

**Memorandum submitted by Baroness Campbell, of Surbiton,
D.B.E.**

Mr. Andrew Dismore MP
Chair
Joint Committee on Human Rights
House of Commons
London SW1A 0AA

4 November 2009

Dear Andrew

Re: Evidence to the JCHR on matters concerning the EHRC.

Thank you for allowing me to give written (rather than oral) evidence to the Committee on the work of the EHRC and my reasons for resigning as an EHRC Commissioner. This accommodation is much appreciated.

I agree with the oral evidence given to the Committee by fellow former Commissioners on 23rd October 2009. My aim is to provide further detail, together with personal observations and remarks. In this memorandum, I have commented on EHRC Governance, leadership style, organisational culture and the barriers experienced by the Statutory Disability Committee in carrying out its functions.

I ask the JCHR to recognise my wholehearted commitment to the concept of an overarching, inclusive, equality and human rights commission. I was and am fully committed to bringing disability rights together with other groups and individuals campaigning for equality and human rights. I attach a lecture I gave to Cambridge University, which sets out my views, especially on how disabled people could work collaboratively without diluting the specificity of our particular accommodation and adjustments.

“ I begin to realise the ambition laid out by our forebears during the International Year of Disabled Persons in 1981 who said:

‘As we gain equal rights, so we have equal responsibilities. It is our duty to take part in the building of society’

*So by the time Government merged all the gender, race and disability equality commissions together into the **Equality and Human Rights Commission** last year, many disabled people like me felt ready to join forces with other groups, other movements; ready to move on to the next phase of our liberation as multifaceted human beings contributing to the broad enterprise of equality and human rights for all.” (University of Cambridge, St John’s College, 29/4/2008)*

I want to make my position clear because on several occasions since my resignation it has been suggested that “the two Commissioners from the DRC were never reconciled to working within a joint Commission, preferring and bemoaning the loss the legacy body”. This is not true.

It is right to say that the culture of the EHRC was very different from that of the DRC. There were valid reasons for this, not least the fact that the EHRC brought together many people who had not previously known one another and with only limited knowledge of each others’ skills and experience. I was unhappy that more was not done to bring Commissioners together to learn from one another and to support us working together as a cohesive group. However I, like other commissioners, was determined to demonstrate my commitment to making the EHRC a successful enterprise and therefore minimised/underplayed any challenges.

As the first Chair of the statutory Disability Committee, I had frequent meetings with Trevor Phillips at which I set out the resources needed for that Committee to meet its Statutory obligations. At such meetings my concerns were apparently listened to. Remedial action, like more human resources with knowledge of disability specificity to help the Statutory Disability Committee to fulfil its remit was promised, but it never materialized. This occurred several times.

On reflection, I and others probably held back too often and for too long with regard to a range of growing problems which needed to be addressed by the Chair and Board of Commissioners. However, it was hard to challenge initially because we really understood the difficulties of ‘start up’ (*e.g. bringing three established Commissions together along with three new equality strands, all with their different organisational structures and cultures.*) and wanted to give this complex body all the support we could muster. Then, when it became clear that difficult issues needed to be tackled, there was a distinct lack of mutual support amongst Commissioners for this to happen. If one complained, one was made to feel disloyal to the corporate enterprise and the Chair or ‘stuck in the legacy Commission past’.

Later on, towards the end of my time at the EHRC, I can honestly say quite a number of Commissioners felt intimidated by the divisive culture that was allowed to fester. (You will have already been given examples of this by my Commissioner colleagues at the oral session). Inclusive it was not. It was not an atmosphere in which people, who like me, are committed to collaborative working, flourish. It was more suited to those who enjoy the cut and thrust of a political culture of inner and outer circles and caucusing. It was a culture indulged and encouraged by the Chair.

I was very perplexed that Trevor Phillips appeared unconcerned about potential conflicts of interest between his private work and role as EHRC Chair. When we discussed this at a board meeting I was alarmed that he was unable to see the blatant breach of Nolan principles. The majority of Commissioners were fully aware of his conflict of interest, as most of us had experience of running public bodies. I realised how problematic many Commissioners found it to challenge the Chair on his personal conduct, even when it was our duty to do so.

After about 15 months, I was very uneasy about the direction of travel of the EHRC under the leadership of Trevor Phillips. However, I and others were aware that high profile resignations would damage the EHRC. I continued to hope that he would come to value and work with the board of Commissioners in a more inclusive way

I was extremely concerned that Trevor Philips was happy to make EHRC policy on the hoof, with little or no reference to Commissioners. For example, he announced that institutional racism was no longer a problem in Britain (which goes against all evidence). I believe his long experience as a journalist, convinced him of the need to be seen to be riding the news agenda. He responded to stories as they happened, rather than taking a more considered view after consultation with colleagues and stakeholders. I would liken his style to that of a newsroom, with cliques and an 'in crowd'. Unfortunately, this meant that those with an alternative view were isolated or treated with indifference. The culture was very exclusive and opposite to the kind of culture an equality and human rights body should be role modelling. The desire to remain inside his circle meant that different views were often not aired.

Having worked with Trevor Philips for nearly 3 years, I am convinced that he is a man of many talents, able to engage with some people (namely politicians and the media) in a way that few others can.

However, I finally came to the conclusion that these skills came at too high a price for the EHRC which was being held back by a disempowered Board and a lack of cohesive direction. Eventually I came to believe that Trevor Philip's conduct and approach towards governance were severely damaging to the

EHRC. You might think that one man cannot be bigger than the institution. That is true, but the Chair surrounded himself with a few like-minded people who shared his view and style and this became difficult to intercept.

Aware that things were unlikely to change I made my concerns known in the way and sequence expected of a responsible Board member. I made formal representations, firstly in one-to-one conversations with the Chair. There were several such occasions, although I gather he has subsequently claimed not to have been aware of my deep concerns. This is puzzling, not least because we had a full and frank discussion during my 2008 appraisal in response to my comments on the appraisal form;

“1. Has the past year been good/bad/satisfactory or otherwise for you, and why?”

My experience as an EHRC Commissioner and Chair of the DC has been something of a roller coaster with high points and low points throughout the period. In many ways this is inevitable at the beginning of such a complex and extraordinary organisation whose task was to synthesise three Commissions and three new dimensions into one, bringing inevitable challenges. There are a number of different ways to manage this challenge and I personally would have liked to have seen more advanced cross-fertilization of equality issues across the piece. In addition, more active involvement from leaders (including commissioners) in stakeholder activities would have been welcome; the absence of this communication has left a slight feeling of ‘them and us’. Also, I have been frustrated by the lack of resources available to the Disability Committee, as well as sometimes being exasperated by a lack of interest / enthusiasm to engage disability issues within the mainstream (eg, better working, the nature of exclusion and segregation etc).” (16/02/2009)

When things did not improve I expressed my concerns to the Vice Chair, Baroness Margaret Prosser. I spoke to Baroness Prosser on two occasions (at the beginning of the year and later, just after the Board discussion on the Chair’s conflict of interest). Only when it was clear that nothing was being resolved did I take my concerns outside the Board. I wanted to make sure I was being punctilious about governance. I did not take this action lightly but remember thinking about those of the boards of Enron and the Royal Bank of Scotland, who did not speak out when they should have done so. I discussed the situation firstly with officials in the Government Equality Office and the responsible Minister, Maria Eagle MP (late April). I even had a meeting with the Cabinet Secretary (5th May). Each time I was assured that my concerns were valid and well understood. I was told that re-appointment of the Chair was in doubt and each time, I was asked to postpone my decision until that decision had been made. I made clear to all that I would have to resign if Trevor Phillips were to be granted a second term. Accordingly, I submitted my resignation to the Rt Hon Harriet Harman QC MP upon his reappointment (16th July).

Overarching concerns for the EHRC now and in the future.

I had and continue to have concerns about the direction of the EHRC and its level of activity. In particular, I consider the concept of “fairness”, which has no legal standing, has been wrongly used as an excuse to justify the lack of progress on equality. Its continued use needs to be re-evaluated.

I was also greatly alarmed that the helpline was not seen as a priority over new media (interactive Internet access). Research has shown that poor and disabled people in particular rely on access to telephone contact as they have limited or low take-up of new media.

I consider the Commission’s Human Rights remit was marginalised due to the Chair’s constant consistent lack of appreciation of the importance and effectiveness of the Human Rights Act. He believed that emphasis on human rights was counter-productive due to widespread media hostility to the concept. Regardless of his personal views, the Commission was statutorily charged with promoting human rights and the HRA. I took the opposite view to the Chair’s scepticism of the HRA, believing that human rights wrap around the equality agenda and that the concepts of privacy, a right to a private life, etc. can be readily understood and applied in many areas of life, e.g. in care home provision, health service priorities.

It has been said that the board of EHRC Commissioners was too large and disparate to provide good governance. I do not agree. I was never in favour of the type of Board review conducted nor did I agree with its major finding on the size of the Board. I believe the cultural and political breadth of Commissioners was its strength not a barrier. It is true that most members were people with a professional interest in promoting equality and had similar socio-economic backgrounds. The problem was that they were unfamiliar with one another and for the best of reasons, often reluctant to say something that might demonstrate ignorance or cause offence. We did not “gel” as a group of people despite all having similar aims and aspirations. Very little work was done to facilitate our development as a team. On the rare occasions we came together to discuss difficult and complex equality issues or overarching strategy, I felt we were ‘managed’. Much of the time was spent receiving presentations from external organisations, rather than relying on the wisdom and collective knowledge around the board table. (I believe this is a common way of ‘managing a difficult Board’ i.e one perceived to be less than compliant with what the chair wants).

Eventually, a combination of the Chair’s leadership style and the lack of cohesion between Commissioners meant we became polarized into two groups: those willing to challenge him and those not. It was made very clear that all wanted the

best for the Commission and some saw **not** challenging Trevor as the way of achieving this, since he had assumed the role of the voice of the Commission. However, by the time I left he was definitely not speaking for the board (the first amongst equals he was not). I believe the same issues would have arisen whatever the cultural and political breadth of the Commission.

It has been suggested that the EHRC board could never work cohesively because of fundamental ethical differences between some strands/groups and others. It is true that, on occasions we exchanged, deeply held opposing views to one another. The appointment of Joel Edwards as a commissioner was a challenge to many of us. However, I see one of the roles of the Commission is to find accommodations between those with different beliefs and opinions. For example, there were fundamental differences of opinion expressed in a debate about whether or not late abortion on grounds of disability raised equality issues. Interestingly, this was one of only two satisfactory debates amongst Commissioners. (The other concerned freedom of speech -v- incitement to hatred). Both times Commissioners shared their knowledge and wisdom in an environment of learning and respect. We made huge gains by this approach. Joel Edwards contributed to this process admirably.

Finally, I want to take this opportunity to raise my concerns about the EHRC's focus on disability issues. These are unrelated to my resignation and that of Sir Bert Massie. I believe that achieving disability equality is not just about changing hearts and minds. It is also about practical considerations of building design, etc. These require specialist knowledge in order to produce good guidance. The EHRC's desire to avoid silos meant that particular skills and expertise of experienced staff were not appreciated or valued. This remains an on-going problem and is part of the reason why many disabled people are disappointed by the EHRC's lack of profile or progress on disability.

This is not for want of trying by key individuals. I would like to pay particular tribute to Neil Crowther, the Disability Programme Director. He has worked well beyond the call of duty to produce tangible products and achieve gains in disability equality and human rights. He was the only dedicated policy support to the Disability Committee. It was the Disability Committee that produced the first integrated report on Care and Support in the UK. Issues of gender, race, age and disability were interwoven throughout. It was heralded as a significant backdrop to the Government's Care and Support Green Paper. Unfortunately, Trevor Phillips did not share this enthusiasm, perceiving it as not a headline grabbing issue. If he had used his considerable communication skills to promote the report, the EHRC and its integrated stakeholder communities would have benefited exponentially.

If I consider Board duties and related activities alone, my experience of being an EHRC Commissioner for nearly 3 years was pretty negative. What kept me going was the genuine pleasure I had from working alongside and being in the

company of many talented staff and Commissioners from other equality dimensions who were passionate about our work. In addition, I gained enormously from being part of a body with a strong Human Rights remit, set by the government and endorsed internationally. It lent great depth and breadth to our conversations at board level and with stakeholders. We were fortunate to be inspired, by one or two Commissioners and several staff, to imbed human rights principles into the strategic plan and the EHRC's fundamental principles. However, I felt the Chair's leadership on our Human Rights role was very weak and I remain frustrated that we were not facilitated to further develop this culture.

Please do not believe that I am not in favour of supporting the current concept of a single EHRC. I have not given up on it and I truly believe that, with a different leadership, (one which does not distort governance) we could be telling a very different story.