

**REPORT OF EQUITY & HUMAN RIGHTS SERVICES:
REVIEW OF THE GAZETTE'S MARCH 30, 2007 "SPOOF" EDITION AND
CONCERNS RAISED ON CAMPUS**

To the University of Western Ontario Community:

Equity & Human Rights Services ("EHRS") submits its report to the Western Community on the challenges which were identified by and to our office regarding the March 30th, 2007 Spoof edition of the Gazette.

Relevant Background:

On March 30, 2007, the Gazette published its annual April Fools Day "Spoof" edition ["Spoof edition"]. In the days and weeks that followed, concerns regarding the content of this edition were raised to all levels of Western's administration, to EHRS, and to the University Students' Council ("USC") and the Gazette. The offending articles received large circulation by way of internet blogs, emails, and other media.

On April 13, 2007, Women's Caucus held a Town Hall Meeting on "*The April 1st Gazette 'spoof' issue, Rape Culture and the Chilly Climate at UWO*". Although the majority of the discussion related to the Spoof edition, concerns regarding the existence of a "chilly climate" for women and other marginalized groups at Western were articulated (including how the Gazette is a symptom of, or contributes to, a chilly climate).

At this forum, and indeed through the large volume of concerns received, it became clear that the community expected Western's administration to address not only the inappropriate material contained in the Spoof edition, but also to take a lead in effecting systemic change on campus with respect to climate issues.

The Gazette and the Role of the University Students' Council

Following publication of the Spoof edition, the Gazette argued that it is independent from both the USC and Western. The USC, for its part, is an incorporated body and thus operates separately from Western, in terms of its policies and practices. The USC is the publisher of the Gazette. However, it argued that the Gazette has editorial autonomy for its publications and for all intents and purposes, the USC does not involve itself in criticizing the materials published in the Gazette.

The Gazette and the Role of the University of Western Ontario

It is fair to say that, over the years, the Gazette has published controversial material. Western recognizes the Gazette's editorial autonomy and the importance that all members of Western be free to express their points of views, even if controversial. This discourse of ideas is of central importance on a university campus.

In parallel, Western has made a commitment to its community that everyone has “a right to study, work and conduct his or her activities in an environment free of harassment or discrimination”¹. In the days following the release of the Spoof edition, some University members expressed that their working or academic environment had been impacted in a negative way – made unsafe, or less respectful – by the publication and circulation of the newspaper. Although the intent of the Gazette was purported to be satirical in nature, the impact that that Spoof edition had was profoundly harmful on some members of our community. As a result, it was incumbent upon Western to address not only the concerns regarding the Spoof edition, but also respond to the reports of more systemic discrimination, or the existence of a chilly climate, on campus.

Responsive Action Taken

Once the Spoof edition had been published and widely circulated, its words could not be “taken back”. There was a need (and continues to be) for healing and support of those who were harmed by the Spoof edition. Forums such as the Town Hall and the Chilly Climate Forum (held in May 2007) were integral in providing such support. The dialogue of healing has continued on campus and much learning and insight has been gained in the process.

Many people raised concerns about “what would be done?” to ensure that this never happened again. Since the publication of Spoof edition, many reforms have been implemented or set in motion. Serious questions about our campus climate are being asked, discussed and addressed. However, like any change process, on-going dialogue and commitment are required.

With respect to attempting to prevent a reoccurrence of a similar issue of the Gazette, practical reforms were implemented:

The University Students’ Council

The USC committed to several reforms (to be completed by May 31, 2007):

1. The drafting of a journalistic code of ethics.
2. That the editors of the Gazette will receive formal equity training.
3. That a formal complaints process will be put in place.
4. That media professionals will act as mentors (incl. a faculty advisor) until recommendations on an Advisory Board are made by a Study Group.
5. That a Study Group will be established.²

Dr. Paul Davenport and Western’s Vice-Presidents

¹ University of Western Ontario, Non-Discrimination and Harassment Policy, Manual of Administrative Policies and Procedures (MAPP), 1.35: <http://www.uwo.ca/univsec/mapp/section1/mapp135.pdf>

² Media Release:

http://communications.uwo.ca/com/western_news/stories/usc_moves_up_schedule_for_gazette_reforms_20070419435859/

On April 25, 2007, Western's administration, Dr. Paul Davenport, made the following comments:

I recognize and respect the benefits of an independent student newspaper. However, the recent events have given us cause to review what action might be taken by the administration in the future should it become necessary. Western's Board of Governors will consider a resolution at its May 3, 2007 meeting on the responsibility it has for collecting the student fees that finance the Gazette and for providing access to University facilities to distribute the newspaper. I have spoken with Fab Dolan and assured him that if the resolution passes, the Board and administration will continue to expect that the USC will take responsibility for the Gazette, and that Board action will be unnecessary. The best solution involves student leadership on this issue.³

On October 11, 2007, Dr. Ted Hewitt attended the Women's Caucus General Meeting and provided a report of the initiatives undertaken by Western's senior leadership team. A copy of this report is available on the Women's Caucus Website.⁴

The Board of Governors

On May 3, 2007, the Board of Governors ("the Board") considered its response to the Gazette Issue. While its resolution expressed its support for the USC's commitments, the Board issued a statement of "concern and regret at material published in the Gazette of March 30, 2007 which was offensive to the University's position on the promotion of a safe, inclusive and equitable university community". In its resolution, the Board stated that it "considers the material unacceptable for a publication financed with fees whose collection is authorized by the Board and distributed on University property". As a result, the Board required that:

before approving the collection of USC fees, the Board will receive from the Vice-President (Academic) and Vice-President (Resources and Operations),

- (1) a report on the Gazette's Journalistic Code of Ethics and its application during the period since fees were last approved, the operations of the Advisory Board, and any other material relevant to the Board's decision, and
- (2) a recommendation on whether or not the collection of Gazette fee should be approved.

....

Furthermore, the Board authorizes the Vice-President (Academic) and the Vice-President (Resources and Operations) to recommend jointly to the

³ Dr. Davenport's website: http://communications.uwo.ca/media_newsroom/story.html?listing_id=23140

⁴ Women's Caucus website: <http://www.uwo.ca/wcwi/index.htm>

Senior Operations Committee that the distribution of the Gazette be suspended, if they judge such suspension to be justified by an egregious violation of the Journalistic Code of Ethics. The Senior Operations Committee shall decide on the issue.⁵

The Gazette

The Gazette has now implemented an Editorial Policy, a Code of Ethics, a Complaints Procedure and Advisory Board Terms of Reference⁶.

Equity & Human Rights Services

The following is a brief chronology of EHRS's response to concerns raised about the Gazette:

April 6-9, 2007

EHRS is made aware of a telephone and email campaign. A Facebook group, blogs and other means of communication are being utilized to encourage people to call or write The Gazette, EHRS, University Students' Council, Alumni Office and President Davenport. During the following week, EHRS responds to all emails addressed to our office from those identifying themselves as Western members or those specifically requesting a response.

April 10, 2007

EHRS releases a statement on our website expressing our concern for those University members who feel that their academic or working environment has been poisoned or made unsafe as a result of the Gazette edition. We advise that we will be working with members of Western's community and the administration team to address concerns. Any concerned campus member is invited to contact our office.

April 11, 2007

EHRS meets with members of the Western Community (including the Vice-President (Resources and Operations), Vice-Provost and Registrar, Ombudsperson, Western Legal Counsel, Faculty members, Director of Media Relations) to discuss and recommend an appropriate response.

April 13, 2007

EHRS speaks at Town Hall Meeting

July 11, 2007

EHRS conducts Equity Training for 2007-08 Gazette Editors

Throughout summer

⁵ Board of Governor's website: <http://www.uwo.ca/univsec/board/minutes/2007/m0705bg.pdf>

⁶ Available for review at: <http://www.gazette.uwo.ca/policies.cfm>

Various meetings with campus community members including Senior Administration team members, the President's Standing Committee on Employment Equity, the Ombuds office, and interested students, staff and faculty. EHRS has also contacted colleagues at other Canadian universities to discuss policy responses to systemic, or climate, concerns.

Following our meetings and review over the summer, our office is concerned with two main issues. Firstly, can the policy our office administers respond to concerns relating to the Gazette? And, secondly, how can our office assist in responding to concerns of a more systemic nature?

1. Responding to concerns regarding the Gazette

Our office works within Western's existing policy structure to assist any member of the community who believes that he or she is experiencing harassment or discrimination. We provide information, advice and assistance, which may include attempts at informal resolution, as well as the receipt of a formal complaint under the relevant policy. We administer Western's Non-Discrimination/Harassment Policy (MAPP 1.35) ("Western's Policy") and non-discrimination and harassment clauses in Western's employee and collective agreements.

Western's Policy applies to all members of the University community (employees, students, volunteers, and other individuals who work and study at Western). The policy sets out a process by which an individual or individuals may file a complaint against a respondent(s) who is also a member of the University. The filing of a complaint gives rise to an informal resolution process facilitated by Equity & Human Rights Services. The entire process is confidential⁷ and the focus of effort is to resolve the complaint in a manner acceptable to both parties.

Within its current structure, Western's Policy was not truly able to be responsive to the concerns raised about the Spoof edition.

As the Gazette is published by the USC, it is our opinion that, in the absence of editorial policy (which was the case at the time of publication of the Spoof edition), the USC's own corporate policies should have applied. The USC Discrimination and Harassment Prevention Policy⁸ ("USC Policy") sets out a process through which parties may file complaints against USC members or employees. It offers mechanisms for investigation

⁷ The only exception to the confidentiality rule is when the matter brought to our attention involves danger: danger to the person who approaches us or danger to anyone else in our community. In such cases, Equity & Human Rights Services reserves the right to bring information on the danger to the attention of the University Police Department, senior administration at the University and other members of our community who need to have the information in order to be able to deal with the danger.

⁸ http://www.usc.uwo.ca/government/documents/policies_procedures/Discrimination_and_Harassment_Prevention_Policy.pdf

and enforcement. In the past, when EHRS has heard other concerns about the Gazette and/or USC clubs or activities, we have made a similar referral.

However, in the days following the release of the Spoof edition, EHRS received feedback that the USC was unwilling to take complaints under the USC Policy against the Gazette. As a result, we invited any party who we had referred to the USC to contact our office to follow-up. Unfortunately, only one of the persons raising concerns accepted our invitation to discuss his/her experience with the USC and as a result, the feedback we received was mostly third-hand through our campus partners.

Western's Policy requires a named complainant (or complainants) and a named respondent (or respondents) both of whom are members of Western's community. Thus, the greatest challenge was determining who the respondent would be. Individuals frequently stated they wished to complaint "against the Gazette" or "against the Editor-in-Chief". Both of these statements pose difficulty with the Policy.

In the case of the former, the "Gazette" is not an individual with whom informal resolution can be attempted. As well, the Editor-in-Chief, whose role bears ultimate responsibility for what is published in the Gazette, was not a member of Western. He was no longer a student during his tenure at the Gazette (thus, the Student Code of Conduct also did not apply), but rather, he was employed by the USC. Thus, Western's Policy did not directly apply to Editor-in-Chief.

However, that explanation did not appease those who believed Western's Policy *should apply*. Many rightfully believed that Western has a responsibility to provide a harassment and discrimination-free environment to all its students, staff and faculty and thus, the policy should apply, or something should be done! As a result, EHRS looked closely at Western's Policy and attempted to determine whether there was any opportunity for persons to file complaints under it.

Ultimately, our office concluded that we may accept a complaint against the USC-corporate, on the basis that the USC, in the course of providing service to Western's students, failed to provide a harassment and discrimination-free environment. However, although such a complaint is possible, it is our opinion that it did not significantly address the spirit and intent of Western's Policy, which is the preference for informal resolution between a complainant (who feels harmed) and a respondent (who is alleged to have perpetuated the harm). Filing a complaint against the USC-corporate would, by necessity, name the AGM of the USC (or his or her designate) who would be the representative at any informal resolution. The Gazette Editor (or staff) would not necessarily be party to the conversation. Many complainants wish respondents to understand the harm caused. Thus, we are concerned whether this would truly provide a complainant with resolution, or would it just provide a mechanism for Western's policy "to apply"?

In addition, under Western's Policy, a complaint could also be brought against the University of Western Ontario for failing to protect its students, staff and faculty from

discrimination and harassment in the academic or workplace. But, similar to our concerns with filing a complaint against the USC-Corporate, we have concerns whether informal resolution with a designate from Western would provide the complainant with an opportunity to dialogue or attempt resolution with those whose actions had actually negatively impacted the complaint?

Nonetheless, although we believe Western's Policy is an uncomfortable fit for concerns relating to the Gazette, or the USC, parties who wish to file complaints under Western's Policy are able to exercise these options. In addition to the option of filing a complaint, however, our office's role is also to explore with the individual concerned other strategies that she or he may wish to attempt prior to filing a complaint. Such strategies can be creative and if the respondent's consent to engage in such strategies is required (i.e., consent to a discussion prior to the filing of a formal complaint), EHRS will seek such consent.

2. Responding to Systemic Concerns

In discussions following the Spoofof edition, many voiced concerns that the Spoofof edition (and arguably other editions, such as the "Sex Issue") are symptomatic of a greater systemic concern, or a "chilly climate", that exists on Western's campus.

At forums held following the Gazette incident, questions were raised, such as:

- Is the Gazette a symptom of a systemic problem on our campus (is there a climate at Western of sexism, misogyny, homophobia)?
- Do we provide a welcoming environment that celebrates the diversity and needs of individuals? For example, is our graduate student experience "family friendly" for both males and females?
- Are we dealing effectively with incidents of bullying on our campus? Are perpetrators "getting away" with it because others lack knowledge or fear standing up to confront the behaviour? This includes persons in authority – is action being taken when harassing behaviour comes to the attention of leaders and managers?

Due to its structure, Western's policy does not provide a mechanism for responding to concerns as those highlighted above. Such concerns are not unique to a specific unit or department. Rather, they are present, often invisible, except to those who feel affected.

Where concerns of discrimination are identifiable within a department or unit and where EHRS has received reports of such concerns, our office is able to respond under the provision in Western's Policy that allows the "files in the Equity Services Office [to be] accessed only when the Human Rights Officer has a reason to believe that there is a pattern of harassment". In practical terms, our office will take steps to notify the appropriate senior administrative leader (maintaining the confidentiality of those who have come forward, unless written consent to disclose names is provided). The senior

administrative leader will thus assume responsibility for any subsequent action, whether an investigation is undertaken, or not.

From time to time, EHRS will also “flag” issues on campus. For example, in this year’s Annual Report⁹, EHRS identified several areas of possible concern, including making a recommendation that Western’s policies and practices with regard to family status and, in particular, parental leave be reviewed. In order to address concerns about workplace bullying, EHRS also recommended that a leader or manager’s ability to address harassment and discrimination issues be directly linked to a performance reviews and promotions. This is an effort to begin to address some of the system issues that may give rise to a chilly climate on campus.

In the many discussions that EHRS has had with campus members regarding the “chilly climate” on campus since the Spoof edition, we have learned of many concerns (some of which are reflected in our Annual Report) and we have asked campus members what they think should be done. It seems uniformly agreed that open dialogue and positive steps forward are the best remedy. There is a consensus that change will take time.

Recommendations

Taking into account the foregoing challenges we have identified with respect to the responsiveness of Western’s policy to the Gazette Spoof edition and the ability of our office to respond to systemic concerns, we make the following two broad recommendations with respect to our office:

- 1. To Build/Improve Relationships**
- 2. To Re-examine Western’s Policy and/or Western’s response to systemic concerns.**

1. Build/Improve Relationships

...with the Gazette and the USC:

Although EHRS is concerned with the process afforded by USC Discrimination and Harassment Prevention Policy, there is no means by which EHRS can direct the USC to examine or change its policy or the process afforded therein. However, we do recommend that the USC consider examining its policy, especially as it is intended to interact with or compliment, the Gazette’s newly created Complaints Procedure.

EHRS has had opportunity to review the Gazette’s new policies and has provided comments to Gitta Kulczycki, Vice-President (Resources and Operations) in contemplation of the Board of Governors resolution and Ms. Kulczycki’s role thereunder. We would be pleased to discuss our concerns with the Gazette staff as it is our belief that

⁹ http://www.uwo.ca/equity/docs/ES_report_2007.pdf

the policies do not go far enough in providing an effective and responsive complaint process, nor do they display adequate insight into the harm caused by the Spoof edition.

Regardless of our opinion on the new policies, EHRS emphatically supports the efforts of the Gazette as they work to reform their editorial policy and practice. The Gazette has committed to a review of its new policy and procedures in one year's time and, if desired, EHRS would be pleased to provide input. The editorial staff was provided with equity training (in July 2007) on topics such as harassment and discrimination, respect, concepts of power, and the "chilly climate". It is our true hope that the honest dialogue we had at that training with the Gazette editorial staff will continue. We welcome the opportunity and will work to build a relationship with the Gazette. Our services are available for on-going training and/or meetings. We would be pleased to assist Gazette staff writers who wish to write equity-related articles.

With regard to the USC, EHRS recognizes a need for increased dialogue as well. For instance, should we again receive feedback that the USC Policy is not being responsive, we wish to be able to discuss either policy improvement or how the USC can respond effectively under its current policy.

Each year, the USC Board of Directors has new faces and we respect that these individuals have large portfolios and many demands from students. It is our goal to act in a supportive, consultative capacity. We will endeavour to create a sustainable relationship that benefits everyone.

...with Western's Administration and/or Leaders and Managers

EHRS provides a great deal of training and workshops for our leaders, managers, staff and faculty with respect to issues relating to harassment and discrimination. However, a training session cannot possibly address each issue that may be encountered. Thus, there is perhaps a more important need for continued relationship building with our campus members so that after the training, should a situation arise, a leader or manager feels comfortable seeking the assistance of EHRS. We are available to assist any member of Western's community who is dealing with harassment and discrimination. Our primary role is to provide advice in a confidential and respectful setting.

EHRS will continue to play a role in identifying matters of system concern that come to our attention. It is hoped that through continued relationship building we will be able to more readily identify concerns and work in conjunction with the appropriate leader to have any concern addressed in a timely and respectful fashion.

2. Re-examination of Western's Policy and/or Western's response to systemic concerns

As identified, Western's policy has a number of challenges in its ability to responding to an issue such as the Spoof edition.

With the release of the Gazette's new policies, we will be referring individuals with concerns to those policies, in the first instance. We will implement a system to follow-up with persons in order to assure that their concerns are being dealt with effectively. It is frustrating for a complainant to be shuffled from office to office. If feedback is received by our office that complaints are not being dealt with, EHRS will attempt to intervene, in a resource capacity. However, as those policies are not ours to administer our role would be limited to providing informal assistance.

Western's Policy has been in effect since November of 2003. It is our recommendation, that the policy should be reviewed for its efficacy. As the administrators of this policy, we believe that policy works relatively well for a complaint where there is a named individual (or individuals) and a named respondent who are willing and motivated to attempt informal resolution. However, we are concerned that the policy is not responsive to systemic concerns. The question is, should the policy provide such a response or would Western prefer another mechanism to address systemic concerns?

Our office recommends that any changes or additions to Western's policy be conducted through a committee process, providing opportunity for public input. However, we do recommend consideration of the following:

- **A provision for Interim Measures should a complainant feel concerned about retaliation or retribution.**

Principles of natural justice need to be applied as a respondent should have adequate opportunity to know the complaint being raised against him or her. However, there are situations where interim measures may be necessary, irrespective of the respondent's agreement to or knowledge of such measures. Excepting situations of danger where our confidentiality cannot be assured, the Director should have authority to gain the consent of the complainant to discuss the complainant's concerns with a supervisor and leader and in consultation, develop appropriate interim measures. A leader would be expected to keep the matter confidential and ensure that both the complaint and respondent are able to access a safe and respectful work or academic environment.

- **A provision for opportunity for informal discussions prior to the filing of a formal complaint.**

In recent years, our office has recognized a reticence on the part of many individuals to file a formal complaint. Often they believe that that will provoke the other party into immediate defensiveness. Instead, they would prefer an opportunity to dialogue and resolve their issues without filing a formal complaint. EHRS has agreed to facilitate a number of such discussions and has found it a successful experience.

Should this be a contemplated addition to Western's policy, some explanation (or change of) terminology is recommended. Right now, we have an informal process which requires the filing of a formal complaint. This is confusing for our clients.

A common structure at other universities is that a complainant may opt for informal resolution (i.e., without the filing of a formal complaint) or to proceed to a more formal process, which may include proceeding either to mediation or directly to filing a formal complaint, which may include an immediate request for an investigation.¹⁰

- **The appropriate senior administrative leader should be advised of any investigation pursuant to Western’s Policy, or at the very least, any outcome of an investigation.**

The University has a duty (and resulting liability) to provide a safe and respectful environment, that an investigation should not be conducted with full confidentiality. The supervisor or leader’s involvement, knowledge (or lack) of the situation are very real factors in any complaint of harassment or discrimination.

It is our opinion, therefore, that a senior administrative leader should be made aware of the existence of an investigation and the parties concerned and circumstances giving rise to the complaint (on which the investigation is based). Following the completion of the investigation, the senior administrative leader should receive a copy of the report.

EHRIS could still manage the investigation process, including the appointment of the investigator by the Director of EHRIS. We believe it is important to continue the practice of appointing an external investigator. Parties appear to be much more comfortable with a third party.

- **Provide a section in policy which articulates what happens when a pattern of complaints is identified.**

It is our recommendation that EHRIS continue to have the ability to identify a pattern of harassment and discrimination. Our usual practice of identifying a pattern should remain the same – based upon our records and using our professional judgment.

Although the fact that the Policy does not define what will occur should a pattern be identified, it would provide assistance to EHRIS when advising clients, to include in the Policy, possibilities of what may occur.

For example, a clause that reads “EHRIS shall refer any patterns of complaints identified to a senior administrative leader for action. Such action may include, at the leader’s discretion, and in consultation with the Director of EHRIS, an investigation into the work or academic environment, coaching or other intervention method to address concerns with a particular individual or individuals or other methods of addressing the concerns raised”.

¹⁰ In some policies, mediation is part of the informal process.

- **Western to adopt a mechanism or provide language in the policy to provide process with systemic concerns**

A thorough review of best practices from other universities should be conducted to determine the best method of addressing system discrimination, whether through the support of EHRS, through a task force or committee or other such mechanism.

It is our recommendation, however, that any review related to systemic concerns, be at the direction of the appropriate Vice-President, or the direction of the President.

We appreciate the opportunity to provide this report and our recommendations. We welcome the opportunity to discuss this report with any member of the Western community.

On behalf of Equity & Human Rights Services,

A handwritten signature in cursive script, reading "L. Bartlett". The signature is written in black ink and is positioned above a thin horizontal line.

Larissa Bartlett
Director, Equity & Human Rights Services

October 24, 2007