

**IN THE MATTER OF THE *HUMAN RIGHTS CODE*  
R.S.B.C. 1996, c. 210 (as amended)**

**AND IN THE MATTER of a complaint before the  
British Columbia Human Rights Tribunal**

**BETWEEN:**

Glynnis Kirchmeier – and – Glynnis Kirchmeier obo others

**COMPLAINANT**

**AND:**

University of British Columbia

**RESPONDENT**

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**FORM 3 AMENDMENT  
September 7, 2017**

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Further to paragraphs 41 and 44 of the Tribunal's decision in *Kirchmeier and others v. University of British Columbia (No. 2)*, 2017 BCHRT 186, please amend the Mordvinov Class of the representative complaint to:

Any female student who at least once reported, disclosed or communicated to a faculty member or administrative staff member of UBC by any means, including telephone, fax, e-mail or in person in a formal, informal, scheduled or unscheduled interaction, a concern about the sexual misconduct of Dmitry Mordvinov towards women.

Please amend the General Class of the representative complaint to:

Any female student of UBC who at least once reported, disclosed or communicated to a faculty member or administrative staff member of UBC by any means, including telephone, fax, e-mail or in person in a formal, informal, scheduled or unscheduled interaction, a concern about sexual misconduct between January 8, 2014 and November 16, 2015 by a male studying or employed at UBC towards a female student enrolled at UBC.

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**FORM 1.1 and 1.3  
DETAILS RE INDIVIDUAL AND REPRESENTATIVE GROUP  
COMPLAINT**

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**STEP 3: RESPONDENT'S CONDUCT**

**A. What happened**

1. I was a masters student in the History Department at the University of British Columbia from September 1, 2011 to November 28, 2013.
2. The University of British Columbia is a corporate entity continued as a university by the *University Act*, RSBC 1996, c. 468 and amendments, and located on the traditional, ancestral and unceded territories of the Musqueam people. Green College is a residence at UBC primarily housing graduate students.
3. Dmitry Mordvinov was a PhD student in the History Department at the University of British Columbia from September 2011 until November 2015 when he was expelled by UBC on the basis of non-academic misconduct. Mr. Mordvinov lived at Green College. I first met Mr. Mordvinov in

September 2011 when he and I were part of the same cohort of graduate students entering the History Department.

4. Student A was a PhD student in our cohort in the History Department. She also lived at Green College.
5. At a pub night for the History Graduate Students Association (“HGSA”), I witnessed Mr. Mordvinov with his hand on Student A’s leg and his arm around her shoulders.
6. Shortly afterwards, in mid-October 2011, Student A confided to me that Mr. Mordvinov had been repeatedly touching her. In November 2011, Student A further confided to me that Mr. Mordvinov was touching her daily, and that it was non-consensual. I suggested that Student A tell my teaching assistant supervisor, Dr. Jessica Wang, but Student A did not want to. I did not pursue the subject.
7. In December 2011, I went to two parties at which both Student A and Mr. Mordvinov were present. These parties were publicized through the HGSA listserv. I saw Mr. Mordvinov touch Student A. Student A was very obviously uncomfortable. Her shoulders were drawn together, her body language was stiff, and she had an unhappy look on her face.
8. At the second party in December 2011, I told Mr. Mordvinov that my long-distance relationship was ending. He became very flirtatious with me. On a subsequent occasion in December 2011 I had consensual sex with Mr. Mordvinov. Afterwards, I attempted to text and initiate dates with Mr. Mordvinov. By the end of December 2011, Mr. Mordvinov became distant and asked me to stop. I did not contact him again, and he did not contact me except for one facebook message in the spring of 2013 asking about a classroom assignment. My last contact with Mr. Mordvinov was the end of that class in spring 2013.
9. Originally I thought Mr. Mordvinov’s behaviour resembled Russian social norms that I had encountered with other Russians and Russian-Americans with whom I had socialized.
10. Student B (also known as Jane Doe) and Stephen Hay were UBC graduate students who also lived at Green College.
11. In December 2011, Mr. Mordvinov began repeated unwanted contact, actions and comments towards Student B which continued until May 2014 when he sexually assaulted her in Toronto.
12. In early January 2012, a group of Green College students, including Mr. Mordvinov surrounded Student B and pushed her down at a party. About two days later Student B told Mr. Hay what had happened and he took her to the hospital where she was found to have a concussion. Mr. Hay asked Mr. Mordvinov to tone down the aggression.

13. About January 9, 2012, Stephen Hay reported to Clark Lundeen at Green College that an un-named resident at Green College appeared to be the ringleader of aggressive behaviour at Green College parties and that a student had been hurt. This report was about Mr. Mordvinov and Student B.
14. On another occasion, Mr. Mordvinov followed Student B into the Reading Room at Green College and kissed her against her will. Student B told Mr. Hay about this event. In an email dated July 2014 to Mr. Hay, Mr. Mordvinov confirmed this incident.
15. On or about the same day as Mr. Hay's report, a second report was made to Green College about Mr. Mordvinov which named Mr. Mordvinov.
16. At some point, Mr. Hay witnessed Mr. Mordvinov at a party at Green College. Mr. Mordvinov was sweaty and belligerent and appeared drunk. He was picking people up against their will, turning them upside down, and shaking them with their heads near the ground. Mr. Hay was concerned that this conduct posed a risk of serious injury if Mr. Mordvinov were to bang someone's head or drop them. Mr. Hay asked Mr. Mordvinov to stop. Mr. Mordvinov continued to pick people up, but not to turn them upside down. Mr. Hay later reported this incident to the Green College office by email on April 22, 2015, to the History Department by email on April 23, 2015, and to Chad Hyson, a university administrator, on April 24, 2015.
17. In February 2013, a female foreign graduate student living at Green College, Student C, awoke to find her pants off and Mr. Mordvinov on top of her sexually assaulting her. She pleaded with him to stop. Several days later she sent him an email saying that no means no, and that she was drunk at the time. In the summer of 2013, Student C complained to Green College administrators about Mr. Mordvinov's behaviour. In early August 2013 a friend of Student C advised Clark Lundeen of Green College that a Green College resident sexually assaulted another Green College resident in February 2013. Shortly afterwards, Clark Lundeen was informed of the names of both Mr. Mordvinov and Student C.
18. In April 2013, several graduate students, including Caitlin Cunningham, went out for a drink. As they approached a pub, Mr. Mordvinov repeatedly pulled Ms. Cunningham's pony-tail. She asked him to stop, but he continued. He then put her in a headlock, forcibly restraining her head, neck and shoulders, with her head held against his body near his groin, at which point she began to yell. She eventually broke free from his grasp and slapped him. As she walked away he called her a "prude". She was shaken and furious but did not report the incident. Caitlin Cunningham was a graduate student in the History Department.
19. Student D was a graduate student in the History Department at UBC. She entered as part of the same cohort as me.

20. In 2013 Student D said that her long term relationship had ended. Mr. Mordvinov began to aggressively flirt with her. At one point I and another female graduate student had a conversation with Student D about how best to ask Mr. Mordvinov to stop sending Student D text messages that Student D characterized as borderline inappropriate. Student D texted Mr. Mordvinov that their relationship was a professional relationship. Mr. Mordvinov did not text her again.
21. In about January 2014, Mr. Mordvinov took Student E back to his room after a night out for Green College students, and began forcing himself on her. She fled in fear. She filed a complaint with the UBC administration and told other students what had happened. Mr. Mordvinov sent Student E an email message stating, "When somebody asks you to their room after a party, they always (or nearly always) mean sex." Student E responded by email, "I thought I made it clear I didn't want to have sex. I thought we were just going to talk. I was really drunk and unaware of what was happening. I'm not saying that excuses my behaviour, but when someone is that drunk you shouldn't be inviting them back to your room – that's non-consensual."
22. On about January 27, 2014, the GUTS Canadian Feminist Magazine printed an article by Alana Boileau about events at Green College. The accounts in the story related to Mr. Mordvinov in part. None of UBC, Green College, or Mr. Mordvinov were named, but Green College was described as a "graduate residence in a West Coast university" premised on the combination of "ideas and friendship". The motto for Green College is "Ideas and Friendship".
23. In early January 2014, I met with two members of my UBC cohort, Sam Fenn, who was still a student, and Eric Wright, who had recently graduated. They told me about an incident where Mr. Mordvinov touched a woman at an HGSA event until she slapped and yelled at him. This turned out to be the assault against Caitlin Cunningham in April 2013. In our conversation I had the impression that the event had happened very recently to a different person. This account made me very concerned that Mr. Mordvinov was exhibiting an ongoing pattern of behaviour and was not learning Canadian social norms.
24. On January 8, 2014, I sent an email to the Graduate Supervisor in History, Dr. Michel Ducharme, with the subject line, "A sexual harassment issue in the department", expressing concern about the behaviour of Mr. Mordvinov including unwanted touching, inappropriate text messaging, and excessive flirting that I had seen or become aware of since I met Mr. Mordvinov in 2011. I also reported that I had heard a rumour that Mr. Mordvinov touched a woman at an HGSA event until she slapped and yelled at him. I later sent an email asking Mr. Ducharme not to proceed with my complaint until I had confirmed my facts, and clarifying that I was not seeking a

- formal disciplinary process against Mr. Mordvinov as I had been warned by a fellow alum that Mr. Mordvinov might be expelled based on my report.
25. Dr. Ducharme followed up with the Department Chair, Anne Gorsuch, who directed him to Monica Kay at the UBC Equity and Inclusion Office.
  26. On February 6, 2014, Ms. Kay and I spoke on the telephone. Ms. Kay and I were to have met on February 4, 2014, but Ms. Kay forgot the meeting. In our telephone conversation on February 6, Ms. Kay made a number of comments to attempt to dissuade me from proceeding. She advised that she could not take action on my complaint because I had merely witnessed harassment, and because I was an alumna. She said that she could only take action if a current student were to bring a complaint. She advised me that she would not do anything on the basis of my complaint alone. Ms. Kay emphasized that if I wanted her to speak to Mr. Mordvinov, I would need to find a current student to complain about him. Although she was asking me to find another person to come forward, Ms. Kay also demanded total confidentiality from me. Ms. Kay further said that all she could do with respect to a complaint that I had witnessed inappropriate behaviour would be to bring Mr. Mordvinov in speak to him personally about professional norms. Ms. Kay advised that this is not something the History Department could do as it did not handle such matters. Ms. Kay advised me that if she brought Mr. Mordvinov in, he would be told the name and specific allegations of any person who had made a complaint against him. Ms. Kay also commented that my allegations “happened so long ago”.
  27. Although Ms. Kay said that the History Department would not be able to speak with Mr. Mordvinov about professional norms, I was later advised by Chad Hyson, a University administrator of the non-academic misconduct process, that it is perfectly possible for departments to have conversations about professional norms with their students.
  28. In our conversation, Ms. Kay described the difference between a formal and informal complaint. Her information did not match the actual processes used by the University. Ms. Kay emphasized that either complaint process would require that Mr. Mordvinov be told the name and full allegations presented by any persons making complaints against him.
  29. In this conversation I told Ms. Kay about my view that Mr. Mordvinov’s early conduct might be a product of Russian social norms but that the continuation of this conduct showed a pattern of behaviour and failure to learn Canadian social norms. Ms. Kay accused me of being biased against Russians. She said that culture could have an impact on social expectations, but that I should never mention this.
  30. I made the report hoping that a person such as a male professor that Mr. Mordvinov was accountable to in his professional life would speak to him about professional norms and respect in order to prevent Mr. Mordvinov’s behaviour from continuing and escalating. Ms. Kay seemed concerned that

having a professor speak to Mr. Mordvinov might harm him professionally. As a consequence, his behaviour continued unchecked.

31. In the conversation, Ms. Kay emphasized confidentiality, telling me that if I or the department talked about these allegations, that would be like a “snake in the grass” or like “putting a snake in a room and turning out the lights”.
32. In the University’s processes as a whole, the University required confidentiality such that women could not warn other women of the conduct of Mr. Mordvinov. This left women at risk of his repeated conduct over a period of years.
33. In our meeting, I provided the names of Mr. Hay, Student A and Student D to Ms. Kay as people she should speak with because they had observed or experienced aggressive behaviour from Mr. Mordvinov. I also provided these names in July 2014 and December 2014. Ms. Kay never contacted them.
34. Ms. Kay did not investigate my complaint further. Had she done so, she might have discovered other facts related to Mr. Mordvinov’s conduct to that point, and been able to proceed against Mr. Mordvinov. This might have prevented subsequent events, including the sexual assault of Student B in May 2014.
35. In the spring term of 2014, Ms. Kay and Dr. Ducharme organized a workshop for graduate students in the History Department to address the issue of sexual harassment. Attendance was mandatory. I did not attend this workshop because I was no longer at the University. Both graduate students and professors expressed discontent with the quality of the educational workshop. The workshop did not address sexual harassment directly. No context was provided for the workshop.
36. In May 2014, Chad Hyson met with Student C, the foreign student. She advised him that Mr. Mordvinov sexually assaulted her in February 2013.
37. Another student may also have reported a sexual assault by Mr. Mordvinov in May 2014 (Student F).
38. On about May 26, 2014, Student B was sexually assaulted by Mr. Mordvinov in Toronto. He was representing UBC at the Canadian Association of Slavists Annual Conference at Brock University in St. Catharines, a part of the annual Congress of the Humanities and Social Sciences. The assault occurred after a group had been together at a pub and gone back to Student B’s house to sleep. Student B arranged for them to sleep on the second floor. Her room was on the third floor. During the night, while Student B was intoxicated and sleeping, Mr. Mordvinov had sex with her. Student B awoke briefly during the attack and was in pain and

- bleeding in the morning. Student B went to the hospital and had a rape kit done.
39. Student B called Richard Sandlin at Green College and told him to go to the administration and tell them who the victim was and what had happened. Mr. Mordvinov sent an email to try and address the complaint, stating, "I thought, judging from her behaviour, that she wanted to have sex with me." Further, "I do realize that in Canada, drunk sex is non-consensual, although this thought unfortunately did not cross my mind back then. I should, of course, have left her alone. When I realized that what I have done is wrong . . . I understood I had made a huge mistake."
  40. In June 2014, Caitlin Cunningham was told by Mr. Hay about Mr. Mordvinov's sexual assault of Student B.
  41. On July 16, 2014, Caitlin Cunningham emailed Dr. Tamara Myers to ask for advice about Mr. Mordvinov. Dr. Myers was a professor in the History Department. Ms. Cunningham told Dr. Myers that she had been assaulted by Mr. Mordvinov and that she had heard that he had raped somebody. Dr. Myers immediately contacted the History Department Chair, Dr. Tina Loo, who immediately contacted Green College.
  42. On July 23, 2014, four graduate students, Meghan Longstaffe, Caitlin Cunningham, Kaitlin Russell and Sarah Thornton emailed Dr. Loo about sexually aggressive behaviour by Mr. Mordvinov and their feelings of discomfort and lack of safety. Dr. Loo emailed back that she had spoken with Ms. Kay. She said that the University took these concerns, and the University's obligation to act on them, seriously, and that Ms. Kay was in touch with other agencies on campus and was making confidential inquiries.
  43. On July 28, 2014, Mr. Hay contacted the Office for the Ombudsperson for Students, using an online form, to report that a student in a different faculty had told him that a graduate student in the History Department had recently raped her, that she wanted this to be public knowledge, and that she had told many people, including campus security and administrators at UBC. These administrators were at Green College. The student had designated Richard Sandlin to speak on her behalf. On July 31, 2014, Mr. Hay provided this information to Dr. Loo in a telephone conversation. She advised Mr. Hay that she was aware of the situation.
  44. On July 29, 2014, I attended a meeting organized by female graduate students including Meghan Longstaffe, Caitlin Cunningham, Kaitlin Russell and others. We talked about Mr. Mordvinov and our concerns about whether female graduate students could expect and demand safety on campus and among fellow students and professors. One concrete request was for a less isolated TA space for meeting students. Ms. Cunningham was at this meeting and said she had been assaulted by Mr. Mordvinov.



- She also noted his pattern of escalating behaviours towards her before the assault.
45. On July 31, 2014 Ms. Kay and Dr. Loo met with women from the History Department including me. Prof. Laura Ishiguro was also present, although the purpose for her presence was not clarified. At the meeting Ms. Kay asked Ms. Cunningham to describe Mr. Mordvinov's assault of her, which she did. This was done with no warning to Ms. Cunningham, and with no designated support person for her. The request required Ms. Cunningham to discuss a private matter in front of a number of people, and therefore did not respect her privacy.
  46. At the meeting, Ms. Kay confirmed that she had told me that because I was an alumna, nothing could be done to address Mr. Mordvinov's behaviour based on my complaint. Ms. Kay encouraged Ms. Cunningham to make a complaint which my evidence could support. Ms. Kay continued to demand total confidentiality and advised women not directly harmed by Mr. Mordvinov to exit the process. She again used the metaphor of "snakes in the grass", suggesting that if complaints against Mr. Mordvinov were spoken about, that would alarm people in the department. At the end of the meeting Ms. Kay said that she would follow up with me once she did an investigation and "needed" my information. I left the meeting with the understanding that Ms. Kay was investigating and would contact me.
  47. Ms. Kay later claimed that this description of the assault was not a "report". Dr. Loo also later claimed that no "report" had been made. These denials significantly damaged the trust of Ms. Cunningham, myself and others in the University.
  48. However, in the spring or summer of 2014, the University told Dr. Myers, Dr. Ducharme and Dr. Ishiguro that they could no longer speak with graduate students about Mr. Mordvinov because the University had an active complaint proceeding against him.
  49. At the meeting, Dr. Loo also promised to inform the History Department faculty about the basic steps they should take to respond to any complaints of sexual harassment. She was to do this at a September 2014 faculty meeting. At the meeting she directed faculty to Policy 3. She did not advise that there were any specific concerns. She did not inform professors about what concrete, specific steps they were to take, which administrators they should refer such complaints to, how to move a matter forward to a more serious level, or how to support students. After the meeting Kaitlin Russell and Dr. Paul Krause, a long-serving professor in the History Department, complained in an email to many colleagues that Dr. Loo's reference to Policy 3 was insufficient.
  50. The University took no steps against Mr. Mordvinov until May 2015, a period of 10 months after the July 31, 2014 meeting. The University has not provided an explanation for this delay.

51. In September 2014, Dr. Loo agreed that the HGSA could present a sexual harassment workshop. The HGSA designed the workshop, but it was called off when the HGSA was told that all scenarios would have to be approved by the University administration and the Equity Office, and that the Equity Office would have to supervise the workshop.
52. Despite her existing reports to the University, Ms. Cunningham was eventually told that nothing could be done until she made a “formal report” to the Equity Office. On December 4, 2014, Ms. Cunningham gave an official statement to Ms. Kay. Ms. Kay produced a report from this statement which was not shown to Ms. Cunningham until May 2015. It was so inaccurate that Ms. Cunningham had to rewrite it. Ms. Cunningham was not advised before Mr. Mordvinov was told that a complaint had been made against him, and was not advised that her complaint would be provided directly to him before this was done.
53. Ms. Kay did not contact me to add my information to Ms. Cunningham’s complaint. On December 11, 2014, I contacted Ms. Kay to add my evidence about Mr. Mordvinov to Ms. Cunningham’s complaint. Ms. Kay took notes about the specific actions I observed. In May 2015, I received a copy of the notes taken by Ms. Kay. The notes contain an inaccurate and misleading version of what I had said. The notes also contain a false statement that I was motivated to report Mr. Mordvinov out of revenge, and that I wanted him to be punished. The content of these notes seriously undermined my confidence in the University’s processes.
54. On December 11, 2014, Ms. Kay did not provide clear information to me about who would be involved in administering the complaint or who would be advised about it.
55. On December 21, 2014, I spoke with my former advisor, Dr. Jessica Wang. Dr. Wang was unaware of any concerns with Mr. Mordvinov. Dr. Wang advised me to officially complain to the University. Based on her review of University policy, Dr. Wang later told me that alumni are part of the University community and have a stake in UBC being a safe place. Dr. Wang advised me that she and Dr. Loo agreed that it was inappropriate for Ms. Kay to dissuade me from making a complaint.
56. Dr. Wang met with Dr. Loo and told her that it was unacceptable that the University did not speak to Mr. Mordvinov about professional standards.
57. On December 23, 2014, I had a conversation with Ms. Kay and Ms. Cunningham about the next steps in the complaint process. Ms. Kay said that the next step would be a meeting between us, Chad Hyson, and Ashley Bentley of the Sexual Assault Support Centre (“SASC”) run by the Alma Mater Society. At that meeting Ms. Cunningham said firmly that she wanted to speak for herself with other University administrators, rather than having Ms. Kay do it. Ms. Cunningham and I also expressed our

strong desire to be advised before Mr. Mordvinov was told of the complaint as we believed that Mr. Mordvinov would attempt to contact us once he was aware of it. Ms. Kay advised that if Mr. Mordvinov contacted us after our names were given to him, we should advise her as that would be misconduct.

58. During the December 23, 2014 conversation, Ms. Kay denied ever dissuading me from making a complaint, and claimed that I had misunderstood her.
59. Despite our express wishes to be involved in the next steps, on January 13, 2015, Ms. Kay met with Chad Hyson and Ashley Bentley without us. She did not advise us of this meeting until January 28, 2015, after I inquired whether we would be meeting with Mr. Hyson and Ms. Bentley. Ms. Kay also met with Dr. Loo without us.
60. On February 17, 2015, Ms. Cunningham met with Mr. Hyson, Ms. Bentley and Ms. Kay. At that meeting, Ms. Cunningham expressed discontent with how Ms. Kay had handled the case. After that, Mr. Hyson took over management of the file. At that meeting it was noted that because Mr. Mordvinov was out of the country for research, the process might not move forward.
61. The University took no action for the rest of the spring on our complaints because Mr. Mordvinov was away, despite technological options like telephone, email and Skype. The complainants had no information about how to move the University's process ahead faster.
62. By spring 2015, Mr. Mordvinov had completed his degree except for his dissertation. As a consequence, he could publish chapters, go to conferences and apply for jobs as a UBC student in good standing without attending the UBC campus.
63. In February and March 2015, the HGSA drafted a "Statement Concerning Harassment" for presentation to the History Department at its department meeting. It was not specific to any case, but contained specific policy reform demands and timelines for implementation. The HGSA voted to present the Statement at the final department meeting of the year on April 2, 2015.
64. In March 2015, the HGSA provided a copy of the Statement to Dr. Loo, advising her that they intended to present it at the last department meeting. Dr. Loo contacted legal counsel and then prohibited the students from presenting the Statement on the grounds that it was "inflammatory" and "defamatory". The University took the position that the Statement's demand that faculty members be permitted to speak openly was inflammatory because it suggested that the faculty was silencing its faculty members. The University took the position that a section in the Statement asking the University to acknowledge that students and faculty had

- experienced harassment was defamatory. The HGSA was further advised that it would be prohibited from tabling the Statement at a department meeting, even if it removed the offending sections.
65. On about April 2, 2015, the HGSA boycotted the department meeting. On about April 16, 2015 the HGSA circulated its statement. Professors who asked why the HGSA had been prevented from presenting their statement were told that it would have made the History Department “unsafe”.
  66. On about April 28, 2015, a workshop for History Department faculty conducted by the Sexual Assault Services Centre was held, and Dr. Loo sent a letter to the History Department stating that the Department was committed to an environment free of discrimination and harassment and advising that the Equity Office would be holding a mandatory workshop in September 2015, and a voluntary workshop in October 2015. These later workshops were not held.
  67. On March 25, 2015, Mr. Hay met with Mr. Hyson and gave Mr. Hyson the email from Mr. Mordvinov documenting his sexual assault Student B. On that date, Mr. Hay also sent Mr. Hyson additional information by email.
  68. On April 24, 2015, Mr. Hay sent an email to Chad Hyson about another alleged sexual assault victim, Student G. Mr. Hay sent an email that day to Dr. Loo about Student B being willing to speak with her. Mr. Hay also sent a group email whose recipients include Dr. Loo, the SASC and Mr. Hyson regarding his concerns that Mr. Mordvinov was in line for a job at SFU. Mr. Hay sent these emails because Mr. Mordvinov was scheduled to attend the annual Congress of the Humanities and Social Sciences at the University of Ottawa. This conference was to be attended by UBC graduate students and residents of Green College. In his group email, Mr. Hay stated that he feared for the safety of a friend of his and other UBC students at the upcoming conference and urged the University to act with “all haste” on the issue of Mr. Mordvinov. He met with Mr. Hyson on April 29, 2015.
  69. On May 1, 2015, UBC contacted Mr. Mordvinov and issued him a “Notice of Restriction under UBC Policy 14 – Response to At-Risk Behaviour”. This was almost 16 months after my initial complaint to the University about Mr. Mordvinov. UBC did not contact either me or Ms. Cunningham to advise us about this communication with Mr. Mordvinov. UBC did not advise me that my complaint was not part of the basis for this action. The restriction from campus order was not generally distributed to members of Green College, the History Department, or the campus community, preventing others from knowing that UBC considered Mr. Mordvinov to be a danger to others.
  70. On May 12, 2015, I emailed Mr. Hyson and Dr. Loo to ask why I had not been advised of the contact with Mr. Mordvinov and asking about the status of my co-complaint with Ms. Cunningham. Mr. Hyson responded on the same day. Dr. Loo did not respond. Mr. Hyson expressed surprise that

I considered myself a complainant in an active process and advised that no formal process was underway in relation to my complaint or the complaint of Ms. Cunningham.

71. The complaints against Mr. Mordvinov were ultimately handled under Policy 14 and the non-academic misconduct process. This process was never mentioned to me by Ms. Kay or the Equity and Inclusion Office. I first heard about the non-academic misconduct process when I was advised in May 2015 that Mr. Mordvinov had been ordered to stay off the UBC campus under Policy 14.
72. Both the Equity and Inclusion Office processes and the non-academic misconduct processes permit informal resolution of concerns and complaints. To my knowledge, this was never attempted with Mr. Mordvinov. Mr. Hyson advised me that in order for a resolution to be reached under the non-academic misconduct processes, Mr. Mordvinov would have to take responsibility for his behaviour and be willing to take steps to address its impact. Given that Mr. Mordvinov's actions likely breached the criminal code, it was a concern to me that any resolution could require him to waive his right not to incriminate himself.
73. Mr. Hyson advised that serious cases, where there is a question about whether a student should remain a member of the UBC community, are referred to the President's UBC Vancouver Non-Academic Misconduct Committee for a hearing. The purpose of the hearing is to make factual determinations. Any decision about student discipline is then made by the President. Disciplinary measures open to the President are varied, include expulsion and suspension, and can be designed to achieve the same objectives as a resolution process.
74. In the University's formal non-academic misconduct process, the University brings the complaints forward as prosecutor against the Respondent. Complainants are witnesses only and have no procedural rights, although they may be consulted. This was not explained to me. Because I was described as a complainant and approaches to my complaint were discussed with me, I understood that I had rights in the complaint process. This proved to be incorrect and led to significant ongoing confusion for me about the University's process.
75. Mr. Hyson consulted with me and others about whether it would be appropriate to attempt a resolution with Mr. Mordvinov, but ultimately the decision remained with the University. Ms. Cunningham was concerned that if Mr. Mordvinov admitted his conduct, a resolution would leave a repeat offender at the University and therefore would not solve the complainants' concerns about Mr. Mordvinov's dangerous and harmful behaviour towards women. Ms. Cunningham felt pressured to agree to mediation although she had told UBC that she was not interested in mediation in July 2014, December 2014 and February 2015.

76. I was concerned that any resolution might permit Mr. Mordvinov to transfer because permitting an abuser to switch to another institution rather than clearly disciplining him at UBC was unethical. In asking for my input on a potential resolution process, the University acknowledged that I was a participant in the process. The University did not tell me that if a disciplinary hearing was held, my complaints would not proceed.
77. Late in the process, Mr. Hyson advised that because he was the Student Conduct Manager, it was his job to work with a student suspected of misconduct to reach a resolution.
78. On August 12, 2015, Mr. Hyson advised me that my complaints had not been included in the formal allegations against Mr. Mordvinov that were to proceed to hearing in the University's non-academic misconduct process. Mr. Hyson told me this was because Mr. Mordvinov respected interpersonal boundaries within the History Department after they had been clearly stated to him, but did not do so in his interactions outside the department. Mr. Hyson said that the University was concerned that Mr. Mordvinov would use the fact that he observed clearly stated boundaries in some settings to cast doubt on the allegations against him in other contexts. I was not provided with a copy of the allegations that proceeded against Mr. Mordvinov.
79. I was very disappointed by the University's decision not to include my complaints in the allegations against Mr. Mordvinov because I was afraid that Mr. Hyson was trying to winnow away complaints until there were few or none left to pursue.
80. I was also concerned that excluding some allegations could prevent Mr. Mordvinov from having a full right to defend himself. It is unclear to me whether the University disclosed to Mr. Mordvinov all the allegations against him, or only the ones it included in its formal allegations against Mr. Mordvinov.
81. After the University decided not to include my allegations in the formal allegations against Mr. Mordvinov, Mr. Hyson offered to speak with Mr. Mordvinov about his conduct in the History Department. He said that he would need to disclose that I had reported the conduct in order to have this conversation. At this late stage I did not see this offer as useful. I also questioned whether Mr. Hyson would be the correct person to speak with Mr. Mordvinov given Mr. Hyson's role in preparing the case against Mr. Mordvinov.
82. In framing its allegations, the University took the position that it could not consider the sexual assault against Student B that occurred in another province because this was not within the scope of the non-academic misconduct policy even though Mr. Mordvinov was a student at the time.

83. Mr. Hyson told me the intent was to schedule the hearing in the second half of September. On September 9, 2015, after the matter was formally referred to the President's UBC Vancouver Committee on Non-Academic Misconduct (the "Committee"), I contacted the Chair of the Committee, Robbie Morrison, to try and have my information about Mr. Mordvinov included in the Committee's process. On September 17, 2015, after numerous attempts by me to follow-up, some of which were copied to others, Mr. Morrison responded that he was still in the process of making a decision about my request. On September 22, 2015, Mr. Morrison advised me that the rules gave him discretion, as Chair, as to what documents would be considered by the Committee. He declined my information on the basis that it did not relate to the single student's complaint that was proceeding against Mr. Mordvinov. He also took the position that only the person who was the subject of impugned behaviour could file a complaint.
84. On September 24, 2015 I offered to submit a revised statement that was limited to conduct that I had witnessed. I explained that the person who was the target of the conduct I had witnessed was no longer available to be involved in a complaint, and that I could testify that she told me the conduct was unwelcome. My information in limited form was rejected on the basis that it was not related to the specific incident of misconduct before the Committee.
85. In the non-academic misconduct process, the University took the position that it could not share the complaints of one complainant with another because of the right to privacy and confidentiality of both the other complainants and Mr. Mordvinov. The University also took the position that it could not disclose the disciplinary proceedings against Mr. Mordvinov because the *Freedom of Information and Protection of Privacy Act* "expressly prohibited" UBC from disclosing personal information where the disclosure would constitute an unreasonable invasion of privacy. UBC also took the position that the *FIPPA* established a presumption that the disclosure of information about educational history, including disciplinary proceedings, was an unreasonable invasion of personal privacy.
86. I did not participate in the hearing against Mr. Mordvinov. I understand that he was present throughout the hearing by Skype, but that those who testified against him were not permitted to hear his answers to their evidence. Those who testified against Mr. Mordvinov did not receive appropriate victim support at the hearing and were not permitted to have a counselor present. No transcript or official record of evidence was created at the hearing. Aside from Mr. Morrison, decision-makers at the hearing were undergraduate students with no training in sexual violence.
87. At the hearing the principal complainant, Ms. Cunningham, was not asked to present her evidence orally, was asked very few questions and was in the hearing room for a very brief period, less than 10 minutes. She was not provided with a description of how the process would unfold, and was only

told on the day of the hearing that she was permitted to make a statement to the panel.

88. By letter dated November 12, 2015, UBC advised Ms. Cunningham that the non-academic discipline process found that Mr. Mordvinov committed misconduct in the form of physically aggressive behaviour towards Ms. Cunningham, that the UBC president accepted the Committee's report, and that Mr. Mordvinov was no longer a student at UBC and would not be a student in the future.
89. UBC did not formally inform me of the result of the hearing. Eventually I learned that Mr. Mordvinov was no longer a student. This led to grave concern for me that he had transferred or withdrawn. I only learned that Mr. Mordvinov had been expelled when this information was confirmed to the CBC on November 20, 2015.
90. Before Ms. Cunningham was advised of the outcome of the hearing, the CBC Fifth Estate reporters contacted Monica Kay, Tina Loo and Martha Piper for comment. David Eby, MLA for West Point Grey, also wrote to Martha Piper on November 11, 2015.
91. As late as November 19, 2015 Mr. Mordvinov was listed on three conference schedules as attending as a UBC student with his UBC advisor. Since his expulsion from UBC, Mr. Mordvinov has registered at a university in Russia.
92. Monica Kay, Chad Hyson, and Robbie Morrison consulted with counsel for UBC during each of their parts of the process. Complainants were not advised that UBC counsel were involved, except that Mr. Hyson eventually admitted that his "colleague", Kimberley Beck, was counsel for the University. Ongoing consultation of these individuals with counsel for UBC indicated that decisions being made were not independent of UBC and its own legal interests.

**B. What was the adverse impact on the complainant and members of the group**

93. I found it extremely frustrating and distressing that despite the warnings from me and others that Mr. Mordvinov's conduct was unsafe for women, the University failed to accept our complaints and act on them effectively over long periods of time, with the result that other women became the victims of serious sexual violence and the safety of UBC as a community for women was severely compromised, and with the result that women had to endure very painful and ineffective University processes. It was very painful for me to watch this process unfolding and not to be able to move the University to prevent it.
94. UBC's processes do not ensure the safety of the university community, including members of the group, in respect of sexual harassment, sexual



violence and sex discrimination. Women are overwhelmingly the targets of sexual harassment, sexual violence and sex discrimination. Members of the group are overwhelmingly women. UBC has not responded to specific threats that it has become aware of, has been uninterested in implementing reforms in known problem areas, and has only responded to external pressures such as negative media and political attention. Because of these deficiencies, I and other group members suffered harm, including the diminished equality arising from an unsafe environment. Some group members also endured sexual violence. Because of these deficiencies, I and other group members also suffered harm when our trust in the University to act to protect us was broken by the University's repeated failures to act effectively or at all.

**C. How did discrimination occur**

95. Persons subject to and complaining of sexual harassment, sexual violence and sex discrimination are overwhelmingly female.
96. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sex discrimination when it failed to develop and publish a formal sexual harassment and assault policy which included detailed requirements for the steps that would be taken once an internal complaint was filed and detailed requirements for the bodies that would exist to respond to sexual assault and harassment complaints, and which was based on a trauma-sensitive, do no harm framework.
97. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to make compliance with an appropriate sexual harassment, sexual violence and/or sex discrimination policy mandatory for all members of the University community under the University calendar and under contracts of employment between members of the University community and the University, regardless of whether or not those members of the community were physically present at the UBC campuses.
98. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to ensure that its policy recognized the special nature of sexual harassment and sexual violence and the need for specialized and procedures and approaches with respect to sexual harassment and sexual violence.
99. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to ensure that its policy recognized the special nature of the University, including the transience of many members of the University community, the youth and inexperience of many members of the community, the interdependence of members of the community, the loyalty of many members of the community to the University, the hierarchical nature of the University, the significant presence of relationships among

those with unequal power and the wide discretion often present in the evaluation of scholarly work and the dispersal of University opportunities and benefits.

100. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process which could accept and process complaints about the University's liability in respect of sexual harassment, sexual violence and/or sex discrimination, and in respect of the University's internal processes.
101. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to formally recognize that the harm of sexual harassment, sexual violence and sexual assault is not limited to specific individuals who are harassed or assaulted, but extends to others who witness or become aware of the harassment or assault.
102. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to formally accept third party reporting of sexual harassment, sexual violence and sexual assault, regardless of harm to the reporter.
103. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to establish and fund a trauma-sensitive advocacy centre which is independent from the University, which is confidential, which provides centralized information for complainants, and which provides advocacy services, including representation, for complainants to which all complaints of sexual harassment, sexual assault, sexual violence and discrimination on the basis of sex would be referred by all branches of the University.
104. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to establish a process whereby the complainant's advocacy centre could receive complaints for the purposes of information only.
105. The University discriminated against other complainants alleging sexual violence or sexual assault when it failed to make rape kits available to be administered by qualified personnel at all times on campus.
106. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to establish and fund an advocacy centre, independent from the University, which is confidential, which provides centralized information and advocacy, including representation, to which any person subject to a complaint of sexual harassment, sexual assault and discrimination on the basis of sex will be referred.

107. The University discriminated against me and other complainants alleging sexual harassment and/or sex discrimination when it failed to provide comprehensive information about the formal and informal processes available to address complaints of sexual harassment, sexual violence and sex discrimination, including processes external to the University such as criminal processes, human rights processes and civil proceedings in court. The University discriminated against me and other complainants alleging sexual harassment and/or sex discrimination when it failed to provide information about the significant differences between internal and external processes, including the general lack of protection for complainants in internal processes, and the fact that some external processes were able to examine the University's liability as well as the liability of the person whose conduct was in question.
108. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to ensure that, after being provided with full information about the options open to complainants, complainants are assisted by an advocate to create a complete written account of their complaint.
109. The University discriminated against me and others who were later affected by Mr. Mordvinov's conduct by not responding effectively or at all to reports of misconduct by Mr. Mordvinov received before I reported him to the University.
110. The University discriminated against me and others who were later affected by Mr. Mordvinov's conduct when it failed to accept and investigate my complaint, repeatedly attempted to dissuade me from making a complaint, and repeatedly suggested that I did not have a valid complaint because I had not personally been harassed or assaulted or because I was an alumna.
111. The University discriminated against me and others who were later affected by Mr. Mordvinov's conduct when it relied on sexual stereotypes to assume or imply that I reported Mr. Mordvinov because of sexual jealousy rather than because of reasonable concern for the safety of others, and when it assumed or implied that I reported Mr. Mordvinov because of negative views of him based on his place of origin.
112. The University discriminated against me and others who were affected by Mr. Mordvinov's conduct by valuing his interests and rights over ours.
113. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it treated complaints as a disciplinary matter between an individual and the University, rather than as an issue to be addressed for the benefit of the complainant and other members of the University community. This permitted the University to fail to address numerous complaints and to focus on its own interests rather than the interests of the complainants and other members of the University community.

114. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide clear reporting about the outcome of its processes.
115. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact finding process in respect of complaints which is fully funded by the University but independent of it, which is staffed by paid professionals with training in best practices in relation to trauma, which is assisted by the services of an expert in sexual assault, and which takes account of the special nature of sexual violence and harassment.
116. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process which was equally transparent to parties making and responding to complaints, such that all complaints and responses are cross-disclosed, all submissions are cross-disclosed, all interviews are summarized and cross-disclosed, all parties can propose questions for other parties before fact finding takes place, and all parties can comment on a draft of facts found before fact finding is complete.
117. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a trauma-sensitive fact-finding process which ensured that complaints are reduced to writing at the start of the process, that retelling of complaints is strictly limited, and that decision-making is based on best practices in relation to trauma, and is not based on gendered stereotypes about how victims respond and act.
118. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process in which members of the University community are required to disclose relevant documents to the investigator, and in which those documents are equally available to all parties.
119. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process in which members of the University community are required to participate in fact-finding processes in respect of complaints.
120. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process in which complaints, responses and non-documentary evidence provided in a fact-finding process are privileged, and cannot be the basis of civil liability or any other complaint process.

121. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide that any negative consequence or response related to making a complaint, responding to a complaint, or providing evidence in a complaint investigation process was strictly prohibited.
122. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process in which any party is permitted to comment outside the complaint process about matters pertaining to them, subject to the usual rules of slander and libel.
123. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to ensure that, when a complaint was referred to a fact-finding process, an early determination was made about whether a public warning should be issued about the respondent and/or the complaint, and about whether the respondent should be suspended from the University for the safety of the complainants and the University community.
124. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to ensure that, when a complaint was received, an early determination was made about accommodations the complainant and others affected by the complaint might require, and ongoing assistance was provided to complainants and others affected as a complaint was being addressed.
125. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to make mediation services available to parties which were consensual, provided by a professional other than the person assigned to find facts, and fully funded by the University but entirely separate from it.
126. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process where findings of fact are binding on all parties and the University, subject only to judicial review or a collective agreement grievance process.
127. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide an investigation process where the findings of fact are provided to each participant, where submissions can be made as to remedy by all parties and the University, even if the University was not a party to the complaint, where decisions about remedy are made by the person who made the findings of fact, and where decisions about remedy are binding on all parties and the University, subject only to judicial review or a collective agreement grievance process.

128. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide a fact-finding process in which the findings of fact and decision on remedy were made public.
129. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide information about how to access judicial review and grievance processes.
130. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to establish an independent person with access to the work of the fact-finding process to maintain and publish statistics on an annual basis about complaints of sexual harassment and sex discrimination, about the outcome of those complaints, and about the rate of reporting compared to the anticipated rate of incidents based on statistics from other settings, and to report on the complaint process in order to ensure that it is functioning promptly and fairly.
131. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide effective regular training throughout the University about how to receive a complaint of sexual harassment, violence or discrimination, where to refer the complainant, and how to assist the complainant and others affected, including the respondent. The University discriminated against me and other complainants alleging sexual harassment, sexual violence and/or sexual discrimination when it failed to provide effective specific training throughout the University about the needs of vulnerable populations in the UBC community, including but not limited to First Nations/Indigenous students, other visible minority students, foreign students, students with disabilities, students who are pregnant or who have children and other populations defined by the characteristics protected in the *BC Human Rights Code*.

#### **STEP 4: TIME LIMIT TO FILE COMPLAINT**

##### **PART A: CONTINUING CONTRAVENTION**

132. The individual and group complaint addresses the University's internal policies, structures, processes and practices for responding to reports and complaints of sexual violence, sexual harassment and sex discrimination. This is a systemic complaint relating to the response of an institution to a particular kind of report or complaint. All of the allegations relate to these internal policies, structures, processes and practices and are therefore related.

133. These internal policies, structures, processes and practices are ongoing to the present time. No gaps are present. The allegations about the University's internal policies, structures, processes and practices are thus timely as continuing contravention.
134. The individual and group complaints particularly relate to the University's response to allegations made to the University over several years by many members of the University community about the sexual conduct of one graduate student, Dmitry Mordvinov. All of these events are related because the issue is how the university received and addressed allegations against one individual.
135. Events at the University relating to Mr. Mordvinov were ongoing until about November 20, 2015 when his expulsion became publicly known. At times the University was not actively responding to complaints it had in hand about Mr. Mordvinov but those complaining against him continued to seek to have the University pursue their complaints. The allegations in relation to Mr. Mordvinov are thus timely as a continuing contravention. There were no significant gaps in the narrative. To the extent that there were gaps in the University response, these gaps are one of the subjects of the complaint.

## **PART B: RELIEF AGAINST TIME LIMITS**

136. The complainant submits that to any extent the Tribunal does not consider the complaint to allege a continuing contravention and to be out of time, the Tribunal should accept the complaint on the basis of overwhelming public importance, and lack of prejudice to any person.
137. **General Public Interest in Complaints.** The purposes of the *BC Human Rights Code* set out in s. 3 of the *Code* describe the important task of identifying and remedying discrimination, preventing future discrimination, providing for every person in British Columbia an equal opportunity to participate in the economic, social, political and cultural life of the province, and promoting a climate of understanding and mutual respect where each person is equal in dignity and rights. The only mechanism provided for in the *Code* to accomplish these critical tasks is a system of prohibitions which individual complainants are responsible for enforcing by making complaints to the BC Human Rights Tribunal. The only elucidation and application of the principles set out in the *Code* comes from decisions of the Tribunal with respect to such individual complaints.
138. As is clear from the purposes of the *Code*, there is a profound public interest in ensuring that the terms of the *Code* are met, and that breaches of the *Code* are remedied. Everyone is diminished and civil society is weakened where human rights are not protected, promoted and respected. As recognized in the Preamble to the United Nations Universal Declaration of Human Rights, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and

peace in the world. Properly viewed in this context, every complaint that alleges a breach of the *Human Rights Code* gives rise to a very substantial public interest.

139. Given the overriding public interest in complaints proceeding, and the large and liberal interpretation that must be given to the *Code* and the objectives of the *Code*, a very significant *public* detriment must be shown before the public interest in relieving against time limits and proceeding with a complaint will be rebutted. In order to meet its obligation to provide a large and liberal interpretation of the *Code*, the Tribunal must not be reluctant or niggardly in exercising its discretion to relieve against time limits. Moreover, whatever interest a Respondent may have in a complaint not proceeding, this is a private rather than a *public* interest, except in extreme cases.
140. **Factors re Relief Against Time Limit.** In *Fontaine v. Ainsworth Lumber*, 2005 BCHRT 565, at paras. 10-12, 19-20, the Tribunal considered jurisprudence of both the BC and Canadian human rights commissions, and set forth a substantial list of factors to be considered by the Tribunal in deciding whether to relieve against time limits. The Tribunal noted that each decision turned on its own facts and must take into account all relevant facts in each particular case (paras. 20, 21). The Tribunal also emphasized that the decision about whether to relieve against time limits was to be made in light of the purposes of the *Code* set out in s. 3 (para. 20).
141. The reasons for delay is only one factor to be considered. As stated by the Tribunal in *Fontaine* (para. 19):

Further, mandating primacy to the reasons for the delay would have the effect of stripping the public interest element of substantive meaning, and preventing the Tribunal from considering on a case-by-case basis whether the public interest would be served by accepting a complaint for filing.
142. **Reason for Filing Complaint Now.** The allegations relating to the University's handling of internal complaints and reports about Mr. Mordvinov's conduct are being filed at this time because the University's process with respect to Mr. Mordvinov is now complete, and because sufficient information is now available to the complainant, through media coverage, FOI request and other forms of disclosure including personal communications, to describe many of the relevant facts.
143. The allegations relating to the deficiencies in the University's internal policies, structures, processes and practices is being filed at this time because the nature of these deficiencies became clear to the complainant through the events relating to Mr. Mordvinov, and disclosure, communications and media coverage regarding those events.



144. The complaint was not filed earlier because the complainant did not have the information and analysis she now has to file a comprehensive complaint.
145. The complaint is also being filed now because the complainant reasonably believes that this complaint is a continuing contravention and the complaint is thus timely. Even if the Tribunal disagrees with this position, the Tribunal cannot fairly penalize the complainant by not accepting this complaint because of delay arising from a reasonable and good faith belief that the complaint is being filed in time. Filing the complaint as a continuing contravention within 6 months of the latest event represents appropriate diligence in pursuing the complaint, and proper deference to the *Code* and the processes of the Tribunal. Any delay arising cannot properly be a basis for not relieving against time limits.
146. **Public Interest in this Complaint.** Sexual violence and sexual harassment remains extremely widespread. Its negative effects are disproportionately experienced by women and by others with characteristics protected under the Code. Sexual violence and sexual harassment is a significant contributor to inequality for women, and for others with protected characteristics.
147. According to the Statistics Canada General Social Survey (2013), young women aged 15 to 24 account for almost half of self-reported sexual assaults and are particularly vulnerable to violent crime. UBC is a large institution with a significant student population, many of whom are young. It is reasonable to conclude that the risk of sexual violence for the UBC community is significant given its demographics.
148. Many members of the University community are in vulnerable circumstances in relation to their age, their personal and financial resources, their inexperience with being on their own, their education, their educational and professional opportunities and evaluation, and their limited ability to leave the University community if issues arise.
149. The University community is also notable for its hierarchical nature, its complexity, the number of different people and offices with varying degrees of authority, the transience of members, the transience of office holders, and the fact that many members of the community are living and working in the same place.
150. UBC holds out to members of its community, including students, that it takes its obligation to provide an environment free of sexual violence, sexual harassment and sex discrimination seriously, and its internal policies, structures, processes and practices for responding to sexual violence, sexual harassment and sex discrimination are of very significant importance to meeting this obligation.
151. This complaint alleges that there are serious systemic deficiencies in the University's internal policies, structures, processes and practices for

responding to allegations of sexual violence, sexual harassment and sex discrimination, and that these deficiencies were evident in the University's lack of effective response to allegations against a particular student over a period of years. The effects of these deficiencies were widespread and ranged from an objective lack of safety, exposure to the risk and reality of sexual violence, significant feelings of abandonment and betrayal by students attempting to get the University to act, including the complainant, and loss of equality for women in particular.

152. The complaint seeks to have the Tribunal identify, remedy and ameliorate these deficiencies. The interest of the University community in this complaint is thus high. The interest in the wider public is also high in that it is very important that key social institutions, such as Universities, lead by example in responding to complaints of sexual violence and harassment.
153. Given that this complaint is a systemic complaint against a major institution addressing a serious continuing issue in the inequality of women and others possessing the characteristics protected in the *Code*, the public interest in this complaint is very high. The University has been subject to various individual human rights complaints, but not to a systemic complaint on these grounds.
154. Further, management of reports of sexual violence and harassment is a subject of considerable public interest at this time because of the ongoing high incidence of sexual violence and harassment, as well as the difficulty of designing adequate response measures to these events. This complaint asks the Tribunal to assist in identifying issues and remedies that may help to address this significant social problem. This complaint is thus at the core of what the Tribunal has been established to address.
155. Finally, addressing the issues here requires the Tribunal to have before all of the relevant evidence, particularly in relation to
156. **Other Avenues of Redress.** The reports and complaints against Mr. Mordvinov which are part of this complaint have been considered by the University. This does not amount to another avenue of redress, however, since it is the serious deficiencies in the University's consideration that are the subject of the complaint. Concerns about the University's response have been the subject of a review conducted by the University using a professional. This review considered compliance with University policy, but not the sufficiency of University policy. This review did not address whether the events and the University's approach amounted to discrimination. The party undertaking the review had no power to impose remedies or make any orders against the University. As the reviewer was a person paid by the University, the review was not independent of the University.
157. Aspects of this complaint could be the subject of an action in the courts against the University under the *Canadian Charter of Rights and Freedoms*.

However, the courts would not be as appropriate a forum for this complaint as the Tribunal is because of the greater evidentiary issues in court, and the greater expenses associated with a court proceeding.

158. **No substantial prejudice.** The University is in the process of examining its internal processes. It has specifically and recently conducted a review of the Mordvinov case. The Mordvinov case has already been the subject of widespread media coverage and public comment. The University has been subject to ongoing criticism for its handling of the Mordvinov complaints, and for its policies, processes and procedures in this area. As a substantial public institution, the University has rigorous record-keeping obligations in any event. Relevant documents should not have been destroyed. Key employees remain with the University.
159. Any issues of privacy relating to other complainants or persons making reports can be addressed as the complaint proceeds.
160. Neither the University nor any other person will be prejudiced by this complaint proceeding. Mr. Mordvinov is not a respondent and is no longer in Canada. He will not be prejudiced by the complaint proceeding.
161. **Summary.** For these reasons, the complainant submits that if the Tribunal considers all or part of this complaint filed out of time, the Tribunal should relieve against time limits to accept the entire complaint to ensure that the Tribunal has before it all relevant facts in making determinations, and fashioning remedies.

## **STEP 6: REMEDIES**

162. The complainant presently intends to seek the following remedies for herself and members of the group:
  - a. A declaration that the University discriminated against the complainant and the group in relation to its handling of the Mordvinov allegations.
  - b. A declaration that the University's internal policies, structures, processes and practices for responding to reports and complaints of sexual violence, sexual harassment and sex discrimination discriminated against the complainant and members of the group.
  - c. An order that the University cease discriminating against the complainant and the group.
  - d. An order that the University ameliorate its discrimination by introducing new internal policies, structures, processes and practices for responding to reports and complaints of sexual violence, sexual harassment and sex discrimination that are not discriminatory.

- e. In respect of (d), specific orders about internal policies, structures, processes and practices for responding to reports and complaints of sexual violence, sexual harassment and sex discrimination that must be present to prevent discrimination from continuing. It is anticipated that some of these orders will have cost consequences for the University.
- f. Damages for injury to dignity for the complainant and any other members of the group who provide individual evidence about the consequences for them of the discrimination.
- g. Expenses of the hearing, including the costs of any expert reports or expert testimony to be relied upon.