



TO: Executive Committee

SPONSOR: David Naylor, President

DATE: September 30, 2009 for October 7, 2009

AGENDA ITEM: 6

ITEM IDENTIFICATION:

Report of the University Ombudsperson for the Period 1 July, 2008 to 30 June, 2009, and Administrative Response (for inclusion on the agenda of the Governing Council)

JURISDICTIONAL INFORMATION:

Section 5.1 of the Terms of Reference of the Office of the University Ombudsperson state that the Ombudsperson shall make a written annual report to the Governing Council, and through it to the University community, as well as such other special reports as may be required from time to time by the Governing Council.

BACKGROUND:

In 1994, the Executive Committee decided that Council should receive the Report and the administration's response simultaneously so that members of the Governing Council could comment on particular issues with full knowledge of both the Ombudsperson's and the administration's response.

PREVIOUS ACTION TAKEN:

The Governing Council received the Report of the University Ombudsperson, 2007-08, with the Administrative Response, at its meeting of October 6, 2008.

HIGHLIGHTS:

n/a

FINANCIAL AND/OR PLANNING IMPLICATIONS:

n/a

RECOMMENDATION:

THAT the Report of the University Ombudsperson for the Period 1 July, 2008 to 30 June, 2009 and Administrative Response be placed on the agenda of the Governing Council meeting of December 10, 2009.

**REPORT OF THE UNIVERSITY OMBUDSPERSON
FOR THE PERIOD 1 JULY, 2008 TO 30 JUNE, 2009**

**Joan Foley
September, 2009**

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Executive Summary

This is my second annual report as University Ombudsperson. I report on the handling of 236 complaints during the period 2008-09. In considering complaints, the Ombudsperson acts in an impartial fashion, acting neither as an advocate for the individual members of the University nor as a defender of the University, but rather assisting in achieving procedural fairness and reasonable outcomes. All matters are held in strict confidence unless the individual involved approves otherwise.

The Office is also charged with addressing systemic issues: those issues that potentially affect many members of the institution, not only an individual complainant. The Ombudsperson can often function as a catalyst for improvements in processes and procedures through informal discussion, without need of formal investigation and recommendations. When systemic problems are revealed through the investigation of an individual case, administrators will usually respond by improving the way things are done, and/or by improving how they communicate with their clientele.

This report discusses the major systemic issues that have occupied the attention of the Office during the course of the past year, namely, the challenges of providing barrier-free access to buildings, particularly on the St. George campus (in connections with which I make formal recommendations), the need for procedures for complaints relating to discrimination on prohibited grounds, issues arising in the administration of fees for deregulated programs and for programs with non-standard start dates, and the need to further encourage best practice in the supervision of graduate students.

I also report on the current status of the Administration's responses to earlier recommendations from the University Ombudsperson, including those having to do with developing policy for off-campus activities, reviewing the *Code of Behaviour on Academic Matters*, and issuing diplomas.

The Office continues to expand its outreach program in an effort to ensure as far as possible that members of the University are aware of our services, understand the mandate, and know how to reach us in case of need.

Report of the University Ombudsperson for the Period July 1, 2008 to June 30, 2009

“Thank you so much for this good news. Your valuable work has demonstrated the fairness of Canada. Thanks again for your caring for me.”

(A student)

The University of Toronto is committed to fairness in its dealings with its individual members and to ensuring that their rights are protected. In support of this commitment, the Office of the University Ombudsperson was established in 1975. The services of the Ombudsperson are available to individual staff/students/faculty members on any campus of the University who have a complaint about how they have been treated.

The Ombudsperson is accountable only to the Governing Council, and has unrestricted access to all University authorities. The Office is independent of all existing administrative structures of the University.

In considering complaints, the Ombudsperson acts in an impartial fashion, acting neither as an advocate for the individual members of the University nor as a defender of the University, but rather assisting in achieving procedural fairness and reasonable outcomes. All matters are held in strict confidence unless the individual involved approves otherwise.

The Office is also charged with addressing systemic issues: those issues that potentially affect many members of the institution, not only an individual complainant. In this connection, the Ombudsperson can function as a catalyst for improvement in the University’s policies, processes and procedures, whether through informal discussion or by making formal recommendations in the context of a report.

However, the Ombudsperson does not make decisions for the University. Rather, as André Marin, the Ontario Ombudsman, puts it in his 2008-09 Report,

Ombudsmen are not governors, either by law or democratic convention. We cannot tell those who govern what to do. We must achieve results without powers of compulsion, acting as the “conscience” of an institution by sharing our judgment about whether it is acting fairly or reasonably. If we want to make a difference, we have to be right, and we have to persuade. (p.10)

Organization of the Report

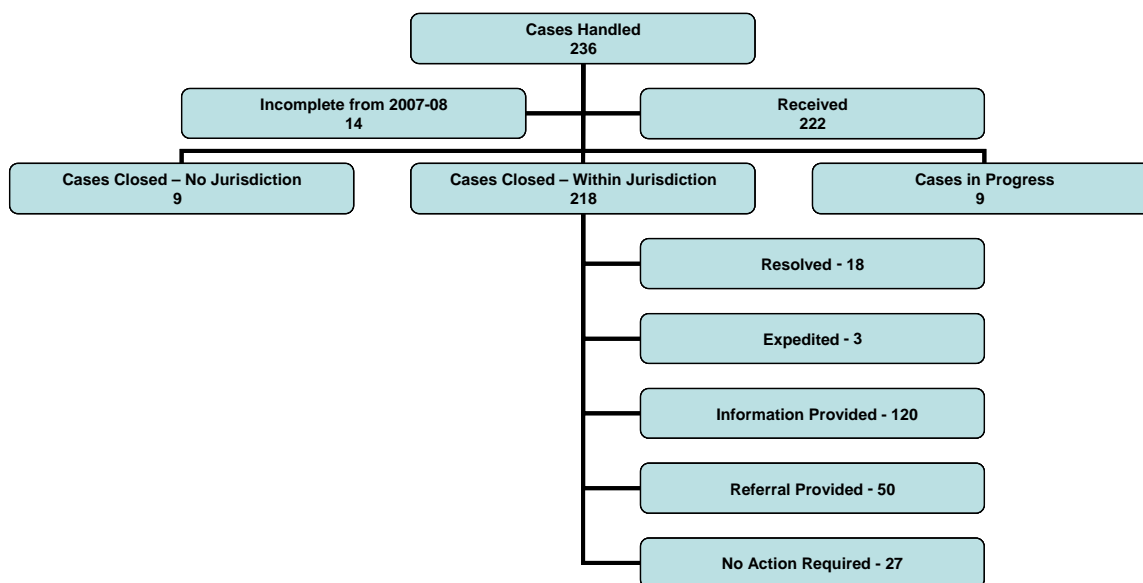
Following the pattern of last year, this report on the work of the Office in 2008-09 will contain three sections:

- 1) *Handling of Complaints*. The first section provides statistical and qualitative information about the caseload of the Office, which was up somewhat from that of recent years.
- 2) *Systemic Issues*. The second section highlights examples of how systemic improvements can be achieved through informal discussion. It also contains two formal recommendations, and reports on the current status of recommendations of recent years.
- 3) *Other Activities of the Office*. The third section reports on other activities of the Office, including our efforts to make the Office better known to, and better understood by, members of the University community.

Handling of Complaints

During 2008-09, 236 cases were handled by the Office, up somewhat from 221 in 2007-08 and 217 in 2006-07. Of the total, 14 were carried over from 2007-08. The disposition of these cases as of June 30, 2009 is shown below.

DISPOSITION OF COMPLAINTS AND ENQUIRIES 2008-09



The Office strives to be responsive to clients; in 3 out of 4 cases, we responded to an approach on the same day it came in. Where a meeting was required, it was scheduled as soon as possible, normally within two or three days, and rarely more than a week from first contact. Closure was achieved within a week in 50% of cases, within a month in over 80%. A small number of complex and more difficult cases engaged the Office for many months.

Complex cases typically require ongoing conversations with the complainant, and may result in extended discussion with one or more persons or offices. However, the strict confidentiality under which the Office operates ensures that such discussion does not occur unless the complainant provides written consent. After discussion with our Office in which we provide information about the policy context and the options available to them, many complainants elect to pursue their concerns without further assistance from us, and some may decide not to pursue the matter further. These complainants often do not subsequently inform us of the outcome.

In cases that are dealt with by referral, a not insignificant amount of time still may be required to obtain information from the complainant about the nature of the concern and to find out exactly which office or individual can address it. In a small number of cases where we judge there is a need, we may offer further assistance by providing an introduction to the appropriate person.

The category No Action Required includes situations such as those in which the complaint was withdrawn (in some cases having been resolved elsewhere), or where a person wanted to talk but did not need information, as well as some no-shows for appointments.

Following the presentation in last year's report, a breakdown of the numbers of complainants from the major constituencies is provided. When considered as a proportion of the total number of members of each constituency, the number of complaints that reach this Office is quite low.

Undergraduate, Professional, and Continuing Education Students

The caseload for undergraduate students, including those in professional and continuing education programs not under the auspices of the School of Graduate Studies, is shown by academic division in Table 1. Figures for 2007-08 are shown for comparison. The total number of 125 compares with 97 in 2007-08 and 121 in 2006-07. Most of the increase over last year was in Arts & Science, St. George.

The matters that most frequently brought undergraduates to the Office were academically-related problems, such as the behaviour of an instructor, academic standing, grading, and denials or delays of petitions or appeals. Other issues that frequently come up are allegations of academic misconduct, and problems to do with fees.

Table 1: UNDERGRADUATE CASES

<u>First Entry</u>	<u>2008-09</u>	<u>2007-08</u>
Arts & Science	65 (0.3%)	42 (0.2%)
UTM	18 (0.2%)	17 (0.2%)
UTSC	10 (0.1%)	8 (0.1%)
App. Sci. & Eng.	15 (0.3%)	14 (0.3%)
Music	1 (0.2%)	1 (0.2%)
Phys. Ed. & Health	0	1 (0.2%)
TYP	1 (1.0%)	1 (1.0%)
<u>Professional & Continuing Education</u>		
Continuing Studies	1	0
Dentistry	0	0
Law	0	0
Management	1	0
Medicine	0	1 (0.1%)
Medicine Postgraduate	1 (0.04%)	0
Nursing	1 (0.3%)	2 (0.6%)
OISE/UT	2 (0.2%)	2 (0.2%)
Pharmacy	0	0
Pharmacy Residents	0	0
Unknown	9	
Total	125 (0.2%)	97 (0.2%)

Graduate Students

The caseload for graduate students, including both doctoral stream and professional masters programs, is shown by the four Divisions of the School of Graduate Studies in Table 2. Students who are enrolled in masters and doctoral degrees offered conjointly with the Toronto School of Theology have access to the services of the Office, but do not come directly under SGS, so are reported separately from any Division.

The total number of 45 compares with 72 in 2007-08 and 49 in 2006-07. This caseload as a proportion of total graduate enrolment is 0.3%, compared to 0.6% in 2007-08, the reduction occurring in Divisions I, II, and III.

The matters that most frequently brought graduate students to the Office were problems relating to supervision, and academic issues such as termination or lapsed status.

Table 2: GRADUATE STUDENT CASES

		2008-09	2007-08
Division I	Humanities	3 (0.2%)	9 (0.5%)
Division II	Social Sciences	15 (0.3%)	25 (0.6%)
Division III	Physical Sciences	8 (0.3%)	15 (0.7%)
Division IV	Life Sciences	12 (0.3%)	14 (0.4%)
Unknown		4	
TST		3 (0.9%)	3 (10.0%)
Total		45 (0.3%)	72 (0.6%)

Academic and Administrative Staff

The employee case load remained similar to that of recent years.

We had 10 contacts from faculty members, representing 0.1% of all faculty (including clinical appointees), compared with 7 in 2007-08 and 10 in 2006-07.

There were 17 contacts from members of the administrative staff (0.2% of total complement), compared with 15 in 2007-08 and 10 in 2006-07.

Many, although not all, issues brought by members of these groups revolved around workplace situations. They included complaints about the behaviour and/or expectations of supervisors or managers. Some raised difficulties in connection with return to work after an absence on long-term disability. There were a few instances in which the behaviour described by an employee could be categorized as bullying. In several cases, the problem was conflict with or between other members of a department, and, in some of these, dissatisfaction was also expressed about the way in which the peer conflict was being addressed (or was *not* being addressed) by managers or administrators. The new *Human Resources Guideline on Civil Conduct* is a useful resource for assisting complainants with these kinds of concerns.

Others

The Office was approached by 39 individuals not captured in the categories above, compared with 29 in 2007-08 and 27 in 2006-07. They include some who were not members of the University, such as post-doctoral fellows under the supervision of a University appointee but whose own fellowship was administered by a hospital or research institute, employees of student organizations, or students working here on permission from another university. They also include former members of the University who brought concerns that did not arise out of their period of active participation as a member.

Although the Ombudsperson has no jurisdiction to intervene in a number of these cases, the matters brought forward often warrant consideration by appropriate University administrators, or sometimes by non-University authorities. Whenever possible, the Office provides assistance in the form of referral and/or information. Providing this form of assistance may sometimes entail research by a member of the Office. Such assistance is justified in that it may result in improvements in institutional processes and the correction of problems that otherwise might negatively affect the University's reputation in the external community.

Systemic Issues

Systemic issues are those that potentially affect many members of the institution, not only an individual complainant. In this connection, the Ombudsperson functions as a catalyst for improvement in the University's policies, processes and procedures, whether through informal discussion or by making formal recommendations. In this section, I discuss the main issues that have arisen in the course of the past year. In one case, I have made formal recommendations. In others, I report on informal discussions with relevant administrators and no formal recommendations are made. Finally, I report on the current status of the administrative response to a number of recommendations made in the Ombudsperson's report in recent years.

Building Accessibility

Given the age of many of its buildings, the University faces a formidable challenge in providing full accessibility. Although the problem affects all campuses, it is particularly severe at St. George and is further complicated when heritage considerations are also in play. Many worthy initiatives have been undertaken, including the McCaul St. test and examination centre, but a great deal remains to be done. Among the problems that currently limit access are the width of door openings, lack of door openers at entrances or ramps at sidewalks, inadequate washrooms, lack of elevators or lifts, and elevators that cannot accommodate the new models of scooters. In addition, some buildings are not easily navigable by those who are visually impaired. Addressing all of these deficiencies directly would be extraordinarily expensive, and may well be impractical. In some situations, other forms of accommodation may be necessary, notwithstanding that they may be considered less than ideal; for example, provision may have to be made for an individual to work elsewhere. In some cases, relocation of the whole unit may be preferable to building alterations, but finding suitable alternatives may take time.

My attention was drawn to this issue by a communication from a user of a St. George campus building that was renovated some two or three years ago to house two academic units. The project budget, which exceeded \$2 million, was not sufficient to include the installation of an elevator. Potential users unable to climb the stairs to the two upper floors would be accommodated in space on the ground level pending the availability of funds to install an elevator, estimated at that time to cost \$700,000. During the planning of the renovation, several argued that the proposed accommodations were inadequate, and that any students or faculty members who might require them would still be greatly

disadvantaged by being unable to participate fully in interactions with colleagues that were central to academic life in an interdisciplinary unit; furthermore, the unit was being moved out of fully accessible space that had now been assigned to another user.

I reviewed documentation of the development of this project and the record of discussion at Governing Council bodies. During the governance process, the project attracted an unusual amount of comment, and a number of members questioned the omission of the elevator. Although the vote approving the project at the meeting of Governing Council in June 2006 was not unanimous, a large majority of members supported the recommendation to proceed without the elevator at that time. According to the meeting reports, the main points made by the Administration were:

- It was the goal of the University to provide full accessibility for this building in the near future, and this was an advancement priority;
- The University had identified priorities for the development of accessible spaces;
- The University had to make difficult choices about where to use its very limited resources in order to address accommodation issues. No special grant was received for capital improvements for accommodation, so that funds had to be reallocated from other purposes to this end;
- Elevators were just one of many different types of accommodation, and if funds were used for elevators where there was not an identified need [as there was not at that time in this building], less funding would be available for these other types of accommodation.

Upon enquiry, I learned that the plan for achieving full accessibility for this building was related to the establishment of a new academic unit to be housed on the top floor, and that was an advancement priority. However, this funding did not materialize, and currently the Administration was not actively considering moving the elevator project forward. That being the case, I supposed that other needs had been assigned a higher priority. I therefore looked into the way in which priorities for the development of accessible spaces are determined, this with a view to providing occupants of the building some sense of their prospects.

As a result of these further enquiries, I found that the statement that priorities for the development of accessible spaces had been identified was premature. This was evident from the University's 2006-2007 *Ontarians with Disabilities Act Accessibility Plan*, which was presented to governance for approval in principle some months after the capital project described above was approved.

The *Plan* said, "There is no mechanism by which to prioritize accessibility deficiencies quickly when pockets of funding become available to address them." To overcome this barrier, a survey of buildings (excluding residences, faculty housing, and physical plant) on the St. George campus would be undertaken in 2006-2007, and the identified

deficiencies would be prioritized. The survey (of more than 100 buildings) was in fact completed in 2006-2007, but priorities have yet to be established. Furthermore, although various criteria that might guide priority-setting (such as high student traffic) have been adduced informally by individual administrators I have talked with, no systematic listing of criteria has been developed and agreed upon.

In June 2009, the Ontario government released the initial proposed *Accessible Built Environment Standard* for public review. If the proposed *Standard* is passed as law, new construction would have to comply within 12 months, and extensive renovations and changes in use would have to comply within 12 to 36 months. However, the government has indicated that it will not require at this time that all existing buildings be retrofitted to meet the new standard.

The University's existing *Barrier Free Accessibility Design Standards* to a large extent anticipate the passage of an Ontario law. However, an important caveat is mentioned in the University's *AODA 2008-2009 Plan*, namely that while it intends to apply the *Standards* to renovations to existing buildings, constraints of the existing structural conditions may necessitate alternative arrangements to assist in accommodation. It is not yet clear whether this exception will be permitted by the Ontario law when it is enacted.

In any case, for the building discussed above the constraint was not in fact structural—an elevator shaft can be installed on the outside of the building. Therefore, the issue raised by this case is actually one of priorities for the expenditure of funds: How and by whom is it to be determined whether or not an accessibility component of a renovation warrants the expenditure? Furthermore, how is it determined what priority attaches to retrofitting buildings not slated for renovation for other reasons (like change of use), including buildings such as this example that were recently renovated but still not fully accessible?

As the Administration has pointed out, no special grants are provided by government to address capital projects for accommodation. Also, under the current budgeting arrangements, there is no central Facilities Renewal Fund in the University's operating budget. However, from time to time, and sometimes at short notice, funds do become available that might be applied to building accessibility. As was recognized in the *2006-2007 AODA Plan*, it is desirable that accessibility needs be prioritized so that the best use can be made of these opportunities.

For example, there is still a Facilities Renewal Program allocation from the Province of about \$5 million per year, which can be applied to accessibility projects. Approximately 80% of this is allocated by formula for St. George (after allocations to the other campuses, federated institutions, and TST member colleges), and most projects on which this will be spent are put forward by Facilities and Services for approval by the Accommodations and Facilities Directorate. In offering this example, I recognize that there are other competing needs for the application of this fund. Even if this were not the case, the amount would, of course, fall very far short of what would be required to solve the total building access problem. However, over time, and along with other potential sources, it might contribute something towards addressing the highest priority needs.

I should emphasize that my concern is *not* to argue for or against the needs of the specific building that came to my attention. As Ombudsperson, I am in no position to assess the relative priority of this project, or even of building accessibility in general, against other accommodation needs, or against the many other claims on University resources and fundraising activities. However, I suggest that it would be useful for the University to further improve the focus of its attention on these matters. At present, there is a heavy reliance on local divisional initiatives.

The University has had some success in the past with fundraising for generic programs (e.g., for student financial support). It may be worth considering a similar generic approach in connection with accessibility. Although some have expressed doubt that accessibility projects would be attractive to private donors, there may well be individuals among our alumni, for example, who would champion a focussed effort to raise funds for such a cause, and naming opportunities could exist both for building improvements and for other accessibility programs.

Recommendations

In order to enhance the University's ability to meet its goals for accessibility,

- a) That the survey of St. George Campus buildings be updated and the needs for correction of deficiencies be prioritized; and***
- b) That designating high priority building accessibility needs (or accessibility needs more broadly defined) as a fundraising priority for the University be actively considered.***

Prohibited Discrimination and Discriminatory Harassment: Complaints Procedures

The University has undertaken significant initiatives in the active promotion of equity, and has received external recognition for its leadership in this area. A number of important policy statements have been approved by governance, including *Statement on Human Rights (1992)*, *Statement on Prohibited Discrimination and Discriminatory Harassment (1994)*, *Sexual Harassment: Policy and Procedures (1997)*, *Statement of Commitment Regarding Persons with Disabilities (2004)*, and *Statement on Equity, Diversity, and Excellence (2006)*. Various equity-related offices have also been established, many of which now report to the Vice-President, Human Resources & Equity. The Equity Offices have worked increasingly in partnership with each other and with academic divisions and administrative units, and they provide consolidated annual reports to governance.

However, with the exception of complaints related to sexual harassment, there is as yet no clearly articulated and readily accessible internal process for dealing with complaints

of discrimination on prohibited grounds or discriminatory harassment. In this respect, the University now lags behind many other institutions.

University of Toronto administrators are not permitted to deal with sexual harassment complaints, which must be referred to the Sexual Harassment Officer. In stark contrast, complaints on other grounds are to be pursued through the administrative reporting route, with certain equity officers available to advise both complainants and administrators and to mediate disputes at the request of the complainant (see *Statement on Prohibited Discrimination and Discriminatory Harassment, 1994*). Among the Equity Offices, few mention a role vis-à-vis complaints in their mandates, and only the Sexual Harassment Office publishes complaints statistics. The need to review the processes used to address complaints was recognized in the Annual Report of the Equity Officers for 2005-2006, and the Report for the following year indicated that work had begun on the development of policy and/or guidelines, the outcome of which is still awaited.

During my two years in this Office, I have seen an important number of individuals for whom, rightly or wrongly, a concern about discrimination on prohibited grounds was involved. However, they lacked clear guidance on how to proceed in order to address this dimension of their complaints. Because of the compartmentalization of our Equity Offices, it may not be apparent who could advise with respect to the particular grounds adduced in a complaint (e.g., mental illness). Dissatisfaction with the response of an Equity Office may arise from inappropriate expectations of what that office could do.

I have talked with the Vice-President, Human Resources & Equity about the importance I attach to having a well-articulated and widely communicated process for the handling of complaints of this kind. The Vice-President recognizes the need, and has informed me that a group is actively at work on the project. A draft has been completed and the proposed process is being tested through a series of scenarios in a variety of contexts. She hopes to have procedural guidelines ready for September. Such guidelines will be an important step towards ensuring that complaints of this nature can be effectively addressed within the institution.

Fees

As in past years, fees-related matters have been of concern to a substantial number of student complainants (14 undergraduate and 6 graduate students). I report on some examples below. As in past years, we have found that the problems often arose because of poor communication and have suggested possible improvements to the relevant administrators.

Deregulated programs. Some examples relate to students who transfer from arts or science into deregulated programs (Commerce/Management/Computer Science). Normally, students enter deregulated programs either on admission or after completing four FCE. Except in first year, full-time students in deregulated programs pay a “program fee” that is higher than the equivalent of the per course fee charged to arts and science

students, notwithstanding that many of their courses may be in common. The program fee is insensitive to changes in the course load as long as it is at four FCE or above. We have seen a number of students who were surprised and upset by certain consequences of accepting their deregulated Subject POST invitation.

For example, a student who transfers into a deregulated program in, say, third year, is back-charged the difference between the deregulated program fee and the arts and science fees already paid for their second year. Information about this matter is published in the registration materials provided on all three campuses. Significantly, no complaints of this kind have been received from the campus where the information is most easily found and understood.

Non-standard program starts. These take various forms. Some graduate departments offer programs that can be started in the summer, and a professional program has recently been approved that will start in January. In one post-graduate professional program, trainees normally begin in July, but about 15%, mainly international registrants, start at some other time of the year.

- A student in a graduate summer-start course-based program questioned whether fees had been correctly assessed in light of his enrolment pattern in second year. The student was not enrolled in any courses that summer owing to a lack of suitable offerings. He had approached the departmental administrator, the Graduate Coordinator, SGS, and the Student Accounts Department about the matter in May when first assessed, but in each case had been referred elsewhere, or told that nothing could be done. The student decided it would be best to pay up in order to avoid interest charges. Having completed all the remaining program requirements in the fall, he subsequently renewed his efforts to get a fee adjustment, without success.

Upon enquiring into the matter, our Office learned that, because of limitations of ROSI, summer-start program students are assessed the full-time annual fee in May and must complete payment by the end of August. Potential remedies that might have been considered at the outset were a leave of absence for the summer session, or a transfer to the regular program. In either scenario, fees would then have been assessed in September to have been paid in full by the end of the winter session; however, given that the student completed by December, he would not in the end have had to pay for the winter session. Both SGS and Student Accounts initially thought that the solution would have come from the department, but it was clear in hindsight that departmental officers did not know what might be done. After discussion, the student was retroactively withdrawn from the summer session, and received a refund.

To address the systemic issue, SGS and Student Accounts are developing improved means of communicating clear information about the administration of fees in summer-start programs for the use of the departments and their students. In the longer run, it would be ideal if the systems problem could be

solved. That need has been brought to the attention of the University Registrar, who is a member of a group that is beginning work on the development of a new student information system.

- A student who started a 12-month post-graduate professional program in the month of January objected to being charged the full registration fee both in January and again in July, while students who started in July paid the fee only once. This fee is an approved administrative user fee and, according to University policy, should relate to the costs of providing the service. In response to our enquiries, the academic division readily acknowledged that the cost of services recovered by this fee did not vary in any material way with the time of year the program was started. They explained that the policy that led to this situation arose from the decision of a province-wide committee at which they were the only university opposed. After my Office expressed concern about the apparent unfairness of this effect of the policy, the division made further representations to the provincial committee, but was unsuccessful in changing the majority opinion. The division then decided to break ranks with the other universities on this point and will administer the fee in future in a way that is neutral with respect to the start date.

Graduate Student Supervision

As was reported above, a significant number of graduate students who come to the Office bring concerns relating to their supervision. Although the number of cases we see is tiny in relation to the total number of graduate students engaged in thesis research, it is nevertheless sufficient to be of concern. The student may be in danger of lapsing, and/or is no longer eligible for financial support, and believes that inadequacies of supervision have contributed significantly to the failure to make sufficient progress with the thesis.

The situations complainants describe include difficulty in getting access to their supervisor for advice and/or long delays in getting comments on drafts, being expected to work for excessively long periods of time on projects that do not advance their own progress towards completion of a thesis but rather serve the supervisor's own interests, and finding it difficult to change supervisor when the relationship is not working well. In a few cases, it appeared that the department had not formalized a supervisory arrangement and/or had not ensured that a supervisory committee was appointed at an appropriate time.

Because they feel extremely vulnerable, students with these kinds of problem often hesitate to raise their concerns within their departments, and, for the same reason, they rarely want intervention from the Ombudsperson. They fear that departmental administrators will automatically support the supervisor, and that raising the issue at that level could make matters worse. Without the student's written consent, we are not in a position to hear the other side of the story, so our ability to assess the fairness of what has been happening in an individual case is often limited. However, in light of the serious

implications for students when the supervision provided is deficient, we have discussed with the Vice-Dean Students and the Director of Student Services at the School of Graduate Studies what might be done to minimize the likelihood that such problems will arise.

The School already publishes a booklet entitled *Graduate Supervision Guidelines for Students, Faculty and Administrators* that we have found to be a useful resource, and the guidelines are currently being reviewed and revised. The creation of the position Vice-Dean Students several years ago has also been a very positive step, and we frequently encourage students to seek further advice there.

Our recent conversations with the School have been very constructive and focus on the provision of training for departmental administrators, new faculty and graduate students, for example,

- Emphasis in orientation sessions for new departmental Graduate Coordinators on the need to communicate clearly to students, particularly new students, that their role is to help ensure arrangements that will support the students' success in the program, that they are open to students approaching them to discuss problems that might develop, and that they are available to provide assistance in resolving them;
- Support to new faculty members who are assuming supervisory responsibilities for the first time in the form of orientation sessions that emphasize that their own success depends in no small measure on their graduate students' successful and timely completion of their programs, introduces them to best supervisory practice, and discusses issues of conflict of interest in working with graduate students.
- Workshops for graduate students focusing on how to build an effective supervisor-student relationship. SGS will continue to offer and expand the number of workshops available to graduate students on supervisory issues to ensure that graduate students are aware of their responsibilities in the supervisory relationship, to clarify expectations in the supervisor-student relationship and to present strategies on managing conflict and negotiating differences. Currently these workshops are offered by SGS through partnerships with the Status of Women's Mentorship Program for Women Graduate Students and the Graduate Student Initiative program.

I understand that the School intends to pursue these initiatives, and may seek to involve this Office in their implementation. We are certainly open to providing any assistance that may be appropriate.

Status of Responses to Earlier Recommendations

Off-campus activities: Policy development. In my last report, I referred to the interest of my Office in the evolution of policy relating to activities under the auspices of the University that are conducted off-campus. Matters relating to safety in the field were raised a number of times by my predecessor, Mary Ward, who made several recommendations.

Over the years, a number of important steps have been taken by the University. The *Policy for Safety in Field Research* was approved by governance in 1988. *Guidelines for Safety in Field Research* was prepared in 2000, and updated in 2004. The Safety Abroad Office, established in November 2002, offers programs in support of students studying abroad, including publishing a *Safety Abroad Manual*, last updated September 2008.

The Administration reported that work was begun in 2004-05 towards the development of a *Safety Abroad Policy* but that, as a result of consultation on a draft, it was later determined that a single overarching policy to address off-campus research and study activities whether domestic or international would be more appropriate.

In the course of 2008-09, work has been done to prepare or update guidelines for particular classes of off-campus activities, such as research, experiential learning, and sponsorship of recognized campus organizations. The development of an overarching framework that would enunciate the general principles within which such guidelines will operate has again been delayed, in part because of personnel changes in the Office of the Vice-President and Provost. However, I am informed that the Vice-Provost Students has now assumed the lead on this issue and attaches a high priority to developing the new framework document and exposing it to governance during 2009-10.

Review of the Code of Behaviour on Academic Matters. In my last report I discussed various problems with the current *Code* and its administration, culminating in a recommendation for a review that was accepted by the Administration. I also identified various procedural options suggested by the policies of other universities and by interested divisional administrators. I expressed particular concern about the very long time frequently taken to dispose of allegations, and about non-compliance by some faculty members with the provisions of the *Code*. Achieving an appropriate balance between fairness to the accused and efficiency in procedures should be an important objective of the review.

I am informed that whereas responsibility for the promotion of academic integrity across the University will move to the portfolio of the Vice-Provost, Academic Programs, the Vice-Provost, Faculty & Academic Life will continue be the Provost's designate in relation to matters concerning the *Code of Behaviour on Academic Matters* and will take the lead on the review of the *Code*. As of summer 2009 a staff member has been assigned to prepare materials to support the work of the review committee, the membership and terms of reference of which will be published early in the fall.

In the meantime, matters relating to the *Code* continue to arise in connection with complaints brought to this Office. Along with issues discussed in my report for 2007-08, a number of those listed below deserve consideration by the review committee when it begins its work in the fall.

- There have been further instances of instructors failing to pursue an allegation of misconduct in accordance with University policy. For example, in one documented case, an instructor devised sanctions for alleged widespread cheating on an exam and told a student that appealing the decision would be to risk expulsion under the official procedures.

It needs to be made clear that instructors in breach of the *Code* are subject to sanctions, and that it is an offence for a faculty member to deny students the protection of the approved procedures.

- A continuing professional education program believed that the *Code* procedures were not applicable to students in their courses, even though their students were in fact engaged in “academic work which leads to the recording and/or issue of a mark, grade, or statement of performance” and had access to University resources (*Code*, Appendix A, 2(s)).
- A number of students have claimed that they were not given an opportunity at the decanal interview to bring forward what they considered to be extenuating circumstances. If that has happened, it would certainly be a concern. While such circumstances may not necessarily bear on whether an offence has been committed, they may bear on the sanction, and the student should be given the opportunity to be heard. We find that some students fail to understand this distinction, which needs to be made clear, if not in the *Code* itself, perhaps in accompanying interpretive guidelines. Such guidelines might also usefully address the appropriate roles of the instructor, department chair, and any administrative staff from the dean’s office who may be in attendance at the interview. Some reports from students suggest that staff may on occasion construe their role as that of prosecutor, which is not contemplated by the *Code*.
- The *Code* pertains to academic offences by two classes of persons: students and faculty members. The *Code* defines *faculty member* as “a member of the teaching staff” (Appendix A, 2 (k)). The *University of Toronto Act, 1971* in turn defines *teaching staff* as persons who hold approved academic ranks. It necessarily follows that other persons engaged in teaching or research in the University, and who are not students, fall outside the jurisdiction of the *Code* if they commit acts that are described therein as offences.

Among those excluded, for example, are persons who teach continuing education courses (unless they also hold an approved academic rank or are also students). Allegations of offences by such persons would presumably be dealt with administratively, as would offences by administrative staff (who might, for

example, be responsible for transmitting grades), and a statement to this effect in the *Code* might be considered—unless, of course, it is thought preferable to extend the reach of the *Code*.

- Sanctions for an offence by a student commonly include a notation on the academic record and/or transcript, normally for a limited period of time. We have seen cases in which the notation was not removed at the appropriate time. When later detected, the error was corrected, but nevertheless should not have occurred. Some steps have already been taken to improve the ability of academic divisions to remove the notation at the right time. In the longer run, it is hoped that the removal will be automatically triggered in a new student information system.

Statistical reports on academic offences to the Academic Board. In my last report, I recommended that the Provost's statistical reports to the Academic Board include information about the time taken to dispose of allegations both at the Tribunal and at the divisional level. This recommendation was accepted by the Administration. At the time of writing, the Provost's statistical report for 2008-09 is not available.

Freedom of Information and Protection of Privacy Act. Once again, the Office learned of a few breaches of privacy. In one documented case, a departmental administrator accessed information about a student on ROSI that was not relevant to the decision the department had to make (eligibility to enrol in a course), and exposed this information to the instructor. In another, it was reported by a student that an instructor discussed an alleged academic offence with in the classroom in the presence of other students. Where appropriate, we have discussed such issues with the FIPP Director and/or with other administrators. The Administration continues with its efforts to educate faculty and staff about their responsibilities.

Issuing diplomas. Currently, diplomas are issued in March, June, and November, but some graduating students need their actual degree parchments at times before our traditional convocation periods. In response to a recommendation by former Interim Ombudsperson, Professor MacDonald, the University Registrar and the Convocation Office are actively working to ensure a process of obtaining diplomas that is more flexible and accessible. The ongoing Convocation IT support project, which is well underway, will facilitate the process. The academic divisions have been consulted and have expressed willingness to support the new process.

Assessment and refund of incidental fees. Professor MacDonald also recommended that the University examine its policies governing the assessment and refund of incidental fees, particularly as they apply to part time students. The issues he raised were considered by a committee set up by the Vice-Provost Budget and Planning that worked through 2008-09 on various aspects of how fees are assessed for part-time students. The committee will report once an outstanding issue concerning the interaction between tuition arrangements and other fees has been resolved.

Other Activities of the Office

During 2008-09, I was ably assisted by the Case Officer, Garvin De Four, and by Linda Collins, who provides administrative support. I am fortunate to have the benefit of their experience and commitment.

Office Move: At the end of September, 2008, the Office moved to its new and very pleasant quarters on the first floor of the McMurrich Building at 12 Queen's Park Crescent West. The move entailed a great deal of work for the staff, but was managed with minimal disruption of services to complainants.

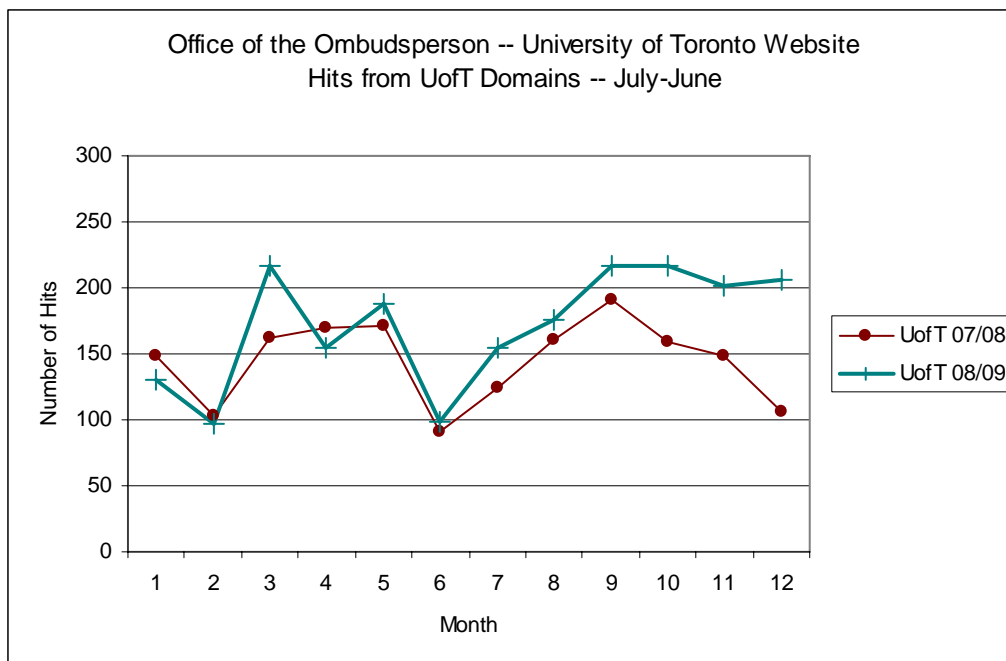
Implementation of New Retention Period for Records: Following the acceptance by the Executive Committee of my recommendation to shorten the retention period for our records from seven to three years, the files were purged to comply with the new policy.

Professional Development: The Case Officer and I attended a Joint Meeting of the Association of Canadian College and University Ombudspersons (ACCUO), the Forum of Canadian Ombudsmen (FCO), and the International Ombudsman Association (IOA) held in Montreal in April 2009. The rich program contained presentations and discussion that were thought-provoking and of very high quality.

Outreach: Following the recommendation of the review of the Office conducted in 2006, we have further increased our efforts to educate the University community about the services we provide. Our objective is to ensure as far as possible that members of the University are aware of these services and know how to access them if needed.

- We took booths at **orientation** events for both undergraduate and graduate students at the St. George campus, and at Blue Zoo early in the fall term at UTM. Our new bookmark was included in 6,300 UTSU orientation kits, and we also participated in the UTSC virtual frosh kit. I spoke about the Office at an event for new women graduate students sponsored by the Status of Women Office.
- We took a half-page **advertisement** in the UTSU Student Handbook (distribution of 26,000 at St. George and 4,000 at UTM), and were also listed in the Clubs Directory.
- We have initiated a **bookmark drop** to every faculty member, staff member, and graduate student in the University who has a mailbox. As well, we are in the process of distributing a supply of bookmarks and information sheets to graduate and undergraduate student counsellors for ease of referral. These distributions will be completed in the course of 2009-10. By the end of June 2009, some 14,000 bookmarks had been distributed to faculty, staff and students through mailbox drops, offices that provide services to students, student organizations, and to individual students attending orientation events.

- At the invitation of the Director of the Transitional Year Program, Garvin De Four conducted a **session for TYP students**, which was very well received.
- The Case Officer and I have met with many **key personnel** in the course of the year to explain the role of the Office and the way we work. These presentations stress that the Ombudsperson's role is to assist all parties to a dispute in finding a satisfactory resolution, emphasizing our independence, neutrality, and strict confidentiality. To date, we have met with:
 - UTM Registrar and staff
 - UTSC Registrar and staff
 - Faculty of Arts & Science Assistant Dean and College Registrars
 - SGS and Professional Faculties Registrars and staff
 - Faculty of Applied Science & Engineering Registrar, staff, and student counsellors
 - Assistant Vice-Provost Student Life and her leadership group
 - UTSC Student Affairs leadership group
 - Student Life Professionals Network
 - Community Safety Office
 - President of Retired Academics and Librarians at U of T
- We have initiated steps to increase the visibility of the Office on the University's web site. A **new web page on fairness** has been created, which briefly describes the commitment of the University to the fair treatment of its members and the role of the Ombudsperson in achieving this objective. The page provides a link to the Ombudsperson's web site where the reader can obtain additional information. The new page will be prominently featured among resources for faculty, staff and students on the UT, UTM, and UTSC sites, and also now appears on the Governing Council site.
- The Ombudsperson's **website** (www.utoronto/ombudsperson) received 2058 hits in 2008-09, an increase of 11% over 2007-08. As can be seen in the graph below, most of the increase occurred in September 2008 (month 3) and in April through June of 2009 (months 10-12); these increases most likely occurred in response to the dissemination of information through other means described above. The website, which was created by my predecessor Mary Ward, is updated annually; it provides information and advice, including how to be a good complainant, and frequently provides answers to questions that might otherwise need to be brought in person to the Office.



Conclusion

It is a great privilege to serve the University and its members as the University Ombudsperson, and the work is singularly rewarding.

Complainants do not always obtain the resolution they sought when they approached the Office, nor would that necessarily be appropriate. Regardless, we try to ensure that value is added by the consultation and that complainants leave with a better understanding of their issues and an improved ability to avoid or deal more effectively with problems in the future.

We are also pleased to report that administrators at all levels in the institution have been very open when approached about individual cases, and ready to consider whether remedies might be available. They are also receptive to suggestions for improvements in the delivery of services and the provision of information to their clientele. Many have generously made time to discuss systemic issues and offered ideas about how they might be addressed. We thank them all for their cooperation, without which we could not fulfil the mandate of the Office.

Respectfully submitted,

Joan Foley
September, 2009

Administrative Response to the *Report of the University Ombudsperson for the Period 1 July, 2008 to 30 June, 2009*

September, 2009

Overview

The Terms of Reference for the Office of the University Ombudsperson stipulates that the Ombudsperson shall “make a written annual report to the Governing Council, and through it to the University community”. In addition, the Governing Council requests an administrative response to each annual report.

The *Report of the University Ombudsperson for the Period 1 July, 2008 to 30 June, 2009* is Professor Foley’s second annual report as University Ombudsperson. Once again, it reflects her understanding of the University, her respect for the role of Ombudsperson, and her deep sensitivity in handling complex and often difficult situations.

The Administration extends its sincere thanks to Professor Foley for her dedication to the University of Toronto and for her outstanding service in the role of University Ombudsperson. The Administration also acknowledges and is grateful for Professor Foley’s committed attention to her Office’s mandate as contemplated by the 2006 *Review of the Office of the University Ombudsperson*.

Response

The *Report of the University Ombudsperson for the Period 1 July, 2008 to 30 June, 2009* is carefully considered, objective, and constructive. The Report makes two recommendations, follows up on a number of matters from earlier annual reports, and details the Office’s outreach efforts.

As Professor Foley notes, addressing systemic issues is a critical part of the Ombudsperson’s mandate. Accordingly, systemic matters are at the heart of this annual report. The Administration continues to welcome and appreciate this perspective.

Recommendations

The Report makes two recommendations:

In order to enhance the University’s ability to meet its goals for accessibility,

- a) That the survey of St. George Campus buildings be updated and the needs for correction of deficiencies be prioritized; and***
- b) That designating high priority building accessibility needs (or accessibility needs more broadly defined) as a fundraising priority for the University be actively considered.***

The Administration accepts these recommendations.

With respect to the first recommendation, it should be noted that, while a prioritized list of deficiencies is an important strategic planning tool, such a list must not be so inflexible as to inhibit the University's ability to capitalize on funding opportunities as they arise. Timely contributions from governments to address deferred maintenance or benefactions with funding for targeted accessibility projects are occasions when immediate priorities may be reconsidered to benefit the overall system.

With respect to the second recommendation, the Division of University Advancement will continue to include – and will raise the profile of – specific accessibility projects, and accessibility initiatives more generally, within its list of fundraising priorities (provided, of course, they come through the usual provostial approval process as informed by the divisions). Such projects and initiatives often struggle to find an audience within the philanthropic community, aside from a few modest sources of corporate support. Philanthropists typically expect accessibility considerations either to figure in the planning of new capital projects or to be considered within the category of deferred maintenance management.

The University is mindful of Ontario's proposed *Accessible Built Environment Standard*, which is also mentioned in the Ombudsperson's report. The University's own standards as described in the document *Barrier Free Accessibility Design Standards*, well position the University to align with the proposed Ontario *Standard* if it is passed into law. Indeed, as the Ombudsperson points out, the University's existing *Standards* in many ways anticipate the provincial *Standard*.

The Administration is committed to a fully accessible environment on our campuses. Progress towards this goal is steady. Nevertheless, the University faces intense trade-offs. The ages of our three campuses' buildings, facilities, and infrastructures – exacerbated by heavy use – present significant deferred maintenance challenges. Our resources are tightly constrained and available funding is typically subject to both federal and provincial rules and restrictions. Additional government funding for accessibility and deferred maintenance, together with innovative approaches to accommodation, will be indispensable to our long-term success.

Additional Observations

The Administration values the Ombudsperson's diligent follow-up on matters raised in earlier annual reports and administrative responses.

Similarly, the Administration applauds the Office of the Ombudsperson's outreach initiatives. The Ombudsperson serves as an important resource in our community. Raising awareness about the Ombudsperson's role and function is valuable in fulfilling the Office's mandate.

At the same time, the statistics presented in the Annual Report are helpful. They show an overall rise in Office's caseload of roughly 7% over 2007-2008 to 236 cases. This represents approximately 0.2% of the population within the jurisdiction of the Office, a proportion that has remained constant over the past three years. This suggests that the systemic approach adopted by the Ombudsperson has been effective, even as awareness of the Office grows and despite the current period of fiscal stress. The Administration remains appreciative of the Ombudsperson's preventive and systemic focus.