

Policy Number:	1.2.9 Sexual Violence
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**Relevant Statutory /
Regulatory
Linkages:**

O. Reg. 131/16: *Sexual Violence At Colleges And Universities*

1. APPLICABILITY

1.1. This policy applies to all members of the King’s University College (King’s) community in their interaction with other members of the King’s community. The King’s community includes staff, students, faculty (including contract faculty), members of the Board of Directors, volunteers, contractors and other individuals who work, study or carry on the business of the King’s. It also applies to all visitors or guests.

2. PURPOSE:

2.1. All members of the King’s (“King’s”) community have a right to work and study in an environment that is free from any form of sexual violence. King’s recognizes that the prevention of, and response to, sexual violence is of particular importance in a university environment. Sexual violence will not be tolerated. Any and all acts of sexual violence will be addressed and individuals who have committed an act of sexual violence will be held accountable.

2.2. King’s will ensure that appropriate procedures are in place to respond to incidents of sexual violence and to provide support for members of the King’s community who are victims/survivors of sexual violence, regardless of where such incidents may occur.

2.3. This document sets out the policy and response protocol to sexual violence and ensures that those who experience sexual violence are supported and their rights respected.

2.4. This policy and its related procedures identify ways to recognize and prevent sexual violence through policies, resources, education and community support and provides members of the King’s community with information to help them respond effectively to an incident of sexual violence. King’s is committed to on-going education and awareness initiatives about sexual violence, including issues of consent, drug and alcohol use, sexual harassment and cyber harassment.

3. RESPONSIBILITIES

3.1. The President is responsible for communicating to all members of the King’s community that sexual violence is not permitted and will not be condoned or ignored. The President will make every effort to prevent sexual violence by:

- a) demonstrating by leadership and action a commitment to the prevention of sexual violence;
- b) communicating the principles of this policy and upholding its spirit and intent;
- c) taking all steps to put a stop to any sexual violence of which they are aware, regardless of whether a complaint has been filed;
- d) taking all complaints of sexual violence seriously and promptly and diligently investigating any alleged incident;
- e) taking prompt action to resolve complaints and taking appropriate corrective action;
- f) encouraging participation in education and training programs provided by King's.

3.2. All members of the King's community share the responsibility to create a workplace/academic environment that is free from sexual violence. All members are responsible for understanding what constitutes sexual violence and conducting themselves in accordance with the spirit and intent of this policy. All members of the King's community are encouraged to:

- a) learning about sexual violence and attending and/or participating in King's sponsored educational programs and campaigns
- b) demonstrating professional and respectful behaviours
- c) speaking out against behaviour that encourages sexual violence
- d) intervening to prevent situations of sexual violence or where a person is vulnerable to sexual violence, where safe to do so.

3.3. The roles of the members of the King's community are more particularly set out in the corresponding procedures document.

4. RELATIONSHIP TO OTHER POLICIES

4.1. It is recognized that some behaviours that are defined as sexual violence may also involve workplace violence, harassment or sexual harassment and, as such, King's Workplace Violence Policy, its Harassment, Sexual Harassment and Discrimination Policy and the Code of Student Conduct, may also be applicable in the circumstances. This policy complements other such policies. In cases where multiple Policies may be applicable, the President or designate will determine which Policy is most applicable in the circumstances and the process or procedure contained therein shall be followed.

5. CONFIDENTIALITY:

5.1. Confidentiality is particularly important to those who have disclosed Sexual Violence. If an individual seeks support of any kind, all King's staff and/or faculty will protect the confidentiality of all those involved, to the extent possible. However, confidentiality cannot be assured in the following circumstances:

- a) Where an individual is at imminent risk of self-harm or harming another;
- b) Where there are reasonable grounds to believe that others in the King's community may be at risk of harm;
- c) Where reporting is required by law (e.g. in the case of a minor);
- d) Where a formal Complaint has been filed, invoking formal procedures involving procedural fairness;
- e) When an incident of sexual violence is reported to Campus Police that may require an investigation and report to the London Police;

- f) When notification and/or action (including conducting an investigation) is required by law, by King's policies, or by an external body with appropriate authority (e.g., when an allegation of Sexual Violence is made against a King's employee).

5.2. By law, King's must report if someone is at risk of harm to themselves or others. In such circumstances, information would be shared only with the necessary parties and to the extent necessary to prevent harm. The names of the survivor and person(s) accused would not be publicly shared.

5.3. In some cases King's may be required to take some action independent of the intentions of the parties. If this is necessary, affected individuals will be fully informed and may choose to be supported at every step of the process.

6. DISCLOSURE, REPORTING AND COMPLAINT OPTIONS

6.1. King's recognizes that individuals who have experienced Sexual Violence may experience emotional and/or academic challenges, and need support and accommodation in addressing them.

6.2. A survivor is not required to report an incident of, or make a complaint about, sexual violence, in order to obtain the supports, services and accommodation available at King's.

6.3. King's recognizes that Sexual Violence can occur between individuals regardless of sex, gender identity, gender expression, sexual orientation or relationship status as articulated in the Ontario Human Rights Code. It is the intention of this policy to make individuals feel comfortable about disclosing and/or reporting an act or threat of Sexual Violence that they have experienced or witnessed.

6.4. Any student who, in good faith, reports an incident of, or makes a complaint about, sexual violence, will not be subject to discipline or sanctions for violations of King's policies relating to drug or alcohol use at the time the alleged sexual violence occurred.

6.5. Individuals will not be asked irrelevant questions during any investigation process by university staff or investigators, including those relating to their sexual expression or past sexual history.

7. DISCLOSURE

7.1. A survivor of or witness to sexual violence may choose to disclose the sexual violence to any faculty or staff member. Disclosure, in these circumstances, is generally about seeking support and/or guidance.

7.2. Disclosure of sexual violence to a member of King's administration may trigger, as required by law, an investigation into the alleged incident. The survivor has the right to choose not to participate in any investigation.

7.3. In responding to a disclosure of sexual violence, King's is committed to ensuring that:

- a) the survivor/victim is treated with dignity and respect;
- b) the survivor/victim is informed about on- and off-campus services and resources;
- c) the survivor/victim has the right to decide whether or not to access available services and to choose those services the survivor feels will be most beneficial;
- d) the survivor/victim has the right to decide whether to report to Campus Police and/or local police;
- e) an on-campus investigation (internal or external) with the institution's full cooperation is available to the survivor/victim;
- f) a safety plan is available for the survivor/victim. (This can be developed with the help of Western's Campus Police.)
- g) reasonable and necessary actions are taken to prevent further unwanted contact with the alleged perpetrator(s)

8. ACCOMMODATION SUPPORT:

Following a disclosure of Sexual Violence, King's will support the provision of alternative living, working, or academic arrangements that are minimally disruptive to the survivor, as appropriate and where possible

9. REPORTING AN INCIDENT OF SEXUAL VIOLENCE

A survivor may choose to report an incident of sexual violence. Survivors may choose to report the incident to a law-enforcement agency [i.e to the police in an effort to pursue criminal charges under the Criminal Code of Canada]. A staff or faculty member, peer, or colleague can also assist in reaching out to Campus Police or London Police Service, in the event that the survivor would like support in the process of filing a formal report.

10. FILING A FORMAL COMPLAINT

A survivor may choose to file a Formal Complaint of sexual violence. The filing of a Formal Complaint triggers a formal procedure which includes an investigation.

11. DISCIPLINARY ACTION:

11.1. Possible Actions and Sanctions

- a) If, after an investigation, the investigator(s) finds that a complaint is substantiated, the designated authority will determine what corrective action is to be taken, if any. Any of the following actions/sanctions may be taken:
 - i. require the completion of information or education sessions for the respondent(s) or a particular group;
 - ii. require that the respondent(s) participate in a counselling process;
 - iii. require a review and modification of policies, procedures and practices for a particular work group;

11.2. Sanctions available to the designated authority include, but are not limited to:

- a) if the finding is against a student, a written apology, a reprimand, a limitation of social privileges, the suspension and/or expulsion of the student;

- b) if the finding is against an employee of the King's, a written apology, a reprimand, the suspension and/or termination of employment as provided by relevant conditions of appointment or employment;
- c) if the finding is against a guest or visitor, a written apology, a reprimand, a limitation of social privileges, and/or a barring from the King's campus or events;
- d) if the finding is against a Board member, a written apology, a reprimand, and/or expulsion from the Board of Directors;
- e) if the finding is against a contractor providing services at the King's, a written apology, a reprimand, cancellation of the contract, and/or a barring from future bids for five years.

11.3. The designated authority may consider any recommendation(s) or recommended sanctions proposed by either the Complainant or the Respondent, including a recommendation by the Respondent that the complaint be found malicious and/or vexatious.

11.4. The disciplinary action should be appropriate for the seriousness of the breach of the policy and the status of the Respondent.

11.5. Record of the Action

Where a complaint of sexual violence is substantiated there will be a formal record of the action taken on the Respondent(s)'s personnel file, if applicable. All other records will be maintained in a secure file kept by the President or their delegate or the Secretary to the Board of Directors.

11.6. Retaliation:

All employees and students have a right to be free of retaliation or threat of retaliation as a result of being involved in a complaint of sexual violence. Retaliation will be deemed to be harassment and dealt with in accordance with the Workplace Harassment and Discrimination Policy.

11.7. Malicious and Vexatious Complaints:

If, as a result of an investigation, it is determined by the investigator that an otherwise unfounded complaint was intended to be malicious and/or vexatious, it will be considered a form of harassment and will be dealt with in accordance with the sanctions applicable to the Complainant as defined above and/or the relevant conditions of appointment or employment document.

11.8. Respondent Recourse:

- a) Employees may grieve the decision of the designated authority following the appropriate procedures outlined in the relevant Conditions of Appointment or Conditions of Employment document. Students may appeal the decision of the designated authority following the appropriate procedures as outlined in the Code of Student Conduct.
- b) This investigative process does not preclude a survivor from contacting the police where

they feel it is appropriate or desired to do so and it is not intended to discourage anyone from taking any steps that they feel necessary in that regard. In fact, King's strongly encourages survivors to take whatever steps they feel comfortable, including contacting any individuals or departments identified within this Policy.

12. COLLECTION AND DISCLOSURE OF DATA

King's will maintain annual cumulative statistics on disclosed and reported incidents of Sexual Violence on campus for the purposes of community education and legislated reporting. This data will not include any information that would identify any King's community member but will include the number of times supports, services and accommodation relating to sexual violence are requested and obtained by members of the King's community.

13. PREVENTION & EDUCATION OF SEXUAL VIOLENCE

King's is committed to providing and supporting on-going education and awareness initiatives about Sexual Violence, including issues of consent, sexual harassment, and cyber harassment to students, faculty, and staff. King's fully supports all cross-campus education and awareness initiatives occurring at Western University, Huron University College, and Brescia University College, and encourages the participation of and collaboration with the King's community.

DEFINITIONS

A. *Sexual Violence:*

- A.1 Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

- A.2 Sexual violence includes, but is not limited to, stalking, indecent exposure, voyeurism, degrading sexual imagery, distribution of sexual images or video of a community member without their consent, cyber harassment or cyber stalking of a sexual nature and sexual violence, physical or psychological, carried out through sexual means or by targeting sexuality.

B. *Sexual Assault:*

Sexual assault is defined as an assault of a sexual nature that violates the sexual integrity of the victim. The act of sexual assault does not depend solely on contact with any specific part of the human anatomy but rather the act of a sexual nature that violates the sexual integrity of the victim. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which make that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

C. Consent:

C.1 Consent is the voluntary agreement to engage in the sexual activity in question. Conduct short of a voluntary agreement to engage in sexual activity does not constitute consent as a matter of law. This means that an individual must actively and willingly give consent to sexual activity. Consent must be informed, freely given, and active. Youths 16 and 17 years old may legally consent to sexual acts but not within a relationship of trust, authority, dependency or where there is other exploitation.

C.2 Further, regarding consent, it is imperative to understand that:

- a) Silence or non-communication must never be interpreted as consent.
- b) A person in a state of diminished judgment cannot consent.
- c) A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.
- d) A person who has been threatened, pressured, forced, or coerced (i.e., is not agreeing voluntarily) is not consenting to any sexual act(s).
- e) A person who is drugged is unable to consent.
- f) A person may be unable to give consent when under the influence of alcohol and/or drugs.
- g) A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual act(s).
- h) Consenting to sexual activity in the past or present does not mean consent is given to other sexual activity in the future.
- i) A person can withdraw consent at any time.
- j) A person cannot give consent to a person in a position of trust, power, or authority over them.
- k) Consent cannot be given on behalf of another person.
- l) Sexual activity without consent is sexual assault.

D. Survivor:

A person who has experienced an act or threat of Sexual Violence. Survivor is a positive term recognizing the strength needed to live with an experience of Sexual Violence. It is the prerogative of the person who has experienced Sexual Violence to determine how they wish to identify.

E. Acquaintance sexual assault:

Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

F. Coercion:

The use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts. In the context of Sexual Violence, coercion is unreasonable or persistent pressure for sexual activity.

G. *Drug-facilitated sexual assault:*

Occurs when alcohol and/or drugs are used to control, overpower, or subdue a target for the purposes of sexual assault. Many substances could be connected with drug-facilitated sexual assault, such as: alcohol, over-the-counter legal drugs, prescription drugs and illegal drugs such as Rohypnol, gamma hydroxybutyric, or ketamine (generally referred to as “date rape drugs”).

H. *Cyber Harassment:*

Cyber harassment takes many online forms, but typically involves the use of email, texting, instant messaging, derogatory websites, graphic images or posts to bully or otherwise harass an individual or group through personal attacks causing substantial emotional distress and/or the fear of bodily harm. Cyber harassment can include, but is not limited to: ‘flaming’, sending offensive or cruel email, or harassing others by posting comments in chat rooms, blogs, or social networking sites.

I. *Stalking:*

A form of criminal harassment prohibited by the *Criminal Code*. Generally it consists of repeated conduct that is carried out over a period of time and which causes someone to reasonably fear for their safety or the safety of someone else with or without physical injury. Stalking can also include threats of harm to friends and/or family. Stalking behaviours include, but are not limited to, non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; “creeping” via social media/cyber-stalking; and uttering threats.

MONITORING REPORT

Annual report by the Principal profiling known breaches, actions taken, impacts incurred and future considerations