

GOT YOUR BACK

EQUITY FOCUS GROUP

RECOMMENDATIONS for Equity Council and the Executive Director

Fear of reprisal is the key to why there has been limited reporting in our industry. There is huge supply and little demand of actors, female actors in particular. Establishing and growing relationships are one of the only tools self-employed artists, and other members of our industry have to propel their precarious careers forward. This has enabled years of abuse of power and has been accepted as just “part of the business”. The theatre community in Canada is small. Unlike film and television, theatre practitioners work in multiple cities and multiple provinces yearly to make a living. The changing of the guard is slow and directors, artistic directors and producers spend their lifetimes in the Canadian theatre scene, moving from province to province. Relationships are long and well-established and it is naive and irresponsible to think that conflict of interest is not a real problem in reporting complaints in the theatre.

It was this reason that Got Your Back decided to imagine what it would be like for J. Doe to report to Equity. This examination has lead us down many unexpected paths, from review of the new Respectful Workplace Policy and its companion campaign Not in OUR Space! to By-laws and the formal complaint process, as well as understanding the role of Equity Deputy’s, Respectful Workplace Advisor’s and the discipline process. Our research has included multiple members outside this working group. We have heard countless stories from members about their own experiences with Equity and the complaint process. We feel very strongly that now we can make some fully informed recommendations to council for how to support J. Doe when looking to Equity for help.

1. ABOLISH THE ONE YEAR TIME LIMIT TO REPORT HARASSMENT

There is a clear misunderstanding from the members and even from within Equity council and staff on how to interpret By-law 39 and 39.1 As it reads currently there is a one-year limitation for reporting harassment with a proviso in 39.1 that allows for council and/or the executive director to make an exception. The Human Rights Tribunal of Ontario (ie. Human Rights Code), removed all limitations on reporting in cases of harassment in 2016. Equity has the opportunity to be a leader in this conversation and is currently lagging behind other, similar, artist-run associations with no limitation period. There is no reporting timeline for harassment at ACTRA for example.

Fear of reprisal has silenced generations of Canadian theatre practitioners. Abuse in our workplaces have been happening for decades. We know that the reporting and discipline process at both Equity and ACTRA are still flawed. Many women are reporting that they were told to “find others” to help validate their claims of harassment. This is a form of institutional betrayal that must be corrected. In

this Post-Weinstein era many victims are finally finding the courage to come forward, but will face the systemic roadblock of a one year deadline to report. Those stories are just as important as a story that happened last week. It is not the victim's fault that the reporting system is flawed. A broken system and a misogynistic culture have perpetuated a cycle of shame and guilt that can only really be addressed when we admit we have mishandled the way victims claims have been processed. To right this wrong we must allow those who have remained silent their right to be heard.

As a national organization, we believe that the people who survive harassment, or are the surviving witnesses of harassment should feel supported if and when they choose to come forward but currently they are disheartened and deterred from making formal reports by this by-law. We hope Equity will support us in our effort to end this toxic culture and adjust by-law 39 and 39.1 to reflect that support.

Here is our proposed re-wording of bylaw.

39. Complaints brought under Article 35(iii), e.g. complaints of workplace violence, discrimination, harassment or reprisal, have no reporting deadline. Administrative complaints (e.g. refusal to perform a contract) shall be made within three (3) months of the date on which the complainant became aware of the incident(s) giving rise to the complaint. Other complaints shall be made within twelve (12) months of the date of the incident giving rise to the complaint. Council and/or the Executive Director may make such reasonable accommodations in the process, timelines and deadlines of Articles 37 through 79 as deemed advisable in the circumstances, provided such accommodations do not compromise the integrity of the process as a whole.

2. HEARING COMMITTEE RETHINK

We understand that Equity maintains they can build an objective hearing committee. We don't deny that's a possibility. However, **the perception** of this hearing committee and the possible fear of reprisal has stopped, and will likely continue to stop, members from coming forward with their more high profile complaints when it comes to workplace harassment.

We recommend to council that they strike a diverse working group comprised of active members, at minimum 50% under the age of 35 and 50% female identifying, to examine the hearing committee structure and process in relation to workplace harassment investigations. We are asking for this group make up in order to address the concerns of our younger members who we believe are the most vulnerable to reprisal and need to have the clearest understanding of how to create a system that makes them feel supported.

Some of our suggestions to explore are:

- in cases of workplace harassment, if the complainant and/or respondent request there should be an option to eliminate identifying information from the hearing committee.
- In cases where a trained impartial outside investigator (such as Douglas) is hired why can't they make the final decision instead of the hearing committee? As is done when an engager uses an investigator. This would keep confidentiality for the complainant and the respondent.

3. EXPULSION

It is problematic that those expelled from the association can apply to get back in because of gainful employment laws. Legally this is understood. Our suggestion is that in cases of harassment those who are readmitted through the application process go on a probationary period that could include monitoring behaviour and reporting. This would ensure that those who have claimed to have reformed their behaviour be supervised while attempting to gain full status back in the association. This will require a working group to examine how this may be enacted.

We understand that in reality very few, if any, CAEA members that have been expelled have applied for re-admittance, however, the perception and feedback we've received is that the current bylaws on re-admittance have discouraged members from believing there can be lasting change through CAEA's disciplinary process. We also believe that with this new cultural shift where stories of harassment and abuse are being heard there is a possibility that more members will risk expulsion.

4. MULTIPLE REPORTING

Currently there is no clear or transparent reporting system in place at Equity to deal with multiple members reporting the same member together. In fact, we know of cases where multiple people have come forward at the same time to Equity and were told that each of their cases must be filed and dealt with separately. This system unfairly benefits the perpetrator and prevents women from filing official reports. We know that women have not felt safe to report alone. We know that when they find someone else who has experienced harassment from the same perpetrator they feel empowered and finally capable of using their voice. If we are going to create an environment where we want women to report abuse we must make it possible for claimants to come forward together. This does not mean that each of those cases will not be given the full weight of an independent investigation, but just like past behaviour of a similar nature is admissible in court, so should evidence of repeated abusive behaviour. This would also give Equity the opportunity to reach out to members who disclosed the same perpetrator to Arden or an Respectful Workplace Advisor, but may not have filed a formal complaint, to notify them that other complaints have come forward. Equity and

the Respectful Workplace Task Force must develop a transparent policy and tracking system for multiple reporting about a single member.

5. RESPECTFUL WORKPLACE ADVISOR'S (RWA)

Equity has developed the RWA's as the first point of contact should there be issues of harassment in the workspace. This is an excellent first step. However, we have heard of some inconsistencies in the roll out. Here are some recommendations to improve this new role at Equity.

- RWA's follow a complaint all the way through, including the formal reporting process.
 - Currently an RWA is the point of contact and the person who would advise a member on all their rites and options when deciding how to proceed or handle an issue of harassment. At some point the member may choose to make a formal complaint. At such a time the RWA then transfers the member to Arden who then relays the process for making a formal complaint. There are several problems with this.
 - Arden is very busy so time sensitive complaints may not be able to be addressed right away.
 - Arden admitted that it takes about an hour to inform the member of the entire formal complaint process. This seems to be a misuse of Arden's time. In addition, it seems an unnecessary length of time to understand the formal complaint process and may make J. Doe daunted by the process.
 - It takes a lot of courage and strength to call Equity to discuss a case of harassment. It may be traumatizing and re-triggering if suddenly the member had to deal with a whole new person. This may undermine the confidence it took to call in the first place.

Suggestion: Can the RWA, as the person who has established the relationship with the member and heard their story be the person to carry then through the formal reporting process? Shouldn't the RWA be the person who deals with the complaint from beginning to end? What would be the reason that Arden needs to deal with the formal complaints?

- That Equity have a dedicated RWA. Currently 6 staff are trained to be RWA's along with their other jobs. This includes Arden who we understand has the busiest full time job of all. If Equity could have a dedicated RWA this would ensure that complaints are being dealt with the time sensitivity they deserve.
- RWA's should be trained to deal with young people/students when they are harassed by an Equity member.

- Equity should be ready to deal with harassment complaints from students when their institution fails and develop a protocol for how to approach these institutions.
- That there is a dedicated RWA 1 800 number with voicemail. Sometimes even having to tell the receptionist you want to report harassment or speak to an RWA can be intimidating.
- Create an easy to read Flow Chart of how a complaint travels through Equity to help simplify the explanation of the formal complaint process. This chart should be included in the Not in OUR Space! (NIOS) campaign material.
 - We have heard through the membership that when the complaint process was explained to them they found it daunting and overwhelming. This may have led to the reason why they did not make a formal complaint. Equity must make the formal complaint process easier to understand and less traumatic.
 - Arden explained to us that when making a formal report a member could send a narrative account in an email or fill out the online form. The online form is not fillable as outlined in the Respectful Workplace Policy (RWP) document and seems unnecessarily harsh and complicated. We have sent in our detailed notes and recommendations on this.
 - The Not in OUR Space! page online could use some more information and does not provide a direct link to how the formal complaint process works.

6. UPCOMING CTA NEGOTIATIONS

- The Respectful Workplace Policy and the Not in OUR Space! First day of rehearsal statement be mandatory reading in every theatre across the country.
- The acknowledgement of intimacy in the CTA and provisions for intimacy rehearsals
- All harassment clauses be updated to reflect current language and safety.
- That the engager must notify Equity when a harassment investigation has begun rather than once it is complete. This ensures that members know their right to consult with Equity and obtain support. Additionally Equity can ensure the impartiality of the engager's investigator.

7. EQUITY IN THEATRE SCHOOLS

Equity asserts that they have no jurisdiction over theatre schools, yet many of the teachers in these programs are employed on Equity Guest Artist contracts. Equity has therefore an interest in making sure that theatre schools have safe and respectful workplaces. We believe that this current climate gives Equity the opportunity to assert

some jurisdiction over acting training programs and develop a stronger relationship. Equity, through the RWP task force and Kristian has already begun to introduce the RWP and NIOS in many programs across Canada. This outreach is important and could lead to working with schools on other industry standards. Equity must also develop a protocol to help students report harassment from a teacher when the internal system at their school fails. As the gatekeepers of industry standards, Equity must ensure that those standards are being upheld and maintained in our training programs.

8. INTERNAL & EXTERNAL COMMUNICATION TO MEMBERS

Equity seems very behind the curve with social media and the website. As Equity is a small National association having a robust, easy-to-use, website and a strong social media presence is important for communication and engagement from and with the membership. What is Equity doing to improve this situation and bring Equity into 2018? When is the much anticipated launch of the new website?

9. EQUITY INTERNAL GOVERNANCE

There seems to be a disconnect with elected officials and the members. Other member run organizations have their elected officials as the public face and engagement with the community. The face of Equity is Arden, the Executive Director. This sends a message that the member run organization is run by staff. Some examples of this seen by the members:

- At the recent member meeting in Ontario the elected officials in the room were not even introduced.
- At the important industry stakeholders meeting organized by the member run ACTRA, only the Equity Director and staff attended.
- Recent press coverage for Equity did not talk to the President but only the Executive Director.
- The first statement regarding harassment in our industry after Weinstein came from the Executive Director. The President only made a statement after Got Your Back wrote him a letter.
- The international conference FIFA was only attended by the Executive Director.

Members do not know their councillors or see them working on their behalf. We know this is not true, but the lack of communication and public leadership from the President has upheld this misconception. If Equity would like more member involvement then the elected officials need to be seen to be running the organization.

10. ROLE OF THE EQUITY DEPUTY

There has been some discussion regarding the miscommunication and perception of the role of the Equity Deputy (ED). It seems that Equity staff believe the

role to be one thing when in actuality it is functioning quite different. Got Your Back conducted an informal poll with our members and they overwhelmingly felt pressured into becoming the Equity Deputy and that often the youngest most junior member of the company was volen-told for the position. Additionally they felt underprepared and without support or resources from Equity about their responsibilities. Now that ED's may feel added pressure to deal with harassment complaints we suggest that council immediately set up a working group comprised of diverse active members including past equity deputies and council to examine the role of the ED. Some topics to include in this examination:

- 1st responder training for ED's by the RWA.
- Honoraria system covered by the theatre similar to a fight captain.
- Short ED training or manual and better communication with Equity as identified on page 2 of the Respectful Workplace Policy.

11. BY-LAW AMENDMENTS

Ruby, Mikaela and Jennifer have gone through the bylaws in detail with Allen and we hope that all the identified clauses will be brought forth and amended. Most pressing being the amendment to the one year timeline to report.

12. RESPECTFUL WORKPLACE POLICY & THE NOT IN OUR SPACE! CAMPAIGN

Ruby, Mikaela and Jennifer have gone through the Respectful Workplace Policy with Kristian, Jane, Scott and Allan and identified the places where language is confusing or missing. We hope that these recommendations will be adopted. Some of these include but are not limited to:

- The first day statement is good, but short on details and tips for how that statement is to be read and communicated to the company. We have heard some great stories, but also some real inconsistencies in how the statement is being understood and enacted.
 - We suggest that the one pager be expanded to include some ways that the statement can have more resonance and impact.
 - Using established members in the company/cast to read the actor portion of the statement. That the artistic director or senior management also be present and read.
 - That all company and design members be present during the reading and discussion. There has been a few instances that non-Equity members left during the reading thinking it was part of Equity business.
 - That engagers clearly identify where their harassment policies are located (on website preferably) and who the neutral person is that they

can direct any concerns too. We would like the language “neutral party” to be included to encourage engagers to make sure that their HR person is in fact neutral.

- Equity should create a library of all harassment policies from theatres and the designated contact for easy access by RWA’s to members.
- An engager must inform Equity when a formal investigation begins as opposed to when it ends, and must inform the member that they have the right to talk to Equity and an RWA at any point in the process.
- The RWP seems to be written for larger theatre companies with multiple employees. There are many smaller companies or collectives that do not have their own harassment policy or the depth of employees to have an impartial reporting person. Equity must ensure that all workspaces, large or small are safe. Equity must work with PACT to have a Respectful Workplace Policy that becomes the default policy in absence of a theatres own policy and that this is agreed upon and understood when using Equity members on smaller productions. It also must be figured out who Equity members report to on small productions, as there is likely no one involved on small productions that would be impartial. Once this is done the RWP should be updated to include language that references smaller engagers working under the IPA or collective agreements and what that the process would be.