

# EIP



## Tilting At Windmills

A few weeks ago, I wrote an article for Pride Month. I sat down, started to write, and the next thing I knew it was two hours later and I had eight pages of righteous anger and elaborate verbiage burning smoking holes in the page in front of me. Something about the ubiquitous corporate rainbow-washing that crops up every June had chafed me, and that small outlet was all I needed.

The main thrust of the article was the utter inadequacy of corporate recognition of the LGBTQ+ community. I said that while the improved recognition since the Stonewall Riots of 1969 was great, we got a long way to go. I said that there wasn't being enough done.

I'm a big believer in not criticizing unless you've got a suggestion to help, so I rather talked myself into writing this piece too. Here we go then – **What Can We Do?**

NB: I want to stress that I do not speak for the LGBTQ+ community at large. I am neither priest nor president, and do not presume to speak for anyone who is not me. These are just the things that came to my mind, and they sure shootin' ain't an exhaustive list.

When it comes to making real changes, when it comes to actually deciding to grit your teeth and Do The Right Thing(TM), it's always hard. There's so much wrong, where do you even start?

The kinds of actions we're looking at fall into two broad categories – internal and external.

## Internal Changes

The internal actions are the ones that directly affect current employees and colleagues – in some ways they're the easiest to make, because they're controlled, contained within a domain governed by the people making the changes. They're something that can be done without saddling up a charger and sharpening a sword, and they shouldn't need much of a fight.

These are changes that should be able to be made simply by the people at the top going “ok, let’s do that then.”

I mean, this assumes that the people at the top are willing to listen to those who tell them things like this. It assumes the people at the top have an interest in improving this situation, that they are fundamentally decent people who care about those with whom they work. But then, me writing this assumes that, doesn’t it? We have to assume that, because otherwise the charger I’ve chosen to saddle may as well be named Rocinante.

These changes are harder, however, because they’re conceptually very small. They’re little things that seem, to many, to be insignificant little gestures in the face of a systemic problem. They’re barely anything, so why even make them?

To the world, they may make no difference. To the individual, they make all the difference in the world.

Even were there no argument (and let me be clear – there absolutely is) about systemic inequalities falling to tiny changes like trees falling to a thousand strokes of an axe, the change in the life of a single person should be reason enough.

Whosoever saves one life, it is as if they have saved the world entire.

Here are a few of those little changes we can make:

### **1. Gender-neutral bathrooms**

This is something that’s especially beneficial if you’re dealing with smaller offices. Having bathrooms strictly defined by gender can be alienating to those who identify as transgender, non-binary, et cetera. It’s a tacit reinforcement of a somewhat pointless gender binary, that can lead to people feeling intensely uncomfortable. Take, for example, someone who identifies as non-binary. Is there a bathroom of the conventional Male/Female split that they should use? Who should dictate that?

Consider an individual assigned male at birth, but who identifies as female – but perhaps has yet to reveal this to their colleagues. They are unlikely to be able to use the female-labelled bathroom without issue, and yet may experience extreme psychological stress each time they force themselves to walk through the door that on some level identifies them as male.

Is this always a practical change? Maybe not, especially for companies in larger spaces who may have to engage in costly plumbing and construction to change things. But if you’re in a smaller space, where all you have to do is change the sign on the door...do you really have a good reason NOT to?

## 2. Pronouns

This is, thankfully, something that's becoming more common. More firms are feeling comfortable adding pronoun tags to email sign-offs, or to employee profiles.

The huge benefit here is simply the following: **it normalises discussions that we need to have.**

Gender identity is an uncomfortable issue – it's an intensely personal issue for some, and it's a wildly abstract notion for people who've never had to consider it. Hell, even for me it's not the easiest, because I'm trying to understand something for which I have no frame of reference. However, I'm aware that it's one that needs to happen, so I can just harden the proverbial up and let's talk.

Doing things like including pronoun tags in communications opens the door to communication that has heretofore been absent. It provides a comparatively soft, easy way to let people know how you identify, without forcing you into a conversation that may be incredibly difficult. If someone has, for whatever reason, changed the way they identify, using pronoun tags to let people know is much more convenient than having to tell people what's happening, why it's happening, and fielding a ton of questions that you may not even have answers for.

Some may say that individuals who want this can put tags in themselves, and it isn't a matter for a company to decide. However, if it's a company policy, anyone putting their pronouns in their email sign-off isn't making themselves a target. They're not outing themselves just by taking the step. Don't underestimate the power of **group** action.

Similar things apply, by the way, to other administrative points. There's no need for "ladies and gentlemen" at the start of communications, and it's pretty straightforward to have custom gender options rather than M/F on application & data tracking forms. These things are all about signalling – it's an open sign that people are welcome here, that people who need support will have it.

It's a simple step. It's an easy step. It's not a big ask.

## 3. Anti-harassment policies & environment

Ok, this is a tricky one. I'm kind of cheating here because at the end of the day, the environment is EVERYTHING. On a fundamental level, people have to be in an environment that supports them.

Pretty much every firm has some kind of anti-harassment policy, so I'm stretching things

a little. However, it's important that a) these policies are **enforced** and b) that people feel comfortable raising issues.

Let's not beat around the bush. All kinds of harassment are not equal, people do not face equal challenges, and there **is** a need for certain groups to have more narrowly-tailored protections than others. This is simply a fact, and I will brook no arguments on this point. If you're going to be a silly goose go back to the pond.

Women are at greater risk of specific types of harassment at work than men are. Racial and ethnic minority groups are at greater risk of specific types of discrimination than white folks are. LGBTQ+ people face different kinds of harassment and bullying than cishet people do. These are just facts.

So...and listen to this bit... **anti-harassment policies should take these differences into account.** There should be specific types of harassment that are noted and called out in any policy. There should be specific points to stress that any kind of discrimination or harassment based on sexuality or gender identity **will not be tolerated.**

Make sure counselling services are available for LGBTQ+ colleagues who have experienced any bullying or harassment. Make sure that the firm is made aware of just how bad things can be for us. Don't sanitise things by saying "LGBTQ+ people sometimes face bad things" and move on – tell the truth. Let people understand what it is we face on a day-to-day basis. We have to live with this stuff every day – our colleagues can damn well sit through 45 minutes.

Oh, and I really shouldn't have to say this, but... **there should be absolutely no room in these policies for the phrase "it was just a joke."**

These policies have to be backed by an environment that supports and assists those who need it. If a colleague comes out as transgender, for instance, the absolute first thing that comes out of any corporate mouthpiece should be the following – "what can we do to support YOU." The next thing that happens should be that the response is listened to.

In general, it must be the case that when concerns are raised, they are heard. They are considered. They are **acted upon.** If someone comes to the firm with a problem, there should be an assumption that the problem will be fixed.

This goes all the way to the top. It's no secret that firms take their lead from the partners, so if the people at the top aren't on board, all the policies and pamphlets in the world will not help; the leaders must set the tone for the rest of the firm to follow.

They must, you know...**lead.**

#### 4. Healthcare

This is, as they say, a stretch goal. It's a tough sell to many firms, but hey. If you're going to fight, fight hard.

There are a lot of things that COULD come under this umbrella, but I want to highlight gender-affirming care. In the UK, this is available on the NHS, but it is frequently an incredibly clunky and slow procedure, full of frankly ludicrous hurdles and delays. Furthermore, with the government's recent U-turn on "conversion therapy," more people than ever face significant challenges in seeking gender-affirming medical care.

Of course, there's usually a private route as well. In fact, for people in countries like the USA, private is the ONLY route.

Many firms – I'd even say the vast majority – provide health insurance.

How many firms provide health insurance that would cover gender-affirming care?

I'd hazard a pretty safe guess that the answer is "not enough."

Want to show people that you care? Want to show them you support them, that they matter? Here you go.

## External

The external changes are the ones that aren't within your direct control. This is the bit where the firm (metaphorically) stands up, cracks its knuckles, and goes "right then. Square go."

As I discussed in my previous piece, there are more than 150 brutal, archaic, discriminatory laws being tabled across the USA. In the UK, the legal side isn't as dramatic, but I can guarantee the cases are there.

If firms and companies want to show whose side their on... they should do so.

Lobby against these laws being passed. Say it loud, say it proud, say it publicly. Tell the politicians, with the power and money of business, the platform of public enterprise – tell them that this is something up with which you shall not put.

Put your money where your mouth is, and work with charities that support these groups. Don't just give them your words – give them your time, give them your aid. Turn to, and put out all your strength of arm and heart and brain, and **help**.

This goes double for lawyers, by the way. This is the new battlefield, and lawyers are some of the best-armed in the business. The modern Landsknecht, the Redshanks of the new age. There are, I guarantee, cases being heard right now where a child has been refused a chance to play football, where a teacher has been fired for transitioning, where a parent has been denied the chance to see their children. There are cases springing up all over the world, and every single one represents a person who needs help.

Help them.

Most big firms have a certain pro-bono allowance anyway – so direct it. Take the cases on, give advice where you can, counsel those who need it the most and can access it the least.

Help.

Now, some firms may read this and nod their heads, and get together in groups where people sit around a table and nod their heads together, and they will all mutter and mumble and say “oh yes quite agree, quite agree, really should do this.” And then they will suggest a committee, and the committee will plan an investigation, and the investigation will be reviewed, and then the results of the review will be discussed by the committee, who will present a summary of the discussion of the results of the review of the investigation to the group, and everyone will feel virtuous and absolutely nothing will be done.

Here’s what it comes down to.

There must be some mechanism through which firms can demonstrate that they are willing and able to make practical, meaningful changes to the status quo. There must be some way that employees can raise concerns, the concerns can be heard, and action can be taken.

For example, if a company is going to have a group committed to diversity, that group cannot simply be a coffee klatsch. There needs to be some mechanism by which the group can, if not institute changes directly, at least have a clear line to bring these ideas to those who can. Some IP law firms have granted control over such matters to these groups directly. Others have made sure that these groups are led by a director with a seat on the board. Such firms have given teeth to their diversity groups, and it shows. It lifts them head and shoulders above those firms which will be content with any initiative, provided it costs no money, takes no time, and involves no actual change.

There are a lot of changes to be made. There’s a lot of work to be done. We have a long

way to go. We're not asking for each firm to reshape the world overnight. I'll put it even more simply. Here's the key to showing a commitment to the LGBTQ+ community:

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Acta non verba. Deeds, not words.

The smallest change, made now, is better than the biggest idea that never comes. Please – just make the small change.