# ANNUAL REPORT
# 1 JULY 2003 TO 30 JUNE 2004

## INTRODUCTION

In the year 2003 – 2004 there were 207 complaints to the Sexual Harassment Office. A total of 148 of these fell within the ambit of the *Policy and Procedures: Sexual Harassment*, and of these, 43 were filed as formal complaints under the *Policy* and dealt with through its procedures. 59 were outside the jurisdiction of the *Policy*.

Most complainants are women, and most respondents are men. This imbalance is replicated in almost all the research on sexual harassment. There is a further disparity, in that women who approach the office for advice and assistance are more likely to follow up with a formal complaint than are men. There are, I think, several reasons for this. Men who come to the office are more likely to express confidence in their own ability to address the situation – and confront the person whose conduct is troubling them – and to ask the office only for advice and guidance. They are also considerably less likely than women to express fears for their personal safety. However, there is a further factor which inhibits men who are being harassed from using the formal complaint procedures, and that is a widespread belief that to do so will attract ridicule. In public discourse sexual harassment is characterised as a "women's issue", as a behaviour that is not only overwhelmingly directed at women by men, but is something that should not in any case present any problems for a self-respecting heterosexual male: either because he is well able to take care of himself, or because it is inconceivable that he should be averse to any form of heterosexual sexual attention.

These stereotypes are by no means limited to the University environment: they are socially pervasive, and they present a significant deterrent to men – a deterrent to contacting the office in the first place, and a deterrent to making use of formal complaint procedures. They are, of course, inextricable from the corollary stereotypes about women complainants – that they are fragile and vulnerable, that they are uncomfortable with almost any form of sexual expression, that they are peculiarly sensitive, that they are vindictive, that they incapable of managing their own interactions, that they are psychologically damaged. In other words women are also deterred from contacting the office, and they are also deterred from taking formal action. The principal challenge facing the office is thus to overcome a general resistance to using it. Public education initiatives, and the development of resources, remain critical priorities; and close cooperation with other offices across the University is a key to the effectiveness of the office.

# COMPLAINTS

### FORMAL COMPLAINTS:  43

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*Constituency of complainant and respondent*

| Respondent: | staff | faculty | graduate | u/graduate | *total* |
|---|---|---|---|---|---|
| *Complainant:* | | | | | |
| *staff:* | 6 | 1 | 1 | 1 | **9** |
| *faculty:* | – | 1 | 1 | – | **2** |
| *graduate:* | 3 | 7 | 7 | – | **17** |
| *undergraduate:* | 1 | 4 | 1 | 9 | **15** |
| **total** | **10** | **13** | **10** | **10** | **43** |

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*Gender of complainant and respondent*

| | *Female respondent* | *Male respondent* | *total* |
|---|---|---|---|
| *Female complainant* | 3 | 32 | **35** |
| *Male complainant* | 4 | 4 | **8** |
| **total** | **7** | **36** | **43** |

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*Form of sexual harassment*

| | | | | |
|---|---|---|---|---|
| Part A s.1(f)(i) promise of reward | 7 | * | harassment based on sex | 36* |
| Part A s.1(f)(ii) threat of reprisal | 7 | * | harassment based on sexual orientation | 14* |
| Part A s.1(f)(iii) physical conduct | 24 | * | | |
| Part A s.1(f)(iv) verbal conduct | 38 | * | | |
| s. 35 retaliation | 1 | * | | |

*\*complainants usually refer to more than one form of harassing behaviour by respondents*

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*Outcome of Formal Complaints*

| | |
|---|---|
| Withdrawn before stage 1 | 1 |
| Resolved at stage 1: informal resolution | 32 |
| Withdrawn before stage 2 | – |
| Resolved at stage 2: mediation | 4 |
| Withdrawn before formal hearing | – |
| Disposed of in formal hearing | – |
| Suspended during other proceedings | – |
| Dismissed | 6 |
| In progress | – |

### *INFORMAL COMPLAINTS:  164*

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*Reasons for not using the Formal Complaints Procedure*

Complaints within the jurisdiction of the Policy:

| | |
|---|---|
| Sought advice only: | 55 |
| Fear of repercussions: | 11 |
| Criminal proceedings initiated: | 2 |
| Other proceedings initiated: | 27 |
| Complaint adjudged frivolous/vexatious | 4 |
| Complaint adjudged unfounded | 2 |
| Respondent anonymous/untraceable | 4 |
| ***total:*** | 105 |

Complaints outside the jurisdiction of the Policy:

| | |
|---|---|
| Complaint out of time | 2 |
| Party/parties outside University | 12 |
| Conduct outside definition | 37 |
| Events off campus | 8 |
| ***total:*** | 59 |

*\* Complaints involving unionised employees may come within the jurisdiction of the Policy; these figures record complaints in which the complainant has elected to use the grievance procedure under a Collective Agreement.*

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*Constituency of complainant and respondent*

| Respondent: | staff | faculty | graduate | u/graduate | anonymous | off campus | *total* |
|---|---|---|---|---|---|---|---|
| *Complainant:* | | | | | | | |
| *staff:* | 33 | 6 | 1 | 3 | – | – | **43** |
| *faculty:* | – | 7 | 12 | 3 | 1 | 3 | **26** |
| *graduate:* | 4 | 21 | 10 | – | 2 | 3 | **40** |
| *undergraduate:* | 6 | 4 | 3 | 30 | 1 | 4 | **48** |
| *off campus:* | 1 | 1 | 4 | – | – | 1 | **7** |
| **total:** | **44** | **39** | **30** | **36** | **4** | **11** | **164** |

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*Gender of complainant and respondent*

| | Female respondent | Male respondent | Unidentified respondent | total |
|---|---|---|---|---|
| Female complainant | 16 | 107 | 2 | **125** |
| Male complainant | 20 | 17 | 2 | **39** |
| **total** | **36** | **124** | **4** | **164** |

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*Form of sexual harassment*

| | | | | |
|---|---|---|---|---|
| Part A s.1(f)(i) promise of reward | 8 | * | harassment based on sex | 102* |
| Part A s.1(f)(ii) threat of reprisal | 6 | * | harassment based on sexual orientation | 38* |
| Part A s.1(f)(iii) physical conduct | 46 | * | *[conduct not covered by policy* | *37]* |
| Part A s.1(f)(iv) verbal conduct | 118 | * | | |
| s.35 retaliation | 2 | * | | |
| sexual assault | 5 | * | | |
| physical assault | – | * | | |

*complainants usually refer to more than one form of harassing behaviour by respondents*

## Nature of complaints

### Formal Complaints

In 43 cases last year, the complainant initiated the formal complaint process under the *Sexual Harassment Policy*.  This entails putting the complaint in writing, and authorising the Officer to contact the respondent and commence mediation.  32 complaints were resolved at Stage 1 of the complaint process and a further 4 were resolved at Stage 2; Stages 1 and 2 involve mediation between the parties to the complaint.  In one case, the complainant withdrew the complaint before mediation began, because the situation had been resolved by other means; and in six cases the complaint was dismissed by the Officer.

A wide range of issues is encompassed within the term "sexual harassment".  In law, sexual harassment is conceptualised as a form of sex discrimination, and the emphasis is on discriminatory conduct rather than on sexual conduct.  Nonetheless, the unsuccessful navigation of intimate sexual relationships gives rise to a significant proportion of complaints to the Office.   For example, students will contact the Office when an instructor makes what seems to be a sexual overture: in such situations, many students are not prepared to take the risk of treating the instructor as they might treat any other undesirable suitor, and so they seek assistance from the Office. In some cases, an instructor has ignored a student's explicit rebuffs, and the student will contact the Office both for assistance and for protection. Relationship break-ups also generate a number of complaints: in some cases, the refusal of one person to accept that the relationship is over, or their persistent hostility to the other, crosses the line from a fairly typical anger and animosity and becomes harassment.

In other cases, the manifest expression of sexual feeling has very little to do with the sexual harassment complaint.  A number of cases involve conduct that is predicated on gender-based assumptions and is discriminatory – "sexist", in other words – but is not explicitly sexual.  Issues of cultural difference, and in particular the diversity of cultural norms about when it is appropriate to touch people, or to talk about sexual matters, or otherwise to treat people with informality, are pertinent to any discussion of sexual harassment at the University of Toronto, and of course feature prominently in formal complaints.

Approximately one-third of formal complaints involve allegations of harassment based on sexual orientation.  This is almost always homophobic in nature, and is often part of a course of insulting or demeaning gender-based conduct. Some cases involve conduct which is simply uncouth, or stupid, and which would be unacceptable in any context; because it includes some element of sex-based content, it is treated as sexual harassment.

I have commented repeatedly over the last several years that the ubiquity of e-mail communication has had a significant effect on the kinds of cases coming to the office.  Computer-based communication enables people to contact one another quickly and efficiently; it also enables people to deluge one another with messages, to disseminate insults to a vast public, to impersonate others, to communicate anonymously, to incorporate graphic imagery into messages, to corrupt those images, to trace people who are attempting to escape

their attentions, to change addresses repeatedly, and to escape detection.  The phenomenon of computer-based harassment is by no means confined to sexual harassment; the "e-nough!" website on online harassment, which is discussed below, was thus this year expanded to ensure that it addresses a broad range of harassment issues, and provides people with generic resources.

### *Informal Complaints*

Of the 164 informal complaints made to the Office, 105 fell within the jurisdiction of the *Sexual Harassment Policy*.  They were not pursued under the *Policy* for a number of reasons: 27 were dealt with under another proceeding, such as the *Code of Student Conduct*; two were referred to the police, to be dealt with as criminal matters; in four cases it was not possible to identify the respondent; and six complaints were dismissed.  In 55 cases the complainant sought advice from the Office, but did not choose to pursue the matter formally; and in 11 cases the complainant did not proceed because s/he anticipated reprisal of some kind, and believed that the safeguards the University could offer against such reprisal were insufficient.

Formal complaint procedures are an essential mechanism for dealing with harassment, but they are limited.  Many people who seek advice from the office are looking for guidance and information, but prefer to handle the situation themselves.  Some potential complainants simply want to find ways to avoid the person whose conduct has troubled them; some approach the Office for help in thinking the issues through. The procedures under the *Policy* are designed to be accessible and informal, but for many potential complainants any explicit intervention by the University is too formal, and any process too cumbersome.  Occasionally, also, complainants express the fear that making a formal complaint will irrevocably damage a relationship that – despite the harassment – is of value to them.  For other complainants, the very informality of the *Policy*, and the fact that the Office cannot promise a specific order of sanction, is an obstacle to going forward.

The effectiveness of the *Policy* does not, of course, rest solely on the prosecution of formal complaints under its procedures.  In many cases, the complainant has made an assessment of the situation, has determined on a strategy for dealing with it, and needs only some objective advice and input from the Office.  However, where a complainant declines to act because of a fear of repercussions there will always be a concern that the situation will deteriorate, that the harassment will escalate, or will reoccur with another complainant, and that complainants will withdraw from their studies or their employment or otherwise forgo opportunities because of a situation which the University could and should address.  I will always encourage complainants to use the formal complaint procedures; but ultimately this is the complainant's decision.

The Office is responsible for dealing with complaints involving students, staff and faculty on all three campuses.  This gives rise to the challenge of ensuring adequate coverage at UTSC and UTM.  I make considerable effort to interact frequently with colleagues at these two campuses, and to spend time there, and certainly cases are referred from UTM and UTSC in roughly proportionate numbers.  However, I am concerned that students at UTM and UTSC – particularly student leaders  –  have less direct contact with the office than those downtown.

Moreover, when I meet a student or employee at UTSC or UTM, I have to arrange meeting space through another office, which can give rise to concerns about confidentiality.  I have thus been discussing the possibility of securing office facilities with the respective Vice-Presidents at each campus.

***Complaints outside the scope of the*** **Policy and Procedures**

Two cases which would otherwise have come within the ambit of the *Policy* were declined because they fell outside the time limit, which is generally six months, with scope for extension of up to a further six months.  In 12 cases, the respondent had no affiliation to the University and we therefore had no jurisdiction; in a further 8 cases, the relevant events occurred off campus in a context which was not in any way University-related.

In 37 cases, the conduct complained of did not fall within the definition of sexual harassment provided in the *Policy.*  A number of these complaints were about pornography, primarily in campus publications or on the internet, and about offensive speech.  In some cases the complainant was employing a very broad definition of pornography, or of offensiveness; in any event, the *Policy* makes explicit provision for safeguarding freedom of expression, and its jurisdiction is confined to cases where offensive communication is directed at a specific individual, because of that individual's sex or sexual orientation.  On occasion, people attempt to invoke the *Policy* as a means of policing a debate about an issue such as same sex marriage, sexism, the sexual division of labour, or similar matters.  People also contact the Office for help in dealing with situations of "general harassment", where someone has behaved in a rude, intemperate or indeed abusive manner, but where there is no suggestion that this is related to the complainant's sexual orientation or sex.

# POLICY DEVELOPMENT

In 1996 the University, in co-operation with affiliated health care institutions, developed a Procedural Memorandum for handling sexual harassment cases that involve University members who are working or studying in hospital and clinical settings.  This is a protocol, rather than a policy, and it addresses two issues: inter-institutional notification of cases, and a process for agreeing on jurisdiction and carriage of complaints.  In the last year, it has become evident that this protocol required revision.  Its original focus was on post-graduate medical students, but in fact the faculties with students working in clinical settings include the Faculties of Medicine, Social Work, Law, Dentistry, Nursing and Physical Education and Health, as well as the member institutions of the Toronto School of Theology.  The Sexual Harassment Office has worked closely with colleagues in the Faculty of Medicine on these revisions, and has consulted broadly across the relevant faculties and with representatives of health care institutions.   We are close to finalising our discussion of the protocol, and will follow up with a thoroughgoing communication process.

I worked with the Director of Strategic Computing to develop components of a new draft of guidelines on the appropriate use of information technology in the University.  In particular, I

assisted with revisions to the sections on discrimination and harassment, on criminal activity and on unauthorised use of information technology.

# EDUCATION AND PUBLIC AWARENESS

**Websites**

In early 2003, with the help of numerous colleagues, I established a website dealing with issues of electronic harassment, and piloted the site at UTM.  We reviewed the use of the site after its first 4 months of operation; in particular, we enlisted the help of faculty and students in UTM's Culture, Communications and Information Technology Program in evaluating design and content.  The site was in general well-received and it was extensively used.  Based on the evaluations, we made extensive revisions to the site content, and overhauled the design; the offices of the Vice-Provost, Students and the Vice-President, Human Resources and Equity contributed funding; and we developed an entirely new component that addresses broader issues of computer use on campus.  This new section was drafted by Cayly Dixon, a CCIT student, with help from Jim Delaney in Student Affairs, Marden Paul in the Provost's Office, and a number of other people across the University.  It contains information on a range of IT-related related matters, including file-sharing, pornography, commercial use, e-mail etiquette, resource issues, impersonation and fraudulent use, copyright, and privacy.  We also developed materials with the Office of Student Affairs to publicise the site.

**Workshops and training sessions**

I continue to regard public education and training – particularly with managers, student leaders, student services staff and other decision-makers – as a key priority for the office.  I participate in a number of programs co-ordinated by Staff Training and Development, including Leadership Advancement, Advancing into Management, and Supervising in a Unionised Environment. I also regularly (and seasonally) deliver workshops across the University to residence dons, orientation co-ordinators, students working abroad or preparing for external placements, student mentors, students in leadership development programs, new faculty members, and new Teaching Assistants.

This year, along with Kelvin Andrews in the Race Relations and Anti-racism Initiatives Office and Mehdi Kouhestaninejad of CUPE, I conducted training with all trades supervisors, all caretaking supervisors, and the entire caretaking staff, on the St. George campus.  In addition, I developed a written guide for caretaking supervisors to handling staff complaints.  I gave workshops to Administrative Officers at both UTM and UTSC; I spoke at the Symposium for new women graduate students organised by the Status of Women Office; I gave guest lectures in a number of relevant courses, at both undergraduate and graduate level; I developed and presented case studies on issues of homophobic harassment to staff from Human Resources; and, with a committee convened by the Community Safety Co-ordinator, I developed a funding proposal for a comprehensive multi-year project on criminal harassment.

This was submitted to the provincial Ministry for the Attorney-General; we still await a decision, but have in the meantime started to work on some aspects of the project.

**Committee work**

The office is part of the Equity Issues Advisory Group.  I am also a member of the Police/Community Advisory Board, the Positive Space Committee, the Equity Issues Committee in the Faculty of Physical Education and Health, and the Advisory Committee to the Status of Women Officer.

**External contacts**

I co-organised and co-hosted one meeting of colleagues from other Ontario colleges and universities in the past year.  These meeting are almost always held in Toronto, and we try to hold at least one each year, so that we can circulate resources and talk about policy and procedural issues.  Along with two co-presenters (Mark Overton, Dean of Students at UTM, and Cayly Dixon, a student in the CCIT program at UTM) I presented a workshop on electronic harassment at the Ryerson University Equity Conference in March 2004.

In April 2004 I moderated a round-table discussion about electronic harassment at the "Students at Risk" conference organised by the University of Toronto's Student Affairs Office.

Paddy Stamp
Sexual Harassment Officer                                                                22 September 2004