

Trevor Phillip's speech at the Stonewall Workplace Conference

Queen Elizabeth II Conference Centre, 16 April 2008

Well thank you very much Ben for that kind, detailed introduction. Actually, the thing that I was most worried you were going to discuss was the beard, at the time, and the flares, because this goes back quite long time. I did wear flares at the time; the actual protest, if I remember rightly, was about the treatment of women, and lesbian and gay people, in a particular magazine. I have to confess, it was the one and only time when - I wasn't a journalist yet- when I decided that it was right to burn magazines in public; not something that somebody who wears a suit and has a public appointment would do these days.

Now, let me say thank you very much, and I particularly want to start by saying, and giving my thanks to Ben, who, as you all know is a commissioner on the board of Equality and Human Rights Commission. I'll share with you something which he knows, and which some people know, but perhaps this is the right place for me to say this publicly. When it was proposed, though the appointments to the board were made by the Secretary of State, at that time, Ruth Kelly, the proposal that Ben Summerskill should be commissioner was put to me.

I knew Ben of old, though not that well at that time, I had no objection to him particularly but I wondered at the time about whether essentially the boss of the single and most significant LGBT- or LGB- advocacy body in the country would be able to fulfil the role of an independent voice within

the Commission or whether he would have to carry the hopes and the policies of a particular group of people, and I expressed some doubt about it. And I have to say, whatever one might say about Ruth Kelly, in this case she faced me down and she was very tough and she said "This is a person I want on your board".

I want to say in Ben's presence, and in public, I have never been so pleased in public life to be proved wrong in my opinion, because Ben has, in the last year and a half, become, if I can put it this way, one of the senior and most influential members of the Equality and Human Rights Commission board and has been, I think, an extremely strong influence, not just in the arena for which he is justly famous but in shaping our overall mission, which is what I want to talk to you about today. So I just want to say, publicly, how grateful that I was proved wrong and not to be completely humble, I'm glad that I gave in on this one. And to say that Stonewall's influence on the Commission so far has been very significant, though as I have got to say, I hope to see it becoming more significant over time.

I want to be clear about this because I don't think we would be where we are today, were it not for the pioneering work of lesbian, gay, bisexual organisations like Stonewall, and some others. Stonewall has been instrumental and historic gains which have been achieved in putting forward equality for people of all kinds in Great Britain.

I don't think it's an exaggeration to say that the legal changes that we've seen over the last decade on lesbian, gay and bisexual equality are amongst the most progressive and the most unequivocally positive achievement in this period. For example, legal changes like lifting the ban on gay people serving in the Armed Forces; equalising the age of consent; repealing Section 28; introducing civil partnerships; allowing same sex couples to adopt, and discrimination against gay people and the provision of goods and services being outlawed. Now it would be great to say that all of these things were acts of stunning leadership by

our New Labour administration. But I have to say, this has been instructed for me; the Government introduced many of these measures because it was following a wider change in public sentiment.

The evidence suggests that more than in any other sphere, perhaps since the civil rights movement in the Sixties, the LGB equality movement campaigned effectively to change public opinion. In 1987, in the British Social Attitudes Survey, three quarters of people thought that homosexuality was always, or mostly, wrong.

Today, in 2008, that figure is 32%. It's a massive change in public attitudes. A poll in 2007 commissioned by Stonewall found that almost nine out of ten Britons supported laws to protect gay people from workplace discrimination. 73% would not mind if their child's teacher was gay and 88% would not mind if a member of the royal family were gay.

Now each of these positive findings, welcome though they are, of course has a flip side. When we see that three quarters of people would be comfortable with their child's teacher were gay, we have to see that that also leaves a quarter of the population honestly believing that gay teachers are some sort of problem. And it's not just the attitudes and behaviour of a quarter of the population that can have an impact on the lives of lesbian, gay and bisexual people, but often the collusion of a wider community.

From the cradle to the grave we know that discrimination and inequality is still rife. We heard this month that 'gay' is the most common put-down used by pupils. We heard of the fourteen year old girl who had incautiously shared with her teacher that she might be gay and she was from then on required to stand outside the changing rooms at the beginning and end of sport lessons while the 'normal' children got changed. We heard this month of a 65 year old German man who waged a three year fight for his life partner's life savings, taking his case to the European Court of Justice because his pension fund had refused

to recognise the couple's partnership, and from the Commission for Social Care and Inspection who found that out of 92 homosexuals receiving care, 45% said they had experienced discrimination in care homes or from care workers who were helping them.

The point I want to make about this is that I imagine the people who are in one way or another perpetrating these acts of discrimination- because that is what they are- many of them would probably say to you that they have no particular feelings about lesbian or gay or bisexual people. But they would find a reason why they had to carry out those acts of discrimination.

So my point here is that though the numbers may move in a particular direction and in a good direction in terms of what people think their attitudes might be, we always have to remember that what people think they are isn't always reflected in what they do. For lesbian and gay people particularly, actually, people know. Interestingly, the 'Serves You Right' survey showed that 3 out of 5 lesbian and gay people say that they think they'd have difficulty becoming a Labour prospective Parliamentary candidate (though looking at polls this morning one wonders why anybody would want to).

Yet on the other hand, when asked the same question about becoming a Conservative candidate, 90% think they'd have difficulty. Maybe there's more competition these days. But these figures tell you something about the experience, the real lived experience, of lesbian and gay people, and they show the breadth and scale of the challenges that face everybody sitting in this room today.

Now it's our job to try to handle some of these issues, to offer leadership, and to offer support. When we opened our doors on October 1st last year, we were the first statutory body in the United Kingdom to have a specific mandate to enforce equality legislation on sexual orientation. Our aim is to work to reduce inequality; eliminate

discrimination; to promote equality and human rights, and to build good relations -an issue which sometimes we think is all just about faith groups or ethnic groups, but I think it's also important to cross the lines of sexual orientation- to build good relations for the lesbian, gay and bisexual people. You know that the mandate of the Commission also encompasses age, disability and health, gender, race, religion or belief, and transgender status, as well as sexual orientation. So we have many battles to fight and everyday we face new and different ways of approaching questions addressed to our mandate.

If we look at the questions which come in every week to our helpline, our staff and our commissioners, we can be asked to clarify our views, the law, give guidance on all sorts of subjects. Obviously, what exactly might be homophobic bullying in schools, and it will surprise most of you to know how unclear people think they are about when bullying is bullying and when it is just, in the phrase that people seem to use these days, 'banter'; all sorts of persecution, seems to me, are excused today under the word 'banter'.

We also have to deal with the issues of dignity and respect for people in care, young and old. We haven't yet, I think, had queries in relation to lesbian, gay and bisexual people in care but I suspect it's not that far off before we have to address the questions of how you manage the specific needs that arise for people within the LGBT communities. What should we do about carers? Legal rights afforded to carers- we are pursuing a major case, the case of Sharon Colman, which we think will open new rights to six million carers. But I suspect with time we will begin to, and have to, answer questions about the position of carers who, for example, come from a family headed by a same sex couple.

Now the reason I give some of those examples is I wanted to give you some idea of the very concreteness of some of the challenges we face. Our integrated mandate is an important step forward; we no longer work within the silos of race, gender or sexual orientation indeed, or disability.

Of course we have to enforce the law, of course we take complaint in relation to those specific issues, but increasingly we find that many of the examples of discrimination, many of the issues of disadvantage cut across these particular different so-called strands. Indeed, there is a fundamental set of demographic, social and cultural dilemmas which are arising for the first time in our country.

We live in an age of difference where demographic and social change is partly about who we are, but it's also subjective, it's about who we think the are, the identities that we want to project. 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. This is important for the law. At the moment our antidiscrimination law rests entirely, largely, on relationships to characteristics like race or gender, which are said to be objective.

I think as we go forward we are going to have to learn new ways of addressing identity characteristics, divisions and discrimination which are about identities that we want to adopt. Now, I don't want to get into the argument about whether sexual orientation is intrinsic or environmental or whatever; it doesn't matter. Somebody who says that they are lesbian or gay define themselves and it is legitimate for them to do that. They should be protected against discrimination whatever the reason they take that identity, and for whatever reason they put forward their identity.

The world's changing and consequentially, we have to change to deal with these new forms, these aspects of discrimination and equality. I think you don't have to go back very far to remember how much things have changed for the better in terms of the kinds of prejudice that used to be common and are now unacceptable thanks to the foundations laid by our predecessors, The Commission for Equality, Disability Rights and Equal Opportunity Commission, but we are in a different situation now. Those Commissions focussed on individual cases of discrimination, both

to secure justice for individuals and to test the boundaries of the law. But with those strands, so-called, and with new causes of discrimination, we've got a new challenge as well. We need to go further than dealing with retrospective, individual cases of bigotry, or discrimination if we're to make significant change. We need to get beyond individual remedies and retrospective justice to address the causes of systemic failure.

So our Commission will take a wider approach working with all aspects of inequality in a way that perhaps is more specific, more proactive, and more effective, which deals with institutional reform as well as individual redress. Now, these aren't just words, they carry meaning in the way that we're going to allocate resources, in the way we see our mission. I wouldn't be here today if it hadn't have been for the recognition that the absence of a statutory body, to tackle systemic inequality based on sexual orientation, was a serious blight on the British equality landscape. So a lot of our initial work in this new approach to systemic discrimination would be to assure that we achieve parity for sexual orientation with the other reasons for discrimination.

To do that, we have to listen, we have to work in partnerships with organisations like Stonewall to build a new road map for the future of the Commission. That means that we want to know where we should be going to make improvements in policy, the law, evidence, campaigns, and so on. We have a long distance to travel to get up to speed; I make no bones about that and I won't try to hide it. Looking at the questions and queries from our helpline last month, there are cultural and systemic roadblocks that really you wouldn't imagine in other spheres would still exist.

An individual called our helpline; they'd paid eight thousand pounds for a plumbing course with a private training provider. But they then had to leave the course because he was bullied when other students found out about his sexual orientation. Another caller felt that he had received a

lower pay increase than his colleagues and had fewer opportunities, simply because he'd decided to come out in the workplace.

Now, the helpline for us is a good barometer, much as Stonewall's helpline is an indicator of what's going on out there. One thing that's absolutely clear is that the workplace is a key area where we need to change forecast for the future. Workplace discrimination isn't just a question of individuals behaving badly or unlawfully towards each other.

Let me come back to my point: inequality and discrimination are systemic. Tackling them isn't simply a case of bad apples. We will continue to take individual cases of discrimination forward but we also intend, through the Commission's enforcement powers to increase compliance by public and private employers, public and private service providers.

We need to go further even than that, and that is why we welcome the prospect of a new equality bill. This will be significant opportunity to take equality further than ever before; a bill fit for the 21st century. As I said earlier, as a society we're facing new challenges, we have unprecedented change, and we need a bill that isn't rooted in the quagmire of forty years of patchwork equality legislation on strands and kinds of discrimination that don't reflect where we are today. We need a bill which will mark a fundamental shift in the way in which we set out equality statutes in this country. For a start, current law in this country's too complicated; there are 116 separate pieces of equality legislation, and even the most enthusiastic and positive employers can never be sure if they are actually doing the right thing, whether they're complying. There are too many different standards about too many different elements.

Secondly, we need a new law which is an equality law, not just an anti-discrimination law. By that I mean one which deals with all the causes of entrenched disadvantages, not just the attitudes of individuals, and that

brings me back to the point that I made earlier on that: particularly in some of the new areas like sexual orientation we need to consider that discrimination isn't always there on the face. It isn't always there in the open, it is subtle, it is in the infrastructure, and it is in the culture. I can see a new law, and stressing also socio-economic disadvantage, I can see a new law creating a fairer and more equal society. We also want this new law to be positive and permissive rather than simply prohibitive. So instead of hundreds of clauses which will say 'you must not' in various combinations, we would like to see fewer rules which will say 'you may' 'you should' and sometimes 'you must'. I address this particularly to some of our private sector employers in the room; my view is that the private sector in particular will not respond to heavy-handed directives from our Commission or from Government, or from anyone else.

What I think the private sector, from my own experience – because I've worked in the private sector almost all my life, when I went to the CRE four or five years ago it was the first time that the tax payer had parted with any money and put it in my pocket - I think that the private sector will respond, first of all to transparency, and Stonewall's work in providing indices, in establishing benchmarks for the best performing companies, I think is a tremendously good beacon for us, and actually, this is the way that companies have changed their behaviour. If you like, you can call it a progressive slip stream; they've looked at the companies that Stonewall have marked out as giving good practice, and many have tried to copy. There's quite a lot of work that we have to do to make sure that everybody wants to copy the best but it seems to me that this is the way that we want to take things forward.

We would also want to take some proactive steps to ensure that policies and practices don't discriminate on the grounds of sexual orientation, and to eliminate harassment of staff by colleagues and

service users. The way we want to do that is through the route of procurement; private or voluntary organisations who tender for public authority contracts should be required to ensure that their policies and practices don't discriminate against LGB staff and appropriate steps need to be taken to eliminate harassment.

Now there are a number of other things that I could say about this but we'll no doubt be asked some of the questions in the panel. The last point I do want to address though relates to the issue of transparency. One of the strongest themes in cases of alleged sexual orientation discrimination that we've seen, has been bullying and harassment by both colleagues and managers. Research by Out Now found that nearly half the gay people in the UK did not reveal their sexual orientation to everyone they worked with and we saw last year that even someone as powerful as Lord Brown found it impossible to be open about his sexuality. Even if the overwhelming response to the news that he was gay, for those who didn't know, should have been "so what?", in 21st century Britain people shouldn't have to keep their sexuality a secret in the workplace, no matter how open a secret it might be. In management speak they call this a 'spiral of silence'.

A message from some employers, not necessarily by what they say aloud, but by the way they do things is: "if you can't keep quiet about the differences that mark you out, you're mad to expect anything other than bad treatment. If you're a lesbian, we have no problem with that, but stay in the closet or we can't be held responsible for how our staff react to you. What else do you expect?" Well I think we need our workplaces to think in a very different way. Equality isn't just about tolerating people who are different but pretend not to be, it's not just about ticking the box and getting the numbers right. I know, looking around the room today, that there are many employers who have created an alternative virtuous spiral in which individuals do feel empowered to express their own voices. But we do need, as well as flexibility and respect, we need to

establish recognition of difference as the foundational pillar for all employers and we can't do that by pretending that difference doesn't exist. It's not enough to publish an equality policy; it has to be implemented on the ground.

Our equality policy documents, our schemes, are not meant to be about securing the paper trail that defends employers against tribunals, but about making working life better for real people affected by bad behaviour in the workplace and sometimes, though it is more effective to start by trying to affect behaviour, and that leads to attitudinal change, we have to think about the best way in every situation.

For years road safety people asked people to buckle up in the back but it was only when parents were compelled to do so by law that actions and attitudes changed with them. Today you'd be met with strong condemnation if you don't buckle your children in and it seems to be that though we want to do things by persuasion, eventually, some of the attitudes that I've been talking about may need to be changed by the lever of law.

But before we get anywhere near that, as a Commission we want to take the lead in helping to change behaviour by promoting awareness, supporting good practice and enforcing legislation. We'll push for a robust harassment and anti-bullying policies, better staff training and LGB equality issues, better equal opportunities policies, equitable and fair pension schemes and employee benefit schemes; workplaces which work for all workers.

The point about all this is that we've moved forward. Many battles have been won and I want to reiterate- this is a personal point I want to make- Stonewall, with very, very, very few resources, under the leadership of the last two decades, I think, has shown many of us how much you can do to change things with very little. Stonewall, if you watch the westerns, has been a bit like the fort that's under siege, and has been under siege

for years and years, fighting a lonely fight. I hope that the LGB movement and Stonewall will welcome our Commission, in a sense, as cavalry, bringing some heavy artillery of the levers of law, but more than that, of resources and persuasion, and spreading the message.

I hope that we will be able to work alongside Stonewall's lesbian, gay and bisexual movement to move us even further than we have been before. It's in everybody's interests that we work for everybody across the piece, not just for individuals on a piecemeal basis. If we want to close the gap between aspirations and reality, I think that we have an opportunity now.

Public opinion perhaps is warmer than it ever has been but we have to do some practical things, and we'll start with the law, but I hope that as we go along, we will have ambitions that are larger than that, to change the culture in this country so that equality is a reality and invisibility of people because of their sexual orientation is no longer an option.

Thank you.