



Report to SSMU Legislative Council March 27, 2014

Introduction

This report was requested by the SSMU Legislative Council, following the motion “regarding having a written explanation of ECIC’s recommendation”, which was approved on March 13, 2014.

Please note that the ECIC was never officially notified by the Speaker of Council regarding the details of the motion and its requirements. Only after a follow-up e-mail was sent by the Equity Commissioners to Councillor Lubendo on Mar 24, 2014 were a set of questions were provided in response.

Response to the motion approved on March 13, 2014

“Whereas, the conclusion of the recommendation was never explained to the SSMU Legislative Council by the ECIC but simply that it was the recommendation they had come up with”

On December 5th, 2013, Equity Commissioner Justin Koh presented the recommendations of the ECIC following the equity complaint filed on October 30th, 2013. The conclusions of the recommendation were in fact clearly explained to the SSMU Legislative Council, yet limited by the short time (20 minutes) allocated to the presentation by Council. However, most of the questions directed towards the Equity Commissioner were related to the SSMU Equity Policy itself, and not the recommendations themselves.

For the discussions that followed, Koh was asked to leave the room by the Speaker of Council, and was unable to provide more explanations and answers even though he was available to do so that night. This decision was made by the Speaker, and no motion was brought forth for the Commissioner to stay. However, looking at the confidential minutes, the Commissioner would have been able to address many of the questions that Councillors had about the recommendation and the policy itself.



“Whereas, the unilateral decision of the ECIC’s recommendation with a lack of an explanation from the ECIC made it hard to understand the full context of the recommendation”

The ECIC is a committee (terms of reference to be updated next academic year) established by the SSMU Legislative Council under the mandate of the SSMU Constitution and SSMU Equity Policy. The ECIC is composed of two Equity Commissioners, hired student staff who work under the supervision of the VP University Affairs, an elected student representative.

Recommendations made by the ECIC are “unilateral” only because SSMU Council has chosen to delegate the responsibility to investigate all equity complaints on its behalf, and to report their findings and recommendations to Council. Members of the ECIC are individuals chosen by SSMU for their knowledge, expertise and diligence in equity-related work.

Under the limited time allocated to presentations during Council, the Equity Commissioner was required to explain the full context of the ECIC’s recommendation. The reason for this is that Councillors are not the ones who meet personally with the claimant(s) and respondent(s), nor are they the ones who meet with other witnesses and investigate the evidence at hand.

This is also the reason why the recommendations of the ECIC must be sent to the J-Board if $\frac{2}{3}$ of Council refuses to approve it (abstain/reject). If Council delegates the responsibility of investigating a complaint to the ECIC, yet is unsatisfied with the recommendations, what grounds do they have for changing/nullifying a complaint if they did not conduct the investigation themselves?

The only way to ensure a fair and neutral reconsideration of the investigation is to delegate it to the J-Board. This ensures good governance and accountability to the student body, and respects the claimants’ and respondents’ right to a fair investigation process. Also, this section of the Equity Policy was written in consultation with several members of the J-Board, who provided their legal expertise.

“Whereas, this is a problem within the equity complaints process that needs to be fixed to ensure that educated decisions are made during Council regarding the equity complaints in the future”

Two sessions of the Open Forum on SSMU Equity have been scheduled to consult SSMU members’ opinions regarding SSMU’s work in equity and social justice and potential revisions to the SSMU Equity Policy. Revisions to the SSMU Equity Policy and the equity complaints process have been planned for next year’s VP U.A. portfolio.



The Committee strongly believes that the equity complaints process deserves more time and attention from Council in the future. As we have seen during the meeting of December 5th, 2013, very little time was dedicated to the presentation of the ECIC's recommendations. Furthermore, the Equity Commissioner, whose job is to explain the recommendation and answer councillors' questions was prevented from remaining in the room during the confidential session.

"Whereas, this recommendation has fuelled the decision made on December 5th, and that without an explanation, the ECIC lacks transparency and accountability to the SSMU Legislative Council and to members of the Society"

The Equity Commissioner presented the ECIC's findings on December 5th for Council to vote as to whether or not they approve the recommendations in the report. If Council felt that the ECIC lacked transparency and accountability, then the recommendations should have been rejected on these grounds, and sent to the J-Board for a fair and neutral reconsideration. However, Council voted to approve the recommendations.

The equity complaints process is fully transparent, with a strict timeline outlined in the SSMU Equity Policy. A transparent process does not exclude confidentiality. The revisions to the Equity Policy made in 2013 in conjunction with the J-Board were based on the judicial processes of tribunals, which follow a transparent protocol, yet ensure confidentiality of those involved.

Furthermore, the ECIC has been fully accountable to council, presenting their recommendations on Dec 5th, 2013, and has also always available for consultation and further questioning.

Response to Councillor Lubendo's questions, in his e-mail dated Mar 24, 2014

Why an apology? Why a public apology, instead of a private one? What does a public apology signify?

From the original recommendations on Dec 5, 2013:

"The Claimants e-mailed the Respondent subsequently, and did not receive a response. The Claimants e-mailed the Respondent again, and were told that the Respondent was waiting for further consultation with their committee before a response could be delivered. The Claimants hold a concern regarding the Respondent's response to the original email given no timeline nor original response was given."



The formal complaints process was initiated only after the Respondents felt that their concerns were not addressed at all by the Respondent. Had the Respondent met with the Claimants immediately after receiving the e-mail expressing their concerns, this issue would have been easily resolved in a private setting. The Respondents believed that a public apology was necessary given the platform on which the initial .gif was sent and the lack of response from the Respondent.

Student-elected representatives are responsible for listening to the concerns brought forth by their student constituents, even though they might not personally agree with them. The Respondent, a student-elected representative, failed to even adequately respond to the Claimants' initial concerns. The lack of response was repeated following another e-mail from the Claimants.

The fact that the Respondent was organizing a large social event is no excuse for neglecting their duties, especially when it is an e-mail response that can be drafted within a short span of time. Even if the Respondent were unable to meet with Claimants immediately, a future meeting could have been scheduled, and the receipt of e-mail acknowledged.

Furthermore, the Respondent completely disrespected the equity investigation timeline which is clearly indicated in the SSMU Equity Policy, even though the Respondent was at work and had the time. This can be confirmed in the confidential minutes of February 6th, 2014.

An explanation as to why the ECIC made the recommendation of a public apology although the complainant didn't ask for one

A public apology was requested. See above.

An explanation as to why the ECIC believe that the Respondent deserved equity training for sending out the Obama .gif.

As a student-elected representative, the Respondent is in a position of power, and also a service-provider to the student membership. Hence it is the Respondent's job to implement the principles of equity and anti-oppression as outlined in the SSMU Constitution, and strive to create a respectful and inclusive environment. Central to this is to provide spaces for people to address their concerns and discomfort, which the Respondent failed to do.

Prior to this complaint, the Respondent had each listserv by another student executive for inequitable or inappropriate content. This delegation of responsibility is problematic,



since if the Respondent was worried, they could have participated in workshops to learn more about equity and anti-oppression and how it can be applied to their work.

Following the complaint, the Respondent stated that the reason for the delay in responding to the Claimants was because the Respondent wanted to check with other people, including the Equity Commissioners, to see how the response should be drafted. The Respondent should have immediately acknowledged receipt of the e-mail. Had the Respondent had the necessary knowledge regarding equity and anti-oppression, they would not have had to consult other people before answering the e-mail.

By recommending equity training, the ECIC hoped that the Respondent would be able to better understand the principles of equity and anti-oppression, such that they would not shun their responsibilities as a student executive in the future. It is one thing to consult and seek guidance, and another to expect other people to fulfill the responsibilities of equity on their behalf. The ECIC believes that the Respondent evidently failed to fulfill their responsibilities as a student-elected representative, especially since they were unable to even respond to the initial concerns of the Claimant.

An explanation as to what the ECIC's thoughts are on the Obama .gif being an example of reinforcing negative black hypermasculine stereotypes. When making the recommendation, did you agree with that notion? Do you still now? And if you didn't, why did you suggest an apology?

As explained above, the recommendations address the Respondent's failure to uphold their responsibilities as a student-elected representative in terms of providing spaces to express their concerns, which is central to equity and anti-oppression work. Furthermore, a public apology was requested by the Claimants' who found it unacceptable that their concerns were ignored multiple times over a long span of time.

Although not all ECIC members agreed with the notion that the Obama . gif was an example which reinforced negative back hypermasculine stereotypes, decades of racial microaggression research shows that it is important not to diminish the discomfort expressed by individuals even when we may personally disagree with the reasons they have. In the investigation of the complaint, only a part of the decision was based on the .gif. The .gif was combined with other considerations, such as multiple failures to respond, the Respondent's bureaucratic power, the shunning of responsibilities related to equity etc.



To measure the correctness of equity work based on the amount of public backlash received is contradictory to the purposes of equity and anti-oppression work, which is to strive to create safer and more inclusive spaces, and support the experiences of the marginalized. Equity is a process, and there is no perfect solution to each issue that arises. The backlash in this incident is a reminder that equity work is challenging, and many people in the community are still unwilling to believe that discrimination is still deeply embedded in the structures of our society and communities. If we argue that there are “correct” types of racial microaggression that deserve attention, and others that are not, we risk silencing the experiences of many marginalized individuals in the community.

Respectfully submitted,

Justin Koh
SSMU Equity Commissioner
on behalf of the Equity Complaints Investigation Committee (ECIC)