

## **CUPE 3903 Internal Sexual Violence Policy – Passed by Membership November 15, 2019**

### **1. Goals of the Policy**

All incidences of sexual violence are serious issues that warrant action. CUPE 3903 is committed to developing an intersectional and survivor-centric policy on sexual violence in union spaces. Given the widespread incidence of sexual violence on university campuses, CUPE 3903 has an imperative to act as a resource and support for members experiencing sexual violence.

The goals of this policy are to:

1. provide procedures that executive members or staff members of the local can follow when a member discloses an incident of sexual violence;
2. outline specific procedures for redress within the local which do not require police involvement;
3. outline the supports and resources available to members through the local; and
4. create an environment where the rights, needs, and wishes of the survivor are prioritized and respected as much as legal constraints allow.

### **2. Survivor-Centric Approach<sup>1</sup>**

A survivor-centric approach aims to create a supportive environment in which the survivor is treated with dignity and respect. In this policy, a survivor-centric approach applies a set of principles and skills to teach all members and staff how to engage with people who have experienced sexual violence.

In contrast with medical or criminal punitive approaches, using a survivor-centric approach, the survivor has a right to:

1. be believed and supported instead of being blamed for the harm they experienced;
2. choose and direct the course of action in dealing with the violence, within the bounds of this policy;
3. privacy and confidentiality;
4. be free from discrimination based on gender, age, race/ethnicity, ability, sexual orientation, religion, family status, mental health diagnosis and history, or any other personal characteristic;
5. receive relevant and useful information to help them decide their subsequent course of action.

Concretely, this means that the survivor must authorize any sharing of information relating to the incident, unless the Local is legally compelled to do so. Unless the survivor requests their involvement, York Campus Security will not be informed. If the survivor chooses redress procedures outside of this policy, their decision will not prevent them from accessing local-specific resources which support survivors of sexual violence.

### **3. Scope of the Policy**

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<sup>1</sup> <http://www.endvawnow.org/en/articles/652-survivor-centred-approach.html>

This policy applies to all current members of CUPE 3903, including all elected officers and political members.

This policy is intended to primarily address sexual violence where the survivor and the respondent are both CUPE 3903 members. It applies to members who are experiencing/or have experienced sexual violence, intimate partner and/or domestic violence where the harm was committed by a CUPE 3903 member, even if the incident occurred before the respondent and/or the survivor were CUPE 3903 members. This policy can only inform how members interact in union spaces, broadly defined, while recognizing that union, employment, and educational spaces often overlap. Nothing in this policy is meant to remove the employer's responsibility to ensure a workplace free from sexual violence.

This policy cannot be used to remove membership status and rights guaranteed under the Labour Relations Act.

Members experiencing this type of violence from non-members and/or outside the local can still disclose to another member and receive a list of internal and external resources.

#### **4. Terms Used in the Policy**

**Confidentiality:** The provisions under this policy that protect the privacy of all parties to the complaint. See Appendix B.

**Designate:** An Executive Committee member or staff member of CUPE 3903 who assists the survivor in navigating this policy and other resources on behalf of the Local. Designates cannot act as a support person as defined under this policy.

**Equity Officer:** This term always refers to the 3903 Equity Officer. As an employee of CUPE 3903, they are not a member.

**Executive Committee:** The governing body of CUPE 3903 between membership meetings consisting of elected positions outlined in Article 8 of the CUPE Local 3903 Bylaws.<sup>2</sup>

**Gender-based Violence:** Violence that is committed against someone based on their gender identity, gender expression or perceived gender. Gender-based violence is not limited to physical abuse but includes words, actions, or attempts to degrade, control, humiliate, intimidate, coerce, deprive, threaten, or harm another person.

**Intimate Partner Violence:** An act of abuse between an individual and a current or former romantic, sexual or dating partner. Intimate partner violence is sometimes called domestic violence. For this policy intimate

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<sup>2</sup> <https://3903.cupe.ca/resources/bylaws/>

partner violence describes a situation where the perpetrator lives with or used to live with the survivor. Instances of intimate partner violence are wide ranging and can take many forms such as physical, sexual, financial, spiritual or emotional. It occurs when one person uses power to control over another through threats or actions, control over finances, social isolation, humiliation, outing them as queer or trans, or other kinds of coercive behavior.<sup>3</sup>

**Member:** All persons covered under the terms of the scope clauses of CUPE 3903's Collective Agreements, Bylaws, and the CUPE National Constitution.

**Respondent:** The person who the survivor names in their complaint as the person who harmed them.

**Staff:** Persons employed by CUPE 3903 on a full- or part-time basis, and who are not members of CUPE 3903.

**Separation of Parties:** Separation of parties may involve banning the respondent from some or all union activities for a set period of time. If separation of parties cannot be achieved, a plan may be enacted to provide support and safety for the survivor in joint spaces.

**Sexual Violence:** An umbrella term describing any harm, physical or psychological, carried out through sexual means or by targeting sexuality. Sexual violence includes all forms of unwanted sexual contact as well as name-calling, sexual humiliation, and sexual targeting.

**Sexual Assault:** Any unwanted act of a sexual nature imposed by one person upon another including activities such as kissing, fondling, oral, anal or vaginal sex, or other forms of penetration without consent. Sexual assault can be experienced by members of any gender.

**Sexual Harassment:** Sexual harassment is defined as unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature such as non-consensual distribution of sexual images, or humiliation through sexual jokes. Sexual harassment happens when any of the following factors are present: 1) the conduct is presented as a term or condition of an individual's employment, education, living environment or participation in a University community; 2) the acceptance or refusal of such conduct is presented as the basis or a factor in future decisions affecting an individual's employment, education, living environment, or participation in a University community; 3) the conduct unreasonably impacts an individual's employment or academic performance or creates an intimidating, hostile, or toxic environment for that individual's employment, education, living environment, or participation in a University community. Sexual harassment may occur in one incident or as a series of behaviours.

**Support Person:** A person of the survivor's choice who helps them navigate the process. Staff employed by CUPE 3903 cannot act as support person.

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<sup>3</sup> [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&Intranet=&BillID=3795](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=3795)

**Survivor:** A person who has experienced sexual violence. People of any gender can experience sexual violence. Some people may prefer the language of “survivor”, some may prefer the language of “victim” and some may prefer a different term. Members will make every effort to use the preferred terminology.

**Transformative Justice:** The idea that meaningful justice processes that work towards healing, engaging the people who have caused harm, and repairing relationships can be developed. It is a process that seeks individual justice while recognizing that we need to transform our communities to address the root causes of violence<sup>4</sup>.

**Union Spaces:** Defined broadly to include physical, social and online forums where union activities occur, including but not limited to the physical union offices, social events, any meeting of a union committee, informal meetings between members and an executive member or a staff person, and/or union social media accounts.

## **5. Training on Sexual Violence**

CUPE 3903 will employ a tiered system for training on issues of sexual violence.

**Staff Training:** CUPE 3903 staff will be trained by a professional external to the local. The training should occur within six months of the implementation of the policy and within six months of the hiring of any new staff member. Regular training should then occur every two years, or at a greater frequency if decided upon by the 1281-3903 Labour Management Committee. The Executive Committee, in consultation with 3903 staff and TFAC Co-Chairs, will decide on third party training resources. The third party should have knowledge of the dynamics of sexual violence and direct experience in developing and delivering training about survivor-centric disclosure and resolution processes. See Appendix C for suggested training resources.

**Executive and Member Training:** The Equity Officer is responsible for co-coordinating and/or hosting training around sexual violence for CUPE 3903 members, including those who serve on the Executive Committee.

**Executive Committee Training:** Executive training will include 1) training on survivor-centric procedures which will allow members of the executive committee to act in a survivor-centric manner at the point of disclosure; and 2) information on resources, both from 3903 and outside avenues, that are available to survivors.

**Member Training:** All members will have access to training on survivor-centric approaches to sexual assault disclosure at least once a year. The Equity Officer is responsible for organizing member training.

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<sup>4</sup> <https://stillmyrevolution.org/2015/12/23/transformative-justice-and-as-harm/>

### **Training Priorities:**

All training should address the following:

- The goals and use of this policy.
- Facts about the prevalence and patterns of sexual violence in post-secondary institutions.
- Disabled peoples' experiences of sexual violence and the practice of access.
- BIPOC people's experiences of sexual violence.
- Traditional and intersectional narratives of victimhood. Educational tools and resources should be provided that illustrate the many ways a survivor could behave and disclose.
- How to put survivor-centric policies into practice.
- Education around resources for survivors including Toronto-based local, provincial and national resources.
- Education on the resources to meet the needs of intersectional survivors such as active listening resources for queer, trans, non-binary, disabled, and racialized survivors.
- Self-care and group care strategies that staff can use to mitigate the long-term emotional labour of receiving disclosures.

### **6. Procedures Regarding Disclosures of Sexual Violence**

CUPE 3903 Executive Committee members and staff will do everything in their power to maintain confidentiality and respect the autonomy of the survivor from the point of disclosure. From the point of disclosure and throughout any subsequent processes, CUPE 3903 Executive Committee members and staff will use a survivor-centric approach as outlined in the Approach section of this policy. This means that disclosures of sexual violence should always be validated and taken as being in good-faith. We recognize that people who experience violence respond in a variety of ways, and that race, ability, and sexual history or sexual orientation have no bearing on the validity of a complaint.

CUPE 3903 recognizes that:

- Disclosures of instances of sexual violence are traumatic for the survivor;
- Disclosure does not begin any process unless the survivor requests it;
- The privacy and confidentiality of the survivor is of utmost priority throughout the disclosure process
- A survivor should have complete control over the process of disclosure including who they choose to disclose to, and when they choose to disclose \*
- A survivor should decide who serves as their support person in the disclosure and/or complaint process; and
- If a survivor discloses an instance of sexual violence, they should not be pressured to make further unnecessary repetitions to limit the re-traumatization that can occur with retelling.

\*The union will make every effort to protect the privacy and confidentiality of the survivor. However, the Union's ability to ensure confidentiality and privacy has particular limits and legal constraints as outlined in

this policy. These limits and legal constraints are made explicit throughout this policy and the Union will make every effort to inform the survivor of these limits and constraints throughout the process.

*Procedure when Disclosure Occurs In Person:*

If the survivor discloses to an Executive Committee member or staff person who is **not** the Equity Officer, that person becomes a designate of CUPE 3903. The designate will:

- Affirm and validate the survivor's experiences;
- Offer support through active listening and refrain from taking written notes unless asked to by the survivor<sup>5</sup>;
- Communicate the Confidentiality Policy and how/how long their information will be kept;
- Outline options and resources that are available to the survivor;
- Direct the survivor to the Equity Officer and may, with the consent of the survivor, inform the Equity Officer of the details that the survivor wishes to share.

If the survivor chooses not to involve the Equity Officer, the designate will direct the survivor to an alternate staff member who may assist in navigating informal and formal avenues of redress and/or assist the survivor themselves.

If the survivor discloses directly to the Equity Officer, the Equity Officer:

- will validate the survivor's experiences;
- will offer support through active listening and refrain from taking written notes unless asked to by the survivor or unless notes are needed for the purposes of filing a grievance or engaging in a hearing related to the case. In such cases where notes may be requested or required, the survivor must be informed that such notes may be compelled by the courts in relation to any future legal proceedings that may arise in relation to the disclosure;
- will communicate the confidentiality policy and how/how long their information will be kept;
- may conduct safety planning and suggest relevant counselling options;
- may refer the survivor to resources and help the survivor navigate those resources if requested;
- may inform the survivor on all avenues of redress listed in this policy and offer to help the survivor navigate these avenues;
- may represent the member in any process covered by their collective agreement.

A survivor who has disclosed to the Equity Officer may elect to switch to another designate at any time.

*Procedure when Disclosure Occurs Remotely:*

Every effort will be made on the part of the Union to protect the privacy and confidentiality of members in cases where disclosures occur remotely. However, members will also be made aware that legally, the Union may be subpoenaed to produce records of disclosures that have been remotely documented.

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<sup>5</sup> Written documentation may be subject to a subpoena by the courts and survivors should be advised accordingly.

CUPE 3903 will make every effort to guarantee confidentiality in the remote disclosure process (see Appendix B).

#### Email Disclosure

CUPE 3903 has dedicated an email address that can only be accessed by CUPE 3903's Equity Officer. This allows survivors to disclose instances of sexual violence any time of day and they will receive both an immediate response and a personalized follow up email by CUPE 3903's Equity Officer as soon as the email is received by the Equity Officer. The immediate automated email response includes a comprehensive list of available local, provincial, and national resources including contact information for immediate counselling, emergency shelters, medical attention and contact information for the Equity Officer including a breakdown of the hours that the Equity Officer is available in the CUPE 3903 office. The immediate automated response will also outline the Union's commitments to protect the privacy and confidentiality of members in cases where disclosures occur remotely, and will also outline the possible limits of the Union's ability to protect member privacy and confidentiality in remote disclosures (i.e. the Union may be subpoenaed to disclose records of disclosures that have been remotely documented).

The follow up contact, either by phone or email by the Equity Officer, will affirm the survivor's experience, while outlining the procedures available to the survivor should they seek more specific resources or want to move forward with an informal or formal resolution.

#### Phone Disclosure

Survivors can disclose instances of sexual and/or gender based violence by phone to the Equity Officer. They can either talk to the Equity Officer directly over the phone or leave a message any time of day and receive an answer immediately upon the message being heard by the Equity Officer.

### **7. Resolution Processes**

There are two resolution processes under this policy: informal and formal.

The informal process requires the consent of both parties, and takes a transformative justice approach. The emphasis is on attempting to reach a resolution through mediation or other consensual arrangements. The aim is to address the harm in a way that is less adversarial and seeks to remedy the forces in our communities that allow and promote sexual violence. A survivor can choose to switch from an informal to a formal process at any time.

The formal process consists of an investigation by a third party, and does not require the consent of the respondent. By definition, it is an adversarial process which seeks to unearth the veracity of events. The formal process may be better in cases where the respondent is not willing to participate in an informal process, or the survivor feels that events in question are too severe to warrant an informal resolution.

In both informal and formal processes, an immediate separation of parties will be implemented for 14 days. This separation of parties is meant to act as a cool-down period and should not be construed as evidence of wrongdoing.

## **8. Informal Resolution**<sup>6</sup>

This option focuses on providing: a) information to both parties, b) support to the survivor, including referrals, and c) the possibility of mediation for resolution. The survivor and the respondent are each entitled to have a support person while pursuing an informal resolution. Informal resolution procedures do not require any direct contact between the parties. The Equity Officer, or alternate designate, will provide support to the survivor that may include, but is not limited to:

- Providing information on members rights as an employee of York University under the Collective Agreement;
- Directing members to appropriate university or local community services;
- acting as a neutral mediator between members;
- Providing advice and/or advocacy, including referrals to staff representatives regarding potential grievances against the Employer;
- Reviewing the benefits and drawbacks of third party mediation, and;
- Recommending to the Executive Committee the hiring of a third party mediator.

### *Hiring an External Mediator:*

The Equity Officer or designate will inform the survivor that hiring of an outside third party will require financial approval from the Executive Committee. The discussions of the Executive Committee will always take place in a confidential in camera session and will not disclose names if at all possible.

### *Possible Informal Remedies:*

Unless otherwise indicated, these remedies are negotiated through the Equity Officer or designate:

- Communicating the reported conduct to the respondent and demanding it to stop;
- Voluntary mediation between the parties. At this meeting, parties can be face-to-face or in separate rooms. The focus of the meeting will be: a) the impact of the reported conduct on the survivor, and b) reaching an agreement on a holistic resolution of the complaint.
- Hiring a third party external mediation. Where a third-party mediator is present the focus of the meeting will be the same as in internal mediation.

The Equity Officer or designate will notify the survivor of the respondent's response to the complaint. If the respondent is unwilling to participate in the informal process, the survivor can begin an internal formal complaint. At any point in this process the survivor can halt the informal complaint and launch a formal complaint.

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<sup>6</sup> These informal resolution guidelines were developed using several member-to-member harassment procedure documents including: TIWI Member to Member Harassment Research Report 2004, the interim Anti-Harassment Procedure for CUPE 3903 approved by the general membership on October 17, 2006, and the Sexual Assault Policy of an unnamed Toronto radical group.



Resolutions may include but are not limited to:

- an apology by the respondent to the survivor;
- counselling or anti-oppression training for the respondent;
- a separation of parties.

Once resolutions have been agreed upon by both parties, a designate will be assigned to address any concerns or questions from either party.

*Where the Complaint is Against an Executive Committee Member:*

When a complaint involves an Executive Committee member, an outside third party will be contracted to fulfill the duties assigned to the Equity Officer or designate for the purposes of the complaint.

*Where Respondent Does Not Cooperate with the Informal Process:*

If the respondent does not respect the resolutions arrived upon by the informal resolution process, a formal complaint may be launched. Any informal resolution can be appealed by either party, and the appeals process will result in the initiating of the formal procedure.

## **9. Internal Formal Complaint Processes**

A formal complaint can be launched at any point by the survivor, or by the respondent through an appeal of an informal resolution. A support person of the survivor's choosing may assist the survivor in articulating the complaint. CUPE 3903 staff including the Equity Officer cannot act as support people, but they can recommend a support person on behalf of the survivor. The survivor or their designate will deliver the complaint to the Equity Officer or the Complaint Resolution Committee. If the complaint is delivered to the Equity Officer, the Equity Officer will then deliver it to the Complaint Resolution Committee.

At any point in time in the process, the survivor may have a support person of their choosing take over as their official representation in the process.

The survivor can withdraw the complaint at any time in the formal complaint process. If the survivor withdraws the complaint, the investigation will be terminated and the case will be closed.

Due to the nature of a formal process, written notes and documents will need to be kept, subject to the confidentiality policy outlined in Appendix B. The survivor must be informed that such notes may be compelled by the courts in relation to any future legal proceedings related to the disclosure.

*Formation of a Complaint Resolution Committee:*

The Complaint Resolution Committee shall consist of three Executive Committee members, of which one shall be a TFAC Co-Chair. Election to the committee occurs annually at an Executive Committee Meeting

no later than thirty days after the swearing in of a new Executive. If Complaint Resolution Committee members withdraw from the committee or leave the Executive Committee a replacement will be elected as soon as possible. Names of Committee members shall be made available to the membership through the Local's website.

Once a complaint has been submitted any member of the Complaint Resolution Committee with a demonstrated conflict of interest must recuse themselves. A replacement shall be elected at the next Executive Committee Meeting. Both the survivor and the respondent can identify Resolutions Committee members with potential conflicts of interest.

The Committee will attempt to come to a consensus whenever decisions are required. If a consensus cannot be reached a simple majority vote will determine the outcome.

The role of the Complaint Resolution Committee is to:

- Receive a complaint from the survivor and/or their support person.
- Verify that the complaint falls within the scope of this policy, and if so, and with the survivor's consent, to proceed with the Formal Resolution process.
- Inform the respondent that a complaint has been made.
- Bring forward a motion to the next Executive Committee meeting for the hiring of an outside investigator. If quorum cannot be achieved an emergency executive meeting will be called as soon as possible.
- Facilitate the forwarding of confidential information to and between parties if and only if necessary to move the formal complaint process forward.
- Keep the survivor and respondent informed regarding the investigation and address their questions/concerns.
- Receive the investigator's report and meet with the survivor to discuss the report and determine steps towards resolution. The committee shall bring to this meeting some suggestions for resolution.
- Consent must be granted by the survivor for any suggested resolutions that would impact the respondent's participation in the union, or that require the involvement of the survivor. The Complaint Resolution Committee is empowered to determine which resolution steps fall under this clause.
- Deliver a summary of the investigator's report to the survivor and respondent outlining the steps towards resolution that both parties must follow, including timelines where appropriate. The Resolution Committee should request that the investigator writes a report summary for this purpose.
- Track the resolution of cases, remain the point of contact for both parties and follow up with parties as outlined in the communicated steps towards resolution.
- Close the complaint when appropriate following the procedures outlined in this policy.
- Discuss with the survivor or a support person of the survivor's choosing any immediate support needs, and assist in the creation of a plan to meet those needs. The Committee will collaboratively develop a communication plan with the survivor.

- Review and update the Resources list (Appendix C of this policy) annually.

### *Conflicts of Interest*

Any CUPE 3903 Executive Committee member named in the complaint must recuse themselves from the Complaint Resolution Committee. Any member of the Complaint Resolution Committee who has a close relationship with either the survivor or respondent that could influence their decision-making (positively or negatively) must declare a conflict of interest.

The definition of a “close relationship” is necessarily vague. Any Committee member who even suspects that their relationship with the survivor or respondent may be viewed as a conflict shall disclose this relationship to the rest of the Committee. Both parties can identify Complaint Resolution Committee members with potential conflicts of interest. Where doubt exists that the relationship constitutes a conflict, the committee is empowered to decide whether a conflict exists. Any Committee members with a conflict of interest shall recuse themselves from the Committee.

The following are automatically conflicts of interest:

- Committee members who are relatives of either party;
- Committee members who are or were intimate partners of either party;
- Committee members who have lived with either party currently or in the past;
- Committee members who are or have been involved in legal proceedings with either party;
- Committee members who are the employer/supervisor of either party.
- Committee members who are an employee reporting to or employed by either party.

### *Powers of Investigation & Decision-making*

The Complaint Resolution Committee will hire an external professional to investigate the complaint. The investigator may call witnesses from our General Membership, but may not compel them.

Within two weeks of the completion of the investigation, the committee will recommend resolutions that may include but are not limited to:

- an apology from the respondent,
- counselling or anti-oppression training for the respondent,
- a separation of parties,
- requiring the respondent to step down from any position held within the local (including the Executive Committee).

### *Confidentiality of Committee Activities*

All activities, records, and proceedings of the committee shall be strictly confidential and conducted in camera. No aspect of the committee’s work should ever be discussed outside of the committee and each member of the committee will sign a lifetime binding confidentiality agreement. If it becomes apparent that this agreement has been violated, the person who violated the agreement will lose all privileges possible

under the CUPE National Constitution indefinitely or permanently, and may be subject to the CUPE National Trial Process. All records of the formal complaint processes will be permanently locked away and only the Equity Officer will have access to these records. Every part of this policy must follow the confidentiality procedures under Appendix B.

## **10. Other Avenues of Complaint**

### CUPE National Trial Process

The Trial Process is currently the only means available under the CUPE National Constitution that could potentially result in a binding finding of exclusion from union spaces. It should be noted that, considering the structure of the Trial Process, the local cannot guarantee that the Trial Committee will be composed of individuals who are adequately trained in issues of sexual violence. This process does not meet the survivor-centric nature, confidentiality, and conflict of interest standards outlined in this policy.

As a local, we will not use the current CUPE National trial process to address sexual violence.

At the 2019 CUPE National Convention, an amended trial process was approved. This new process includes an as of yet unspecified set of procedures for the handling of discrimination and harassment claims. It is projected to come into effect in 2020.

The Trial Process can be found in the CUPE National Constitution under Appendix B. XI.

### Using the Grievance Process

The grievance process follows our collective agreements (Article 6). A grievance is always against the employer (York), and not an individual. Nothing in this policy is meant to remove responsibility from the employer for ensuring a workplace free from sexual violence.

Filing a grievance can be helpful when it is a matter of health and safety, for example keeping the survivor safer in their work environment. A successful grievance may be a way of ensuring a binding separation of parties in the workplace and/or York properties.

A grievance is filed against the employer and not the union. Consequently, settlements only apply to members as employees, and do not apply to member participation in union spaces. A survivor may choose to pursue a grievance along with other processes.

To initiate a grievance, the survivor or their representative must talk to staff. Staff can file a grievance without the presence of the survivor in the required meetings.

### External Complaints

Survivors may opt to file a complaint that is external to the local, for example to York University, to the Human Rights Tribunal, or to the police. The local cannot get directly involved in these processes. Similarly, any finding under York's Sexual Violence Policy cannot be automatically applied to union spaces.

However, a survivor may still access any funds or supports offered by the local if they choose an external process.

### **11. Resources**

An appendix (Appendix C) is attached to this policy containing a list of resources to assist members experiencing sexual violence. The list should include resources for members who experience overlapping oppressions on the basis of race, sexuality, ability, language, and/or other bases of oppression. The Complaint Resolution Committee must vet this list annually to ensure that resources remain current, and adjust the listings as necessary.

## **Appendix A: Complaint Resolution Committee - Documents and Further Procedures**

Formal procedures occur when a survivor launches a formal complaint or either party appeals an informal resolution. The composition and role of the Complaint Resolution Committee is outlined in Section 9 of this policy (CUPE 3903 Internal Sexual Violence Policy).

These Documents and Further Procedures are meant to guide and support the Committee in fulfilling their role. Within these documents and procedures, “the Committee” refers to the Complaint Resolution Committee, and “the Policy” refers to the CUPE 3903 Internal Sexual Violence Policy.

The Complaint Resolution Committee has three members. Whenever decisions made, the committee should attempt to meet in its entirety. As outlined in the Policy, the Committee will attempt to come to a consensus whenever decisions are required. If a consensus cannot be reached a simple majority vote will determine the outcome.

### **1. Receiving a complaint**

The survivor, their support person, or a designate of the local to whom the survivor has disclosed can deliver a complaint to any member of the Committee. The Committee member who receives the complaint should document its submission by filling in the *Sexual Violence Policy Complaint Submission Form*.

If the complaint is received electronically (i.e., via email) it should be printed in its entirety, including any accompanying messages/emails. Due to the decreased security in sharing/transmitting electronic documents, it is the physical copy that should be used for the remainder of the Internal Formal Complaint Process, whenever possible.

Upon receiving the report a Committee member(s) should discuss with the survivor or a support person of the survivor’s choosing any immediate support needs, and assist in the creation of a plan to meet those needs. Staff, and other resources found within this Policy, can be used by the Committee in meeting the survivor’s support needs.

Receiving the complaint and filling in the *Sexual Violence Policy Complaint Submission Form* begins the formal record-keeping of the Internal Formal Complaint Process (CUPE 3903 Internal Sexual Violence Policy, Section 9).

The Committee member who receives the complaint should contact the other Committee members as soon as possible to arrange a meeting regarding the complaint. Electronic communications regarding the complaint should not contain member names or identifiable information.

### **2. Verifying that the complaint falls within the scope of the Policy**

The Committee should meet and review the complaint as soon as possible after it has been submitted. The review is not to address the veracity of the claim, only to assess whether it falls under the scope of the Policy. The *Sexual Violence Policy Complaint Review - Scope Form* will assist the Committee in making their decision and should be completed for documentation purposes.

At the meeting where the complaint is first reviewed, a Committee member should be designated as a contact person for the survivor. The survivor must be contacted after the review and informed on whether the Committee has agreed to proceed with the Internal Formal Complaint Process or not.

Even if the Committee has found the complaint falls under the scope of the Policy and has agreed to proceed with the Internal Formal Complaint Process, they must confirm consent of the survivor to proceed with the Formal Complaint Process before proceeding.

### **3. Appealing the Finding of the Committee on Scope**

In the case of a finding that the complaint does not fall within the scope of the Policy, the survivor can appeal to the Executive Committee. Such an appeal will rely on the *Sexual Violence Policy Complaint Review - Scope Form* and not contain any names or identifying information. The appeal will be heard in a confidential in camera session. The appeal shall be included on the agenda of the next Executive Committee meeting, which shall be no later than two weeks after the appeal is filed. The appeal decision will then be communicated to the survivor by the Committee. The decision of the Executive Committee is final.

### **4. Informing the Respondent of a Complaint**

A member of the Committee will be designated to act as a contact person for the respondent. The respondent should be contacted once the Committee has found that the complaint falls under the scope of the Policy and has agreed to proceed with the Internal Formal Complaint Process. The respondent should be directed to the Internal Sexual Violence Policy and be made aware that an outside investigator will be hired to investigate the complaint.

### **5. Keeping the Complainant and Respondent Informed**

Members of the Committee will be designated as the point of contact for the respondent and survivor. The point of contact for both parties cannot be the same person.

The Committee may wish to draft template communications for standard points in the process to ensure consistency across complaints and completeness of the information given.

The Committee may address questions/concerns about the process but should not discuss the complaint itself with either party. This does not preclude the Committee from referring to aspects of the complaint, for instance in the explanation for their scope decision given to the survivor. However, it is the role of the outside investigator to discuss the complaint and ask questions of the parties.

## **6. Hiring an External Investigator**

If the Committee finds that the complaint falls under the scope of the Policy and has agreed to proceed with the Internal Formal Complaint Process, they must bring forward a motion to the next Executive Committee meeting for the hiring of an external investigator.

The external investigator should have training and/or experience in workplace investigations of sexual violence, and be familiar with labour law as it applies to the relationship between unions and their members. The investigator should be made familiar with this Policy, and should agree to take a survivor-centric approach to the investigation. The investigator will provide both a detailed report and a summary of their investigation to the Committee.

## **7. Reviewing the Investigator's Report and Determining Steps Towards Resolution**

The Committee should meet and review the investigator's report as soon as possible after it is received. If resolutions are deemed necessary, the Committee shall decide on potential resolutions to suggest to the survivor. The Committee shall provide the investigator's summary to the survivor and meet with them to discuss and determine steps towards resolution.

Consent must be granted by the survivor for any suggested resolutions that would impact the respondent's participation in the union, or that require the involvement of the survivor. The Complaint Resolution Committee is empowered to determine which resolution steps fall under this clause.

The Committee should include an outline of the steps towards resolution that both parties must follow, including timelines where appropriate. The Committee should also determine how they will track the resolution of cases.

Delivery of the summary report and steps towards resolution should be documented using the *Sexual Violence Policy Complaint - Summary of Investigator's Report and Steps Towards Resolution Form*.



***Sexual Violence Policy Complaint Submission Form - Template***

This form shall be completed by a member of the Complaint Resolution Committee upon receipt of a formal complaint. All forms and documents received and generated by the committee are confidential and shall not be shared with parties outside the Committee unless otherwise noted in the CUPE 3903 Internal Sexual Violence Policy.

Immediately upon receiving a complaint, the Committee member(s) shall fill in this form and attach it to the complaint.

**File ID\*:** \_\_\_\_\_

**Name(s) of survivor:** \_\_\_\_\_

**Contact information of survivor:**

**Name(s) of respondent:** \_\_\_\_\_

**Contact information of respondent, if known:**

**Complaint received on:** \_\_\_\_\_

**Complaint received by** (this should be a Resolutions Committee member): \_\_\_\_\_

Once received, the complaint, and this attached form, will be stored in a locked storage cabinet. Only Complaint Resolution Committee members shall have access to the cabinet. No copies, electronic or otherwise, will be made of complaints/documentation unless necessary for the formal resolution process.

This form is subject to the confidentiality provisions outlined in Appendix B of the CUPE 3903 Internal Sexual Violence Policy.

\*The File ID should not include information that would identify the survivor and/or respondent. As much as possible, the case will be referred to by its File ID.

***Sexual Violence Policy Complaint Review - Scope Form - Template***

To help determine if the complaint submitted under the Formal Resolution Process of the CUPE 3903 Internal Sexual Violence Policy falls within the scope of the policy, the Complaint Resolution Committee must review the complaint.

The Complaint Resolution Committee shall meet as soon as possible, and no longer than two weeks after the receipt of a complaint, to decide whether the complaint falls under the scope of the policy and to inform the survivor of this meeting and any subsequent decisions emerging out of this meeting.

**File ID\*:** \_\_\_\_\_ **Date of review:** \_\_\_\_\_

**Name of Committee member(s) performing review of complaint:**

<p>Membership status of survivor (circle the appropriate response)</p>	<ul style="list-style-type: none"> <li>● Survivor is a member of CUPE 3903.</li> <li>● Survivor is <u>not</u> a member of CUPE 3903.</li> <li>● Membership status of survivor is unclear.</li> </ul>
<p>Membership status of respondent (circle the appropriate response)</p>	<ul style="list-style-type: none"> <li>● Respondent is a member of CUPE 3903.</li> <li>● Respondent is <u>not</u> a member of CUPE 3903.</li> <li>● Membership status of respondent is unclear.</li> </ul>
<p>Incident(s) reported (circle the appropriate response)</p>	<ul style="list-style-type: none"> <li>● Incident(s) reported, all or in part, falls under the definition of sexual violence in the CUPE 3903 Internal Sexual Violence Policy.</li> <li>● None of the incident(s) reported fall under the definition of sexual violence in the CUPE 3903 Internal Sexual Violence Policy.</li> </ul>

**Decision of Committee (circle appropriate response):**

- Complaint falls under the scope of this policy.
- Complaint does not fall under the scope of this policy.

\*This is the File ID written on the *Sexual Violence Policy Complaint Submission* form.

***Sexual Violence Policy Complaint - Summary of Investigator's Report and Steps Towards Resolution Form - Template***

This form shall be completed once the investigator's report has been reviewed and steps towards resolution have been determined (if necessary). This form should be attached to the original complaint, along with the investigator's report and filed as part of the complaint records.

**File ID\*:** \_\_\_\_\_

**Investigator's Report Received on:** \_\_\_\_\_

**Date Complaint Resolution Committee Reviewed Investigator's Report:** \_\_\_\_\_

**Date of Meeting with Survivor to Review Investigator's Report:** \_\_\_\_\_

**Resolutions required (circle one):** yes / no

**Resolutions Determined (if required):**

*Resolutions should be as detailed as necessary and include time period in effect or time by which completion of resolution step is required. A similar "Resolutions Determined" list should be shared with the survivor and respondent.*

**Summary of Investigator's Report and any Resolutions Delivered to Survivor:**

**Date:** \_\_\_\_\_ **Delivered by:** \_\_\_\_\_

**Summary of Investigator's Report and any Resolutions Delivered to Respondent:**

**Date:** \_\_\_\_\_ **Delivered by:** \_\_\_\_\_

\*This is the File ID written on the *Sexual Violence Policy Complaint Submission* form.

## **Appendix B: Confidentiality for Sexual Violence Disclosures**

In situations of disclosures of sexual violence to Executive members and/or Union staff, every effort will be made to protect the privacy and confidentiality of members. Executive members are bound by the Confidentiality Rules/Agreement as set out in the CUPE 3903 Bylaws.

The Union shall use and share information only with the written agreement of the member concerned or as permitted by law that applies to the Union, or the Union by-laws.

CUPE 3903 and its representatives recognize that union spaces can be toxic places for survivors of sexual violence and recognize the importance of allowing survivors the option to disclose and seek resources and/or redress remotely without having to disclose in person. Every effort will be made on the part of the Union to protect the privacy and confidentiality of members in cases where disclosures occur remotely. However, members who choose to disclose remotely must also be made aware that the Union may be legally required or compelled to disclose records of disclosures that have been remotely documented.

### **Physical records of member disclosures of sexual violence**

Executive members and staff will refrain from taking written notes unless asked to by the survivor or unless notes are needed for the purposes of filing a grievance or engaging in a hearing related to the case. In such cases where notes may be requested or required, the survivor must be informed that such notes may be compelled by the courts in relation to any future legal proceedings that may arise in relation to the disclosure.

All physical notes and other material that contain member disclosures of sexual violence will be kept in locked offices, cabinets or otherwise secure storage when not in use. Such material will not be kept in open areas and will not be accessible to the general membership.

Upon termination of term of office, an Executive member or Complaint Resolution Committee member shall immediately transfer to their successor and/or place in secured storage any material containing member disclosures of sexual violence. No Executive or Complaint Resolution Committee member shall keep material containing member disclosures of sexual violence beyond the length of their term of office.

Once a case is closed, either through the consent of the survivor or the end of the investigative process, any written notes or documents will be kept for a period of three years, after which the materials will be shredded and/or disposed of in confidential waste containers. Should the survivor request it at any time within those three years, the notes or documents may be provided to them.

### **Electronic records of member disclosures of sexual violence**

Every effort will be made on the part of the Union to protect the privacy and confidentiality of members in cases where disclosures occur remotely. However, members who choose to disclose sexual violence through email must be made aware that the Union may be legally required or compelled to provide records of disclosures that have been remotely documented via electronic means.

Electronic material including databases, downloaded emails, and other files containing member disclosures of sexual violence will be kept on devices secured, at a minimum, by a password and accessible only to the Executive or Complaint Resolution Committee member requiring the information to fulfill their duties as per the CUPE 3903 Sexual Violence Policy.

Portable harddrives such as USB flash drives containing member disclosure of sexual violence and any relevant and related materials shall be, at a minimum, secured by a password and/or stored in locked offices, cabinets, or otherwise secured storage when not in immediate use.

Email communication containing member disclosure of sexual violence should be conducted through official email addresses authorized by the local. Any emails with member disclosures of sexual violence sent to private email addresses in the course of union business should be forwarded to official email addresses or otherwise securely stored if needed for record keeping, and deleted from all personal devices of the Executive or Complaint Resolution Committee member. Members who chose to disclose to the personal email addresses of an Executive or Complaint Resolution Committee member must be made aware of the limits of the Union to protect the privacy or confidentiality of information provided via a third party email service.

The confidentiality and data retention policies of all third party software/systems used by the local shall be available to members.

## **Appendix C: Resources Available for Survivors of Sexual or Gender based Violence**

### **CUPE 3903 Resources**

#### *Sexual Assault Survivors Support Fund*

- Assists members with costs associated with sexual assault including, but not limited to, counselling, legal support and lost wages. More information: <https://3903.cupe.ca/sexual-assault-survivor-support-fund/>

#### *Extended Health Benefits Fund*

- To support members with health care costs that would cause an undue financial burden and that are not covered by the Sun Life Insurance plan provided by our collective bargaining agreement. More information: <https://3903.cupe.ca/extended-health-benefits-fund/>

#### *Ways and Means Fund*

- Available to members who have experienced a recent, unexpected hardship that resulted in unexpected financial stress/hardship. More information: <https://3903.cupe.ca/ways-and-means-fund/>

#### *Trans-Feminist Action Caucus (TFAC)*

- An autonomous body of CUPE 3903 that consists of all women, trans, gender queer and gender variant members of the Local. TFAC works in coalition with other feminist organizations on campus to improve the position of all women, trans, gender queer and gender variant people at York University and within the labour movement. More information: <https://3903.cupe.ca/tfac-2/>

#### *Equity Officer*

- The Equity Officer is a 3903 staff person with experience dealing with equity-based issues that affect members, including filing equity-based grievances with the employer.  
E-mail: [CUPE3903.equity.officer@gmail.com](mailto:CUPE3903.equity.officer@gmail.com); Blog: <http://cupe3903equityofficer.blogspot.ca>;  
Phone: 416-736-5154 ext. 3

### **York University Resources**

Please note, these are listed for informational purposes. Inclusion does not indicate CUPE 3903 necessarily endorses these resources.

#### *The Centre for Sexual Violence Response, Support & Education (formerly the SVRO)*

- The Sexual Violence Response Office coordinates supports and resources for all members of the community that have experienced sexual violence, receives disclosures and complaints, facilitates safety planning, and assists survivors through the complaint process. More information: <https://thecentre.yorku.ca>

### *Sexual Assault Survivors Support Line*

- 24 hour peer-support via our support line on issues related to sexual violence including personal and academic concerns, stress, sexuality etc. Support line can be accessed at: 416-650-8056. More information: <http://sassl.info.yorku.ca/>

### **Greater Toronto Area Resources**

Please note, these are listed for informational purposes. Inclusion does not indicate CUPE 3903 necessarily endorses these resources.

#### *Toronto Rape Crisis Centre/Multicultural Women Against Rape*

- Crisis intervention, counselling and referral for survivors of rape/sexual assault. Open 24 hours. Services available in several languages. Phone: 416-597-8808; Web: [trccmwar.ca](http://trccmwar.ca) ; Email: [crisis@trccmwar.ca](mailto:crisis@trccmwar.ca)

#### *Women's College Hospital Sexual Assault/Domestic Violence Care Centre (SA/DVCC)*

- Acute care for those assaulted within the past week. Centre support available 24 hours a day, seven days a week. Support for cis-women and cis-men as well as trans people who have experienced sexual assault and/or intimate partner violence. You do NOT have to choose to involve police to access this service. Phone: 416-323-6040; Web: [womenscollegehospital.ca/programs-and-services/sexual-assault-domestic-violence-care-centre](http://womenscollegehospital.ca/programs-and-services/sexual-assault-domestic-violence-care-centre)

#### *Women's Support Network of York Region*

- Provides free, confidential services for women who have experienced sexual violence. Phone: 905-895-7313; Web: [womenssupportnetwork.ca](http://womenssupportnetwork.ca)

#### *Assaulted Women's Helpline*

- 24 hour telephone support and counselling available in several languages. Phone: 416-863-0511; Web: [awhl.org](http://awhl.org)

#### *Sexual Assault/Rape Crisis Centre of Peel*

- Provides a 24/7 crisis line, online crisis chat, 1-on-1 therapy, therapeutic groups and workshops. Phone: 1-800-810-0180; Web: [hope247.ca](http://hope247.ca)

#### *Native Child and Family Services*

- Offers support to women, children and men to aid in the prevention of and healing from abusive relationships. Phone: 416-969-8510; Web: <https://www.nativechild.org/adults/woman-abuse>

*Gerstein Crisis Centre*

- 24hr, community-based mental health crisis center. Phone: 416 929 5200; Web: <http://gersteincentre.org/>

*Anishnawbe 24/7 Mental Health Crisis Management Service*

- Mental health crisis service for people who identify as Indigenous. Phone: 416 891 8606; Web: <https://www.aht.ca/contact-aht>

*Interpreter Services Toronto*

- Provide language and interpretation to access services in the community, including services for clients who are deaf and/or hard of hearing. Email: [ist@schliferclinic.com](mailto:ist@schliferclinic.com); Web: <http://www.interpreterservicestoronto.ca/>

*Canadian Hearing Society Connect Counselling Services*

- Provides counselling services to those who are hard of hearing and/or deaf. Phone: 416 928 2512; TTY: 416 928 251;1

*One in Six*

- Provides information and 24/7 online support to men who have experienced sexual violence and abuse. Web: [1in6.org](http://1in6.org)

*The 519 Community Counselling*

- Provides access to professionally trained volunteer counsellors who are familiar with LGBTTI2Q+ issues, services and therapists. Phone: 416-392-6878 x 4000 Web: [the519.org/programs/community-counselling](http://the519.org/programs/community-counselling)

*Distress Centres of Toronto*

- Telephone support for crisis intervention, suicide prevention programs and traumatic loss support. Phone: 416-408-HELP (4357) or TTY 416-408-0007

*Oasis Centre des Femmes*

- Service for Francophone women who have experienced any form of violence, including sexual violence. Provides various forms of support including: counselling services, legal support, employment preparation, transitional and housing support, and support for immigrant and refugee women. Phone: 416-591-6565; Web: [oasisfemmes.org](http://oasisfemmes.org)

**Legal and Advocacy Resources**

*WomenatthecentrE/Women's Centre for Social Justice*



- Non-profit advocacy and support centre led and run by women who have experienced sexual violence. Services include personal advocacy and peer support for family courts systems. WomenatthecentrE also engages in political and social advocacy aimed at informing policy and programs and changing perceptions about sexual and gendered based violence. Phone: (416) 964-0892; Web: womenatthecentre.com

#### *Barbra Schlifer Clinic*

- Provides legal advocacy and information, interpretation services, referrals, transitional and housing support and counselling services for women who have been physically abused, including sexual violence. Phone: 416-323-9149 ext. 234 Web: schliferclinic.com

#### **Third-Party Training Resources**

- *Farrah Khan, Consultant and Educator* - <http://www.farrahkhan.ca/consultant>
- *Nneka MacGregor, Consultant and Lawyer* - <http://www.womenatthecentre.com/staff/nneka-macgregor/>

The following GTA Resources, described above also provide Training Resources:

- *The 519 Community Counselling*
- *Toronto Rape Crisis Centre/Multicultural Women Against Rape*