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Chapter 12

Heterosexism at Work: Diversity Training, Discrimination Law and the Limits of Liberal Individualism

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INTRODUCTION

Heteronormativity and heterosexism infiltrate working environments in various ways and ‘combating heterosexism in (and beyond) the workplace is the responsibility of each and every person in this country’ (Kitzinger, 1991, p. 236). We spend most of our adult lives working. According to recent Department of Trade and Industry estimates there are between 1.5 million and 2 million lesbians, gay men and bisexuals in the UK workforce (Govan, 2005). Yet there is a dearth of LGBTQ psychological literature focusing on the work environment (see Ellis this volume) and a pervasive assumption that ‘sexuality has no legitimate place at work’ (Martin & Collinson, 1999, p. 295). Gore (2000) suggests that the mere presence of visible or ‘out’ lesbians, gay men and bisexual people¹ at work ‘is transformative’ (p. 282). This may well be the case in some contexts (Herek & Capitanio, 1996), but transforming public and private sector organisations beyond their overwhelmingly heteronormative frameworks and practices requires much more than individuals choosing to be out or visible. Challenging heterosexism at work requires complex

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and multi-layered strategies and thoroughgoing challenge at structural, inter-group and individual levels.

It is clear that sexualities in the workplace have been an overlooked issue in LGBTQ psychology and the literature that addresses lesbians and gay men’s experiences in the workplace is drawn from disparate fields and is often unpublished (see also Ellis and Rostad & Long, this volume). Levine (1995) pointed out with regard to gay men that ‘no one knows exactly how often gay men are victimized in

¹ LGBTQ psychology is the acronym encompassing the field which is increasingly being used in the UK and elsewhere. However, we have chosen to use LGB when referring to either the law or education/training about sexualities because both these areas tend to focus on LGB people. Discrimination on the basis of gender identity is covered through sex discrimination laws (see Whittle, 2002 for a detailed discussion of trans rights) and therefore trans issues are likely to be best addressed in sex/gender awareness diversity training.

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the workplace' (p. 220) but cited four studies which collectively found that 30% of a total of 1874 gay men perceived that their sexuality had adverse consequences on their careers and that 13% had experienced employment discrimination. Croteau's (1996) review of nine studies examining the workplace experiences of LGB people undertaken between 1983 and 1995 concluded that 'discrimination is pervasive in the experiences of this population' (p. 198). Three of the reviewed studies asked participants directly whether they had experienced discrimination in employment and found that between 25-66% reported that they had experienced discrimination. Ryan-Flood (2004) examined the workplace experiences of lesbians and gay men in Brighton and Hove (UK). On the basis of an opportunistic sample of LGB workers in the area (45 questionnaire respondents and 15 interviewees), Ryan-Flood suggests that one strategy LGB employees use is to choose workplaces which they perceive to be open-minded and tolerant of their sexuality, therefore actively managing the potential for experiencing discrimination at work prior to entering particular work environments. Moreover, once LGB people are within particular workplaces a key aspect of employment that they face is negotiating their level of 'outness' which, because of the heterosexual assumption, results in LGB invisibility in the workplace and a rift between the supposed 'private' (LGB) self and the 'public' employee self (Kitzinger, 1991). The advent of legal protection in the UK against discrimination on the basis of sexual orientation may facilitate the dissolution of the distinction between 'private' non-heterosexual sexualities and 'public' assumed-to-be-heterosexual sexualities because workplace legislation including sexual orientation makes sexuality visible within the workplace at a group level.

In this chapter we address the topic of overcoming heterosexism at work by making the argument that affecting positive change in organisational cultures and individual 'attitudes' is a difficult task that may benefit from a two-pronged approach involving legal and educational interventions. An anti-discrimination legal framework provides a 'top-down' structural steer against heterosexism on the one hand, and education about LGB issues on the other hand provides a 'bottom-up' individual or inter-group challenge to heterosexism. We claim that this two-pronged approach provides a way forward in creating positive social change for LGB people at work and beyond. Effective legal prohibition of discrimination, when coupled with more creative approaches to combating heterosexism through sexualities awareness training

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and education, may provide a meaningful contribution to solving problems associated with heteronormativity.

We begin with a discussion of the creation and implementation of employment anti-discrimination legislation, focusing on the impact that the new Employment Equality (Sexual Orientation) Regulations have had in the UK, as well as exploring the limitations of anti-discrimination law and the liberal diversity model that it embodies. We then shift our focus to diversity training about sexualities, critically evaluating the aims and objectives of such training, through a qualitative analysis of the perceived effectiveness of training via interview data with 16 people who had experienced LGB awareness

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training². These accounts form part of a broader analysis of LGB awareness training, other aspects of which have been published elsewhere (see Kitzinger & Peel 2005; Peel 2001a, 2001b; Peel 2002a, 2002b; Peel 2005; Peel & Kitzinger, in prep.). Finally, we conclude with a discussion of the limitations of both of these frameworks for tackling heterosexism at work. We highlight problematic issues of liberal sameness, diversity and the difficulties of essentialist constructions of lesbian, gay or bisexual sexualities.

OUTLAWING DISCRIMINATION IN THE WORKPLACE

The Anti-Discrimination Framework

Despite being a relatively recent addition to employment law, anti-discrimination legislation has become the hegemonic legal approach to combating discrimination in the workplace. The basic tenet of anti-discrimination law is that a person has a right to be treated equally in employment, throughout their employment, from hiring to the end of an employment relationship. The earliest examples of anti-discrimination law in the UK were the Race Relations Acts of 1965 and 1968, followed by the Equal Pay Act in 1970, and the Sex Discrimination Act 1975. The statutory form of this body of legislation borrowed heavily from the US Civil Rights Act of 1964, which had been the US Federal Government's response to the civil rights movements of the 1950s and 1960s (Deakin & Morris, 1998). The UK's membership of the European Union (EU)

² It is of note that these interview data were collected prior to the EE(SO)R coming into force. To our knowledge no similar data has been collected or analysed since the advent of legal workplace sexual orientation protection in the UK.

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has also had a direct influence on the body of legislation surrounding equal treatment in the workplace, through the Equal Pay Directive (1975 – covering equal pay for equal work), the Equal Treatment Directive (1976 – covering sex discrimination), the Race Directive (2000 – covering ‘race’ discrimination) and the Framework Directive (2000 - covering religion or belief, disability, age and sexual orientation).³ These pieces of European legislation lay down the framework for anti-discrimination provision in the workplace for all 25 EU member states. Similar forms of anti-discrimination also exist in a number of other countries worldwide, for example, ten US states outlaw employment discrimination based on sexual orientation (Gore, 2000, p.289). However, as the legal specifics of anti-discrimination provision vary considerably around the world,⁴ this chapter will focus on the situation in the UK and Europe.

Most European anti-discrimination protection on the basis of sexual orientation is very new. The current UK legislation outlawing discrimination on the basis of sexual orientation in the workplace is the Employment Equality (Sexual Orientation) Regulations 2003 (EE(SO)R). These regulations were implemented as a direct result of the EU Framework Directive 2000, and have adopted the same definitions of discrimination and limitations on protection as laid out in the EU legislation. In the EE(SO)R, ‘sexual orientation’ means a sexual orientation towards – (1) persons of the same sex; (2) persons of the opposite sex; or (3)

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persons of the same and opposite sex (Regulation 2). So, the EE(SO)R technically apply as much to heterosexual workers as they do to lesbian, gay or bisexual workers. Broadly speaking, the EE(SO)R protect workers from discrimination based on their sexual orientation in relation to ‘direct discrimination’, ‘indirect discrimination,’ ‘victimisation’ and ‘harassment’. There are a number of important points that need to be made concerning the definitions of discrimination within the EE(SO)R, and the limitations that these definitions impose.

Direct Discrimination

³ This is not an exhaustive list of EU discrimination law – for a more comprehensive account, see Fredman (2001).

⁴ A list of international sexual orientation anti-discrimination laws compiled by Robert Wintemute (as of September 2002) can be found on the International Lesbian and Gay Association website at: http://www.ilga.info/Information/Legal_survey/list_of_international_treaties.htm

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The first form of discrimination outlawed by the EE(SO)R is 'direct discrimination'.

Direct discrimination (Regulation 3.(1)(a)), only occurs when one person *is* treated less favourably than another would be, as a *direct result* of their sexual orientation.

This means that in order to claim direct discrimination, the person bringing the claim must be able to compare the way they were treated with the way another person of a different sexual orientation (a comparator) was or would be treated. An example of direct discrimination would be when a person is sacked for being gay and this is the explicit reason given for the termination of employment. Where there is no comparator available, it is generally very difficult to prove that direct discrimination has occurred.

Direct discrimination is the 'common sense' version of discrimination, in that it would seem to be the most easily understood. This does not mean that direct discrimination is either the most common or the easiest to prove form of discrimination. The concept of direct discrimination could, however, be argued to have discursive power, in that the introduction of laws prohibiting discrimination on the basis of sexual orientation sends out a powerful message that this form of disparate treatment is not acceptable. But, even in instances where sexual orientation is a salient factor in the way an employee is treated, the conduct will not necessarily be found to be discrimination. Take this case as an example:

A UK designer who was dismissed for using a company computer to send explicit e-mails to her lesbian lover won her claim for unfair dismissal yesterday. A Nottingham employment tribunal had heard that Helen Brearley was fired from shop fitting company Timber Tailors because she had let her standard of work slip because of her 'excessive' email use, which the company said constituted gross misconduct. Brearley claimed that she was unfairly dismissed. 'I was not aware the content was in any way against company policy, as they were personal emails,' Brearley said. The tribunal awarded Brearley £26,245 for unfair dismissal and said that the firm had 'grossly overstated' the problem and that they should have warned her instead of sacking her. (Stonewall, 2005a)

Although this case could be described as an instance of direct discrimination, the sexual orientation aspect of the case was sidelined and it was instead foregrounded as an instance of unfair dismissal. As noted above, direct discrimination requires that the treatment received must be comparably to that of another person from another group – so in the case of sex discrimination, a woman needs a male comparator. Interestingly, as the definition of sexual orientation distinguishes between orientation towards

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‘persons of the same sex’ and ‘persons of the same and opposite sex’, this opens up more potential comparators in sexual orientation cases. So, in the case of discrimination on the basis of

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sexual orientation, this would mean that a lesbian or gay man could use a bisexual or heterosexual person as a comparator; and vice versa. In practice it is likely that ‘heterosexual’ people will be used as the comparator for any instance of discrimination against LGB people, as heterosexuality is still the norm against which all other sexual orientations are compared. As yet, no successful case of direct discrimination under the EE(SO)R has been reported, either in official law reports or by the media.

Indirect Discrimination

The second form of discrimination outlawed by the regulations is indirect discrimination. Indirect discrimination (Regulation 3(1)(b)), covers instances where a person is disadvantaged as a result of their sexual orientation by an apparently neutral criterion or provision. This form of discrimination is defined in a fairly restrictive manner. For example, the person disadvantaged by a neutral practice would have to prove not only that the particular provision is likely to disadvantage people who have the ‘same sexual orientation’ as them, but also that the provision did actually disadvantage them. At the same time the employer would have the opportunity to claim that the provision was ‘a proportionate means of achieving a legitimate aim’, which has the capacity to prioritise discriminatory business practices (as long as they are ‘proportionate’ and have a ‘legitimate aim’) over an individual’s employment rights. Again, no cases of indirect discrimination under the EE(SO)R have yet been reported.

Victimisation

The third type of discrimination prohibited by the EE(SO)R is ‘victimisation’ (Regulation 4). This is an unusual species of discrimination protection, as it is concerned with instances where a person is treated less favourably *as a result of making a claim of discrimination* under the regulations, or providing evidence on behalf of a colleague under the regulations. But there is only limited protection

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against this form of discrimination in the regulations – if the allegation or evidence was ‘false and not made...in good faith’ there is no protection. Given the difficulties of proving discrimination (as discussed above), it is unlikely that claims of victimisation will be a common form of discrimination claim under the EE(SO)R. Unsurprisingly, no cases of victimisation have been reported.

Harassment

The final type of discrimination outlawed by the EE(SO)R is ‘harassment’. Harassment (Regulation 5) means unwanted conduct (in relation to sexual orientation) which has the ‘purpose or effect’ of ‘violating a person’s dignity’, or ‘creating an intimidating, hostile, degrading, humiliating or offensive environment’. Harassment is, perhaps, the most common (and least difficult to evidence) form of discrimination in the workplace, as it not only has a relatively broad definition, but also because the effect of such conduct is as important as the purpose or intent behind it.

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Of the cases under the EE(SO)R that have been reported in the media, the form of discrimination alleged was usually harassment, taking the form of name calling and bullying. For example, the first successful case under the EE(SO)R was that of a manager in an international waste disposal firm, whose line manager and colleagues nicknamed him ‘Sebastian’ after the camp political aide in the British TV comedy show *Little Britain*⁵ and called him ‘a queen’, ‘queer’ and accused him of liking ‘poofy drinks and handbags’ (Wainwright, 2005). In another case, the language used was much more explicit, with the term ‘fucking chutney ferret’ being used by a senior manager to describe a gay male employee. In this case, the tribunal held that the term used was ‘exceptionally offensive’ and, even though the comments were not said directly to the employee in question, that this one instance of the use of homophobic language was enough to constitute constructive unfair dismissal. The employee, who resigned after being told about the comment by another colleague, was awarded nearly £10,000 in compensation (Personnel Today, 2005). A third example of a successful claim of harassment on the basis of sexual orientation was that of a theatre

⁵ *Little Britain* is a popular BBC comedy series that contains a number of gay and trans characters.

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worker at Durham's Gala Theatre, who was repeatedly called 'gay boy' by his manager (BBC, 2005).

So, these three cases were all predominantly concerned with the problematic use of homophobic and heterosexist language in the workplace, and the duty of employers to take action to protect employees from this form of verbal abuse. Although other types of cases have undoubtedly been brought and resolved, this type of case has been most commonly reported by the media, perhaps because of the commonplace nature of homophobic or heterosexist slights in everyday life (Peel, 2001b). It is worth noting that although the eventual outcome of these cases was positive for the individuals concerned, they each had to resign from their jobs and claim constructive dismissal.

As the above discussion shows, in spite of a handful of high-profile cases, the EE(SO)R have not had wide reaching effects. In the first fifteen months of the regulations being in force in the UK, 410 claims of discrimination on grounds of sexual orientation were registered with Employment Tribunals (Employment Tribunals Service (ETS), 2005). Of these 410 complaints, 260 had also been completed within the first fifteen months, with just 12 (4.6%) being successful at a tribunal hearing (Richard Walker, pers. comm. 3 August 2005). Of the remaining 248 claims, over half (133, 51.1%) reached a conciliated settlement through Acas, a publicly funded industrial relations mediation service; 73 (28.1%) were either withdrawn or came to a private settlement; 20 (7.7%) were unsuccessful at an employment tribunal hearing and the outcome of the remaining 22 (8.5%) is unknown or other. These statistics about claims that are successful at tribunal are broadly in line with the success rates of other discrimination claims (ETS, 2005).⁶

The Limits of Anti-Discrimination Law

As will be evident from the discussion above of the cases of discrimination on the basis of sexual orientation, legal prohibition of discrimination can, and does, give indi-

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viduals a form of redress for the treatment they have received. There are limits to anti-

⁶ In 2004-05, 2% of sex discrimination, 3% of race discrimination, 5% of disability discrimination and 4% of religion or belief discrimination claims were successful at tribunal.

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discrimination law, however, which make this a problematic solution to the realities of heterosexism in the workplace for LGB people. The limits can be split into two broad categories: (1) the way equality is defined; and (2) the hierarchy of inequalities.

Defining Equality

The most common way of defining equality is concerned with treating everyone the same. This is generally referred to as ‘formal equality’. Discrimination law is a paramount example of legal approaches to formal equality, as it works on the principle that ‘but for’ the group characteristic that is the reason for discrimination, all people are the same, and therefore should be treated alike. There are limits to formal equality, as this framework can do nothing to address the situation where, for example, everyone is treated equally badly, nor can it address the differential situations that people find themselves in as a result of the structural causes of inequality. An alternative formulation of equality, which focuses on the structural causes of inequality, is substantive equality. Substantive approaches to equality take the structural basis of inequalities as their focus, and attempt to create equality through positive interventions. Examples would include positive action or affirmative action programmes, which move away from the meritocratic approach of formal equality (see Peel & Harding 2004, for a discussion of formal and substantive equality with respect to the legal recognition of same sex relationships).

Equality and equal treatment are foundational principles in many Western legal systems and most justifications for the equal treatment of all individuals are premised on the assumption that all individuals are (in some way) the same, and as such are entitled to equal rights before and under the law and equal opportunities to achieve their goals in life (Wallerstein, 2003). This approach to equality is consistent with the liberal tradition, which aims to allow everyone the freedom to live their lives according to their own conception of the ‘good life’, free from the constraints of the state (Dworkin, 1977). The focus on the individual within liberal equality has been the subject of much criticism with many writers dismissing the effectiveness of concentrating on the fundamental sameness of individuals (Young, 1990). Cynthia Ward (1997) argued that liberalism can include difference, by expounding the liberal conception of diversity:

Because liberalism posits normatively that all people have equal moral

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worth, the empirical fact of human difference mandates respect for each person's 'right to be different' and to have his [sic] differences tolerated by others. (p. 69)

There are several problems with this liberal conception of difference. The first is that it reduces difference to an 'empirical fact' devoid of any social or historical constraints, and therefore ignores the effect of oppression on those subjected to inequalities. This reduction of difference to an empirical fact is based in the liberal assumption that all adult human beings have a level of autonomy (Ward, 1997, p. 69), which ignores the constraints of differing levels of autonomy caused by privilege and oppression. Second, Ward implies that there is some class of person who is capable of 'tolerating' (p. 69) another, rather than all people being equal irrespective of difference. A third problem with liberal diversity is that it serves as its own limitation: 'One's right to pursue one's own vision of life, which derives from the liberal's equal respect for all people, is simultaneously limited by the

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equal right of everyone else to do the same' (Ward, 1997, p. 70). Contrary to Ward's thesis that this is an unquestionable good in liberal diversity, it serves to position the views of the 'moral majority' over those they disapprove of, through the balancing of rights. In essence, the liberal standard of toleration assumes that there is one group (the norm) who have the power to tolerate those who are different, thus creating a hierarchy.

There are, however, benefits to taking the individual as the subject of equality, first, an individual focus can circumvent the problems which arise through underlying or implicit assumptions that 'groups' constitute homogenous communities, where everyone is the same. Second, an individual focus allows for the different facets of identities to be considered in relation to equality and inequality, and the ways in which different group positions intersect and interlock within individuals. Finally, an individual focus allows for the possibility that individuals can change identities, and prioritise different aspects of their identities at different times.

The way that the UK government advertised the introduction of protection against discrimination on the basis of sexual orientation is a useful example of the ways that discrimination law - and indeed 'awareness raising' - is rooted in these liberal conceptions of sameness. The Department for Trade and Industry published two 'adverts' for the new regulations. The first, (Figure 12.1) is aimed at white collar

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workers and was published in February 2004 (three months after the EE(SO)R came into force); the second (Figure 12.2), is aimed at manual workers, and was published in March 2004.⁷

There are a number of significant points to be made about these adverts. First, they are both depictions of four identical images, in the first advert a pen, in the second advert a car wheel, therefore encoding the liberal notion of the inherent sameness of individuals. Second, the large type at the top of the page on both adverts refers to 'lesbians' 'gay men' 'bisexuals' and 'heterosexuals', invoking essentialist identity categories. Thus, implying that such identity categories are fixed and immutable, rather than acknowledging the potential fluidity of sexual orientation, or any other forms of sexual identity (such as queer).

In both adverts, the construction of the image itself is salient. In particular it is notable that there are lines linking lesbians and gay men, lesbians and bisexuals, and bisexuals and heterosexuals, but no line linking either lesbians or gay men to heterosexuals, therefore portraying a physical gap or space between heterosexuality and lesbians and gay men. This lack of visual connection between heterosexuality and homosexuality arguably (re)inscribes dichotomous and polarised notions of mono-sexualities. Moreover, the adverts construct bisexuality as in between lesbian/gay and heterosexual, as a hybrid rather than a 'real' or distinct identity category. Also, the adverts have been constructed so as to avoid depicting stereotypes of LGB people. The images focus on the work undertaken: 'a tyre fitted by a lesbian' or 'a tyre fitted by a bisexual'; rather than on the ways in which sexuality is manifest in the work place. The 'pen' advert is especially interesting in this respect, as rather than captioning the pictures as 'a lesbian's pen' or 'a gay man's pen', the images are simply captioned 'a lesbian', 'a gay man', 'a bisexual' and 'a heterosexual',

⁷ The DTI also published similar posters to advertise the Employment Equality (Religion or Belief) Regulations, which also came into force in December 2003. These posters can be found on the DTI website at <http://www.dti.gov.uk/er/equality/index.htm> We have not been able to ascertain where the DTI advertised their 'religion or belief' and 'sexual orientation' posters. However, we saw the religion and belief poster on trains and in generic public contexts, but we only saw the sexual orientation posters advertised in the gay press.

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Figure 12.1: DTI White-Collar Worker Poster

DTI A3 PEN POSTER 14/4/04 10:25 am Page 1

Who writes the best reports in an office?
Lesbians, gay men,
bisexuals or
heterosexuals?

A lesbian

A gay man

A bisexual

A heterosexual

Judge on merit, not sexual orientation.

Since December 2003 it has been unlawful to discriminate in employment and vocational training on grounds of sexual orientation, religion or belief. The laws protect workers from discrimination, harassment and victimisation. Preventing discrimination and promoting equality and diversity can help employers attract, motivate and retain the best staff and access wider markets. For more information visit www.dti.gov.uk or for independent and impartial advice about equality in the workplace and other employment issues call the Acas helpline on 08457 47 47 47.

dti

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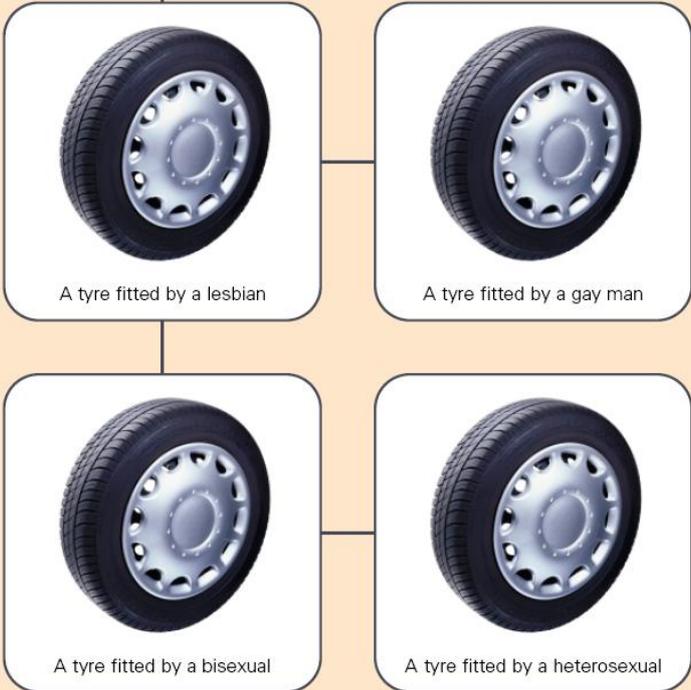
Crown Copyright: Reproduced by permission of the Controller of Her Majesty's Stationary Office.

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Figure 12.2: DTI Blue-Collar Worker Poster

A3 TYRE POSTER 22/3/04 4:13 pm Page 1

In a car factory, who fits the best tyres?
Lesbians, gay men,
bisexuals or heterosexuals?



A tyre fitted by a lesbian

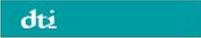
A tyre fitted by a gay man

A tyre fitted by a bisexual

A tyre fitted by a heterosexual

Judge on merit, not sexual orientation.

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emphasising the sameness, not of the work done by people of difference sexual orientations, but of people of different sexual orientations themselves. A final obvious reference to the ideology of liberal sameness derives from the text ‘judge on merit not sexual orientation’, clearly signalling an overarching meritocratic framework - a level playing field blind to societal/structural constraints surrounding different sexualities.

A Hierarchy of Inequalities

A second facet of the limitations of the discrimination law framework is the way in which it results in a hierarchy of inequalities. Although the particular group which is most strongly protected by anti-discrimination law does change over time, the current European hierarchy has ‘race’ at its pinnacle, followed by gender, disability, religion, sexual orientation and finally age (Fredman, 2001; Day & Davidson, 2003). There are currently publicly funded equality bodies established to assist those who experience inequality and discrimination on the basis of gender, ‘race’ and disability,⁸ each with wide ranging powers. There is currently no centrally-funded equality body specifically concerned with religion, sexual orientation or age discrimination. Prior to the introduction of the EE(SO)R there was a small London-based charitable organisation, Lesbian and Gay Employment Rights (LAGER), who advised lesbians and gay men on employment rights. This organisation unfortunately had to close shortly after the regulations came into force due to a lack of funding. The ‘new’ discriminations are to be covered by the ambit of a new single equality body, the Commission for Equality and Human Rights, which should come into existence in 2007. One of the reasons behind the creation of a single equality body is to attempt to break down the possibility of the ‘old’ discriminations being seen as more important than the ‘new’ discriminations (Day & Davidson, 2003, p. 17). This will not remove the distinctions in the anti-discrimination protections offered to each group.⁹

Emphasis on the differences between groups, as created by the hierarchy of protections offered, can also operate to make differences within groups invisible and

⁸ Equal Opportunities Commission, Commission for Racial Equality, Disability Rights Commission.

⁹ For example, whereas protection is offered to the ‘old’ discriminations in the provision of goods, facilities, and services as well as employment and education, the legislation dealing with the ‘new’ discriminations is currently limited to employment and vocational training. In the case of sexual orientation, the regulations even allow for discrimination on the basis of sexual orientation where the employer is a religious body (EE(SO)R). This is set to change in the near future, as provision to outlaw discrimination in the provision of goods and services was introduced by the Equality Act 2005.

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therefore to marginalise particular individuals (Fredman, 2001). Also, a focus on group identity can marginalise the individual through the reinforcement of stereotypes and can lead to claims of ‘special treatment’ (Brickell, 2001). The hierarchy of inequality not only constructs some groups as more deserving of equality than others, but also causes problems for those who find themselves members of more than one ‘minority group’. Black women, for example may have to choose between fighting for ‘racial’ equality *or* gender equality; lesbians may have to choose whether to align themselves with the struggle for gender equality *or* equal rights for lesbians and gay men (Fraser, 1997).

In summary then, anti-discrimination legislation has a number of problematic aspects which are inherent in its focus on the liberal individual, as well as the categorisation of individuals into ‘groups’ which form the ontological basis for their experience of discrimination. The complex nature of heterosexism in the workplace is, therefore, unable to be

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challenged solely through recourse to liberal anti-discrimination law, and other approaches to combating disparate treatment are necessary. In the following section, we shift our focus away from legal approaches to more creative forms of tackling prejudice in the workplace through diversity training. We begin with a brief overview of diversity training, before providing an analysis of whether training ‘works’ through a qualitative analysis of in-depth interviews with diversity trainees.

DIVERSITY TRAINING ABOUT SEXUALITIES

Diversity training is seen as a ‘growing innovation’ (McCauley et al., 2000, p. 113) in the workplace. Historically, equal opportunities training or diversity training has taken issues of race, gender and disability discrimination as its focus, while sexuality and LGB issues have been a neglected aspect of training (Hill, 1995; Trotter & Gilchrist, 1996). However, the implementation of the sexual orientation regulations means that sexual orientation has been placed more firmly on the workplace agenda. For example, Stonewall has produced a Corporate Equality Index (CEI) that indicates the top 100 employers for LGB people in the UK. In 2005 they invited 630 of the largest employers to participate in the scheme that assesses employers along a number of criteria including work-related benefits applied to same sex and different sex couples

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and the provision of diversity training covering sexual orientation. Ninety-three of their top 100 employers provided training covering 'sexual discrimination' and of those, 53 organisations had made training compulsory for all staff (Stonewall, 2005b). According to Stonewall, employers are 'ever mindful of the need to attract and retain a diverse workforce [and] are utilizing resources such as sexual orientation-specific diversity training' (Lorenzo Di Silvio, pers. comm. 9 December 2005), and since the implementation of the EE(SO)R 'there has definitely been an increase in training' (Jenn Bonito, pers comm 31 January 2006).

Within the literature on sexualities diversity training, there are three main (interconnecting) approaches to educating heterosexuals. All three of these approaches are premised on cognitivist assumptions of 'stereotypes', 'misperceptions' and 'ignorance' about LGB issues on the part of heterosexual employers and employees. First, the provision of 'facts' about LGB people is conceptualised as an antidote to the 'myths' that heterosexual people hold (van de Ven, 1995). 'Learning the facts' (Messing et al., 1984, p. 69) and proving 'accurate and valued information' (Schreier, 1995, p. 21) is seen as crucial in fostering the replacement of 'stereotypes' with supposedly more realistic images. The second approach foregrounds 'getting to know' LGB people as 'human beings...not just gay men or lesbians' (Cotton-Huston & Waite, 2000, p. 128), and so provides an 'emotional component' (Schreier, 1995, p. 21) to training as well as an application of the contact hypothesis¹⁰. Notions of the 'ethnic homosexual' (Altman, 1980) undergird a final approach which entails claiming that LGB people are similar to other

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'minority groups' - the assumption being that this will encourage heterosexuals to take LGB concerns more seriously (Henley & Pincus, 1978; McClintock, 1992).

In sum, the three prevalent approaches for educating heterosexuals involve the provision of 'facts' about LGB people, providing contact with individual LGB people, and parallels being drawn between LGB people as a group and other marginalized groups (the implicit assumption here being that LGB people are white, able-bodied and so on, see also Riggs this volume). It has been highlighted in previous work (e.g.,

¹⁰ The 'contact hypothesis' is well used in social psychology; the assumption is that 'positive contact and interaction' (Nelson & Krieger, 1997, p. 67) between heterosexuals and LGB people will improve negative attitudes toward LGB people (Herek & Glunt, 1993). Empirically this seems to be the case (Tropp & Pettigrew, 2005) although such researchers advocate LGBs should 'create a target out-group member who is the optimal blend of typicality and likableness' (Simon, 1998, p. 75).

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Peel 2002a, 2002b) that evaluations of training show that it can be an effective tool for reducing ‘homophobia’ yet questions remain about how training works and how it translates into practice.

What Happens in Training?

Engagement with the specifics of LGB diversity training – concrete, practical guidance about its nature and content - is predominantly found in training manuals (e.g., Stewart, 1999), which encode liberal humanist, individualistic assumptions. For instance, Zuckerman and Simons (1996, p. ix) wrote: ‘this book does not ask people to change who they are, but it does ask them to do their part to create smoothly working relationships with others’. Valuing a diverse workforce and embracing LGB colleagues – the message goes – results in a richer working environment for all. Indeed, we saw this message communicated to employers in the DTI posters through the phrase ‘promoting equality and diversity can help employers attract, motivate and retain the best staff and access wider markets’ (see figures 1 and 2 above). Manuals impress upon the presumed-to-be-heterosexual reader that everyone is ‘on the same side’, does not want to offend colleagues, and shares the goal of ‘smooth’ working relations. Authors write of the dangers of blaming the ‘SWUMs’ (straight, white, US-born, men) for anti-LGB prejudice (McNaught, 1997, p. 411), and caution against trainers providing ‘a stream of dour facts about antigay and antilesbian violence’ and opening a training course with ‘an attack against heterosexist oppression’ (Crouteau & Kusak, 1992, p. 397).

As is common with the workshop format of diversity training sessions¹¹, exercises conducted with trainees are the main constituent of ‘what happens’ in diversity training. In brief, two popular exercises are a ‘language exercise’ that explores the meanings and implications of language used to describe ‘lesbians’, ‘gay men’, ‘bisexuals’ (and ‘heterosexuals’, see Peel 2005). A ‘life stories’ exercise involves trainees recreating the self-censorship and concealment that LGB people can experience in interactions with others by talking about themselves (in pairs) and omitting mention of personal information (e.g., about partners, home-life etc.). Exercises are especially important as they are designed and managed *by* trainers

¹¹ ‘Speaker panels’ wherein LGB people are invited into organisations to be asked questions by the (heterosexual) audience have also been evaluated as an approach to LGB diversity training (see Geasler et al., 1995), but this format is far less prevalent than workshops.

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(Chesler & Zuniga, 1991; Walters & Philips, 1994). Trainers have control over which tasks trainees are asked to engage in, at what point in the session, and what pedagogic messages are to be learned from them. Thus exercises are crucial if we accept the claim that ‘those who have the power to establish the language of public debate will have tremendous advantage in determining the debate’s outcome’

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(Hunter, 1994, p. 66, quoted in Smith & Windes, 2000, p. 37). A wide variety of exercises are used in training (e.g., see Stewart, 1999) and have been applied to various professional contexts (e.g., clinical psychology [Butler, 2004]; social work [Logan et al., 1996]; schools [Morjaria, 1999]; and the police [Windibank, 1995]).

Collecting the ‘views’ of those attending training is a popular way of evaluating the ‘success’ of a training program (Lai & Kleiner, 2001), although only a few studies report assessing training using some form of qualitative evaluation (Ben-Ari, 1998; Geasler et al., 1995; Imich et al., 2001; Schneider & Tremble, 1986). In the next section, we contribute to this literature by analysing trainees’ perspectives, and advance our argument regarding the liberalism embedded in training and more general challenges to discrimination.

Evaluating Diversity Training: Trainees’ Perspectives

This analysis is based on interviews with 16 people who had experienced an LGB diversity training session.¹² Trainees talked about what they felt ‘worked’ and did not ‘work’ in the training they had experienced, their attitudes and behaviour towards lesbians and gay men, and how these had or had not changed following training. On the one hand, they were generally clear that ‘we’ve got to be educated and we’ve got to be trained’ (Donna), but this was tempered by comments along the lines of ‘I don’t think you should force people to go to training’ (Tom). The themes in these data focus

¹² These interviews were conducted by EP during the period from May 1999 to August 2000. The interviews were conducted within a few weeks of the trainees attending a workshop. Ten interviewees were members of university staff, four were youth workers, one was a clinical psychologist and one was a residential social worker. Nine of the interviewees were women, seven were men, fifteen were white, Lauren was the only black interviewee, and all of the interviewees were able-bodied. Six interviewees were in their 20s, four were in their 30s, two were in their 40s, and four were in their 50s. All identified their sexuality as heterosexual, except Rachel who identified as bisexual. All names are pseudonyms. In this empirical section we take a broadly constructionist approach to the data, in that individual accounts are seen as expressions of socio-cultural discourses. Our analysis also incorporates an appreciation of the rhetorical and interactional features and functions of these data (Potter & Wetherell, 1987).

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on trainees' talk about their 'attitudes', 'thoughts' and 'beliefs' about training and LGB people: (1) that training provided a space for reflection; (2) trainees' ideas changed as a result of training; (3) that training was, in fact, 'preaching to the converted'; and (4) trainees' admissions of (slight) homophobia.

Space for Reflection

Interviewees' accounts suggested that diversity training had been the first, or only, point in their professional lives that they had discussed, or thought about, issues pertaining to LGB people, heterosexism and homophobia: 'I have not had the opportunity before' (Sharon). Most expressed finding the opportunity to think about LGB issues 'interesting' (Ann) because 'it is something that isn't talked about [...] it's really good to talk about it' (Geraldine). Typically trainees made no explicit comparison between their attitudes before and after training, but made generic positive comments about the training experience being 'thought provoking' (James), 'open[ing] my eyes' (Lauren), and being 'useful'

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(Geraldine). James described the experience as one that 'just sort of stirred the grey matter a little'; and one which had acted as 'a catalyst' which 'got me thinking about how I thought about things, which I probably wouldn't have done unless something had triggered it'. Geraldine 'left the day thinking about that [sexuality] more, and in my work since thinking about that more'. Therefore, trainees' talk indicated that training functioned to carve out a space to enable them to 'consciously reflect' (James) on their perspectives about LGB issues.

Changed Ideas

There were, however, a number of accounts where interviewees suggested that training had changed their views. Trainees did not, in general, discuss experiencing dramatic shifts in 'attitudes' – as would be expected on the basis of a short training course - but they often made reference to some form of alteration: 'it maybe changed a bit my opinion' (Ann), and they felt they had become 'perhaps a little more accepting than I was' (Matthew). Heightened clarity and awareness was a frequent way interviewees communicated that training had impacted on their views: 'it's made

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me much more aware [...] It's made me a lot clearer on things, whereas before I was probably a little bit confused over certain issues and now things are much more clearer for me' (Donna).

There were occasions where interviewees recounted a *particular* change related to a localized aspect of training. For instance, Janine recounted the impact that statistics the trainer had presented about the higher number of LGB youth suicides had had on her. She found that such factual information 'gave me a lot more, sympathy's not the right word, but I can't think of a better one at the minute, sort of [to] really think these, particularly young men, you know, need help'. Lauren mentioned that training had made her realize 'that there are people getting beat up aren't there, and things are happening to people'. Lynn – in the extract below – recounted a change in her attitudes as they were expressed on a pre and post training homophobia scale¹³ with regard to specific statements ('a woman's homosexuality should *not* be a cause for job discrimination in any situation' and 'male homosexuals should *not* be allowed to teach in school').

When I originally filled in the survey I put- the question about erm er should there be some jobs that gay men shouldn't do or lesbians shouldn't do. Most things were one extreme or the other but that I put in the middle. And then I thought about it afterwards cos I was thinking of erm say a lesbian woman say being in a position where you're in charge of a house where erm runaway girls- young girls go to, or whatever, I thought 'that could be awkward' and then I thought 'no'. Cos you get- you get heterosexual male school teachers erm abusing kids anyway, you get homosexual y'know- and all this that and the other, and if you're a professional whatever you do then it shouldn't matter, and so that changed at the end. (Lynn)

The most striking feature of Lynn's account of change is that it is based on now viewing lesbians and gay men as 'professional whatever you do', and although she does not make explicit reference to holding the view prior to training that lesbians and gay men molest

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children, she alludes to this when referring to heterosexual males 'abusing kids'. She narrates as her re-evaluation of her position the liberal notion that 'it [someone's

¹³ An adapted version of the Attitudes to Lesbians and Gay Men scale (ATLG, Herek, 1994) was the homophobia scale used (see also Peel 2002b).

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sexuality] shouldn't matter', which conveys a newly acquired level of acceptance on her part. Therefore, though the majority of interviewees discussed not 'think[ing] any different than I did' (Lauren) in a global sense, they did mention *some* changes in their views resulting from training. The changes that trainees discussed were, on the whole, circumspect, and as the quotes demonstrate, were attributed to an aspect of training – for instance the acquisition of new knowledge. Interestingly, the account which stands out as the most extensive shift in 'attitude' hinged upon seeing the gay male trainer as 'a decent bloke'. Donna described how she had previously thought that gay men were 'sick', because her ex-husband had allegedly had an affair with another man while she was pregnant, before continuing:

to actually hear him talking it was like 'Oh my god, you are a decent bloke' [...] He seemed like a straight-forward kind of a guy and the only difference was he'd got a different sexuality from the majority of men [...] it changed my mind, it changed my whole opinion really, which was a good thing. (Donna)

The watershed in her perception of gay men ('oh my god' formulates this *as* a sudden realization, Frith & Kitzinger, 2001) was something she attributed to the trainer *per se*, through contact with individuals, rather than because of pedagogic elements of training or because of collective engagement or action.

'Preaching to the Converted'

The notion that training was 'preaching to the converted' was closely tied to accounts of attitude change in ten of these interviews. Even though trainees typically discussed having undergone some form of change due to training, this was mitigated by reference to their 'attitude' prior to training - for instance 'it's made me much more aware' (Donna) implies already having the 'right' attitude towards LGB people. Further, such 'change' was immediately qualified through the statement 'not that I've not been equal towards gay people before' (Donna). Trainees were concurrently presenting themselves as having changed, or having learned something from training, while maintaining that they had not changed *too much* thus avoiding the risk of being construed (by EP, a-known-to-be-lesbian, during the interview) as previously 'homophobic'. Interviewees worked to present the types of people who would attend training as those with a 'relatively liberal attitude' (Bill) and they often remarked that: 'the ones that you really want to go to these things are the ones that will never go to

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them’ (Lynn); or ‘I think if you were wanting to change attitudes you’d need to talk to perhaps to a different group’ (Beryl). Consider the examples below:

[It’s] the converted talking to the converted a bit. (Beryl)

You’re certainly preaching to those people that have got an enlightened attitude, or a relatively liberal attitude. I can’t imagine a homophobic turning up [...] I think predominantly you’re preaching to the converted. (Bill)

It suffers from the problem that you run the risk of slightly preaching to the converted. (James)

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I think one of the difficulties with things like that is it’s always a bit like to an extent preaching to the converted [...] I couldn’t remember what I had said the first time, what number I had given [on the homophobia scale], and I suppose it’s important to try and get it right because it might influence, you know, your research if I put the wrong number down and I have gone and regressed when I don’t mean to regress¹⁴. (Ian)

These examples unambiguously categorise those who attend training as ‘enlightened’ or ‘converted’ before training rather than holding ‘traditional and conservative attitudes’ (Bill). We are not suggesting that trainees are wrongly or inaccurately categorizing themselves, but by describing those who attend training in *this way* they are managing the stigma of the (hypothetical) allegation that they *themselves* are – or were - prejudiced towards LGB people. By classifying the characteristics of trainees as a group as ‘converted’ they circumvented directly saying *I* am enlightened, but at the same time portraying trainees in this way indirectly puts them personally in this category.

However, there was also a sense in some interviewees’ accounts that training ‘repressed’ the expression of homophobia, and that people were conforming to ‘politically correct’ conventions about what they could and could not say on the topic. For instance, Rachel commented that there were men in her workplace who used ‘gay’ as a term of abuse, but during training would know that it ‘wouldn’t be a good

¹⁴ In the latter portion of this extract Ian raises an interesting issue about engagement in psychological research which uses scales and questionnaires. Clearly Ian is not a ‘cultural dope’ and here he is attending to the ‘attitude’ he represented on the homophobia scale and his related concern that he may have inadvertently ‘regressed’. What is especially nice about this reflection about his completion of the pre and post training scale is the weight that he places on such measures to ‘influence’ the research findings.

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idea' to talk in that way, thus training provides a context where '[I] wouldn't expect anyone to come out with something that was, I don't know, homophobic or anything like that' (Rachel). One interviewee characterized this as a 'missed opportunity':

We're a bunch of psychologists and we're supposed to all be right on and everything. I feel like it was a missed opportunity in a way because I do feel like not everybody's honest, and people are too scared to say what they want, and everybody's worried about being erm anti-gay really and I think there is that feeling no matter how nice everybody is about it. (Geraldine)

Here Geraldine describes the group as not being 'honest' and how being 'nice' and 'right on' in training is a façade for underlying 'anti-gay' views. Interviewees described such 'dishonesty' as either a group characteristic or specific to certain group members (e.g., older members [Matthew] or male colleagues [Rachel]). Only Sharon directly described the 'fear of saying the wrong thing, and the fear of saying something that's not a p.c. thing to say'. Following on from this comment she announced that: 'I would like to think that I am quite aware, and quite informed, and quite erm open and, you know, I wouldn't be prejudiced'. Therefore, Sharon draws a distinction between 'saying the wrong thing' yet 'thinking the right thing'. Whereas others reversed this behaviour/cognition relationship by suggesting that their colleagues semantically present themselves as non-prejudiced, but underneath their talk resides discomfort about LGB sexualities.

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Admitting (Slight) Homophobia

A fourth way that interviewees discussed their own and others' attitudes was by 'confessing' some issue or difficulty they had or have with LGB people. As we have seen, this was alluded to in their talk about the training context 'repressing' trainees' expression of their real views. Not all of the interviewees talked about their attitudes in this way (n = 6), because – we would argue - this is a risky strategy to 'pull off' without damaging personal investment in liberal individualism. Interviewees who claimed they were slightly homophobic pulled this off carefully, in various ways, for example:

[training] makes me think back, it makes me feel a bit uncomfortable to tell you the truth [...] what my attitudes have been to people who've I've considered to

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be different, queer is the word I would have used years ago, always be queer and er I'm not terribly proud actually of my attitudes. (Bernie)

Similarly, Tom discussed taunting an 'odd boy' at school 'we'd get in a group and go "bumboy, bumboy" and we'd turn round and we'd leg it, you see'. Training had 'reminded' him about his behaviour as 'a lad' and he recounted in interview how now as an adult it was 'a bit embarrassing to think how you behaved as a boy'. Consider another example:

If I was perfectly honest the answer is erm erm slightly uncomfortable (laughs) and I don't know quite how to describe it. I don't have an issue or problem with people who are gay. I- I have good friends who are openly gay and it is not an issue. Occasionally I find myself running into a social situation in which, if I am perfectly honest, I do feel slightly uncomfortable, and I- I- I am sort of thinking that I shouldn't and I- I do, and I think that the way I feel about that has actually changed over the years. (James)

In these extracts the interviewees are mainly talking about their attitudes in *the past* which creates temporal distance between their previous ('homophobic') and their current ('liberal unprejudiced') views. This way of talking about attitudes suggests improvement over time (often implicitly attributed to the simple passage of time); feelings 'change over the years' (James) and 'views have changed radically over the years' (Bernie). Admissions of holding heterosexist views *in the present* were manifest in very 'mild' forms, in phrases such as being 'a bit intolerant' (Ann), or finding LGB topics ones they didn't 'discuss very easily' (Bernie). Bernie discussed still having 'reservations' including 'gays in the army erm same sex couples bringing up children 'cos again I think in terms of the best way to bring a child up is in a family'. Thus, he manages presenting rather serious antilebian and antigay views by formulating them rather benignly as 'reservations'. Similarly James, above, described himself as 'occasionally' 'feel[ing] slightly uncomfortable'. Consider the confessional quality of the extract below:

I feel a bit ashamed to say but sitting with [the] person, my partner, and erm and she did not know many of the terms¹⁵, or many famous people, or anything like that who were gay or whatever, and I was feeling she might think I am gay, do you know what I mean, I know too much. (Ian)

¹⁵ Ian is referring here to the language exercise which EP has described elsewhere (see Peel, 2005).

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Ian begins with 'I feel a bit ashamed to say...', with 'ashamed' implying both sheepishness and contrition. He presents himself in a way reminiscent of therapeutic endeavours

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wherein a commitment to dealing with a particular 'problem' is initiated by the acknowledgement that there is a problem in the first place. However, having 'too much' knowledge about LGB issues suggests that he is an aware, informed person. Therefore, the negative connotation that could be attributed to his ashamed 'feeling' of being perceived as a gay man is tempered by its basis in knowledge. It is, of course, positive in the local context of the interview - and more broadly - that he displays that he is knowledgeable about LGB issues. He constructs his knowledge as the basis for the contention that he may be gay which functions to take the 'sting' out of his 'confession' of shame-by-association.

So, to summarise, although trainees' who were interviewed expressed satisfaction with the diversity training they had experienced, they used various strategies to convey an ideological investment in liberal individualism and manage the potential for being positioned as 'prejudiced'. As is evident from this discussion of diversity training, while it can be useful in raising awareness of heterosexism and homophobia in the workplace, it does not offer any immediate remedy to those LGB people who actually experience heterosexism at work. We argue that only by combining the individualistic, remedy-based approach of discrimination law with the group-based educational approach of sexuality diversity training, can we even begin to challenge the realities of heterosexism at work. We will now move on to discuss the possibilities and limitations offered by both diversity training and discrimination law, in the context of three short vignettes outlining experiences of heterosexism at work.

TACKLING HETEROSEXISM AT WORK: COMBINING LEGAL AND EDUCATIONAL APPROACHES

In this section we synthesize the critical legal and critical psychological approaches explored above by applying them to case studies of heterosexism at

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work. We examine three examples of heterosexism at work, and discuss the possibilities (and pitfalls) that are raised by both discrimination law and diversity training in tackling the issues. In so doing, we underscore some of the limitations of liberal individualism which permeate law and education.

Example 1: Hiding structural inequality

During a formal meeting, a manager talks about his relationship with his wife and then asks a female employee whether she is married. She replies 'no' but mentions that she has a female partner. He physically recoils, folds his arms and responds 'I don't want to know any more' – the employee feels obliged to change the topic and powerless to challenge his overt heterosexism.

This example highlights one of the issues often raised in diversity training exercises (see discussion of the 'life stories' exercise above). While it is commonplace for heterosexual people to discuss their partner or family life in the workplace, same sex relationships are seen either as not worthy of mention in everyday interactions, or if they are mentioned they are construed as 'flaunting it' (Kitzinger, 2005; Land & Kitzinger, 2005). This is an example of the potentially adverse affects of coming out at work, and the ways in which sexual orientation is an integral part of workplace conversation. A second element to this

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example is the imbalance of power between the individuals involved – the married heterosexual man is in a position of power by virtue of being the lesbian employee's manager – thus limiting the potential for her to challenge his heterosexist behaviour. But even if the roles were reversed, with the lesbian in the position of seniority, the effects of such obvious disgust or distaste would still be present.

It is possible that under these circumstances, the female employee would have a claim under the EE(SO)R for harassment, as this legal 'offence' includes conduct which has the effect of creating 'an intimidating, hostile, degrading, humiliating or offensive environment'. Understandably, however, it is extremely unlikely that any LGB person would initiate a claim with an employment tribunal purely on the basis of an episode such as this. There are a number of reasons for this, the most obvious being that, as a rule, individuals do not wish to jeopardise their employment relationship by challenging the behaviour of their employers, particularly when it is an isolated incident. Also, as discussed above, only around four per cent of claims of

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discrimination actually succeed at tribunal, and if the claim were unsuccessful the employee would leave herself open to victimisation. It is likely that if the manager in question had experienced diversity training on sexuality that this episode would not have happened. As discussed in the previous section, individuals who have experienced diversity training tend to say that they are more careful about being 'politically correct' when talking about issues related to sexuality in the workplace. However, diversity training is generally not compulsory, and it is unlikely that anyone who holds 'homophobic' views would volunteer themselves for this sort of professional development training.

Example 2: Burdening those discriminated against

A proactive employee makes an appointment with her workplace Equal Opportunities Officer to ask how the organisation is applying the new Sexual Orientation employment regulations. The Equal Opportunities Officer informs her that 'certain sections' of senior management are 'resistant' to applying the legislation and that they feel that sexual orientation 'isn't a workplace issue' but a 'private matter.'

This second example highlights the limitations of the introduction of legal protection for LGB people in the absence of any requirement for employers to 'do' anything to ensure that their staff do not experience discrimination on the basis of their sexual orientation at work. In this example, the legal anti-discrimination framework, in spite of being the main reason why the interaction took place, is singularly unhelpful. There has been no instance of discrimination, and so there would be no legal solution to this employee's experience.

Diversity training, on the other hand, could be effective in combating the assumption held by 'certain sections of senior management' that sexual orientation is not relevant in the workplace. Many of the exercises used in diversity training seek to dispel exactly this myth. The problem, of course, lies in the lack of compulsion on employers to introduce any form of equal opportunities training for their staff. Paradoxically, it seems almost impossible to challenge the views of these senior managers through diversity training, as it is senior management who make the decision to introduce diversity training in the workplace.

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Example 3: Limitations of the workplace model

A University lecturer distributes a questionnaire to a large class of students. She is shocked, upset and angry when she discovers that on one of the returned questionnaires the student has scrawled 'FUCK OFF YOU UGLY DYKE!' Although her line manager takes positive action, and colleagues are outraged and supportive, she still feels emotionally vulnerable when on campus.

As this third example shows, even where line managers take action to combat homophobia and colleagues are supportive, there are instances where homophobia and heterosexism cannot be challenged through either discrimination law or diversity training. In many instances, LGB workers could be subjected to heterosexist or homophobic comments from people who are unrelated to the employment relationship. Although this example relates to a university lecturer who experienced homophobic abuse at the pen of a student, similar situations could arise in any number of occupations. For example, where LGB people work with young people in any setting (schools, youth clubs, social work etc.), or in the provision of any form of service (such as waiting staff, shop assistants, on public transport etc.), the actions of the service user would be outside of the remit of both workplace discrimination law and diversity training. If the abuse outlined above had been verbal abuse, or even if it had not been written anonymously, there would have been potential for some form of challenge to the overt homophobia expressed. But as this was an anonymous incident there was no real mechanism for challenging the perpetrator's behaviour. Although the person who experienced this abuse reported that her colleagues were 'outraged' and 'supportive' it is important to note that empathic and sympathetic behaviour, in and of itself, is not sufficient to mediate her very real experience of emotional vulnerability.

We would like to make clear that these three vignettes are not hypothetical; they are recent examples of actual experiences of heterosexism at work. Two of these examples were experienced by one of the authors of this chapter (EP), the third by the other editor of this book. These examples are, therefore, very real indicators of the sorts of difficulties that continue to face lesbians, gay men and bisexual people in the work environment. Difficulties that neither current discrimination law frameworks or voluntary diversity training within the workplace context can fully solve.

CONCLUDING REMARKS

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We have argued that combining legal (top-down) and educational (bottom-up) approaches to challenging homophobia and heterosexism at work is a worthwhile endeavour. Both law and education typify ‘the time-honored, non-violent means of social change, the alternative to revolution’ (Gilligan, 1993, p. 162). Supporting the persuasive power and practical limitations of discrimination law with the potential for wide attitudinal change through diversity training can open up a more rounded strategy for confronting the realities of heterosexism at work. As our analysis has shown, the legal prohibition of discrimination on the basis of sexual orientation is not, on its own, as effective as the rhetorical force ascribed to law may suggest. Rather, legal form for tackling discrimination are complex and subtle, and only offer very limited potential of success for individuals who have experienced discrimination. Combating heterosexism at work through diversity training also has its limitations, most notably the liberal framework of educating people about difference. While diversity

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training can challenge beliefs and bring about changes in the words people use, its foundation within liberalism enables people ‘to sit on the fence, avoid taking sides, to denounce polarization, confrontation and the use of force. It is the perfect tool for the oppressor’s use’ (Sarachild, 1974, cited in Kramarae & Treichler, 1992, p. 231).

Our analysis has also highlighted the very real importance of language in both diversity training and discrimination law. The majority of successful sexual orientation discrimination cases (at least, those which have been reported) have had harassment and the use of offensive, homophobic or heterosexist language at their very core. Our discussion of the effectiveness of diversity training has highlighted the ways in which this form of pedagogical intervention can change the language people use in the workplace. Diversity training teaches people to be aware of how they speak, to know what is appropriate and what is not, and therefore it reduces the likelihood of ‘offensive’ language being used in the workplace. Diversity training therefore has the potential to improve the working lives of LGBs, lessen the need for employers to be drawn into costly and reputation-damaging discrimination claims, and reduce both the expression and experience of heterosexism at work and beyond.

In conclusion then, while both diversity training and discrimination law offer

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some potential for addressing heterosexism at work, there is still much to be done.

The liberal, individualistic nature of each of these frameworks does little to challenge heterosexism and homophobia in society at large, and its more multifarious and insidious manifestations in the workplace are probably the most common. Yet we would not advocate the abandonment of either strategies, but rather that these diverse frameworks can be used to support and reinforce each other's strengths. By providing this synthesis of critical psychological and critical legal disciplinary lens, we have demonstrated that this sort of hybrid, interdisciplinary approach can be theoretically and practically applied in LGBTQ research.

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