to find a roommate.

Sarah was also given information about the formal complaint process in her school's GBV policy. After hearing the options available to her, as well as the limitations of the GBV policy, Sarah says she would like to proceed with the complaint.

Throughout today's session, we'll be introducing additional pieces of information relevant to Sarah's complaint and using this example to illustrate how to apply strategies in practice. You'll also see that we've left a lot of information out, so we can explore how the strategies might apply in different contexts.

Deborah: All right, so that context, let's jump in. We are here to talk about interim measures, and the interim measures are non-disciplinary conditions or restrictions applied to a person who is alleged to have committed gender-based violence.

So, who do you apply these to? It's really important to note that they are different from accommodations or, if you call them modifications or considerations or adjustments. They may be available to both the complainant and the respondent, and they're developed at the request of and with the consent of the individual. Interim measures are only applied to the respondent, or the person alleged to have caused harm, and they are

never applied to the complainant. They also can be applied without the individual's consent – very important.

Britney: And we really want to point out this distinction, because there can be some confusion around the distinction between accommodations and interim measures. So, if we're thinking about the case example, or Sarah's case, we know she was offered support to change rooms, get a roommate or find alternatives to her housing, which are great examples of accommodations, but not interim measures, which we'll share examples of later on.

Deborah: So, we examine this in more detail in chapter eleven of the guide, for those of you who have downloaded it. The chapter on non-adjudicative options, we want to make it clear here that interim measures can be applied without a complaint. So, in our example, if Sarah had chosen not to move forward with a complaint, we'd still be able to explore possible interim measures to keep her and the campus community safe, as long as they're truly non-disciplinary, they affect privileges and not rights, and are applied using the foundational standard – and we'll go into this in detail when we start covering the specific strategies.

Britney: You can see why we may want to consider interim measures without a complaint when we look at the reasons why we had some. So, we had interim measures to support the purpose of the postsecondary institution in responding to gender-based violence, to ensure the learning and working environment is conducive to the academic mission.

Basically, you can think of interim measures as precautionary measures to ensure the learning, working, and in many cases, living environment is safe and supportive. With this primary goal in mind, we might consider interim measures for a number of purposes.

We might want to stop an alleged behaviour or prevent future harmful behaviour. We may simply need to protect the complainant or the person who was harmed, or even protect the respondent of the person who caused harm. We want to remember that one of the big things that we want to do with the complaint process at all stages, is reduce harm for everyone, which includes those who have caused harm.

In cases where there is a complaint, interim measures can be used to allow the complaint process to move forward by creating space for an investigation. Importantly, nowhere in these goals is there mention of punishment or accountability.

Interim measures are applied prior to a finding, and in some cases without a complaint at all. So, we really want to drive home the fact that they are strictly non-disciplinary.

Deborah: I do want to note that this work should always be tied to the academic mission of the postsecondary but also that every person in the postsecondary community, no matter what their role, is there because

they directly or indirectly contribute to the academic mission. So, from those who serve coffee, who I intentionally put first, because they are so important, but those who clean, deliver mail, support students, manage budgets, administrators, researchers, teachers and students are all there because of the academic mission.

So anytime the postsecondary decision affects an individual's rights or privileges, aligning that decision with the academic mission clarifies the reasons for the decision and is protective of the PSI.

So, when an institution receives a disclosure with reasonably credible information that one, if true, would constitute a policy violation and two, gives rise to reasonable concern that an individual poses a risk of future harm, risk to the safety of the learning environment, or that the individual creates a barrier to accessing campus activities for the complainant, or that they might interfere with the integrity of an investigation, this is when interim measures are applied. And I want to note that they can be protective of both the respondent and the complainant.

So, at this state, you are not going to be collecting evidence or trying to establish the truth of an allegation. Your standard of proof here is not the balance of probabilities like it would be if you were making a finding and applying sanctions. It is reasonable apprehension of harm.

So as Doctor André Costopoulos, who is the Vice-Provost and Dean of Students at my institution, the University of Alberta, as he always says, reasonable concern calls for reasonable action. This should be our mantra.

So, knowing the who, what, when and why of interim measures, let's talk about how they apply in our case study. Since our intake with Sarah, we've learned the following from her: Sarah attended an off-campus party three months ago, and at the party Alexei was drinking heavily. Near or around 11 PM, he cornered her in a hallway and pinned her up against the wall. He leaned close and whispered in her ear that if she would just loosen up a little and have a few drinks, the two of them could have amazing sex. She turned her face away and did not respond.

Eventually, he let her go and walked away, but he continued watching her. As a group from the residence, including the two of them, left together and walked back to their dorm. She tried to keep as much distance as possible between herself and Alexei. Since then, he's acted like nothing happened, and she doesn't know how to raise it with him. He's courteous and respectful most of the time, but when he drinks, he becomes more aggressive and invades her personal space.

Sometimes when he's been drinking, he comes into her room uninvited while she's trying to study and won't leave. Other times he sends her late-night text messages about wanting to have sex with her. She does not respond to those texts.

We learnt that Sarah is quite petite and felt physically threatened by the initial incident. We also learned that she doesn't drink but likes to attend parties and considers it a good way to meet people. She has a lot of friends at home but is finding it really difficult to break into the social group at her postsecondary school.

Alexei, on the other hand, went to high school nearby and has lots of friends, knows the area well. So, she feels like this is his world and not hers. She believes he's basically decent but knows that he changes when he drinks and she's worried about what he might do next.

So, you ask about what she needs to feel safe in residence and in the learning environment. She says she doesn't want to move to another residence; she's fine being included in group chats but doesn't want to be singled out by Alexei. She never knows when he might come into her room drunk, so she generally feels unsafe at night.

But let's add an intersectional lens here. Consider what further questions you might ask, for example if Sarah has a disability or if she has cultural or religious background that might shape her experience, or if you don't know. We know that mental health challenges and prior trauma are usually invisible, so you may not have any idea what her experience is like. And we know that somewhere around three and five people have been exposed to adverse childhood experiences.

So, we should treat it as likely that Sarah has experienced prior trauma, and even if she hasn't, we do no harm by taking a trauma-informed approach. So, you might ask questions like what her support network is like, or whether she has what she needs, or whether you can connect her with additional services or resources.

What you don't want to ask is about her history or experiences of trauma, or other unnecessary information. Basically, you want to be attentive to the fact that she may be carrying additional trauma and that that additional trauma might be compounding how she's experiencing the current issue, but you don't need to know what that is. A trauma-informed approach just means assuming that trauma is present.

Britney: So, the rest of today's session is really looking at the how: how do we determine and apply interim measures? All of the strategies we're going to walk through come back to our three foundational standards: procedural fairness, trauma-informed practice and harm reduction.

Like all aspects of the complaints process, these foundational standards need to be met. But when we look at interim measures in particular, the foundational standards are important so we can mitigate the harm that would arise if, for example, we didn't protect against feelings of isolation, or we allowed the interim measures to affect a respondent's academic program, work or reputation.

Applying harm reduction in trauma-informed practices to interim measures, also ensures we meet procedural fairness requirements, which Deb will explain later, are particularly important here.

The foundational standards also help us find a balance between insufficient interim measures, which can increase harm and safety risk, the opposite of their intended effects, and overly severe interim measures, which are just, frankly, unfair.

So, let's look at our first strategy for determining and applying interim measures. Make sure that interim measures are strictly non-disciplinary. This is really important, because as we continue to emphasise, interim measures are applied without a finding of a policy violation, and sometimes without an investigation or a complaint.

So, to be non-disciplinary, what we mean is, interim measures aren't sanctions and must not be used as an alternative way to punish someone. They are precautionary and not based on an assumption of guilt. It follows then that interim measures are also not evidence of misconduct and should not be used as such.

It's incredibly important to be attentive to our biases here, because it's easy to find ourselves ascribing guilt to someone who may have limitations placed on where they can go or who they can interact with on campus, when in reality those measures might be put in place to protect both the complainant and the respondent while the investigation is underway.

This also means that there's no disciplinary record attached to interim measures, so not only are they non-disciplinary in the sense that the actual measure is not a punishment; there is no administrative record that could be misconstrued or misinterpreted in the future.

You can help to make interim measures non-disciplinary by including support mechanisms for the respondent. You want to make sure they are provided with a clear explanation of the process, their rights and the reasons for the interim measures. They may also need academic considerations if they are a student, or union support if they are a union employee.

In all cases, you may also consider any therapeutic supports the respondent may need or want, recognising that although they are non-disciplinary, interim measures may feel punitive and therapeutic supports may help mitigate these effects.

And I'll just flag here, going back to union employees: when interim measures are being employed to union employees, the collective agreement take precedence and the respondent must be apprised of their right to bring a union representative with them to all meetings.

Deborah: Even though interim measures affect privileges and not rights, they do require procedural fairness. You'll recall from our foundational training that the basic procedural fairness rights include the right to know and respond to a case and an impartial decisionmaker.

The same applies here, but in some cases, given the need for quick or urgent action, it's sometimes necessary to apply the interim measures first in a letter and then meet with the individual afterwards. The respondent does need to know who has made the allegation, so except in very rare circumstances where there's a real risk to a person's safety, anonymous reports or complainants who wish to keep their report anonymous, will not normally be sufficient to apply interim measures.

The respondent needs to have a chance to tell you their version of events and they need a chance to discuss the impact of the measures on them. The person applying the interim measures, like any other decisionmaker in a complaint process, must not have a stake in the outcome, must not be subjected to undue influences externally and must be unbiased.

The interim measures that you choose need to have a rational connection to the objective. They need to make sense in the specific context. For example, an interim measure would not address – sorry, an interim suspension would not address something like unwanted text messages. In that case, the problem is unwanted contact; someone can text while they're on a suspension. So, the solution has to include ending that contact.

We want these things to be precise and achievable. We actually do want this to be a successful endeavour, to make sure that you are creating the safest environment that you're trying to. And overly vague instructions can be more harmful to both parties, when they can't even be sure what a breach would look like.

Interim measures have to be designed in such a way that a respondent can meet the expectations or conditions, so that the complainant feels safe. And we want to balance the potential benefits with the potential harm caused by the measures themselves. The impact-specific measures on a respondent always have to be a part of this calculus.

Britney: So, to that end, interim measures must be minimally restrictive, which means that they must be reasonable, justifiable and relevant to the specific circumstances. So, you can use all of the same conditions for success that Deb just shared to meet this goal as well as the previous one, with some additional considerations.

So, in addition to having to make sense in the specific context, they also have to be proportionate to the concerns raised. So just say an interim suspension does not address a no-contact concern, an interim suspension is also not appropriate and disproportionate where the concern could otherwise be addressed by something with a lesser impact on the

respondent, such as limiting the hours or days they can access certain areas on campus.

Minimally restrictive also means time limited. So, we'll talk about this a little bit more later, but basically, you want to make sure that they're not in place any longer than necessary.

The best way to make interim measures minimally restrictive, is to start with voluntary measures before moving on to interim measures. If there's a behaviour that needs to be changed, having a conversation with the respondent first can be helpful. They may not realise their actions have been harmful and may be willing to make adjustments that would address the concerns.

You would stick with voluntary measures so long as the respondent continues to adhere to them, and the complainant's safety and wellbeing continue to be addressed. But when this changes, you may need to progress to interim measures, the difference being that they are not formal involuntary measures applied to the respondent.

So, getting back to our case, we're going to start by speaking with Alexei about potential voluntary measures. So, you meet with Alexei to discuss the concerns about his behaviour and to assess his understanding of the impact it has on others. Through this discussion, you learn from Alexei that he often drinks with his friends and considers it a way to relax and let go a bit.

He likes Sarah and wants to date her. He wanders into her room and texts her as a way of opening the door to a relationship with her, but he can only work up the nerve to do so when he's drinking. And he has no memory of pushing her against the wall or ever getting physical with her but admits that he was very intoxicated at the party, but that he doesn't think he blacks out like that very often.

So, hearing this from Alexei, you ask if he would be willing to stop texting Sarah, refrain from entering her room unless she specifically invites him, and refrain from drinking or being intoxicated in residence. If Alexei agrees to all three conditions, you would move forward with them as voluntary measures, confirmed in writing, and continue to monitor the situation to make sure he's actually doing what he agreed to and importantly, that these measures continue to be adequate to address Sarah's concerns.

However, for our purposes, let's say Alexei agrees to the first two conditions, but refuses the third. He thinks he should be able to drink still; he's the legal drinking age, drinking is common in his residence and as he's told you, he doesn't think he blacks out very often and doesn't think his drinking is a concern. Since Alexei hasn't agreed to all three voluntary measures, you move forward with the conditions as interim measures.

We also have to remember that there are other factors at play here. So for example, you'll want to think about whether Alexei has an addiction that makes it difficult for him to stop drinking. This could be why he's reluctant to agree to that condition. Where this is the case, there may be an opportunity to build in access to therapeutic support such as addiction counselling.

Another example might be that he tells you he doesn't feel like he's very good at reading social signals, which is why he hasn't picked up on Sarah's discomfort. This might be a situation where voluntary measures would work really well, making him aware of the impact of his actions and providing him with specific behaviours to avoid, may be all that's needed.

It may also be in an opportunity to revisit what the goals of interim measures are in this case. In addition to keeping Sarah safe, interim measures here may also be a way to clarify behavioural expectations and even to protect Alexei from unintentionally causing harm.

Deborah: The use of interim measures is very much a survivor-driven approach, and because it's guided by the rights of the survivor and others in the community to a safe and harassment- or violence-free learning and working environment.

So, we start with a survivor's needs, not specific solutions. Needs can include realistic safety concerns, access to a harassment-free environment, fair assessment or supervision, for example where the respondent is in a position of power or authority over, or in a teaching relationship with the complainant.

Remember that a survivor will know their own needs best and taking their lead and allowing them to articulate what their needs are, is a trauma-informed practice and one of the few ways to give them autonomy throughout this process.

The trauma-informed approach also means managing expectations, which is why you always want to begin with the survivor's needs. This will help support their autonomy. If they come to the process with an idea of what measures should be imposed, they may be expecting measures that are in the circumstances, unrealistic or unfair.

By the way, it also means understanding if the survivor is behaving in ways that you wouldn't expect or don't particularly like, they might be angry or snappish or withdrawn. They might be stony or crying, or even laughing. Be sure to stay calm and understand that their behaviour could be trauma-induced, it's not about you. Wherever possible, consider multiple specific solutions to meet those needs, and choose ones that work best for everyone.

We know that these solutions will rarely be perfect. In a perfect world, we wouldn't have gender-based violence. So, these are negotiated in the

context of competing obligations, needs and logistical limitations. But they will, if done properly, improve matter significantly and move the postsecondary institution closer to that ideal learning and working environment.

This means that when considering what measures to use, you design them in consultation with the complainant, understanding their needs before choosing the measures. This slide shows some possible examples. Obviously, there are others, but we want to just show how it is a creative process. This is about coming up with creative solutions, not based on precedent or applying a strict rubric.

How will the interim measures meet the complainant's needs? How will they contribute to that safe, supportive and vibrant learning environment? If you have one at your institution, engaging a coordinated response team or folks who have different perspectives, make sure that you're considering all of the possible needs that might have resulted from the incident. For example, safety, mental or physical health supports, academic, there might be missed assignments or need for extended deadlines.

Or workplace; maybe there are barriers at work that need to be addressed. Even financial – what if they've had to change their locks or have had to start driving instead of taking mass transit, etcetera. There are all kinds of things that we may not immediately think of when we think about the effects of these harms on a person.

Britney: And to be able to meet the complainant's needs, interim measures have to be adaptable and able to respond to changing circumstances. So, we suggest thinking of the four Rs that Deb brilliantly came up with. We had Review, Retain, Revise and Revoke.

Scheduling regular check-ins and having a clear accessible communication channel that's available outside of scheduled check-ins will help you stay on top of changing needs and know when interim measures need to be reviewed. Interim measures are also, as implied by their name, time limited. So not only should you have practices in place to identify when a review is needed, you should also set clear time periods when interim measures will be reviewed.

For example, if Sarah moves out of residence, we would want to review the interim measures in place likely, or at a minimum, revise them so the conditions fit the changing circumstances and are minimally restrictive.

Depending on the conditions applied, there may be a natural end, like the end of the academic term where the conditions centre around separating a respondent from the complainant in a class or lab. In other cases, circumstances may require continued measures, even in the absence of a policy violation. In these cases, regular check-ins and open communication are especially important.

Finally, you need to have a plan in place in case of breach. So, we'll go back to Sarah and Alexei and talk about planning for responding to a breach. It's been a few weeks since we first applied interim measures that required Alexei to stop texting Sarah, refrain from entering her room unless she specifically invites him, and refrain from drinking or being intoxicated in residence.

Alexei has been abiding by these conditions so far, but the residence advisor reports that he has begun to come back from the bar drunk again. In response, you sent him a reminder of the conditions, and he responds with an apology, saying it won't happen again.

A week after that, he sends Sarah a flurry of flirtatious text messages from the bar, including asking her why she's being so mean. The breaches increase her level of concern and are no longer adequate for Sarah's safety, an indication to revise the interim measures. Which you do by moving Alexei to a different residence across campus and revoking his card access to their current residence.

Deborah: We have to be aware that as we increase the interim measures, we also increase the impacts on the respondent. We know that moving Alexei out of his community of friends may feel punitive to him. An example from my own institution that happened not too long ago, we had a harassment case similar to this in a lab environment.

Removing that respondent from the lab though, interfered with his academic progress. He needed to be on site to finish his research. But for the safety of the complainant, they needed to not be there. So, in this case, it was fortunate that his actual data was already collected, but he did need a specific kind of software to do the analysis, and that software was installed on a laboratory computer.

So, there were a couple of options. One was, you know, give them access at different times, let them come into the lab at different times. Or the second option would be to provide software for this respondent to use at home. So, either one of those would have worked in that situation.

You want to, though, create your interim measures that are conducive to therapeutic support. Wherever possible, provide referrals or resources to assist the respondent in meeting the expectations. This again, is about reducing the harm of the measures themselves and setting the respondent up for success.

Here's an example: if you apply an interim measure which restricts a respondent from entering a specific building, but you learn that the counsellor they had been seeing works in that building, you might adjust your interim measure to allow them in only when they have an appointment with their counsellor or provide an alternate way to continue working with that counsellor. And since COVID and all of the explosion of online meeting technologies, we know that that's an easy fix as well.

Britney: So, turning back to Alexei, you've now moved him to a different residence across campus, but the one you've moved him into is a little more expensive, it's an apartment style rather than a dorm style room. So, some steps you might want to take to lessen the negative impact on this move might include working with Campus Housing to subsidise the difference in cost, so he's paying the same amount; supplying him with the basics for his apartment, like housewares or cookware, things that would come with his dorm-style room or that he would need in an apartment style rather than a dorm style room.

And knowing that he'll probably be doing a lot more of his own cooking, you might also consider providing access to resources like on-campus cooking lessons, if that's something that's available.

But in this case, as Deb said, one of Alexei's biggest concerns with the move is that he's losing his social connections. This concern is less tangible. Just simply providing access to resources or meeting financial needs, isn't going to address this concern. So, your approach might be to assure him that he's free to socialise with his friends but be clear that he may not go back to the residence with them, and that's the limitation.

Deborah: Like any decision that affects parties, it needs to be in writing. Provide the detailed interim measures for them, the reasons for those measures, and include the necessary elements of procedural fairness in a letter. Now, your reasons don't have to be super-detailed; they can be as simple as, you know, for the safety of the learning environment, or to ensure that the complainant is able to continue their work or learning in a harassment-free environment.

But do show how the measures connect to the objectives, and also to the academic mission, as a way to demonstrate that the measures aren't arbitrary or vindictive. Build in your procedural fairness by providing the opportunity for meeting, if you haven't already done so. You want to make sure that they do get a chance to respond.

Also let them know how to request a review. For example, if the measures have unforeseen consequences that interfere with the respondent's rights, or if circumstances have changed, they need to know who to get in touch with. You should include resources that will help the respondent understand, adjust to and comply with the measures.

You also want to make sure that the complainant knows what the measures are. You don't necessarily have to give them a copy of the same letter but send something in writing as the trauma-informed measure, to ensure that the complainant knows what these measures are and that you will be affecting them, implementing them.

Let them know also – both parties – that these are confidential, and you'll only disclose the information as required to administer them, except in very specific circumstances. And we'll go over confidentiality again – this is always a tricky piece. But recall that post secondaries have to keep

their own processes and outcomes confidential in compliance with privacy law.

We so need to disclose some information in order to administer the measures and monitor compliance, but only the necessary information and only to those with a legitimate need to know. So, you don't need to disclose the reasons for the interim measures, who else is involved, what the precipitating event was; only what needs to be enforced and what to do in a case of a breach.

Now, if there's an imminent risk to safety, you may need to disclose more information, and we all have those thresholds on our campuses. We also need to remember that individuals are not subject to privacy law, and parties are free to discuss with their circle of support or for the purpose of seeking advice and so on. However, we want to be absolutely clear with them that they know they're expected not to make the matter public, not to share the information widely and not to share documents, for example, on social media. A breach of the other person's privacy could put them at risk of civil-legal action, like a defamation claim.

Finally, and this is really important, make it clear that you and the institution, not the complainant, will communicate the measures as needed for compliance. So, if the complainant thinks that someone has not been adequately informed and they should be, that they have a need to know, they should notify you, not that person.

And being clear about this also helps alleviate concerns or anxiety if the complainant feels that they're responsible to tell the respondent what the measures are, or to confront them if they breach the conditions. That will never be the burden of the person who has made the disclosure. We want to be absolutely clear that it's up to the institution to monitor and administer these things, and that burden is not on the survivor.

Britney: So, just a quick example of an instance where you may be thinking about confidentiality very specifically is, let's say you receive a call from Alexei's mother demanding to know why you, as she says, abruptly and arbitrarily moved him away from his friends. She says he's upset and confused about what's happening and wants to get some answers.

Protecting confidentiality in this instance might look like telling her you're not permitted to discuss the issue without explicit consent from Alexei. Checking in with Alexei and ensuring he has the on-campus supports he needs, knowing that you've already informed him of what the interim measures – of why the interim measures are in place, and encouraging him to reflect on the effects of his actions on Sarah and be accountable for his part in her feelings of discomfort in residence.

And this way, you can address some of the concerns raised by Alexei's mother, that he is potentially upset or confused about the interim measures, without disclosing confidential information to her. And just

something to remember is, just because she's family or Alexei's mother, confidentiality still applies.

Deborah: And we also have to consider retaliation. So, preventing retaliation might be one of the goals of interim measures, but interim measures themselves might trigger retaliation from someone. And this is one of the most difficult elements to appropriately address in any complaint process, because retaliation can be overt, but it's more likely to be covert. And it can be direct, but it's more likely, more commonly indirect.

Consider this too: most post secondaries conceive of interpersonal retaliation, to threats intimidation, reprisal from the respondent to the complainant, and they treat it as a separate incident. That is not how the complainant experiences it. It feels more like more of the same, like a pattern of behaviour, and it can be retraumatizing. If an individual is subjected to retaliation as the result of a complaint, think about this, they're even less likely to make a second complaint.

But another kind of retaliation is institutional, where someone within the institution starts to view the complainant as a problem person, and they find other legitimate ways to deal with them. So, complainants also fear maybe removal from their program on academic or professionalism grounds after they've made a complaint, or after they have disclosed and had interim measures put in place.

They might fear that they're going to be precluded from work projects or activities, or barred from promotions or academic advancements, or even dismissed from their job. And we do know from research that these things are not all that rare.

So, our policies are rarely nuanced enough to address this kind of retaliation or the reasonable fear of retaliation. As a result, it's really important to spend some time thinking about what forms retaliation could take in the specific situation. It's also important to check in with the complainant and acknowledge that you may not recognise retaliation, especially if it is covert or indirect. But they likely will, and make sure they know to contact you if it does happen.

Whether retaliation is covert or indirect, it may also be difficult for a complainant to articulate, so make sure you provide space for them to share their experiences and focus on what their needs are in response to retaliation, and then adjust the interim measures as needed.

But also, on your own, try to anticipate the possible kinds of retaliation based on social or professional positioning. Wherever possible, adjust that positioning so that there isn't the opportunity for folks to retaliate. For example, you might assign a new supervisor so that there is no confusion between supervisory feedback and retaliation.

And finally, you really want to explicitly discuss retaliation with the respondent. Now, back to Alexei: you're aware that Alexei has more

social capital than Sarah and that he could easily retaliate by simply isolating her from his social group, which is her current residence group. So, if you want to try and mitigate the risk of retaliation here, you might, for example, tell him that she wasn't the one that requested or suggested the interim measures, but that you applied them out of concern for her safety or the safety of the rest of the community.

And this is, by the way, one of the reasons we suggest you start with the complainant's needs instead of asking them for suggestions about what specific measures they want, because then the measures come from you and not the complainant. You might also remind him, for example, that he's responsible to ensure that he doesn't breach the measures and provide him with connections to assistance. For example, if he finds it difficult not to drink to excess, maybe you would connect him to a campus AA group if you have one.

And here's really, you know, an important key, is discussing the important difference between getting necessary social support for himself and making life more difficult for Sarah. You want to make it absolutely clear that his own self-care cannot include vindictive actions against Sarah or anyone else.

Britney: So, now that we've talked through all of the key strategies that we're going over today, we're going to quickly wrap up and highlight some key takeaways or trauma-informed procedurally fair interim measures to reduce harm.

We want you to remember that interim measures are different from accommodations and only apply to the respondent. Interim measures are non-disciplinary, they can be applied without a complaint, and they are survivor-driven. Interim measures are situation-specific and in some cases, require creativity to find the right balance of effectiveness and being minimally restrictive. And procedural fairness is especially important.

And another reminder that everything we talked about today was highlighting strategies from chapter eight of A Comprehensive Guide to Campus GBV Complaints. You can find the entire guide – it's posted in four separate sections and the chapter we were talking about today is in Section 3 on Courage to Act's Knowledge Centre.

And our next Deep Dive session is on procedurally fair, trauma-informed and harm reducing gender-based violence investigations, and this one's scheduled for February 2023. And in the meantime, we'll be offering the Introduction to Foundational Standards one final time in November, and you can register for these sessions on the Courage to Act National Skills Fair Series page.

Deborah: Also coming up, one more unsettled question. So, Section 4 of the guide explored three unsettled questions. Those are issues for which there wasn't any clear case law or best practice, and those things that just

dogged us as institutions, that we just cannot figure out how to get this exactly right.

We have just released a white paper on the unsettled question of how post secondaries should address student-instructor relationships, and coming up, we have one more. It will be a closed working session with a panel of experts, and we're going to use the same methodology as we did in our Unsettled Questions chapters in the guide. We'll examine the issue, work through potential options and hopefully come to some resolution, or at least make recommendations about what PSIs can do to address this issue.

So, our topic is Privacy and Disclosure Part 2. In the guide we discuss privacy and disclosure within an institution. Coming up, we get into the thornier issue of disclosure between institutions, the proverbial passing of the problem when we have information about an individual who has committed gender-based violence at our institution, and we know that they're moving to another institution. So, keep your eyes open for that white paper in early 2023.

Laura: Thanks Deb and Britney. Now I'd like to invite our attendees to share questions and comments. You can do so by typing these into the Q&A box at the bottom of your screen.

OK, it looks like we have our first question in the chat. So, the concept of reasonable is always heavily debated; do you have any formal tests, guides on reasonable with respect to PSIs? For example, in criminal cases there are the reasonable person tests.

Deborah: That's a great question. It is – I just recently read an article, it said, "You are not reasonable," and it was this question of what is a reasonable person. So, I think really key here is to take that into a sectional approach and think about not how you would react to something reasonably, but how would someone in this person's situation react reasonably. And you may or may not have all of the information. Like I said, we might be dealing with someone who has trauma from previous situation, so what's reasonable to you may not feel reasonable to them.

So, it is a matter of balancing perspectives, it's a matter of making sure you take into account the social locations of the folks involved in order to come to the most reasonable – and reasonable also means you're providing justification and reasoning for the decisions you make, and that's how you want to always think about when you're choosing measures, when you're writing decisions, when you're doing any of those things. Make sure that you are clear about why you're doing what you're doing, or why you're deciding what you're deciding.

Laura: Thank you, Deb. OK, another question: I wonder at what point do you move from IMs to conduct. In the case study, three IMs were provided to Alexei, but as he did not honour the interim measures, should this not have moved to a conduct issue? The interim measures were an

opportunity to address the gender-based violence incident, but when not responding to the interim measures, should it not move to a formal complaint?

Britney: Deb, feel free to jump in anytime. One thing I'll say is, in this case, the interim measures were in place while a complaint was in progress, so part of what was happening is, as the investigation was going and until there was a finding where a sanction could be applied, then the interim measures were put in place. But Deb can speak to the conduct piece, I think, as a resident expert. [Laughs]

Deborah: [Laughs] This is going to depend on what your policies say. I mean, you might have a policy that says you get to try interim measures once and if you don't comply, then that's a policy violation. So, you know, you do want to make sure that you're guided by your own institution's way of doing things and the policies in place.

You might also want to consider what does the complaint mean for the person who was harmed. Do they have to participate? Are they going to be pulled into something that they don't want, if you decide to go ahead with a complaint. Or can you, as an institution, yourself become the complainant and work with the information you have?

There may be cases where a person has specifically said, "I do not want a complaint, I don't want to participate in a complaint," which may feel like it ties your hands, but that is also why we have the ability to, for example, up the severity of the interim measures if needed.

So, I wouldn't necessarily advocate a standard approach here; I think you do have a lot of things to take into account.

Laura: Thanks, Britney and Deb. And these are great questions – you can keep them coming. So, another question we received was, how would you respond to the case study respondent if he insisted it was in his right to drink when he wanted?

Deborah: I mean, I think he kind of did, right. That was his response as well; "OK, I'll comply with the first two, but I don't think you can make me stop drinking." And you know, the reality is, it's not a right to drink on campus; that is a privilege and if someone is abusing that privilege, then we remove that privilege.

And I think we just have to be clear on that, that you know, there are certain things that are right, but that is not one.

Laura: OK, another question we received was, any advice on how to help student respondents manage potential social consequences of interim measures, like with location?

Britney: A couple things you can do here is, one, like we did in this case example, being clear about what the actual limitations are. So, in a case of

relocation on campus to another residence, being clear that the person who interim measures are applied to is still able to socialise with their social group, they're still able to see the same people, it's just the location of where they can do so has changed. So being clear about that.

And also, another thing to think about is, when you're designing interim measures, to be minimally restrictive – that should be a consideration as well. So, are there ways to – are there interim measures that can be applied, that would have a smaller effect on the social implications? So, in our case, we looked at Alexei and said, “Here are some things you can do and still stay in residence with your friends; you don't have to move. But when those measures weren't complied with, that's when relocation set foot.

So, there's balancing the needs of the complainant with also the impact on the respondent, and playing around there, it's a bit of a creative sort of puzzle to work through, I guess. Deb, do you have anything to add on that?

Deborah: No, I think you covered it. You just have to try and anticipate – either anticipate the social impacts and – either – both anticipate and ask the person, you know, “How is this affecting you? Is there anything we can do to help minimise that effect on you?” It's important.

Laura: Thank you, Deb and Britney. OK, we have a couple of questions in the chat as well. So, any thoughts on how to apply guidelines, like, precise and achievable and solution-specific to complete, that are predominantly about pattern of general behaviour? So less specific incidents but more about the patterns of intimidating behaviour, inappropriate jokes, etcetera.

Deborah: That is a great question, and you know, this is often what we see, people just behaving in ways that maybe they don't even know is inappropriate. So, I think even having this conversation with them to say, “Look, here are the things that you're doing that are inappropriate, that are making people uncomfortable, that are making the environment not so conducive to learning.”

And then making sure that they have access to, for example, educational resources about that, or an advisor or some sort of support person who can help them work it through. So, you know, your measure itself might be, you need to conduct yourself in a way that is respectful to women, including refraining from sexist jokes, etcetera, etcetera.

Now, again, that's a little tougher when we're talking about a pattern of behaviour. So, what you can say is, “It is your obligation to meet this condition, and in order to do so, here are some resources for you to use, to understand what it is that we're expecting here.”

Laura: That was a good question. OK, another one we received in the chat was, how have you seen interim measures managed/imposed, when is there a concurrent criminal investigation?

Deborah: You know, there's rarely a concurrent criminal investigation. I know we always wonder about this, but it doesn't happen all that often. When it is in place, there may be all kinds of different things going on. We might have concurrent investigations going on, we might not have a campus complaint, but we know about a criminal complaint. So, you'll have to just take into account what are the circumstances of this specific situation.

And there are also times in a criminal complaint where the court has imposed conditions, interim or whatever. And so, you want to make sure that they let you know, that the respondent lets you know what the court-imposed conditions are as well. And so you want to make sure that you're aligning with them or helping that person to meet those conditions. You don't want them to be in breach; those conditions were put in place so that everyone can be safe.

So, I think, as much information as you can get about how that criminal complaint or criminal investigation is affecting the situation on campus, and then taking those things into account when you put in place interim measures. Britney, did I capture that?

[Pause]

Laura: OK, we have another question in the Q&A box, So, when we think about harm reduction from a substance use stand and conducive to therapeutic approaches, we understand that restricting substance needs can be more harmful than helpful. How can we balance the different harm reduction approaches in these cases, different circumstances? Or is this where we, as an institution, need to be selective?

Britney: Deb, jump in, as always. But I think this is a really, really important point and I think something to be mindful of when deciding on interim measures. So maybe restricting Alexei's drinking may not be the most effective from a harm reduction standpoint.

So, thinking about what are the needs of the complainant, what behaviours are we trying to protect against? And thinking through different sort of creative approaches. So maybe there are some harm reduction programs on campus that Alexei can join. Maybe this is – maybe there are certain places that Alexei can't drink.

So, for example, we say in residence he can't drink, because that's where Sarah lives and that's what makes her feel unsafe. But if he were to go to a party or to a bar, that's where that would be to take place. And then thinking about different safe places for him to stay after he's been drinking as well.

So, making sure that you have those supports available is also really important. I think one thing to think about too is, what supports do you have available on the campus or in the community to connect Alexei with or connect a respondent with. Where these resources don't exist, it can be

a bit of a challenge, and I think that's something to really work through and have those difficult conversations with the respondent, and also to make sure that you're continually thinking about the complainant's needs and how you can best address them in the various ways that you can sort of approach the issue.

Deborah: Yes, absolutely, and I would also add that when we're talking about harm reduction in this context, we're talking about, you know, unanticipated harm that we have caused through our process, so by the interim measures that we choose, by the processes that we force people through, by the way we use those processes. So, it is truly about thinking about our processes and how they affect those folks. So, I just wanted to make sure that we're not necessarily talking about the harm of the original incident when we're thinking about harm reduction in this context.

Laura: Thank you so much for that answer. I'm just wondering if anyone else has any other questions for us? You can put them in either the Q&A box or the chat.

[Pause]

Laura: OK, I think that was everyone's questions. Well, a big, big thank you to both Deb and Britney for sharing your knowledge and expertise with us today. They are part of the Courage to Act Reporting and Investigation and Adjudication Working Group. Their guide is available for download via the Courage to Act Knowledge Centre.

I also want to take a moment to thank everyone for joining us today and sharing with us and asking all your amazing questions. We appreciate and take inspiration from your commitment to addressing gender-based violence on your campus. We're really lucky to be able to work alongside each and every one of you.

Thank you for joining us, and a kind of reminder to please complete the evaluation form. Take good care everyone. Goodbye for now.

[End of recorded material 01:12:25]