

York University
Sexual Assault Awareness, Prevention, and Response Policy Working Group
Meeting Notes

Date: Thursday, July 16, 2015

Time: 9:30 a.m. – 4:00 p.m.

Location: 956 Kaneff Tower

Attendance: Elana Shugar, Rob Castle, Aldo Altomare, Siraz Chatha, Polly MacFarlane, Jessica Thyriar, Chenthoori Malankov. Liisa Stephenson, Maureen Armstrong, Catherine Salole, Deb Hansen, Grace Permaul, Arden Maaliq, Prakash Amarasooriya, Daulton Scott, Margaret Macharia

Regrets: Rodney John de Roché, Lauren Keyes/Mina Rajabi Paak, CWTP Representative

Call to Order

- R. Castle started off the meeting by welcoming the working group members, and acknowledgement of the group agreement to set up a safe and respectful space.
- Members reviewed the meeting notes from June 25th and the notes were approved.
- Then followed with an in-camera debrief of the July 8th meeting.

Other Business

- E. Shugar met with the Student Service group representative to outline the process and discuss the Working Group's role in the Policy and Procedures development.
- The CHR is a confidential and impartial service that assists with filing human rights complaint.
 - It is important to stipulate that the CHR does not offer advocacy services.
 - All actions undertaken by the CHR on behalf of an individual are done with the individual's consent, unless the survivor or the safety of the community is at jeopardy.
- The CHR offers services to all York community members; students, staff and faculty.
 - YUELI students who are part of the York community and are eligible for CHR services.

- Individuals can contact the CHR either through calling-in or attending the office. At this point, a CHR representative will initiate the process of offering support and resources.
 - If the individual needs medical attention they will be referred to Women' College Hospital.
 - If the individual requires resources, the CHR rep will refer them to the resources that best suits their needs.
 - The CHR maintains a list of resources in their office. These resources are compiled and updated by OSCR, and are similar to those that listed on the Safety website.
 - If the individual is a student, they will be referred to OSCR, SASSL, PCS and other external resources if they prefer.
 - If the individual is a staff person or faculty member, they will be referred to the Employee Well Being office.
 - If the individual is not a community member, they will be referred to external resources.
 - The general practice is not to leave anyone who calls in or walks in without resources
- Individuals who want to access the CHR's case resolution services are assigned to a Case Advisor
 - The Case Advisor deals with concerns and complaints related to the breach of the Ontario Human Rights' Code (OHRC) legislation and York's human rights policies.
 - Case Advisors handle cases of sexual harassment, and the human rights (as established in the OHRC grounds) component in sexual assault cases.
- The Case Advisor will then proceed with a basic intake. The intake will determine whether the individual is able to access any of the available services.
- If the complaint is human rights based, the Case Advisor will proceed to process the complaint under the University's Sexual Harassment policy.
- The Case Advisor will then advise the survivor on additional services available, on and off campus.

- If the survivor wants to file a report with Security Services or TPS, the Case Advisor will refer as appropriate.
 - ACTION: In cases of sexual assault, G. Permaul will follow-up with N. Badiou to find out if CHR will still inform Security Services even if the survivor does not want to report. There is an unwritten protocol that administrative offices are required to refer all cases of sexual assault to Security Services. There needs to be a general conversation about this disclosure policy.
 - CHR keeps statistics on how many cases they handle. These statistics are published in the CHR annual report.
- If the survivor is a student, with their permission, OSCR will be looped in to support them accordingly.
 - If the student complains about a professor, OSCR will support the student but the human rights complaint will go through CHR. The respondent will be represented by Faculty Relations and the investigation will be facilitated by the Office of General Counsel.
- If the survivor is a staff person or faculty member, with their permission, Human Resources or Faculty Relations will be looped in for referral and consultation as appropriate for next steps.
- CHR procedures provide for 10 working days to address a complaint.
 - However, cases are different. The Case Advisor will always try to process the complaint as quickly as possible while providing enough time for the survivor to consider all their options.
 - CHR will try to be upfront about what the timeline looks like.
- The CHR is aware of the fact that a person may want to file criminal charges and will be cautious of consistency. They will make sure that all survivor facts are clearly recorded while taking into consideration general aspects such as cultural differences, due processes in play and union implications.
- Support for non-unionized staff e.g. CPM
 - The university is in the process of discussing how to navigate this.
- Q: How does the CHR handle confidentiality and risk to others?

- If there was a serious threat, there has been discussion on how to disclose to Security Services without violating the survivor's confidentiality. Sometimes disclosing the identity of the perpetrator may out the survivor.
- The understanding of what constitutes risk is part of a larger discussion.
- Q: What criteria do they use to establish risk and does the CHR consult?
 - If the survivor is at risk, CHR will offer resources and provide assistance in terms of access to services.

Overview of the Office of General Counsel Process

- The Office of General Counsel handles all university legal matters.
- The Office of General Counsel maintains a list of trained investigators who facilitate investigation processes on behalf of the university.
- Sexual assault complaints are received from OSCR or the CHR. General Counsel does not receive complaints directly; they always come from a secondary source.
- If the respondent is a student, General Counsel will loop in OSCR.
- If the respondent is a staff member, Human Resources or Employee Relations will be looped in.
- If the respondent is both student and staff, depending on the context, General Counsel will review what policy or rules are involved.
 - There is a need to be cognizant of the interconnectedness of the processes involved. There is a collaborative consultative approach and there is need to have a conversation about how manage this.
- If the respondent is a faculty member, Faculty Relations will be looped in. The Faculty Relations process is a special stream that is separate from the university.
- **NB:** The question of whether the respondent is a student, staff or faculty member has probably been asked at a number of different places and the process may have already been set in motion.
- At this point, General Counsel will then provide their list of available investigators who can conduct the investigation into the allegation on behalf of the department/office. The decision of which investigator to use is made by either the department head in the case of non-faculty members, or the dean, in cases involving faculty members.
- Investigators are various people from across the university. General Counsel only provides the skill set necessary to aid the person in charge of disciplinary actions.

- Depending on how much information is available, the idea is to keep the complainant and respondent separate.
- The investigator will review documents and record each step of the process.
- If the complaint is human rights based, the investigator will send a notification to the CHR and loop them in.
- If the complaint is not human rights based, the investigator will proceed with the interview process:
 - The order of conducting the interviews will depend on the facts of the case.
 - The survivor will be interviewed
 - Witness to support the survivor will be interviewed
 - The respondent will be interviewed
 - Finally, the respondent's witnesses will be interviewed.
 - If necessary, re-interviews will be conducted.
- The investigator will then compile their full report and send it to the employer, the survivor and the respondent. The report will contain findings and summaries without disclosing private information.
- The department head/ dean will then decide (if any) what disciplinary measures are warranted.
 - What training is provided to department head/dean?
 - In cases involving staff members, Human Resources will be in a facilitation role and are not involved in disciplinary action. They may however recommend a disciplinary action.
- In the faculty collective agreement, there are provisions for dealing with sexual harassment. Currently, Faculty Relations feels these are sufficient for sexual assault. There will be a further conversation about this.
- There also needs to be a conversation with Human Resources and Faculty Relations about interim measures.
 - For example, in a case where a professor has been accused sexually assaulting a student what are the interim measures?

Safety: Implication of feeling safe vs. risk to the community

- Feelings of safety are complex. Students need to feel that the institution is taking care of them although perpetrator information is withheld. Statistically, 8/10 sexual assaults are done by repeat offenders.
- *Can the university put out a Security Bulletin with the name of an offender without defamation?*
 - TPS sometimes issues alerts with the name of a perpetrator. But even this is subject to risk to the community or if they think there could be more survivors involved.
 - Issuing information to the public with personal information that has not been proven is problematic.
 - Suggestion: Incorporate an interim measure that is not punitive e.g. temporary suspension.
 - For example, police officers that have been charged with an offense are put on 24 hour suspension or on desk duty.
 - In the student context, there is a more systematized approach under section 15 that is guided by theoretical framework and standards across the country.
 - For staff and faculty, the approach is non-systematized.

Training for investigators and decision-makers

- Training around sexual violence is needed.
- There is day-long training for investigators available that is coordinated by General Counsel but is conducted by qualified trainers.

Disclosure Protocols

- CHR, Faculty Relations and Human Resources are provided copies of responses from the investigation report.
- Survivors have, in the past, requested information about the response. If survivors do not get request, they proceed externally because response determines further action on their end.
 - M. Armstrong confirmed that both the survivor and the respondent are provided full investigation reports.

- The Human Rights Tribunal does disclose a formal written response to the public – the practice before was to paraphrase but now provides actual responses.
- The CHR sometimes recommends training depending on the outcome of the findings
- *Q: If a member of the York community reports a sexual assault externally to the police, is York notified?*
 - York would only find out if police reach out to Security Services for information or if there is a risk to the community.
 - This is a good follow-up question for Inspector Hussein.
- *Q: Would York consider (If not already doing it), conducting background checks for employees?*
 - Reasonable question because 25% of incoming first-years are minors.
 - Standards of practice do not preclude conducting background checks.
 - Human Resources may be starting to do background checks.
- If charges are laid, neither the survivor nor the respondent is obligated to provide any information to the university because the information they provide may jeopardize their case
 - If a full hearing proceeds, either party could be prejudiced. In this case, investigation procedures could be held abeyance.
 - If a survivor does not want to proceed, the tribunal/ investigation will not proceed.
 - If the respondent does not want to proceed, it could be because the investigation may jeopardize the criminal case.
 - *What if a survivor wants to proceed but the respondent does not?* This has not happened yet but could potentially happen. This needs to be addressed in the procedures.
 - *What if a respondent is found guilty in a tribunal hearing but not-guilty in a criminal trial?* The respondent can challenge the tribunal decision.
 - The tribunal procedure follows the civil standard which is the balance of probabilities. The criminal standard is beyond reasonable doubt and establishes the facts for balance of probabilities. This also helps inform interim measures.
- *Q: Do staff and faculty know who to connect with in cases of sexual assault?*
 - Deans are not necessarily trained on issues of sexual assault. This is an area for improvement.

- *Q: What if multiple respondents are implicated?*
 - In such a case, the best access is through the TPS case manager who will offer recommendations to the university
 - Bail conditions help inform what the campus will do. They also inform emergency measures.

Overview of the Residence Life/ SCLD Process

- The Residence Life process has an established network of support (that involves Residence Life Coordinators and Dons) built-in. There is often an established and trusting relationship between the survivor and don which makes the nature/context of reporting unique.
 - The process attempts to be survivor-driven however the survivor loses their control as it relates to reporting (ie. Security is informed); This could have an impact on the relationship between the survivor and Don/RLC.
- If there is a life-threatening situation, 911 is called, then Security Services.
- The don then informs the Residence Life Coordinator (RLC) who will attend regardless of need for medical attention. The RLC could accompany the survivor to the hospital though not in the ambulance.
- Security will be notified by the RLC on call Security will inform TPS.
 - The survivor will be informed that Security and/or TPS will be notified but they are not obliged to speak with them. Notifying Security Services is a community safety piece.
 - Relevant information will be shared with Security. This may be problematic because some survivors share a lot of information with their dons because they have a trust relationship.
 - This could also be in historic cases where a survivor may disclose a past sexual assault in a conversation with the don. This is a gray area, but the don knows that they have to escalate this information upwards.
 - OSCR will be notified by RLC. Survivor will be encouraged to attend PCS which the RLC can facilitate.
- If the survivor requires Critical Incident Coordination, they are referred to OSCR. Together with the RLC, OSCR will reach out to the survivor.

- If the survivor needs access to safe housing, this can be done in the moment. Residence Life have their own emergency suites.
- If the survivor wants to access additional services, they can be referred to on-campus services like OSCR, PCS, SASSL and CWTP, or external services if they prefer.
- Community support – The RLC and don provide ongoing support to the survivor.
- The don will then document the incident on eRez.
 - eRez is an incident database Action: C. Salole to find out if dons can access the eRez data they have previously inputted.
 - Access to read and submit logs in eRez is managed by limiting access to specific users based on area of responsibility and role. Dons are only able to read student support logs and incident reports (conduct) they write. Residence Life Coordinators can view incident reports from other residences as they may serve as a local adjudicator on cases from other buildings, but can only see student support logs for buildings they have been assigned coverage. The Director of OSCR, Dispute Resolution Advisors, and the Critical Incident Response Coordinator may view student conduct and support logs. The Assistant Director, Residence Life, the Director of SC&LD, and the eRez School Administrator (typically an RLC) may see both logs. The Manager Student Affairs (Glendon) can see both logs for the Glendon campus. Residence Watch Officials only have access to sign in guests and verify a student lives in the building, but cannot view logs. Catherine RLC on-call logs can be seen by the Assistant Director, Res Life, Director of OSCR, Dispute Resolution Advisors and the School Administrator.
 - eRez can be potentially subpoenaed and hence all who access it are provided with training and procedure around recording sexual assault incidents.
- The same procedure applies for non-residents assaulted while in residence. However ongoing support will not be provided by the RLC.
- The university increased Security (residence watch officers and porters) after the 2007 incidents of non-resident alumni accessing the residence and sexually assaulting students.
- Reports and statistics surrounding sexual assault in residence are included in the WSIL and the quarterly/ annual stats reports.

- When the safety app was launched, it was thought that there would be more incidents of sexual assault reported and hence increase reporting statistics. This has not happened as of yet.
- Maybe having a reporting centre on campus, this would encourage more survivors to report.

Confidentiality

- It was noted that the meeting had had a good flow with excellent discussion points. Although this would seamlessly lead into a conversation about confidentiality, it was decided to push back this conversation until the next meeting.
- E. Shugar provided some points to consider around establishing the principles of confidentiality:
 - What is confidentiality?
 - What is anonymity?
 - The WG needs to clarify what we mean by confidentiality vs. anonymous disclosure
 - What is the significance of confidentiality in regards to disclosures of sexual assault?
 - What are the reasons to maintain confidentiality?
 - What are the reasons not to maintain confidentiality?
 - What is the scope of confidentiality within current processes?
 - Under what contexts confidentiality should not be upheld?
- **Action:** WG members to review questions and give consideration to what other universities are doing w.r.t. confidentiality. Also review page 16 of A Resource Guide for Ontario's Colleges and Universities for guidelines on developing a response to disclosure.
- American universities' procedures are more structured but a concern has been that their disciplinary measures do not match the severity of the incident.

Points of Contact

- One challenge of the procedures that are in place is the survivors are currently required to tell their story multiple times. Having the survivor disclose as few times (or even once) as possible is an important thing to consider to ease burden placed on survivor.
 - This is complicated because different services require different pieces of information.
- How many potential points of contact does a survivor have?

- Friend
- 33333 Security Dispatcher – Security Services will then initiate their sexual assault response process.
- 2-3 Security officers respond to interview the survivor.
- 2-3 TPS officers attend – they take basic details.
- EMS
- TPS officers at station – 2 people; lead investigator and assisting detective take down detailed information.
- TPS investigator – 1-2 centralized sexual assault investigators. They take more detailed information for their investigation process.
- Hospital – 5 people; Sexual Assault Nurse, Triage Nurse, Doctor, Nurses. They take information to treat survivor.
- 2 dons
- 2 RLCs
- OSCR – 1 person who in turn informs the department.
- PCS – 1 person if they come in through referral, 2 if survivor called in.
- SASSL – 1-3 people.
- Security investigator for safety plan – 1-2 people.
- CHR – 1-2 people. To file a complaint, if complainant is student but respondent is not.
- Tribunal – 3 person panel. Plus legal support, OSCR director, advocate and witnesses.
- If the survivor is also an employee:
 - Manager – If the manager deems it to be a human rights violation, they will loop in CHR.
 - Human Resources/ Faculty Relations
 - Union Representative
 - Graduate Program Director (If survivor is a TA)
 - University investigator
 - CHR

Wrap-up and Moving Forward

- The WG has completed flow-chart review except for the CWTP process.
 - **Action:** E. Shugar to follow-up with CWTP.
- Pending:
 - Confidentiality
 - TPS Meeting – Identify areas/ issues we need to address.
 - **Action:** Earlier on in the process, the WG had come up with questions for TPS. E. Shugar will send out these questions out to the group.
- Don training is set for the 2nd week of August. The procedures will not be ready by then
- In the meantime, the WG can sketch out a draft around procedures just in time for orientation. In August the WG can start having conversations around this.
- Projected delivery date for the student piece is October. The student-employee piece is more complicated.
- The WG will bring in HR & FR into the conversation.
- Once the procedures are done, the WG can start building on training around procedures.
- Timelines and scheduling are tentative. Further discussions will allow for more concrete planning on what to put out and when.