

Number & Title:

PC2: AMS Sexualized Violence Policy

Effective Date:

April 25, 2024

Approved Date:

April 24, 2024, with amendments November 20, 2024

Policy Type:

Internal Policy

Review Date:

This Policy shall be reviewed every year.

Responsible Body:

Executive Committee

Designated Executives and Staff Members:

Human Resources Manager and President

1.0 **Authority:**

1.1 AMS Bylaw 5, Section 1(f)

1.2 Workers Compensation Act: OHS Regulations 4.1, 4.24 - 4.31 and OHS Policies P2-212, P2-22-1, and P2-23-2, and R-4.27.1 - 4.31.1.

2.0 **Purpose and Goals:**

2.1 As a student union, employer, and as student leadership, the AMS has a responsibility to address sexual violence from an intersectional, anti-oppressive, and trauma informed lens, with both proactive and responsive measures. This Policy affirms the AMS's commitment to

ending Sexualized Violence, outlines the proactive and responsive measures that the AMS can take, and provides procedures for Investigations of Sexualized Violence.

3.0 **Scope of Policy:**

3.1 **Applicability**

- (a) This policy applies to all AMS Active Members, AMS Staff and Volunteers, and to non-AMS Members who access AMS premises or services.

3.2 **Exclusions**

- (a) There are no exclusions.

3.3 **Jurisdiction to Investigate**

- (a) AMS has jurisdiction to address reports under this policy that involved a person who is or was an AMS Member or AMS Staff at the time that the incident giving rise to the breach of this policy occurred, or where the basis of the report occurs on AMS Premises or arose out of AMS services or events.
- (b) When receiving a complaint involving a policy violation, staff will ask the complainant (e.g. a student, employee or community member) whether they would prefer a formal or informal process, and will provide examples for how resolution might look in each model.

3.4 **Scope of Corrective Actions**

- (a) For **AMS Members**, corrective actions cannot include expulsion from the AMS, or otherwise impact membership in the Society [AMS Bylaw 2(2)].
- (b) For **AMS Staff**, corrective actions will be in accordance with relevant legislation and employment terms, including but not limited to:
 - (i) Human Rights Code
 - (ii) Labour law;
 - (iii) Collective agreements;
 - (iv) Volunteer agreements;
 - (v) Contracts;

- (vi) Appointment terms;
 - (vii) Other terms and conditions of employment.
- (c) For **AMS Club Members and AMS Constituency Members**, corrective actions may include the removal of a member from an AMS Club(s), following a resolution of the AMS Operations Committee [AMS Operations Committee Policy Manual 4(6)]. Corrective action for AMS Constituency-specific activities or persons will be made in accordance with Constituency Bylaws.

3.5 **Discrimination, Harassment and Bullying, and Community and Workplace Violence**

- (a) Incidents of Discrimination, Harassment and Bullying, and Community and workplace violence will be addressed under the AMS's Respectful Community and Workplace Policy (PC1), and not this policy.
- (b) Where both this policy and PC1 apply to the same incident, the investigator will consult with the person filing the report and determine under which policy to proceed.

3.6 **Timelines**

- (a) All timelines referenced in this policy are expected to be adhered to. In exceptional circumstances where a timeline cannot be met, the investigator/decision-maker will notify the parties in writing as soon as possible regarding the change and new timeframe and include a reason for the extension.

4.0 **Definitions:**

- 4.1 **Abuse of Power:** the improper use of a position of influence, power or authority against another person or improper influence of another person's career or employment conditions to achieve a sexual goal.
- 4.2 **AMS Club:** a subsidiary organization constituted as an AMS Club by the AMS Operations Committee.
- 4.3 **AMS Constituency:** an AMS-recognized student association in accordance with AMS Bylaw 5, Section 2(a).
- 4.4 **AMS Member:** an Active Member as defined by AMS Bylaw 2, Section 1(a), but limited to Active Members who are not also considered AMS Staff. AMS Members typically are students of UBC or Affiliate Colleges.

- 4.5 **AMS Staff:** an individual who is an employee, volunteer, appointee, or contractor of the AMS.
- 4.6 **Conflict of Interest:** an Investigator or Decision-Maker is deemed to have a conflict of interest with the case if:
- (a) they have a close connection with the persons involved in the case, including but not limited to:
 - (i) Being a family member or relative.
 - (ii) Being a member of the same club, fraternity, or similar organization.
 - (iii) Being a close personal friend.
 - (iv) Being a current direct report/employee to the persons involved.
 - (b) The Decision-Maker, when also a Director of the AMS, as per Code Section II, Article 1, Paragraphs 10 to 13, is bound to the mentioned paragraphs and will be deemed to have a conflict of interest with the case if the Director has a private interest tied to the case as specified in the mentioned paragraphs.
 - (c) Due to the variety of complex circumstances that may arise in certain cases, there may be other relationships between parties that may be considered a conflict of interest. In these cases, the Decision-Makers must declare a conflict of interest as to be cautious in ensuring that no conflicts of interest may hinder the process.
- 4.7 **Consent:** the informed, conscious, ongoing, and voluntary agreement to an act(s) and to the continued engagement in act(s), which is communicated through words or conduct:
- (a) Consent is active, not passive. Consent must be freely, actively, and voluntarily given.
 - (b) Consent cannot be implied and cannot be assumed by silence or inaction.
 - (c) Consent can be revoked at any time.

- (d) Consent to one kind of sexual activity does not mean that Consent is given for another sexual activity, and Consent only applies to each specific instance of sexual activity.
- (e) Neither the relationship status of the parties nor past Consent to sexual activity gives or implies future or ongoing Consent.
- (f) An individual is incapable of giving Consent if:
 - (i) Asleep or unconscious;
 - (ii) Impaired to the point of being unable to choose whether to engage in the sexual activity;
 - (iii) Under the legal age of Consent as defined in the *Criminal Code*; and
 - (iv) They are not able to recognize the nature of the sexual activity, or to recognize the risks and consequences of the sexual activity, or are otherwise unable to choose whether to engage in the sexual activity.
- (g) Consent is not valid if induced by fraud.
- (h) Consent is not valid if induced by threat of violence or harm (including psychological, emotional, or reputational harm).
- (i) Consent is not valid if induced by the exercise of Abuse of Power.

4.8 **Cyberflashing:** publishing Intimate Images through electronic means.

4.9 **Intimate Image:** a visual recording or visual simultaneous representation of an individual, whether or not the individual is identifiable and whether or not the image has been altered in any way, in which the individual is or is depicted as

- (a) engaging in a sexual act,
- (b) nude or nearly nude, or
- (c) exposing the individual's genital organs, anal region, or breasts, and in relation to which the individual had a reasonable expectation of privacy,
- (d) in the case of a recording, at the time the recording was made and, if distributed, at the time of the distribution, and

- (e) in the case of a simultaneous representation, at the time the simultaneous representation occurred.
- 4.10 **Non-AMS Member:** an individual who is neither an AMS Member nor an AMS Staff.
- 4.11 **Premises:** AMS owned or operated spaces, including the “AMS Student Nest” located at 6133 University Boulevard, the basement and other areas in the UBC Life Building under the control of the AMS, AMS Constituency spaces, and AMS-run events (physical and virtual).
- 4.12 **Sexual Harassment:** engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. Also includes making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.
- 4.13 **Sexualized Violence:** the non-consensual threatened, attempted, or actual exercise of physical, emotional or psychological force in a sexualized manner by a person that causes or could reasonably cause physical, emotional or psychological injury.

(i) Examples of Sexualized Violence include, but are not limited to:

- (a) A sexual offence under the *Criminal Code*;
- (b) A breach of the B.C. *Intimate Images Protection Act*, or similar legislation designed to protect against sexualized offences;
- (c) Sexual Assault;
- (d) Sexual Harassment, as defined above;
- (e) Stealthing;
- (f) Stalking and Cyberstalking;
- (g) Non-consensual creation or distribution of an Intimate Image;
- (h) Voyeurism; and
- (i) Indecent exposure, including through Cyberflashing.

- 4.14 **Stalking and Cyberstalking:** the unwanted and/or repeated surveillance of another person. Stalking behaviors are interrelated to harassment and intimidation and may include following the victim in person or monitoring them. Cyberstalking involves stalking through electronic means.
- 4.15 **Stealthing:** the removal of or tampering with a condom or barrier during sex, such that unprotected sex occurs without the knowledge or consent of the sexual partner.
- 4.16 **Trauma-Informed:** having an understanding of the impacts of violence on individuals and communities along with having awareness of the impacts that trauma has on emotional, cognitive, physical, spiritual, and sexual wellbeing. Adopting a traumainformed approach means responding in a manner that promotes empowerment and healing and minimizes re-traumatization.

5.0 **Violations of the Policy**

- 5.1 The AMS does not tolerate any form of Sexualized Violence. AMS Members and AMS Staff who engage in Sexualized Violence are in violation of this policy and will be subject to corrective action, as set out below.

6.0 **Retaliation Prohibited**

- 6.1 AMS prohibits retaliation against any person who in good faith reports Sexualized Violence or participates in an investigation of such incidents or reports. Retaliation against a person for reporting Sexualized Violence, or for participating in an investigation of an incident or report is a serious violation of this policy and will be subject to corrective action, as set out below in the section titled "Corrective Action".

7.0 **Support**

- 7.1 AMS will provide support to AMS Members and AMS Staff who believe that they have been subject to Sexualized Violence, regardless whether that AMS Member or AMS Staff is pursuing a report under this policy.
- 7.2 Examples of support the AMS could provide includes:
- (a) Safety planning;
 - (b) Emotional support and social and emotional learning support related to posttrauma recovery;
 - (c) Temporary work reassignment, location reassignment, or scheduling changes;

- (d) Allowing a support person or support animal to be present;
 - (e) Allowing an employee to take paid time off work;
 - (f) Providing access to mental health resources, or liaising with other services/organizations to provide mental health resources;
 - (g) Providing safe transportation/accompaniment for walking on campus or liaising with other services/organizations to provide safe transportation/accompaniment.
 - (h) The implementation of safety measures which may include temporary interim measures or restrictions pursuant to the Interim Measures section of this policy;
 - (i) Coordination with UBC offices and services to provide academic and enrollment-related concessions as needed.
- 7.3 Decisions about the type and level of support provided will be made on a case-by-case basis.
- 7.4 The AMS Sexual Assault Support Centre (SASC) provides free, confidential sexual violence services on campus (emotional support, advocacy, accompaniments, academic concessions, etc.) to people of all genders and identities, and education for those wanting to learn more about sexualized violence. The SASC:
- (a) Can provide assistance with preparing a Report.
 - (b) Can provide a support worker.
 - (c) Neither receives reports nor conducts investigations under this policy or under UBC's Sexual Misconduct Policy (SC17).
 - (d) Is a service provided by the AMS and is independent of UBC, but the SASC still works and liaises with UBC to provide support services.
- 7.5 The UBC Sexual Violence Prevention and Response Office (SVPRO) provides free support services to the UBC community for sexual or gender-based violence. This includes confidential, one-on-one support sessions and safety planning, everything from academic concessions or workplace support, to emergency housing and funding. SVPRO:
- (a) Neither receives reports nor conducts investigations under this policy or under UBC's Sexual Misconduct Policy (SC17).

- (b) Is a support and educational service provided by UBC and is an independent office from the AMS, but SVPRO still works and liaises with the AMS to provide support services.

8.0 **Disclosure**

- 8.1 If a person discloses that they have been subject to Sexualized Violence to an **AMS Member**, that AMS Member does not need to report the Sexualized Violence. However, the AMS recommends that the AMS member:
 - (a) Encourage the person to report on their own the Sexualized Violence;
 - (b) Respect that it is the person's choice whether or not to report the Sexualized Violence; and
 - (c) Maintain as confidential the disclosure of the Sexualized Violence.
- 8.2 If a person discloses that they have been subject to Sexualized Violence to an **AMS Staff**, that AMS Staff is strongly encouraged to inform AMS HR of the Sexualized Violence, if the circumstances of the Sexualized Violence would reasonably be seen to create a risk to the workplace or reporting is otherwise required by occupational health and safety rules.
- 8.3 If an AMS Staff witnesses Sexualized Violence, the AMS Staff must disclose the Sexualized Violence to Human Resources. If an AMS Staff discloses Sexualized Violence to the SASC in a support interaction, the disclosure must remain confidential unless the person disclosing requests a report to be made.
- 8.4 AMS Members or AMS Staff may contact the Sexual Assault Support Centre (SASC) or the UBC Sexual Violence Prevention and Response Office (SVPRO) for support and information on how best to respond to an individual who discloses Sexualized Violence. The AMS Member or AMS Staff should respect the individual's privacy and not disclose details of the Sexualized Violence without the individual's Consent.

9.0 **What to do in case of Sexualized Violence**

- 9.1 Because of its potential for immediate and serious harm, in the event of an emergency involving Sexualized Violence, AMS Members and AMS Staff should immediately contact building or site security and/or the appropriate emergency service (police or ambulance – Telephone 9-1-1).

(ii) Take all necessary and reasonable steps to ensure your own safety and the safety of others.

- 9.2 AMS Members and AMS Staff are encouraged to inform the AMS of any Sexualized Violence that might jeopardize the safety of the individual or other AMS Members or AMS Staff.
- 9.3 AMS Members or AMS Staff who apply for or obtain a restraining order or peace bond which lists the Premises as being a protected area should provide AMS with a copy of the restraining order or peace bond and any other relevant documents or information to allow AMS to assist with compliance with the restraining order or peace bond.
- 9.4 If AMS is aware of any Sexualized Violence that is likely to expose AMS Members or AMS Staff to risk, every precaution reasonable in the circumstances will be implemented to protect the AMS Members or AMS Staff. AMS will only disclose personal information that is reasonably necessary to protect AMS Members or AMS Staff from Sexualized Violence.
- 9.5 Where the case of Sexualized Violence does not pose an immediate risk, it is the individual's choice to decide whether or not:
- (a) To disclose the Sexualized Violence;
 - (b) To informally address the Sexualized Violence; and/or
 - (c) To formally report the Sexualized Violence.

10.0 **Informal Address of Sexualized Violence**

- 10.1 If appropriate, an individual may address any conduct that they consider to be inappropriate or unwelcome (whether or not such conduct amounts to Sexualized Violence) in an informal manner by advising the person engaging in the conduct of their concern and asking them to stop.
- (a) **AMS Members** are encouraged to contact the AMS Ombudsperson (or the AMS Senior HR Manager, if the AMS Ombudsperson is in a conflict of interest), if the AMS member believes those individuals could provide assistance with resolving the issue.
 - (b) **AMS Staff** are encouraged to contact the AMS Senior HR Manager (or the AMS Ombudsperson, if the AMS Senior HR Manager is in a conflict of interest), if the AMS Staff believes those individuals could provide assistance with resolving the issue. Unionized staff may also contact their Union Representative or Union Steward if they

believe those individuals could provide assistance with resolving the issue.

- 10.2 Any person approached with a complaint about conduct that is inappropriate or unwelcome must immediately stop engaging in the conduct in issue. If there is a dispute about whether the conduct in issue is appropriate, that dispute may be brought to the AMS Senior HR Manager (usually by AMS Staff) or AMS Ombudsperson (usually by an AMS member) for resolution.
- 10.3 If an AMS Staff experiences Sexualized Violence in the workplace, or an AMS Staff witnesses conduct that they believe is Sexualized Violence in the workplace, the AMS Staff **must** inform AMS Human Resources. If an immediate manager is approached, the manager must inform AMS Human Resources. AMS Staff may report to the AMS Ombudsperson if Human Resources is in a conflict of interest.
- 10.4 In the event that a third party witness is informing the AMS about Sexualized Violence, the AMS will contact the person who was witnessed experiencing harm.

11.0 **Reporting Sexualized Violence**

- 11.1 Reports should be in writing and may be submitted:
 - (a) by completion of the online reporting form;
 - (b) by email to the AMS Ombudsperson or the Senior HR Manager; or
 - (c) hand delivered as a hard copy to the manager (for AMS Staff), AMS Senior HR Manager, or AMS Ombudsperson, as applicable.
- 11.2 As much as possible, reports should include the following information:
 - (a) name and contact information of the person filing the report;
 - (b) name and contact information of the person experiencing harm as noted in the report (if different than the person filing the report);
 - (c) name and contact information of the person responding to the report;
 - (d) names and contact information of any witnesses or other persons with relevant information;
 - (e) details of what happened, including dates, frequency and locations; and

- (f) copies or descriptions of any relevant documents.
- 11.3 Reporting is essential to the implementation and enforcement of this policy. AMS may ask an AMS Member or AMS Staff who is reporting concerns to complete a form with additional details.
- 11.4 AMS will provide reasonable support to persons making reports under this policy, including assisting persons to complete the written report and providing persons with supports, as set out above in the section titled "Support".
- 11.5 Filing a report does not prevent persons from pursuing other processes, such as a grievance(s) under a collective agreement, reporting under UBC's Sexual Misconduct Policy (SC17), reporting to the police, or initiating a legal action (including a complaint under the BC Human Rights Code). These are separate processes and submitting a report under this policy **does not result** in a report to UBC, the police, or the initiation of a civil action.
- 11.6 Individuals seeking assistance in filing a report are encouraged to get help from the AMS Sexual Assault Support Centre (SASC). Should a conflict be identified by a staff member from the SASC when engaged for help, it may be referred to another body. Note that the SASC may consult with the investigation or Decision-Maker which may create a conflict.
- 11.7 No individual will be subject to sanctions for violations of the substance use clauses in AMS Policy BU1: Suspensions and Expulsions from AMS Property, or any other applicable AMS policy as a result of making a disclosure or filing a report under this policy.
- 12.0 **Interim Measures in Cases of Sexualized Violence**
- 12.1 If AMS becomes aware of an incident or report, AMS will take appropriate interim measures for the protection of AMS Members and AMS Staff, including:
 - (a) Banning contact between the parties;
 - (b) Temporary or partial restrictions on access to AMS Premises, services and events;
 - (c) Temporary workplace measures, including changes to scheduling, location, reporting and/or supervision structures;
 - (d) Temporary suspension of contracts, including volunteer contracts and temporary administrative suspension from employment; and

- (e) Other measures that are mutually agreed upon by the parties.
- 12.2 The goal of interim measures is to protect the safety of all parties, create space for a thorough and timely investigation, prevent harmful behaviour (including retaliation), clarify behavioural expectations, and create a safe working, learning, and living environment for all AMS Members and AMS Staff.
- 12.3 In assessing the appropriateness of interim measures, AMS will consider the least restrictive measures necessary to:
- (a) Protect members of the AMS;
 - (b) Preserve the confidence of the AMS community in the AMS's ability to maintain a safe environment;
 - (c) Preserve the integrity of an investigation and the privacy of all parties; and
 - (d) Avoid interference, to the extent possible, with all parties' participation in academic, work, and student life at the AMS.
- 12.4 Individuals affected by interim measures may request, in writing, a review of such measures. A written request for review of the measures must be made to the AMS Senior HR Manager or AMS Ombudsperson within five (5) business days of the notice advising of interim measures imposed.
- 12.5 Interim measures will remain in effect for as long as is reasonably required pending the outcome of an Investigation.
- 13.0 **Investigation of Sexualized Violence**
- 13.1 Upon receipt of a report, the AMS Senior HR Manager or AMS Ombudsperson, as applicable, will assign an appropriate neutral party to conduct an investigation. Generally:
- (a) For **AMS Members**, AMS will retain a third-party investigator.
 - (b) For **AMS Staff**, AMS will retain a third-party investigator.
- 13.2 The investigator will determine as soon as possible, and ideally within one week, if the conduct reported shows a basic case that there has been a breach of this policy. Even if the conduct is not in breach of the policy, for example because it is outside the scope of the policy's jurisdiction, the investigator may still direct that AMS provide support to the person

experiencing harm as noted in the report, as set out in the section titled "Support".

- 13.3 The investigator may make recommendations for interim measures.
- 13.4 Investigations will be conducted within 45 days after receiving a report. The complexity of an incident or report or other circumstances may result in an investigation taking longer.
- 13.5 While the investigator may tailor the investigative process to the particular circumstances of each case, the investigation generally will include:
 - (a) interviewing the person filing the report (and if different, the person experiencing harm as noted in the report) and the person responding to the report;
 - (b) interviewing any witnesses to the conduct;
 - (c) gathering and reviewing relevant documents, telephone, voice, data, text messages, and any other record including written statements, notes, emails, pictures and other electronic records;
 - (d) making findings of fact and conclusions;
 - (e) communicating the findings and conclusions to the parties involved, as appropriate; and
 - (f) determining the appropriate follow-up action.
- 13.6 All parties, including the person filing the report (and if different, the person experiencing harm as noted in the report) and the person responding to the report, are expected to fully cooperate with the investigation process. This may include providing information in an interview, submitting a written statement, and/or disclosing emails or documents.
- 13.7 The process for investigating and resolving incidents and reports may range from a process where a few words are all that is needed to investigate and resolve the matter, to a process involving extensive submissions, fact-finding, and the use of outside investigators or outside counsel. AMS will identify the subject matter expert(s) to allocate to each incident or report and as to the process for the investigation.
- 13.8 Investigations will follow due process and natural justice.
- 13.9 Participants in investigations have the right to a support person throughout.

13.10 All reports will be investigated. If a party elects not to participate in the investigation process, the investigation will continue regardless, but without their evidence.

13.11 The investigator will carry out their investigation in a fair manner that incorporates trauma-informed principles and incorporating sufficient rape shield protections.

14.0 **Confidentiality**

14.1 The AMS recognizes that confidentiality is an important part of fostering an environment where individuals feel safe disclosing and seeking support. The AMS will make every reasonable effort to protect personal information and maintain confidentiality as outlined in this section and in accordance with the Personal Information Protection Act (PIPA), the AMS's Privacy Policy (SR1), the AMS's Records Policy (SR2), and other relevant legislation.

14.2 Any person who participates in an investigation into an incident or report of Sexualized Violence shall not discuss the investigation with any other person, except with the person's support person and to the extent necessary to obtain professional advice about the incident.

14.3 Neither AMS nor the investigator will disclose any information obtained about an incident or report of Sexualized Violence, except where disclosure is necessary for the purposes of protecting persons, investigating the incident or report, or taking responsive measures in relation thereto, or as otherwise permitted by this policy.

14.4 In many incidents and reports, the investigator will have to disclose to the party responding to the report and the potential witnesses enough information about the report to allow them to give meaningful evidence, either in response or generally. This may involve or result in identification of the person filing the report (and, if different, the person experiencing harm as noted in the report).

14.5 In reports involving AMS Staff, the investigator may collaborate with senior management and Human Resources on a need-to-know basis and share information about an incident, report, and an investigation. If a member of senior management or Human Resources is named as a party in the report, they would not participate in this collaboration.

14.6 The result of an investigation into an incident or report will be shared with the parties in writing. The AMS President or AMS Managing Director, respectively, will also receive the results of the investigation. For cases in

which the person responding to the report is an AMS Staff, the immediate manager of the person will also receive the results of the investigation.

14.7 Any breach of confidentiality will be treated seriously and may result in corrective action.

14.8 Nothing in this section is intended to prevent a person from seeking support or maintaining their safety and the safety of others.

15.0 **Investigation Report**

15.1 The investigation report will maintain privacy and should use anonymous identifiers for the parties and witnesses. The final report will include redactions of any personal and identifiable information.

15.2 Upon completion of the investigation, the investigator will issue an investigation report that sets out findings of fact and, on a balance of probabilities (i.e. more likely than not), whether a policy violation has occurred. AMS may request that the investigator also provide recommendations for corrective actions.

15.3 If the investigation report concludes that a policy violation did not occur, the investigator will provide a copy of the investigation report to the AMS President (for cases involving AMS Members) or AMS Managing Director (for cases involving AMS Staff).

15.4 If the investigation report concludes that a policy violation occurred, the investigator will provide a copy of the investigation report to the appropriate Decision-Makers as set out in the next section "Decision-Makers".

16.0 **Decision-Makers**

16.1 The Decision-Makers in cases where the person responding to the report is an **AMS Member** are the Managing Director and President.

(a) The Decision-Makers are to consult with AMS Senior HR Manager, and the AMS SASC Manager. The Decision-Makers may also consult with the Senior Manager of Student Services, the Clubs Administrator, and/or the Constituency Relations Lead when applicable to the cases under investigation.

16.2 The Decision-Makers where the offender is an **AMS Staff** are the Managing Director and the President.

- (a) The Decision-Makers will consult with the Senior HR Manager, the AMS SASC Manager, and, if applicable, the Union Representative.
- 16.3 Decision-Makers must complete training on Sexualized Violence, trauma-informed approaches, privacy, and procedural fairness prior to doing any decision-making work. Decision-Makers will also receive regular additional refresher training. Training for Decision-Makers will be coordinated by the AMS Human Resources department in collaboration with relevant parties. The President, or alternative student acting in a decision making capacity, shall not undertake decision-making work until the Senior HR Manager has certified that said training has been completed. This shall be reported to the next meeting of Council by the Managing Director.
- 16.4 In recognizing the significant responsibilities that come with decision-making, as well as the heightened stress of this work, Decision-Makers can recuse themselves from the process.
 - (a) For cases in which the person responding to the report is an **AMS Member or Staff**, the AMS Executive will then nominate and appoint another senior staff member to replace the Decision-Maker recusing themselves. Notice of delegation must be provided to AMS Human Resources.
- 16.5 The person(s) replacing the original Decision-Maker(s) will receive (or will have already received) the same quality of aforementioned training as the original DecisionMaker(s).
- 16.6 Decision-Makers should strive to find consensus in their final decision based on the investigation report. Should that not be possible, they will provide a written reflection to the Senior HR Manager, who with that reflection and the investigation report will act as the final Decision-Maker.
- 17.0 **Conflict of Interest for the Decision-Makers - for AMS Members and Staff-Related Cases**
- 17.1 A conflict of interest includes, but is not limited to, situations where personal gain could be affected by virtue of their positionality with the AMS. Decision-Maker(s) must declare a conflict of interest, if they were to have one, with any of the parties involved in the case before the Decision-Makers start discussing the case with the investigation report completed.

- 17.2 After the Decision-Maker(s) has/have recused themselves, the AMS Executive will nominate and appoint the replacement Decision-Maker(s). Notice of delegation must be provided to AMS Human Resources.
- (a) The replacement Decision-Maker will be another senior staff member with no conflicts of interest attached to the case.
- 17.3 The replacement Decision-Maker must not consult with whoever they are replacing about the case.
- 18.0 **Decision-Making**
- 18.1 The person filing the report (and if different, the person experiencing harm as noted in the report), may choose to submit an impact statement to the Decision-Makers for consideration in their decision-making.
- 18.2 Decision-Makers will review the impact statement with the investigation report.
- 18.3 Decision-Makers will meet within four (4) business days of receiving the investigation report.
- 18.4 Decision-Makers may seek expert or contextual advice as necessary. Experts may include: AMS Service Coordinators, Relevant Club Executives, AMS SASC, AMS Supervisors, AMS Legal Counsel, and UBC Personnel. Persons retained by DecisionMakers must agree to maintain confidentiality.
- 18.5 Decision-Makers will determine the appropriate corrective action based on the investigation report, impact statements, expert or contextual advice, and:
- (a) The impact of the conduct on the person(s) who experienced harm;
- (b) The impact of the conduct on the AMS community;
- (c) Progressive discipline and proportionality;
- (d) The nature and severity of the context;
- (e) Any other relevant factors.
- 18.6 The Decision-Makers will prepare a written summary of the information relied upon in making their decision, the rationale for the decision, and the

corrective action imposed. This summary will be sent to the investigator to communicate the decision.

- 18.7 The Decision-Makers will make their decision on corrective action and send their summary to the investigator as expeditiously as possible and ideally within ten (10) business days of their initial meeting.
- 18.8 The investigator will advise the parties of the decision as soon as possible and ideally within 24 hours of receiving the summary. The investigator will not disclose personal information, except as required or authorized by law.
- 18.9 AMS may offer support (including SASC personnel) or referrals to the parties receiving the decision.

19.0 **Corrective Action**

19.1 Corrective Actions for AMS Members found to be in breach of this policy include:

- (a) A verbal warning;
- (b) A written warning;
- (c) Banning or restricting the person from AMS Premises;
- (d) Banning or restricting the person from an AMS Club(s), without a refund of AMS Club(s) fees.

19.2 Corrective Actions for AMS Staff found to be in breach of this policy include:

- (a) A verbal warning;
- (b) A written warning;
- (c) Require that the person attend training;
- (d) Require that the person attend counselling;
- (e) Transfer or demotion;
- (f) Suspension with or without pay;
- (g) Termination of employment or for volunteers or appointees, termination of their services.

19.3 If a person has been banned or restricted from AMS Premises, the investigator will:

- (a) Provide notice and letter of prohibition of entry to the person; and
- (b) Provide notice to AMS Building Operations of the ban or restriction.

19.4 If a person has been banned or restricted from AMS Club(s), the investigator will:

(a) Provide a notice and letter of expulsion from AMS Club(s) to the person

19.5 AMS Human Resources will maintain its files on each incident for fifty (50) years from the date of the Decision-Makers summary to the investigator.

20.0 **Review of Decision:**

20.1 The person who filed the report (and if different, the person who experienced harm according to the report) or the person who responded to the report may ask for a review of the decision. The process for review will depend on the status of the person who responded to the report.

20.2 If the person who responded to the report is an **AMS Member**, a request for a review **must**:

- (a) Be in writing and sent to the Senior HR Manager (“Alternate DecisionMakers”);
- (b) Set out reasons for the request and the alternate outcome sought; and
- (c) Be made within ten (10) business days of the party who is seeking the review having received notice of the original decision.

20.3 If the person who responded to the report is an **AMS staff**, a request for a review will be in accordance with the applicable collective agreement. Where the AMS Staff is not subject to a collective agreement, the Executive Committee (other than those members who were already Decision-Makers on the case) will be the “Alternate Decision-Makers” and will follow the request for review process as set out below for AMS Members.

20.4 The AMS Ombudsperson is available to provide assistance in preparing the request for a review.

20.5 The Alternate Decision-Makers may allow late requests for review at their discretion in extraordinary circumstances.

- 20.6 A request for a review is not an opportunity to repeat the information provided during the investigation. The right to a review of the decision is not automatic and a review will only be considered if it demonstrates that either:
- (a) There has been a fundamental procedural error in the making of the final decision and that such error has caused or will cause actual prejudice to the person seeking the review; or
 - (b) There are new facts relevant to the final decision that were not available and could not have been provided to the investigator or the Decision-Makers.
- 20.7 If a request for a review is made, any interim measures implemented during the investigation will be extended for the duration of the review.
- 20.8 The Alternate Decision-Makers will inform the other parties of the request for review and may request submissions from the other parties on the merits of the request for review.
- 20.9 The decision of the Alternate Decision-Makers is final and may:
- (a) Uphold the original decision and/or corrective action(s);
 - (b) Reverse the original decision and/or corrective action(s);
 - (c) Modify the corrective action(s); or
 - (d) Reference the matter for re-investigation.
- 20.10 The Alternate Decision-Makers will prepare a written summary of the information relied upon in making their decision, the rationale for the decision, and the corrective action imposed. This summary will be sent to the investigator to communicate the decision.
- 20.11 The Alternate Decision-Makers will make their decision on corrective action and send their summary to the investigator as expeditiously as possible and ideally within seven (7) business days of the date of the final submission made in the request for review process.
- 20.12 The investigator will advise the parties of the decision as soon as possible and ideally within 24 hours of receiving the summary. The investigator will not disclose personal information, except as required or authorized by law.
- 20.13 The investigator is responsible for ensuring all necessary communications are made to those responsible for implementing the decision, providing or

adjusting support services and assistance, or conducting other required administrative transactions.

21.0 **Consultations**

21.1 The following groups were consulted during the development of the first version of this policy: AMS Policy Advisor, SASC Manager, AMS Human Resources Manager, AMS Legal Counsel, AMS Council, AMS Executive Committee, Panhellenic Council, Interfraternity Council, Constituencies, Student Resource Groups.

21.2 The following groups were consulted during the development of the second version of this policy: AMS Human Resources Manager, AMS Ombudsperson Office, AMS Executive Committee, AMS SASC, AMS Policy Advisor, AMS Legal Counsel, AMS Council, AMS Managing Director, AMS Senior Manager of Student Services, AMS Equity and Inclusion Specialist, AMS Staff, Union Representatives, Presidents Council, and Student Resource Groups.

21.3 Note: Union representatives are to be consulted on the review of this policy in accordance with collective agreements.

22.0 **History**

22.1 This is the fifth draft of the second version of this policy.

22.2 The first version of this policy was the 2019 version.

23.0 **Related Policies:**

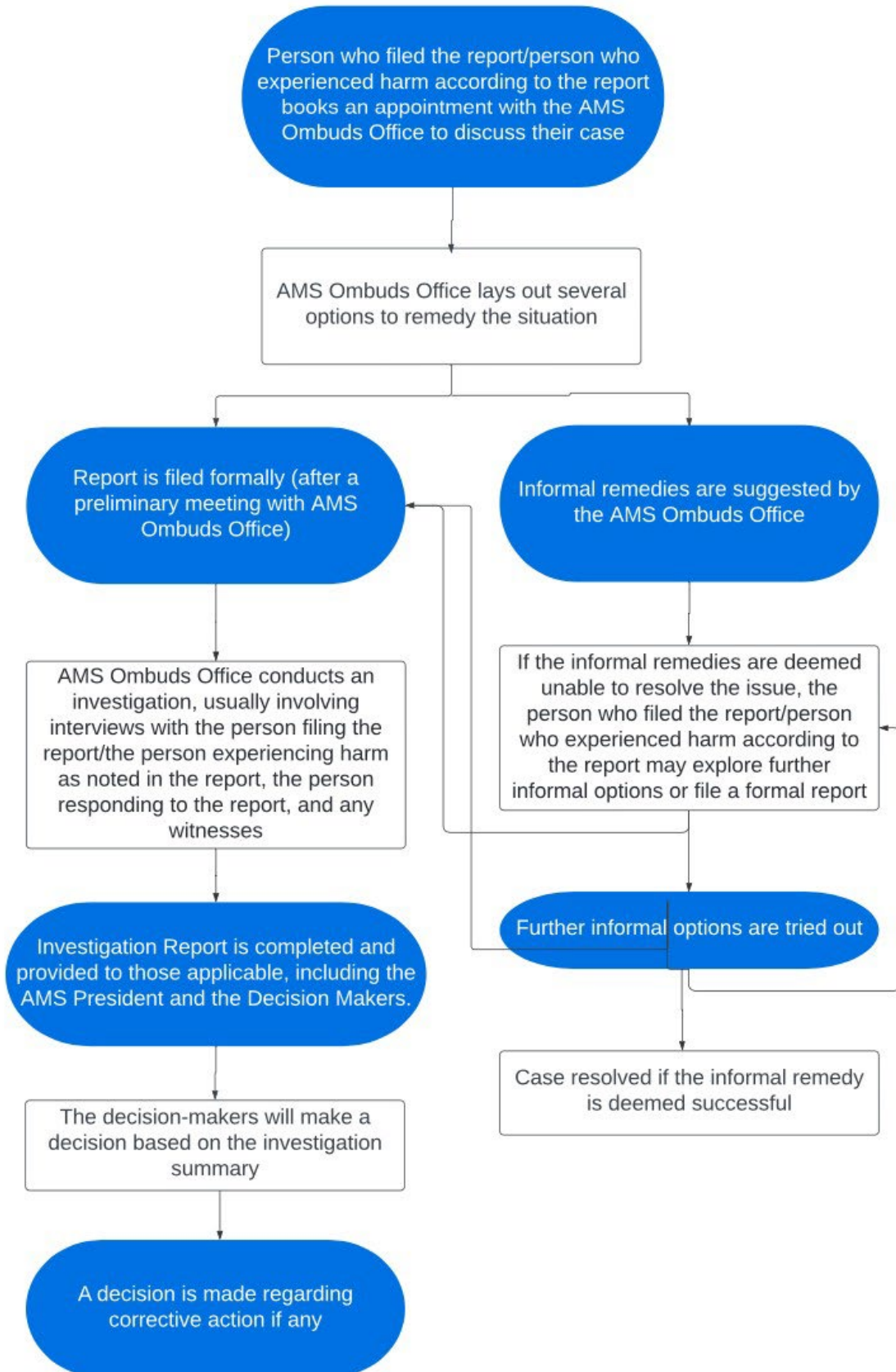
23.1 PC1: Respectful Community and Violence

24.0 **Appendix/Appendices:**

24.1 Attached to this policy is a flowchart to help visualize the process that will unfold after a person reports a violation of PC2.

24.2 Note: Though these flowcharts show what the typical pathways are for cases, AMS Human Resources and the AMS Ombuds Office tailor the approach on a case-by-case basis to best suit the needs of the parties.

PC 1/2 Process - AMS Members



PC 1/2 Process - AMS Staff

