

# Times Responsible Business

**Trevor Phillips 12 October 2007**

Let me start by saying that our new Commission the Equality and Human Rights Commission is just ten days old. We came into being at a moment of extreme political turbulence, for which, frankly I was rather pleased, since it meant that instead of focusing on us, the Times and others were too busy wondering whether Mr Cameron or Mr Brown would survive last week.

Happily it meant that no politician of note got round to condemning us on day one, which is usually par for the course, as even the most obscure back-bencher can usually be guaranteed a hearing if he or she calls for the abolition of a quango. And best of all, no-one has so far called on me to resign during these ten days, which for me is the political equivalent of Chelsea football club's 57-match unbeaten home run. Perhaps I'll do something to fix that this morning.

I don't want to sound too apocalyptic this morning, but we live in dramatic times. Today, global changes of a speed scale and spread not seen before in human history are transforming our world before our eyes. The forces of globalisation - labour market, mass communication, rapid technological progress and international travel - are forcing demographic and social changes on a scale and at a pace not seen since the Industrial Revolution.

Nothing marks our lived experience of this new world more than the growing consciousness of human difference and different human identity. We have had to get used to new cultures, both here and when we go abroad. Deference to authority - political and cultural especially - is a thing of the past. I was very struck the other day when I attended the opening of the new South Bank, along with the Queen. Those who are old enough will remember that there was a time when they used to play the national anthem in cinemas, and people would stand up and sing. At this event, they played national anthem, and the Queen was actually there, and no one except the Choir sang. To my mind this marks a shift in attitudes.

Politicians speak of personalisation in health and education - 'choice' is the buzzword of any new public service agenda. Supermarkets map your individual preferences and send you your very own special offers. The broadcast and print media invest huge sums in new platforms - podcasts, mobile phone alerts, personal emails -

offering an experience that works for you and you alone, with all your quirks and peculiarities.

This is the era of diversity. We live in what you might call an Age of Difference.

Our task as a Commission is to make difference within our society a source of energy and prosperity, rather than a cause of friction and inequality. I do not believe that difference needs to be a trigger for unequal treatment or disadvantage, however frequent it is. I think the opposite. In this new world, equality and diversity can be more than a moral or social good, and Carol was right: it will deliver a more productive society. Every successful business today knows that it needs to manage its place and reputation in the world as actively as it manages its clients, its assets and its accounts. Performance in areas such as attention to the environment and employee diversity are no longer the preserve of a few socially conscious businesses.

The implications for business as a whole are huge. Many businesses are already on the ball, and as I'll suggest, are already profiting from getting it right before their competitors. But we can make it easier for business to do well out of social change, by developing the right public policy - policy that gives business access to the best talent, reduces the burden of bureaucracy and above all ensures that competition is fair and that the best businesses are not undermined by unscrupulous and irresponsible competitors.

And policy makers need to move on from thinking about equality and diversity as a question of how to punish the recalcitrant or the irresponsible. Instead, we need to show that our new diversity presents an unprecedented opportunity to spread prosperity and create wealth - if we are smart, courageous and innovative. Or to put it another way, if we aren't smart, courageous and innovative, "we're all doomed".

We are facing a population with greater number of older people than ever before. There are 9.4m people over the age of 65 now – there will be 12.4m by 2021. An ageing population has several implications, not least an ageing workforce.

One example of how this can work for business is shown in the case of B&Q and an initiative instigated by one of our own Commissioners, Kay Allen. In 1989, B&Q opened their first store staffed by employees over the age of 50. In 1991 they benchmarked that outlet against four other stores. Profits were 18% higher, staff turnover was six times lower, there was 39% less absenteeism, and 58% less shrinkage. Kay, by the way, has just started a similar job at Royal Mail, so you can see that our Commissioners like a challenge.

But our ageing population also means that by 2026 the demand for informal care will nearly double. The burden of care falls disproportionately on women, and there are now nearly as many women in the workforce as men. The additional demands will require even more commitment to flexible working from employers, hard on the heels of similar demands from two-income families as well as lone parents who want to spend even a modicum of time with their children.

More of us will define ourselves as disabled over the coming years: the fastest growth is among children under 16. Rather than brush this under the carpet - which was the favoured approach towards disability when I was younger - businesses and

services will need to respond to the requirements of this new group of customers, as well as be prepared to make reasonable adjustments for employees in the workplace. Disabled people are no longer invisible.

Ethnic minorities are expected to grow as a proportion of the British population from 9% now to 11% by the end of the next decade. Ethnic minorities are also growing as a proportion of the British workforce. Difference within ethnic minority groups is proliferating – in 1991 nine census categories seemed excessive to some; now even the 17 categories used in 2001 look pretty crude. Especially here in a city where you can here any one of 300 languages spoken.

And people are migrating in and out faster. In a world where, according to the UN, more than 200 million people live outside their place of birth, 30 million people come to Britain each year and 227 million pass through our airports. Migrants aren't only settling in the big cities any more; mid-size towns in middle England are by turns bemused and bewildered by the appearance of thousands of foreigners almost all of whom are working, by the way, contrary to the myth about asylum seeking scroungers.

On that theme, Sainsbury's has just announced that it is actively recruiting migrant workers due to their stronger work ethic and employment flexibility. This week, Sainsbury's reported their quarterly figures. I don't know if anyone here is from Sainsbury's, but it doesn't take a genius to realise that while sales were up just over 3%, this represented slower growth than in the previous quarter - is their exploration of new workforces is a response to relatively sluggish growth?

In our age of difference, demographic and social change is objective - about who we are - but it is also subjective - about who we think we are. In this new world, claims on the basis of age, gender, race, sexuality, disability and faith are all clamouring for recognition. Increasingly, people want to see their differences acknowledged; they don't want to be trapped in others' ideas of who they should be and how they should behave. And this, by the way, also goes for categories of people not currently recognised, such as carers.

Women in the workplace don't want to have to behave like men in order to get ahead; Muslims don't want to have to sink a few beers down the pub in order to be eligible for promotion; gay men and women don't want to have to stay in the closet in order to climb the career ladder.

Properly managed, the changes open up a fertile new spring of talent, as well as untapped customer demographics.

There are two dimensions to how business might respond to the challenge of the new global and domestic marketplace: the first is internal, about employment, recruitment and retention; the second is outward-facing, about products, services and customer demand. The two dimensions should work together: in a world of diverse client needs, a diverse workforce should be a business imperative.

But frankly we are nowhere near yet to a workplace culture that truly recognises difference. A recent piece of research conducted for the Equality and Human Rights Commission revealed that nearly half of us - 46% - think that we have faced discrimination: and crucially, 74% of people thought that discrimination was most

prevalent in the workplace; and two out of five of those who faced discrimination experienced it in the workplace.

The National Employment Panel Business Commission estimated this week that 250,000 people are unemployed because of discrimination and 83% of employers think they can get away with it. These findings are supported by the intelligence we are picking up on our Helpline and the evidence we have from the legacy commissions. In our collective, inherited experience the vast bulk of discrimination cases are employment-related. Last year compensation totalling over £5 million was awarded by tribunals - that is entirely apart from the multiples of sums paid out in compensation - in cases of unlawful discrimination on the grounds on gender, disability and race alone . And this is not just about a few high profile City sex discrimination cases, this about hundreds of cases in the tens of thousands. That is why the workplace will be a key equality battleground for the new Commission. I do not think the military metaphor is extreme.

The country at large needs the business sector to address this head on. To be a global competitor, our nation needs to utilise the skills and talents of the entire potential workforce. We cannot afford for increasingly large segments of our population to be working below their potential, or indeed not working at all. Our future success depends critically on high levels of employee skills that meet the demands of a service-led economy and high added-value industries.

At the Commission we often now speak about the need to effect systemic change in order to tackle the deep, root causes of arbitrary inequality. The market is the most powerful and pervasive system of resource allocation that we have. But if we allocate resources in a way that leaves some people on the outside, we create both inefficiency and social tension. We need to make changes at the level of the market if we are truly to be a country that is comfortable with its diversity. And to make those changes at this level we need to use the market's own levers of competition, accountability, transparency and - of course - the pressure of the all-important bottom line. In working with the private sector, the Commission will function as a modern regulatory body. We want to work as partners.

We will build on the good work of the legacy commissions of working with the private sector. Here are some examples:

- After the race riots in northern towns in 2001, the Commission for Racial Equality worked with a body called Oldham United to show how businesses can work together to build cohesive communities. National companies, such as Sainsbury's and First Group, who were part of the Oldham United consortium, as well as smaller locally based firms worked together to promote good race relations.
- The Equal Opportunities Commission has worked closely with businesses such as Lloyds, Addleshaw Goddard, Asda and McDonalds to illustrate existing good flexible working practices. It has also established an effective partnership with Scottish Widows on reforms to the pensions system, which has historically and grievously disadvantaged women with non-traditional working patterns - that is to say, most working women.
- The Disability Rights Commission has worked with local businesses to raise accessibility, health and safety standards in the leisure industry and help them to avoid unlawful discrimination claims.

Of course it may not always be sweetness and light. We have the powers to conduct investigations, to mount legal challenges and to use our resources to fight discrimination cases. We won't be afraid to use these powers where we see no alternative. Believe me, when practices are heinous enough, and resistance is embedded, we will back invasive investigations, litigation, further legislation and coercive frameworks to the hilt.

To put it glibly, we can do this the nice way, or we can do it the not-so-nice way. But as Chris Tarrant used to say, "I don't want to give you that". Our whole approach at the moment is geared towards doing it the nice way. That is what we want to do. I want our metaphorical role to be that of the first-rate GP practice, advising patients how best to stay healthy and only occasionally administering medicine. We want prevention, not cure. And we want to give people a chance to change.

We need to create a framework for effective action that embraces companies of all sizes; that rewards progress rather than punishes failure.

We also want to change the existing perception you can only meet the demands of hyper-diverse society if you are one of the golden, top 500 companies, who have enough money to do a lot on corporate social responsibility. Setting the bar impossibly high will be counter-productive: smaller companies won't bother to do the right thing, couldn't even if they tried, and no one would expect them to. So as a regulator, our vision is not to force the right outcome, it is rather to ensure that competition is fair and the people try harder.

In particular, we want to help smaller and medium-sized businesses. A recent legal case of a part-time home-worker in a small letting agency in Hertford shows vividly how easy it is to make costly mistakes. The woman concerned returned from a short spell of maternity leave to find that her employer continued to distribute her work amongst other members of the team. When she raised the issue with her manager they made her redundant. Her case settled last month, and she received £44,000 as compensation, entirely aside from legal costs. Small businesses simply can't afford to take that kind of hit. That is why we as a Commission need to help SMEs with practical guidance and partnership working to ensure that they are up to speed with their legal responsibilities.

Improvement should not have to come under the lash of the statutory or legal whip. I do have a prejudice against excessive regulation, probably because I learnt my trade and cut my teeth in the private sector, in one of the most competitive, yet heavily regulated industries in this country, broadcast media. Of the many millions of words and images I transmitted as a producer and presenter of documentary films, or approved as an executive, none - even those which were transmitted live - saw the light of day without a lawyer's advice, and sometimes censorship.

I know that a picture can be worth a thousand words but frankly, the fact that typically there were more officials worrying about my words in a programme about the health service than there were checking the cleanliness of the hospital in which I was filming should cause us to question our priorities.

So I am not naturally a fan of more rules on business. I like to think that the Equality and Human Rights Commission is itself a testament to less bureaucracy. As one Conservative Shadow Cabinet member said recently "We should support the

Commission - if only because where there were three bureaucracies before, now there is only one" - a rare accolade in the world of quangos. My instinct in these matters is, fewer regulators, with simpler, clearer guidance.

So I take on board the recent CBI criticism that the guidance of the legacy commissions in aggregate totalled over 1,000 pages - often causing employers more confusion than clarity. We do recognise the need to present succinct, digestible information that doesn't presuppose a dedicated full-time employee in the HR department to read it. That's our part to play.

But in addition, there are a few specific measures that I would like to see all businesses employ:

- The first is the creation at Board level of an equality champion, much like a Chief Financial Officer, responsible for planning and reporting. This individual would take ownership of the equality agenda at the highest level and would provide a focal point for accountability.
- The second thing I would like to see is the publication of equalities data as a component of annual reporting. We need more and clearer data about companies' performance in representing diversity. This would generate greater transparency, and would also encourage businesses' competitive instincts to kick in.
- The third thing is consideration of equality deficits as part of risk assessment procedures. So real life liabilities such as discrimination cases in the pipeline should be included as part of the due diligence process in takeovers and mergers.
- The fourth thing I want to see is procurement policies used as a lever to deliver greater equality. The public sector has a massive purchasing power, commissioning goods and services from private contractors. The legacy commissions have longed urged that the procurement process should include equality audits. The private sector too can use this as a model of good practice. I am thinking of Barclays, who made this a requirement on their legal panel, and Microsoft who last year dropped a supplier because of their poor record on diversity in the workplace.

A problem that we all face is the disparate and complex nature of current anti-discrimination legislation. Currently, to get a comprehensive picture of our inconsistent discrimination laws you would have to consult around forty Acts, nearly sixty Statutory Instruments, eighteen Codes of Practice and a dozen EC Directives and Recommendations. All of us will benefit from simplified legislation.

That is why we look forward to the debate promised by government about a new equalities bill in 2008. We would look for two things in the new Act.

First, a clear statement of our society's aspiration to be fairer - in effect to set out in law a duty on lawmakers themselves to ensure that in future new statute should be drawn in a way that enriches equality of opportunity.

And second, that such a piece of legislation should be simpler. It should be less prescriptive about means and bolder about outcomes. As a society it must be legitimate for us to say that we would like recruitment, promotion, treatment of all kinds to be fairer; we may even prescribe sanctions for not improving performance,

or for doing things that make us more unequal. But what politicians should not do, especially not to those in the private sector, is to pretend they know how it should be done in every circumstance and every organisation. That we can leave to people's good sense, their shared experience and exchange of good practice, and frankly, their desire to do the right thing.

And if that isn't enough for a few hard cases who for some reason don't even want to try, then there should be the public opprobrium that transparency brings to those who don't try or cheat their competitors.

And for those without shame there is always the tough tools I have mentioned - investigation and legal action for example - where we, the Commission, hold the equivalent of the referee's whistle, and can wave yellow and red cards.

Change is not going to happen by accident. It will either be forced from the outside or driven from within. At the Equality and Human Rights Commission it is our aim to help businesses drive change in their own interest, and in their own way. But in the end like all responsible entities, those interests have to coincide with what will be best for society as a whole; and has to come sooner rather than later. It's a tall order, but one on which we want to work alongside business in achieving.

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