Chapter XVIII

Dancing to the Same Tune

(a) The City Council Embraces *NATFHEism*

The flurry of activity surrounding the Weaver v NATFHE case had put the LEA report on the back-burner. Having heard nothing of Geoff Hall's pre-holiday promise to make the report available, we suspected the LEA might try to pull off a stunt by either releasing a sanitised version of the report or not releasing anything at all. To counter these possibilities, Bis Weaver formally approached the Birmingham Community Relations Council, as the LEA was hardly in a position to restrict access to a BCRC officer wishing to see a report dealing with racial harassment. He was already aware of the grievance submitted to the LEA hearing as it was sent to him together with the Industrial Tribunal report in July 1987. The dissatisfaction Bis Weaver revolved around the LEA's failure to release: (a) the report promised to her at the end of October 1986; (b) the minutes of the LEA hearing similarly promised; and (c) the replies to the grievance from Gates, Cave and Hartland to which she was entitled under the grievance procedures. The CRC was also informed of Gates' apology although the LEA had ignored her request for a copy. * She asked the CRC to contact the LEA to ask when the report and other documentation would be released.[1]

When the CRC senior officer initially received the documentation in July, the situation at Bournville College came as a surprise to him since he knew nothing of the grievance. The arrangement for the city council to notify the CRC of all complaints involving racism had not been followed in her case. Yet another omission by the city council adding to its shortcomings in this case and it was obvious why the city council declined to involve the CRC. The Labour leadership, spearheaded by Councillor Knowles, had shown itself just as keen to cover up the complaint as had been NATFHE head office.

The CRC officer then made his way through a layer of LEA officers before being given access to the report. While reading the report, he was well 'guarded' by a council officer and not allowed to take notes, however, he had no difficulty in remembering the salient points in the summary. The LEA's enquiry had found in favour of Bis Weaver,

* Bis Weaver already had a copy from NATFHE's submission to the Industrial Tribunal but we wanted the LEA to acknowledge that an apology, however unsatisfactory the content, had been tendered

concluding that "Mr Gates' behaviour was inconsistent with that of an anti-racist";. and city officers "consider[ed] her to have been a victim of racism." Furthermore, college management was criticised; and there were "strong grounds of institutional racism against the college and the LEA." Notwithstanding this, "no action [is] recommended" because, as he was told by a city officer, "the City Solicitor's office had insisted the report should not be released [as]…there are flaws in the way the investigation was done" – flaws attributed to Geoff Hall. The CRC officer was satisfied that "it is a case of racist harassment" and suggested she waited on the outcome of the application for CRE support before taking on the city council.[2]

The flaws in the procedures may have arisen from the discussions between Day, of NATFHE, and Jones, of the employee's relations office in August 1986. Other factors possibly influencing the city solicitor's office were management's culpability for not intervening to protect an employee when it was brought to its attention; and the Labour Group leadership not wanting a CRE investigation of Bournville College with a consequent race scandal in the press, as implied in the Knowles directive of December 1986.

The CRC's unexpected interest appeared to stir the city council into action because on the same day as she received a report back from the CRC, 24th September, Geoff Hall was despatched to Bournville College to present a verbal report to the Principal, whose task was to relay this verbal report verbally to Bis Weaver. If any further confirmation was needed of the seriousness with which the city solicitor, Labour politicians and city council officers viewed Bis Weaver's grievance this was it. The severe repercussions arising from the actions of Gates, Cave and Hartland and the college's inaction were to be suppressed and a verbal report of a verbal report showed the determination of the city's power brokers, holding hands with NATFHE, not to put anything in writing to the Weavers. Had not Geoff Hall referred to us as NATFHE's-own Woodward and Bernstein?

On the 13th October, the Principal of Bournville College invited Bis Weaver to the college, accompanied by a friend if she so wished, to "pass...on the substance…[of] a verbal report by…Geoff Hall, on the outcome of his investigation into [her] complaint against David Gates." * The Principal's intention was to "describe the result of the investigation and Geoff Hall's conclusions" and Bis Weaver would be given "an opportunity to comment on this…"[3] It did not go unnoticed that neither Cave nor Hartland nor 'Teachers Grievance Procedure' were mentioned – a sign of the LEA intending to stick to its story that the Teachers

* The letter was dated the 13th October 1987 but was given to me by hand on the 19th October 1987 [4]

Grievance Procedure was not applicable and, therefore, justify its failure to give a written report to the complainant. Bis Weaver contacted the Principal and arranged a meeting for the 6th November, along with her representative.[5]

On the 21st October, the notes of Geoff Hall's verbal report to the Principal, written up on the 9th October, were despatched to Bournville College in readiness for the meeting with Bis Weaver. These notes were accompanied by a copy of the summary of conclusions of the LEA enquiry – the rewritten version. A request was made by the LEA for the Principal to provide a feedback on the meeting [6] – the final scene in this LEA dramatization.

The notes containing Geoff Hall's verbal report was headed *Report Back by Assistant Chief Education Officer (Continuing Education) on the Inquiry held in October 1986 Arising out of Allegations made by Mrs Weaver against Staff at Bournville College of Education.* * This title removed the racism dimension as the significant component of the enquiry and also detached the purpose of the enquiry from statutory requirements – the city solicitor had to earn his keep. The title should reasonably have been *Report Back of Inquiry into a Complaint of Racial Harassment made by Mrs Weaver against Messrs Gates, Cave and Hartland to Bournville College's Board of Governors under the Teachers Grievance Procedure.* This version would have used the same number of words but would have rested less easy in the index of official records held at the city council or at the DES. This would also apply if the CRC or the CRE asked formally for details.

Geoff Hall began the exercise by referring to his letter of the 10th July 1987 to "Bismillah Weaver saying that he would do a written report in due course." In that letter Hall had offered to meet her "to discuss the conclusions of the report and possible follow up," but this was abandoned when he was apparently informed that "Bis did not want to pursue matters." He acknowledged that none of this apparent about turn was in writing, therefore, he thought it "necessary to follow up the issues which had arisen following the Inquiry." ** (GH 1; BW 7) *** Geoff Hall had misunderstood Bis Weaver's decision, which had been not to

* The written notes of Hall's verbal report were eventually obtained and the re-written version of Section 5 Summary of Conclusions from a source in the city

** The LEA's enquiry dealt only with what happened in the college between February 1985 and June 1986 and not with the subsequent situation in the college, following the LEA's grievance hearing, which intensified the pressure on her. So what did a report back on the grievance of the 25th June 1986 have to do with events following the grievance hearing? In fact, nothing was said about the post-25th June events

*** GH refers to points in Geoff Hall's notes; BW refers to points in Bis Weaver's notes taken at the meeting with the Principal

pursue the second grievance against Cave and Hartland over the *Beider affair* but that had no bearing on the grievance against the 'trio'.

Geoff Hall pointed to the 25th June 1986 when the chief education officer "received a letter from Bis Weaver, who had…lodged a grievance with the Authority, * in relation to the behaviour of subordinate staff at the college **….Following legal advice" the LEA treated this grievance "as a disciplinary matter [and] An Inquiry [was] held [by the LEA] in October 1986 and consideration had been given to what action might be taken." (GH 2; BW 8)

Hall failed to mention it could not be decided unilaterally to treat a grievance as a disciplinary matter. This unilateral decision by the city council was such that not even the complainant was informed, and was contrary to the McGoldrick v Brent decision. Bis Weaver's grievance was a statutory right and the LEA could not dispense with that right without discussing it with the party invoking that right. How else could a victim obtain redress especially, as admitted by the LEA, management failed to take action against a wrongdoer?

In any grievance procedure there is always the possibility of disciplinary proceedings arising from the outcome, as Hall had stated in his letter to all parties on the 16th July 1986. As mentioned above, in the event of a complaint of harassment whether it be racist, sexist or 'unflavoured' being proven, disciplinary procedures against the perpetrator(s) would then be instituted. This appeared to be the procedure Hall was following until hauled in by the combined activities of NATFHE, the employee's relations office, the Labour group and, subsequently, by the city solicitor. The city council apparently acceded to NATFHE's 'suggestion' to change the procedures and when we subsequently found this out, after the Industrial Tribunal hearing, the council tried to cover up that it had acted against the statutory requirements. *** Geoff Hall appeared to have become a victim of unprincipled bureaucratic manoeuvring and the city council needed a way out.

Hall diverted attention on to the case against NATFHE by saying that "Bis Weaver had taken NATFHE to the Industrial Tribunal…[which] had eventually taken place on the 8th

* Bis Weaver "lodged a grievance with the" governors, not the Authority. Her letter to the chief education officer of the 25th June 1986 was a covering letter sent with a copy of the grievance asking the CEO to keep an eye on the grievance – a letter sent to the CEO on the recommendations of the CRE and Mr Kurshid Ahmed, who was acting on instructions from Birmingham city council's Race Relations and Equal Opportunities Committee

** By using the words 'subordinate staff', he seemed to be conforming to the claim made by Triesman about senior staff not being able to use the grievance procedures,[7] which was not sustainable either by reference to the statute or in practice

*** From the letter Day sent to Ron Jones in August 1986 in NATFHE's Industrial Tribunal Bundle [8]

– 10th June 1987 [and]… there might be an appeal against the Industrial Tribunal's decision, which found against Bis." (GH 2)

"On the 3rd February 1987, Geoff Hall had reported to Bis, with Gordon Weaver present, that in his view there had been a case of professional misconduct by David Gates, [which] she had accepted…but had wanted to continue, on points of principle, to the Industrial Tribunal. She had also accepted…that on the specific allegations her case had not been one of grievance but, if the allegations had been proven, would have resulted in disciplinary action." * (GH 3; BW 9/10/11)

The items referring to the 3rd February were not true as neither were raised with Bis Weaver in February 1987. The alleged restriction on the use of the grievance procedures was never put to her by the LEA until after the Industrial Tribunal hearing when it was made known to the LEA, in a spate of letters from me, that we knew NATFHE had negotiated with the city council to change the procedures. **[9] If Bis Weaver had been informed in February, why was it necessary for the Principal to pass on a message from Geoff Hall to her, on the 30th June 1987, that she was "not eligible to use the grievance procedures"?[10] If the LEA had received legal advice that Bis Weaver was not entitled to the grievance procedures why did Geoff Hall make no mention of this in his letter of the 16th July 1986; or during the October 1986 hearing; or in his letter to her of the 16th October 1986; or mention it at the board of governors meeting in November 1986; or have his representative bring it to the governors attention at the March 1987 governors' meeting? *** Nor did she accept that Gates' actions constituted professional misconduct, she described it as gross professional misconduct; nor did she make any reference to continuing her action through an Industrial Tribunal as such a remark would be irrelevant as the case against NATFHE was entirely different. The Tribunal dealt with the union's racially discriminatory policy and the grievance concerned racial

* In the Principal's notes, there were two additional items in Hall's point 3 reported to Bis Weaver that were not included in Hall's notes

** NATFHE's actions in negotiating with the city council fitted in with Triesman's description of a 'corporativist approach' which he claimed the union would not engage in.[11]

*** ACAS confirmed to me that "Employers are required under the legislation to provide all their employees with a copy of the (Grievance Procedure) after 13 weeks of employment" and in the event of the employer's failure to do so, an employee has "the right to submit such a claim to an Industrial Tribunal." The grievance procedures are therefore part of an employee's contract. A failure by the employer to abide by the terms of the grievance procedure would also be a breach of contract and a violation of statutory requirements. ACAS also stated that a member of a trade union may consider taking up the issue with the union. Bearing in mind that a union official was involved in this breach of a statutory regulation, there was no possibility of assistance from that quarter. What this communication showed was that an Industrial Tribunal was the only way forward for employees/members when the local authority and the union were involved[12]

harassment from college staff members.

Hall told the Principal that Gates' transfer "to another college away from Birmingham, meant, in effect, that disciplinary action was only theoretically possible [and] the City Solicitor had also advised that the considerable time delay was problematic." (GH 4; BW 12) This was another red herring for external consumption because by January 1987, the city solicitor had examined the LEA's report and sent it back to the LEA for amendments to be made! * This was one month before Day and Triesman visited Birmingham (in February) to discuss Hall's findings and two months before Gates sent a written apology to the LEA on the 11th March. On these dates, Gates was still in the employ of Bournville College and remained so until the 1st April, therefore, disciplinary action had been possible. This also confirmed Hall's enquiry was not a disciplinary procedure otherwise disciplinary action would have been an automatic consequence of the findings of professional misconduct or gross professional misconduct. This had not happened and suggested that Hall's enquiry was initially conducted as a grievance hearing and had only been changed after the conclusions were made and the intermediate stage inserted as 'arranged' between NATFHE's regional official and the city employee's office.

The meeting then turned to the other two participants named in the grievance. The outcome for Hartland and Cave was for them to "be informed immediately by the Principal, by way of interview, that there would be no further proceedings on this matter... and that nothing would appear on their personal files..." The Principal would be supplied with Section 5 of the LEA's report showing "David Gates was guilty of professional misconduct but this had not been motivated by racism. It therefore followed that Brendan Hartland and Norman Cave were not guilty of racism." (GH 5; BW 13/14)

Confirmation of Hall's findings being more serious than was now admitted were revealed in his letter to Bis Weaver of the 16th October 1986 when Hall, believing the Industrial Tribunal hearing was about racial harassment involving Gates and the others, had written that the LEA's findings would be of use to her at that hearing. The conclusion now revealed to the Principal that Gates was not motivated by racism was not accompanied by any explanation as to how Hall arrived at this conclusion or any explanation from Gates as to the reasons for his behaviour. Hall also introduced an 'interesting', and inadmissible, connection

* The city solicitor held a brief for the city council, therefore, his advice was partisan in looking after the interests of his employer – the city council, and not the interests of the complainant. As the saying goes 'whoever pays the piper calls the tune' and the city solicitor was playing the tune required by his paymasters

from his finding on Gates' behaviour by saying "It therefore followed that Brendan Hartland and Norman Cave were not guilty of racism."

Hartland and Cave were not joined at the hip to Gates and even if Gates' behaviour had not been racist, Hartland and Cave might have been motivated by reasons of race when they decided to join Gates in the harassment. What method did Hall use to decide Gates was not motivated by racism nor were the others? Hartland and Cave, like Gates, had apparently not denied the incidents Bis Weaver complained of in her grievance * and gave no reason as to why they behaved in that way other than to state they were not racists. ** LEA officers, aping their NATFHE counterparts, failed to take into account Bis Weaver's knowledge and experience of racism when they tried to pass off this assessment as if racism and racists were concepts alien to her understanding. Had it been forgotten that this expertise was the reason for appointing her as the first college of further education equal opportunities coordinator in Birmingham.

Hall did spare a thought for Bis Weaver by stating that "there still remained the question of [her] complaints which should have some redress [as] she had been subjected twice to behaviour which amounted to professional misconduct" and he mentioned Gates' written apology. He added that Bis Weaver's authority "should have been supported by college management" and it was his "view that in April 1985 Bis should have raised a grievance about the then Principal's non-involvement." (GH 6; BW 15 & 19) It was very generous of the LEA to consider Bis Weaver "should have some redress" since it was she who was at the receiving end of the harassment and it was her grievance against the 'trio' that was the purpose of the hearing. The LEA had gone slightly further than NATFHE in identifying two particular occasions of misconduct in 1985 compared to Day's single occasion. If this behaviour on two occasions was identified as professional misconduct, what description would have been put forward for Gates' behaviour if Hall had included the other incidents in 1985 and those of 1986 – something more than professional misconduct if set against the standards in the city council's own guidelines for determining racist and sexist harassment. Furthermore, if Bis Weaver's grievance consisted solely of two incidents involving Gates in 1985 and it was the then Principal who was at fault in April 1985, *** then Cave and Hartland, who were cited in the grievance as participating in the harassment

* They were in no position to do so as the evidence was clear and could be substantiated
** When an accused declines to give reasons for behaviour considered by the complainant to be racist or sexist, an inference can be made that their behaviour was racist or sexist behaviour. This had already been given legal recognition and would soon be enshrined in law [13]
*** The Principal at that time retired in October 1985

from February 1986, should be in the clear because the harassment of Bis Weaver was all over before they involved themselves! Nor would there have been any reason for a twelve months delay, after the hearing in October 1986, to tell them no further action would be taken against them nor that their involvement would not be placed on their personal files. This was definitely a 'piece of work' for the benefit of interested outsiders and hardly a shining example of the city council policy on harassment.

Another claim was made that "David Gates had not been allowed a forum to defend himself" and although Geoff Hall did not specify how or when this detriment occurred it was obvious from what followed that he meant in June 1985 because immediately after this claim Hall stated "Bis went to NATFHE." * (GH 7) At the February 1987 meeting, Geoff Hall mentioned something similar about Gates not being given an opportunity to defend himself' but on that occasion he was referring to the 1986 grievance. That particular comment made no sense either because what had been the purpose of the October 1986 grievance hearing if not to give the 'trio' a forum to explain their actions.

Hall continued this verbal fantasy by referring to Bis Weaver's promotion and the support given to her by the Bournville management and the LEA, which he claimed showed that while she was "subjected to distress...this was apparently not affecting her career." (GH 7) Management had failed to intervene between June 1985 and June 1986 to prevent the 'distress' – read 'harassment', and was Hall saying that being promoted was Bis Weaver's compensation for being harassed and abused. This unreal world resembled NATFHE's but without the malice exhibited by NATFHE officialdom as Hall was not vilifying Bis Weaver but expressing some sympathy for what she went through.

Racism had almost failed to get a mention in Hall's verbal report, except for the comment that the actions of the three accused were not racist. Racism was then introduced but it took the convenient form of de-personalised 'institutional racism.' This was referred to as "The effect of the action on Bis ** might be construed as institutionalised racism and this would need consideration possibly through a report to the Governing Body in due course." This proposed new report "should refer to Bis not being given an opportunity to raise her complaints; the accountability of the college management of the day and the lack of any long lasting damage to Bis's career." (GH 8; BW 21 & 32) Another report! The introduction of 'institutional racism' was in itself sufficient for the issue to be referred to the CRC and the

* This was the complaint of the 10th June 1985 subsequently *whitewashed* by Day.
** The action was the result of Gates', Cave's and Hartland's behaviour and management's failings

CRE, in accordance with the agreement between those bodies and the city council, yet the city council failed to do this. Why not?

The Principal was given the task of informing Bis Weaver that "her complaint was not a grievance but a disciplinary matter *...[and] disciplinary action against David Gates was problematic given the time delay." (Point 8) The Principal was also to "inform the Chairman of the Governing Body [of the outcome] but would defer reporting to the Governing Body for the time being." (GH 13) The governing body with its new membership, which had overall responsibility, according to McGoldrick v Brent,[14] was to be left out of this process 'for the time being', which could be taken to mean indefinitely. **

The verbal report back had definitely tried to fix the grievance into a pre-June 1985 period before the present Principal took office *** but Hall appeared to blow this purpose apart by referring to Bis Weaver's letter to the chief education officer of the 25th June 1986, "from which it was apparent that college management had not been able to respond to her complaints", especially the undermining of her position. (GH 9; BW 22) This letter had been mentioned before when Hall said she had lodged a grievance at the same time. By pointing out "college management had not been able to respond to her complaints…[and] she had felt her position undermined," this could only mean her problems continued up until the grievance was submitted in June 1986. This identified the present management culpable for doing nothing during the period up until June 1986. Anyone giving the notes of the verbal report more than cursory attention would see this discrepancy.

This culpability was skirted around by putting the blame on "the college's committee structures as being inappropriate" The new Principal was said to have "tightened up on procedures" and also agreed to "codify what had been learned over the *past 1½ years* in terms of understanding racism and other issues," which identified the beginning of the learning period as mid-1986. (my emphasis) (GH10) This 'learning curve' for the Principal had shown racism in the college to be a factor during the new Principal's reign otherwise what could have been learned about racism if it made no appearance after June 1985.

Another piece of irrelevant information was introduced giving the impression that the

* If Hall had told Bis Weaver that it was not a grievance but a disciplinary matter on the 3rd February 1987 why was it necessary for the Principal to tell her now

** The governors were not told of the outcome at the next meeting but as Bis Weaver's representative, I supplied all the governors with details of the case and of this verbally reported 'outcome' in early 1988 with another spate of letters

*** The present Principal Twyman confirmed that the situation for Bis Weaver continued after she became Principal on the 1st January 1986[15]

LEA was involving itself in Bis Weaver's case against NATFHE – another attempt to deflect attention from the grievance. Hall said "Bis wished to appeal the Industrial tribunal decision...[and] the CRE were consulting the CRC about this who were in turn involving Steve Stephenson and Geoff..." (GH 11) Where did this come from because the CRE did not involve any of those mentioned at any stage and why, if it had been true, go to the trouble of telling Bis Weaver something she would have known from her contacts with the CRE? Furthermore, what did an appeal to the EAT in 1987 have to do directly with a grievance submitted in June 1986?

Geoff Hall did intend to enter a note on Gates' file stating that Gates "had admitted two cases of professional misconduct, and had sent an apology letter for such misconduct." Hall was also considering whether or not to inform the Principal of (Wakefield) college where Gates was now working. (GH 14) The LEA appeared to be at sixes and sevens when deciding what to do with the case. On the one hand, the file on the case was to be left open (GH12) but, three points later, the LEA administrator was "to complete the files." (GH 15)[16]

Playing a get-out-of-jail-card for the 'trio' and management, the target the LEA chose to make responsible for Bis Weaver's problems was the ex-Principal of 1985 for the three months of harassment under his regime. Dealing with him was not an option as he, too, had left the college. The LEA remained silent on any action against the incumbent Principal for similarly failing to take action on Bis Weaver's behalf for a period of eight months during 1985/1986. The claim that the present Principal gave Bis Weaver support was contradicted by the facts. When Bis Weaver went to see the Principal in May 1986 about the treatment meted out to her, the Principal's advice was to hang on until July when Gates would leave the college on study leave. Was this considered to be support? Nor did the LEA provide any support for her as it was not involved until the grievance was submitted in June 1986. However, the LEA, in taking no action against the harassers after the grievance hearing, had left her wide-open for continued attacks on her in the college – the *Beider affair* was one such occasion.

The verbal report was a travesty of justice and principle – months of harassment condensed into this *bonhomie* chat between the arbiter of the evidence at the grievance hearing (Hall) and one of the witnesses at that hearing (Principal Twyman), who might well be vicariously liable for what happened. The harassment faced by Bis Weaver had been brought to the incumbent Principal's attention in June 1985, when she was head of personnel; and in May 1986 as Principal of the College. The chair of governors, to whom the grievance was sent, was playing a spectator's role during the whole of this process. The whole mythical

situation conjured up by magicians in the Labour group and the city solicitor's office was naught but verbal hogwash and the LEA and the Principal knew it was hogwash as would Bis Weaver when she heard it, and the LEA and the Principal knew that Bis Weaver would recognise it as hogwash.

Even if Bis Weaver had decided not to pursue the initial complaint, as Hall conjectured, why would the LEA find it necessary to provide what was an outrageously inaccurate report back to her? This suggested that the LEA had to have some record of having dealt with the complaint and that the complainant had agreed with the outcome. This glossed over account was undoubtedly produced for an alternative audience, most likely the Department of Education and Science, because Hall's verbal report: (i) skirted around the complaint to rule out individual racism; (ii) gave the post-June 1985 management a clean bill of health; and (iii) emphasised that it made no difference to Bis Weaver's career prospects. *

On the 6th November, Bis Weaver, accompanied by me, turned up at Bournville College to hear what the Principal had to say. The Principal had the notes sent to her by the LEA; her own notes taken during the meeting with Geoff Hall; and Section 5 containing the re-written conclusions of the grievance report. Her task was to summarise these documents in the verbal report back to Bis Weaver, (BW 2) therefore, it was left to the Principal to choose what to include in the report back. The existence of Section 5, conclusions, established that a report had been produced because if there was a section 5 there must also be sections 1 to 4, although the Principal had not been given access to those sections.

We decided prior to the meeting to listen; say nothing; take comprehensive notes; and then submit a series of questions and observations.

The Principal began by informing Bis Weaver that "a verbal report had been given to her by Mr G Hall" and notes of that report, taken by another LEA officer, had been provided for her. The verbal report provided for Bis Weaver followed the one given to the Principal

* This was only partially correct because when Bis Weaver sought secondment to Bilston College, she was told later by a senior member of Bilston management that the union at Bilston had tried to block the appointment. NATFHE officers went around Bilston college stating she was anti-union and that trouble followed her around.[17] In 1989, when I sought a transfer from Bournville College because it had become virtually impossible to work there, I was told by the LEA officer dealing with the transfer that all colleges in Birmingham except one had refused to consider me for a transfer after pressure from NATFHE officers, who branded me a trouble maker. The Principal of Matthew Boulton College took a different view and offered me an appointment and I spent several fruitful and enjoyable years at the college.

but there was some slight variation. *

The Principal included the claim that "Mrs Weaver had accepted Mr Hall's view that grievance procedures were not relevant because a member of staff more senior than another cannot bring grievance procedures against a more junior member of staff." Mr Hall had also said that Mrs Weaver had accepted…[this] not on the 3rd February but at a later date." ** (BW 11)

When the Principal reported that "Mrs Weaver's complaints should have been redressed by management and that twice the behaviour should have been redressed," (GH 6; BW15) I interjected to ask if twice meant (i) "the numerous occasions listed in the complaint of 25th June 1986; and (ii) the other complaint of April 1987 concerning the Beider issue of December 1986." The answer was that "it didn't concern the Beider issue….Mr Hall was referring to…when [Gates] called her a liar and [also] when he told her to 'take her fucking finger out.'" (BW 16/17) Gates' letter of apology was then read out. (BW18)

The Principal had been told to "emphasise that it was the College Management of the day in 1985, which was accountable for much of what had happened...[and] to explain…there was no long standing damage to Mrs Weaver's career in Mr Hall's view." This was an extremely narrow view of the consequences to Bis Weaver from the 'trio's' behaviour – it was not about career prospects but the indignity, humiliation and stress resulting from harassment and not being treated like other members of staff. Did the LEA or management not realise that? (BW 21 & 32)

The crux of the problem continued to be placed in 1985 and the Principal put the blame on the unwieldy college structure and if it "had been better and tighter Mr Gates' language and behaviour would not have happened" adding that "Mr Hall said it was always a possibility of senior people being undermined because of management structure." (BW 23 & 24)[18]

This was really taking the effect structures have on individual behaviour to ridiculous lengths. It was akin to saying 'It wasn't my fault that Mrs Weaver was harassed for months it was the structure of the college that was responsible.' On this basis it would be difficult to ever find a racist or sexist harasser responsible for their actions. The observation that "it was

* These variations were not known to us at the time. We became aware of them when a copy of Hall's notes and section 5 were obtained and compared with the notes we had taken of the Principal's verbal report.

** The Principal referred to this as Geoff Hall's note 3 but it was not mentioned in Hall's written notes

always a possibility of senior people being undermined because of management structures" did not explain why there was no evidence of any other person being undermined within those structures – only a Black women senior lecturer. How could they explain that? They did not and they did not say why? Furthermore, during the period that the LEA had tried to confine the harassment – February to June 1985, Bis Weaver was on the same lecturer's grade as Gates.

The Principal's verbal report of Hall's notes made no mention of institutionalised racism within the college's structures or of deferring a report to the board of governors on this form of racism; or of pondering over whether to tell Gates' new employer; or of the contact made between the LEA, the CRC and the CRE with regard to the Tribunal, although the connection to the Industrial Tribunal was irrelevant to the report back. (GH 7, 8, 11, 12 & 13)

The Principal moved on to her own notes of the Hall meeting, which virtually reiterated her account of Hall's notes, while adding a few points to those notes. The Principal had been directed to emphasise that "Mr Hall never believed the correct mechanism was a grievance procedure" and then she regurgitated the previous management's failure. (BW 27 & 28) Hall acknowledged that "Mrs Weaver had a legitimate grievance against the College [and] the [then] Principal should not have allowed NATFHE to take over but to take disciplinary proceedings against Mr Gates." (BW 29 & 30) Hall also said "that had people in the college understood what had happened to Mrs Weaver she would have had more sympathy from the staff." (BW 31) This was an ill-informed assumption without any credibility because staff had witnessed the incidents; had participated in the attacks on Bis Weaver in union meetings; had observed her shuffling around on her walking stick; and had virtually sent her to Coventry. They knew all about her problems and the overwhelming majority did not find it difficult to adopt the 'party' line to do nothing - that was an alarming part of her situation.[19] With that point the verbal report back on Hall's verbal report came to an end.

The Principal then turned to the LEA's report, section 5, Summary of Conclusions, which apparently was given to the Principal to view but not to relay any of it to Bis Weaver. We later found this document to be a carefully chosen précis of a rewritten watered down version of Section 5, although the Principal might not have known that Section 5 had been rewritten. Hall's verbal report had omitted the most significant material in Section 5 and the Principal also failed to mention much of that material. With the copy of Section 5 provided

for her, she must have been aware of what she omitted. However, in the course of this exposition, she did reveal an illuminating piece of information.

The report back on Section 5 was prefixed with a statement that "Mr Hall had said he had fed this section back to Mrs Weaver in February 1987", which was not true, although it was unlikely the Principal would know that. The Principal said they were "the same points…already covered", which was not true and the Principal would know that.

The complaint was described "as a disciplinary matter between February and May 1985" and the inaction of the previous management was reiterated. The criticism was stronger in that it stated "Senior management had failed to afford [Mrs Weaver] appropriate protection during that time from personal abuse. Further and more seriously, management had failed to afford proper protection for her…thereby contributing to serious undermining of her status and authority." (BW 34) "The Principal should not have allowed NATFHE to take over the dispute and [his] statement…was woefully late on the role of the Access Course Coordinator." (BW 35)

There was a difference in the way Gates' behaviour was described; it went from professional misconduct (GH 3) to "a serious breach of professional misconduct," (BW 34) bringing it more into line with Bis Weaver's description of gross professional misconduct. Cave and Hartland, apparently, "had not acted from racist motivation [but] they need to reflect on their contribution to the situation and make sure that their rhetorical anti-racist position matches with their practice." (BW 36) Nothing was said, however, about what motivated them to behave as they did but this was an illuminating disclosure with its reference to racism.

Then in came a point about Autumn 1985 when "Mrs Weaver's promotion confirmed management's confidence in her ability and was an important turning point in the matter." Her "position is more secure because of College Management, the LEA and other appropriate bodies...[and] if Mrs Weaver had still been at Bournville College she would have been able to fulfil her role unimpeded." (BW 37 – 39) No mention was made of who were these "other appropriate bodies."

We wondered how the Principal managed to keep a straight face when regurgitating this because after Autumn 1985, Bis Weaver's situation deteriorated as two other members of staff joined Gates in harassing her until June 1986, which was accompanied by management's abject failure to protect her. Nor did this feed-back take into account the attacks made on Bis Weaver after the LEA hearing of October 1986, notably the *Beider affair*. Section 5 reinforced our view that it was definitely not for Bis Weaver's

enlightenment but for the benefit of 'interested outsiders'. This illusory account placing the focus in 1985 was all the more remarkable because it was being told to the victim by someone who was a culpable party. Both the Principal and Bis Weaver knew this version of events was decidedly not true.

The Vice Principal disclosed that it had not been asked "to get a response from Mrs Weaver,…only…to provide this verbal report", (BW 40) which suggested the LEA was expecting Bis Weaver to listen to this drivel and then walk away. However, that was not to be the case because a series of questions (thirty in all) had been prepared and were put to the Principal, who apparently was not expecting any response at all.[20]

Some of the questions we had prepared were covered by the verbal report; some on the list had been mentioned but greater clarification was sought; and some were directed at points not touched upon.

The Principal did not know the answer to a number of the questions: (i) why Mr Hall did not tell Mrs Weaver in June or October 1986 that grievance procedures were not available to her; (ii) if the chair of governors had read the LEA report; (ii) why it had taken over twelve months to provide this information; (iv) when will Mrs Weaver be provided with copies of the LEA's report, minutes of the LEA hearing and Gates', Cave's and Hartland's replies to the grievance; and (v) had NATFHE seen the report.

Questions that received a negative answer were: (vi) did Mr Hall make it known to the Principal that the city solicitor advised the LEA not to release the report because it failed to deal with the complaint under the proper procedures?; (vii) had she seen or read the report and (viii) know of anyone who had?; (ix) if she knew when it was completed?; (x) have the board of governors seen or read the report? Apparently "the Board..., as it was, had not seen anything and heard little;" and (xi) was any action taken against Gates for systematic abuse and harassment? That brought the answer that no action had been taken and he was no longer in the employ of the LEA.

One question received an affirmative answer: (xii) did the chair of governor's hand over the formal complaint to the LEA?

Other questions could not be designated into the above categories: (xiii) what action was or is to be taken against Cave and Hartland for continued harassment and systematic abuse against Mrs Weaver?; the answer was none; (xiv) would Mrs Weaver be provided with a written account of this verbal report?; which drew the response that she was to be given only a verbal report; (xv) would she confirm telling Mrs Weaver on the 30th June 1987 that the grievance procedures were not available because Mrs Weaver was more senior than the

accused?; the response was that the grievance procedures were not 'appropriate', which also applied to the grievance submitted on the 25th June 1986; (xvi) would Mrs Weaver be provided with copies of the verbatim notes of the evidence given at the Beider enquiry? The Principal said they were confidential and it was a closed matter; (xvii) is the refusal to provide the report and other relevant material due to pressure on the LEA from Labour councillors, NATFHE officers and officials locally and nationally, and on advice from the city solicitor? The Principal said she could not comment on that; *

Bis Weaver intervened for the first time to say she did not consider it a closed matter, saying that the Principal acted promptly in dealing with the unfounded allegations made by Cave and Hartland against her but her counter complaint had not been acted upon; (xviii) was this verbal method of delivery approved/authorised by the governors? The Principal revealed that the chair had implicitly given approval because he accepted that Geoff Hall was handling the complaint. However, the governors had not been informed because the governing body ceased to exist in July 1987 and a new body was not appointed until October 1987. This looked very much like the LEA wanting to dispense with the issue between the demise of the old board and the new board's first meeting.

When I asked for the names and contact addresses of the new governors to be given to Mrs Weaver, the Principal declined on the grounds that it might present difficulties as she was on secondment at another college. I suggested the information be given to me as I am employed in the college and the Principal agreed. **[21]

With the questions asked, we made a number of observations before we departed from this farcical scenario: (i) Mrs Weaver's decision not to pursue the complaint referred to the *Beider affair* and not the June 1986 grievance; (BW 43) (ii) "Mr Hall's claim that Mrs Weaver...accepted that the grievance procedures were not relevant...was not true; [and]...three different versions [have now been] given for not dealing with [her] grievance over the *Beider*

* We were to find out later that local NATFHE officers made it known to the Principal what NATFHE's likely actions would be in the event of certain outcomes to the enquiry, which the Principal had disclosed in her own submission to the LEA's enquiry.[22] Bearing in mind the antagonism shown to Bis Weaver by local NATFHE officers, the outcomes that were acceptable to NATFHE would only be extremely unfavourable to her, although one response considered by NATFHE had a wider impact. This was the threat by NATFHE in the event of an adverse decision against the 'trio' to boycott participation in the city council's equal opportunities policy.[23]

** I had to ask for the addresses on several occasions before they were eventually released to me but only after the governors had their first meeting. The Principal obviously suspected that my intention was to contact the governors but the delay made no difference because the governors were eventually bombarded with information on the grievance and other information that came to the fore in correspondence between me, acting on Bis Weaver's behalf, and the Principal. This particular dimension to the Weaver case and its later developments is the subject of another study

affair: one from the chair of governors; one from the Principal and one from the [LEA] communicated via the Principal;"[24] (BW 44) (iii) "given the evidence provided by Mrs Weaver,...which was not denied by Messrs Gates, Cave and Hartland, and bearing in mind the City's definition of what constitutes racial harassment, the reasonable person...might consider that Mrs Weaver was the victim of racial harassment;" (BW 45) (iv) "Mrs Weaver had registered a serious complaint of racial harassment against Gates, mentioning Cave and Hartland as involved parties, with the Chair of the Board of Governors,...the sovereign body...as established in the McGoldrick case..,[and] one of the members..., the Principal,...had virtually no idea of what had happened to the complaint...and the other Governors had known little or nothing at all"; (BW 46) and (v) "as the Principal will not provide a written account of the Summary (verbal report) then Mrs Weaver and [I] will write up the details of this meeting and send [her] a copy." (BW 49) The final point to be made was that although Mrs Weaver "attended this meeting it should not be construed as Mrs B Weaver's acceptance of this verbal summary of the completed but unseen report as being the conclusion of her formal complaint..."(BW 50)[25] With that we up and left.

We had not expected to get substantive answers to our questions but the point was to show that the LEA had given responsibility for reporting the 'outcome' of the grievance to someone without sufficient knowledge of the enquiry and, therefore, in no position to adequately report back on such a serious issue. This was the way the Labour-controlled city council dealt with racial harassment, which rendered its policy documents on racist harassment/discrimination redundant immediately after producing them in June 1986 – just as NATFHE had rendered its Anti-racism Pack redundant shortly after releasing it in November 1985 on the eve of the fiasco over Day 'report'. The Labour group members and NATFHE officers and officials certainly were comrades-in-arms.

The notes of the meeting were written up and sent to the Principal on the 8th November. To let the Principal, the chair of governors and the LEA know that we had discovered the purpose of the verbal report, we sent a letter to the messenger with copies to the LEA and the chair of Bournville governors on the 14th November; and to the CRC on the 15th November. The CRC officer noted on his copy "Another case of first class bungling by the City [Council]."[26]

The message was that "until [Mrs Weaver] receives a written report she is in no position to accept any decision on the complaint..." and reminding them of the "complaint covering the period February 1985 until June 1986, [which] partly covered a period of [the present Principal's] Principalship." Furthermore, Hall's claim "that Autumn 1985 was an

important turning point...would be known to [the Principal] and Mr Hall not to be a valid statement...[and made] not for the purpose of informing Mrs Weaver…but was [made] for…the record held in the City's files,…to give the impression to any interested party that the College Management and the City officers had protected Mrs Weaver in the workplace, when...they had not..."[27]

Shortly after this 'report back', I received an anonymous message sent to me through the internal post and put into my post box. The envelope it came had my name written in what looked like an attempt to disguise the handwriting. Inside the envelope was an article cut out from a magazine on football with the title of *The Great Escape* but other than that there was no note with it. Maybe this was just another coincidence coming so soon after the Houdini act performed on behalf of the Bournville 'trio' by the powers that be in the Birmingham Labour council. I suspected that Cave was the *phantom despatcher* and I tackled him about it but he denied being responsible.

When we obtained a copy of 'Section 5' and of 'Hall's verbal report' from a contact, some noteworthy omissions from the report back were discovered. Section 5 * looked to have been rewritten in line with the directive from the Labour group leader to vet all reports of references to racism and the advice given by the city solicitor to avoid employers liability. This sanitised version of the summary sought to create an image of a racist-free college and any discriminatory behaviour did not result from personal racism but was attributed to an inadequate institutional structure incapable of dealing with a changing workplace environment – institutional racism paraded as structural determinism *par excellence.* The ground was prepared for the LEA to present Gates, Cave and Hartland as victims of this institutional structure as if these 'anti-racists' had no autonomy within those structures when they selected Bis Weaver to demonstrate their own brand of anti-racism activity. However, a few items referring to racism were excluded from this cull when the compilers diverted attention on to the relatively safe ground of institutional racism but enough clues were provided for *Woodward and Bernstein* to discover that the LEA identified the complainants ethnic origins as playing a part in the 'trio's' behaviour.

The summary confined the incidents in the grievance to pre-Autumn 1985, allowing a claim to be made that the present management had acted positively in supporting Mrs Weaver but the picture portrayed was different to the one the city council apparently intended. It was

* This summary of conclusions differed from the report back given by a CRC officer to Bis Weaver. The copy of the LEA report he had seen had given greater prominence to racism and in a more direct manner

unlikely these remnants from the original report owed anything to a deliberate decision by the compilers, acting out the role of a *Deep Throat*, to leave a message in cryptic style for the *Woodward and Bernstein* duo to flush out. The 'clues' were bits of the original summary apparently left in to show 'interested onlookers' that the LEA had examined the race dimension and these 'bits' were sufficient for *Woodward and Bernstein* to ferret out the substance of the initial conclusions. We also had background information from another LEA officer – our *Deep Throat*; and a report back from a CRC officer.

The summary (Section 5) contained eleven points and began by noting that "Notwithstanding the wider issues of concern to an equal opportunities employer this matter is essentially a workplace dispute and should be resolved at that level. Accordingly, the action to be taken should be carried out by the Principal...albeit with the support of LEA officers." There was an exception referred to as the 'NATFHE dimension', presumably because union officers were involved, to be dealt with by the chief education officer. (Point 1) The LEA, following in the path of NATFHE, at least in this summary, skipped over the fact that it was a complaint of racial harassment and, by designating it as a local 'workplace dispute', had minimised its significance in relation to those 'wider issues. * Was 'workplace dispute' ** comparable to NATFHE's 'interpersonal dispute' that had been going the rounds for thirty months.

The LEA had taken little heed of the *McGoldrick v Brent* decision. Having assumed the role of a committee acting on behalf of the governors, the LEA, instead of reporting back to the governors to take appropriate action, had given the task to the Principal, who was herself a party with a vested interest in the outcome. There was also a delay of twelve months with Gates now far beyond any disciplinary action.

In the only point (point 2) directly referring to Gates – the principal subject of the grievance, it was stated that "Appropriate disciplinary action should have been taken during the period January to May 1985 in respect of Gates' serious breaches of professional conduct and his failure to recognise Mrs Weaver's authority." However, the LEA travelled no further along that path other than to claim "It has not been concluded...[he] acted from a racist

* The Weaver case was a workplace issue but this particular type of issue had become of such significance that legislation had been introduced. The local council had also agreed to involve the CRE and CRC in any complaints citing racism as a factor to assist in resolving this type of case. The council had ignored the statute and excluded the CRE and the CRC

** The use of the word 'dispute', as NATFHE had done, to describe the 'trio's' behaviour to Bis Weaver is an extremely inadequate way of describing the kind of behaviour directed at her for over two years

motivation...[but his] behaviour did...contribute to the situation described below;" a reference to point 4, which mentioned racism as a factor.

Before explaining the 'situation' prevailing in the college, the blame for what happened was placed squarely on senior management in the January to May 1985 period for failing "to afford Mrs Weaver appropriate protection during that time from personal abuse…and, more seriously, fail(ing) to affirm proper support for her as Access Coordinator thereby contributing to a significant undermining of her status and authority." * (point 3) This described part of Gates' behaviour to Bis Weaver but it did not explain why she was selected for this particular treatment. A notable omission was the absence of any explanation for Gates' refusal to 'recognise Mrs Weaver's authority' or for subjecting her to 'personal abuse' - behaviour that was hardly consistent with a 'workplace dispute.'

The next point referred to the situation to which Gates' behaviour was said to have contributed. This offered a significant clue to show how Geoff Hall's enquiry had interpreted the real situation she was caught up in and the underlying, but unmentionable, motive for the situation that had arisen in the college.

Geoff Hall stated "Given Mrs Weaver's position at the time as the only black female member of staff and, in addition, a very important role model for students on the Access course [most of whom were Black women] the effect of the actions of college management brought about what may be regarded as constituted/institutional racism." (Point 4) This unusually constructed form of words (constituted/institutional racism) did not make sense and suggested that when the report was vetted to remove references to direct personal racism suffered by Bis Weaver at least two items were elided. One item criticising college management's inaction that "may be regarded as institutional racism;" and another item dealing with individual behaviour that 'constituted racism'.

Institutional racism relates to organisational structures and practices acting against the interests of Black and ethnic minority employees or union members, and although people operating in "institutions may not be racists as individuals, they may well discriminate…[by] simply carrying out their job, often without being aware that their role in an institution is

* The attempt to confine the harassment to January to May 1985 was unsustainable. Apart from the evidence showing the harassment continued up until June 1986, the involvement of Hartland was evidence that the harassment went way beyond May 1985. Hartland did not join the college as a probationary lecturer until July 1985 and did not involve himself directly against Bis Weaver until February 1986. Another example of the hotch-potch job made of rewriting the 'Summary'

contributing to a discriminatory outcome." * This may have applied to management personnel for their continued failure to act to protect Bis Weaver but it would take a considerable stretching of the definition of institutional racism to include the kind of personal behaviour directed against Bis Weaver by Gates and his two allies.

Gates' behaviour was described as serious professional misconduct consisting of "personal abuse" aimed at "undermining her status and authority" (point 3) The LEA had thought it significant enough to mention that Mrs Weaver was "the only Black female member of staff" and "role model" for the students. In linking these points together, it would be stretching the bounds of reason to claim that this situation fitted into any definition of institutional racism. The only reasonable definition that could be applied to a situation that the LEA defined in terms of racism was of Mrs Weaver being the victim of personal racism. The point made about Bis Weaver's ethnicity and its significance to the situation was attributed to management failure but it was Gates' actions that created the situation that led to this failure on management's part regarded by the LEA as 'constituted/institutional racism.'

The Summary then returned to the pre-June 1985 criticism of the then-Principal (point 5) and nestling closely to that observation was "NATFHE's intervention and the report of the Regional Official Alan Day [who] failed to resolve the matter." (Point 6) No mention was made of the irregularities in that report, or Hall's statement that the LEA's report "would deal more comprehensively with the complaints than the report produced by NATFHE's regional official." The LEA would find it difficult to criticise Day's report and his purpose in *Whitewashing* the original complaint as the LEA was now trying to cover up its failure to take action against three NATFHE members represented by the union. By referring to Day's report, the LEA looked to be trying to mitigate management's failings by claiming the union was also unable to "resolve the matter." Attention was also directed to Mrs Weaver's wish "to pursue her concerns through an Industrial Tribunal – another red herring, as the Industrial Tribunal case, as previously explained, and the grievance against the 'trio' were entirely different cases. To Hall, this "proposed action should render much of the issue closed [and it] must be a matter of concern to the LEA that this aspect could fester on to the detriment of Mrs Weaver, and the work of the college and no doubt NATFHE as well." (Point 6) Nothing was said of how the LEA and the Labour group had allowed the situation "to fester on" with

* It is not unknown for managers of organisations to try to pass off direct racial discrimination as institutional racism to get individual employees off the hook because employers are vicariously liable for the racist actions of their employees under the Race Relations Act

the monitoring issue * and the *Beider affair* – the latter being used by the union locally against Bis Weaver for months.

Hartland and Cave then made an appearance in the summary. (Point 7) It was claimed they "have not acted from racist motivation", with an addendum stating that "to an extent they are both victims of the situation described at [point] 4." The LEA was saying that Cave and Hartland were victims of a situation described by Hall as involving Bis Weaver as the only Black female staff member and role model. A situation that the LEA "regarded as constituted/institutional racism." Was the LEA claiming they were unwilling participants in Hall's description of the racist 'situation' created in the college, as Hartland tried to claim at the grievance hearing, when seeking to disassociate himself from his involvement in the actions against Bis Weaver? ** If so, Gates must have exercised considerable influence to get them to participate in attacks on "the only Black female member of staff", as the report described Mrs Weaver. *** This duo were union activists and, according to Triesman, had long histories in the anti-racism movement, therefore, they could be expected to be sufficiently resilient to stand up to someone pressing them to act contrary to their professed beliefs and in contravention of the law, which Cave, with a law degree, should know. **** However, they showed little resistance when involving themselves in the 'situation'.

Before point 7 was completed, Hall threw the whole issue of racism back into the line of fire with the remark that "Messrs Cave and Hartland will need to reflect on their contribution to the overall situation and to ensure that their rhetorical anti-racist position takes effect in practice." (point 7) In the space of four sentences, Cave and Hartland had gone from victims of an 'overall situation' to contributors to that situation.

Apart from the confusion created by the re-write of the Summary, it was noticeable that at no point did Mrs Weaver receive the description of 'victim' but these two members of staff, who involved themselves in a series of attacks on this sole Black woman in the college, were assigned the title of 'victim'. The LEA practised an unusual form of 'concern [as] an equal opportunities employer.'

Within this same point Hall returned to senior college staff's responsibility "for

* The monitoring issue showed that the Labour group wanted Bis Weaver's grievance buried and NATFHE and its officials and officers had joined the queue
** See the enquiry into the *Beider affair* [28]
*** The trio, as well as acting contrary to their alleged anti-racism, contravened the city council's policy, which was to protect Black staff and women from harassment /discrimination, and they risked losing their tenure for professional misconduct
**** Cave was vice chair of the branch; Hartland was a branch committee member

allowing junior and inexperienced staff...to vigorously pursue sectional arguments against a much more experienced member of staff who carried responsibility for the course." Hall thought it required "a willingness to exercise an empathetic leap to understand the position Mrs Weaver found herself in confronted with a vigorous articulate Business Studies Group pursuing a somewhat rarified, but no doubt sincere, academic point." According to the summary, "This is what occurred without decisive management intervention during January – May 1985" (point 7)

In Autumn 1985, there was an alleged "important turning point", which was explained as promotion and support for Mrs Weaver, whose position "is much more secure" and future "action should cement that position." * This should be reassuring for Bis Weaver given that she ceased to work at Bournville College in September 1987. In rounding off the summary, it was acknowledged that "the mechanisms [in the college] for ensuring implementation of the LEA's equal opportunities policy...are inappropriate and ineffective." (Points 8 – 11)[29]

Hall had presented Bis Weaver's problems as if the business studies group as a whole were pursuing Mrs Weaver over 'academic points', which was certainly not the case. This was a further attempt to direct attention from the 'trio' by involving the whole of this group as some form of ill-advised but sincere adversaries. Nor were Gates or Cave inexperienced members of staff, so trying to blame the 'situation' on this 'weakness' could also be put to the sword.

Of more significance was Hall's interpretation of 'rarified but no doubt sincere, academic points.' These 'academic points' consisted of: (i) calling a Black woman supervisor a 'fucking liar' (February 1985); (ii) saying 'tell her to take her fucking finger out' (May 1985); (iii) seeking to remove her from her post – an action supported by NATFHE's regional official; (iv) inflicting personal abuse on her at an equal opportunities meeting in February 1986; (v) manoeuvring to undermine her position as equal opportunities co-ordinator in April 1986; and (vi) refusing to provide statistical information necessary for implementing the College's equal opportunities policy. Hall's definition of 'academic points' was one that had never found its way into any dictionary or thesaurus we had ever consulted. Was the 'trio's' visit to the Principal in April 1986 to lay false accusations against Bis Weaver over the HMI visit another example of a 'sincere, academic point'? No wonder the 'summary', albeit a sanitised version, was to be kept well away from Bis Weaver.

* This showed that the original report was completed before it was known she was leaving the college – that is before April 1987, although information available to us was that the original report was completed in October/November 1986

In a nutshell, no one was really to blame, except the now departed Principal; it was nothing more than a 'workplace dispute' over 'rarified, but no doubt sincere, academic points' brought about by 'inappropriate mechanisms' and institutionally racist structures. Nonetheless, this insipid, vetted 'summary' provided sufficient clues for a more realistic picture of how the original summary dealt with a complaint of racial harassment.

The LEA had described a 'situation' where "the only Black female member of staff and...a very important role model for [the overwhelmingly Black women] students", had been subject to serious professional misconduct originating with Gates, whose behaviour contributed to an 'overall situation' in which racism was recognised as a factor. (Point 4) Geoff Hall had also implied that personal racism featured in the 'situation' with its comments calling on Cave and Hartland to abide by their anti-racism rhetoric. Why did they need to be told to ensure that "their rhetorical anti-racist position takes effect in practice?" A person's anti-racist practice comes into play to oppose situations that are racist and both Cave and Hartland had failed to put their purported anti-racism into practice when the 'situation' mentioned in point 4 had arisen. If the situation to which Gates, Cave and Hartland had contributed was not a racist situation then Geoff Hall would not have identified it as such. Nor would there be any need to tell Cave and Hartland that their anti-racist rhetoric was at odds with their practice. To the reasonable person, this might point to a situation involving racism and that all three might be parties to that situation. *

Another factor pointing in the direction of racism came from the comment that the College's equal opportunities policy, which was aimed at preventing discrimination against Black people, women and the disabled, was "inappropriate and ineffective" for dealing with this type of 'situation' in the college, described as "the ongoing dispute" (Points 9 & 10) This policy ineffectiveness concerned the failure to protect Mrs Weaver but from what had it failed to protect her? The only thing she needed protecting from was the behaviour of Gates, Cave and Hartland. For the LEA, to criticise the effectiveness of the equal opportunities policies suggested that the behaviour towards Mrs Weaver's case was discriminatory on the grounds of either race, gender or disability. Mrs Weaver was not disabled. The senior lecturer in the business studies department to whom the 'trio' reported did not have this problem from

* Cave and Hartland did well out of the decision not to take action against them for their behaviour to the college's only Black member of the lecturing staff. They had obviously shown the necessary colonial attitudes to travel far in the British educational system. Following on from Ms Twyman as Principal, came Cynthia Deeson, who was succeeded by Cave. Hartland left Bournville college in 1988 but returned there after almost twenty years to become vice-principal to Cave. Anti-racist rhetoric devoid of anti-racist practice appeared to have its rewards.

any of them. She was a woman, who was White, so gender was not an issue for them. So why did Mrs Weaver, a Black woman, have to face their refusal to recognise her authority. There is only one category left – race. *

While trying to avoid the race issue, the summary had made direct references to race: constituted/institutional racism; only Black female member of staff; role model for the predominantly Black women students; divergence between anti-racist rhetoric and practice; inappropriate and inadequate equal opportunities policies. With no direct explanation throughout the summary as to why Gates, Cave and Hartland behaved to Mrs Weaver in the way they did, how did the drafters of the summary come to the conclusion that the 'trio' were not motivated by racism? All the LEA was prepared to mention were two incidents in 1985, three months apart without drawing attention to other incidents between those two dates in 1985 or in the period after Autumn 1985 involving all three 'activists.' The reconstructed summary was not only aimed at giving credence to the LEA's exoneration of the present Principal but also enabled the LEA to avoid giving a more definite description to the motives behind the 'trio's' systematic and persistent behaviour. This was the path the compilers followed despite having access to the city council's definition of harassment and those of trade unions. These authoritative sources would have identified the behaviour as harassment, whatever flavour (sexist or racist) was attached to it. On the basis of the information in the summary, there was no difficulty for *Woodward and Bernstein* to arrive at the most likely flavour to explain the trio's behaviour to Bis Weaver. We believed that the reasonable person might also come to the same conclusion if he/she had access to the 'summary' and the wealth of evidence available on the case.

A mini-campaign was launched on the Principal and the Governors detailing the deficiencies in the LEA's report, which brought a number of NATFHE-style denials: citing out notes of the report back as not representing any official version "and that it was wholly inappropriate to copy them to another party(ies)"; "there was no grievance procedure but rather an enquiry instituted by Mr Hall"; the report back was "from a draft copy which was

* The judiciary had yet to get to grips with legal definitions of harassment and catch up with the changes taking place in the attitudes of wider society towards harassment and discrimination. Since the Weaver case, the courts have made it clear to adjudicators that it is open to them to draw inferences of discrimination from the circumstances. The court stated that "If there is a finding of discrimination and a difference of race is followed by an inadequate or unsatisfactory explanation..., usually the legitimate inference will be that the discrimination was on racial grounds." "In circumstances where the discrimination is consistent with it being based on the ground of sex or race the inference should be drawn that it was sex or race discrimination unless the alleged discriminator can satisfy the tribunal that there was some other innocent explanation"[30]

never completed"; and a caution to cease referring to abuse and racial harassment against named staff with a reminder "of the seriousness of repeating in writing to other parties unsubstantiated allegations against named people and the consequences of such actions."[31] This caution was repeated a week later with selected observations on Hall's report that she viewed as accurate, mainly that the turning point in Bis Weaver's difficulties was in Autumn 1985![32]

Several other responses came from the Principal in a similar vein. The Principal was virtually defending Cave and Hartland's actions by saying that they "did not make direct allegations against you. They were repeating to me a conversation instigated by a prospective VT [Beider] in which he (the VT) claimed that you made comments about staff." (Principal's emphasis) The Principal made this comment in the knowledge that neither Cave nor Hartland, with an axe to grind against Bis Weaver, had sought to establish whether or not she had actually made these comments. Paradoxically, the Principal then 'advised' Bis Weaver, yet again, "of the possible serious consequences of inaccurately reporting past events in which you identify staff by name. Staff concerned might well consider that their reputation is being damaged."[33] Did not Cave and Hartland do exactly that and what was the outcome of these 'serious consequences' to them? Nothing at all! The outcome of the LEA's enquiry/grievance hearing was delivered verbally to the parties concerned to avoid putting anything in writing. As a result of this violation of procedures the union was given ample opportunity over the next few weeks to milk the situation by 'inaccurately reporting past events', as Cave and Hartland had done, which Bis Weaver considered was damaging her reputation.

A short time after the report back, we met up again with the CRC officer, who confirmed that Birmingham city council did a deal with NATFHE to get NATFHE's co-operation with the city council's equal opportunities policy. * An interesting collaboration in that only if the city council declined to take action against three White people harassing a Black woman would NATFHE participate in a scheme for promoting equality between White and Black people. An adaptation of Joseph Heller or was it Casey's Court? The word was also going the rounds that a report did not exist. The CRC officer offered support in the community and the press if she pursued a complaint against the city council.[34]

The chair of governors, Councillor Stan Banting was drawn into a brief exchange of correspondence. We asked him: (i) "why the Board of Governors was not formally informed

* The CRC officer had acquired information from a source with close contacts to NATFHE, who had also passed information on to Bis Weaver earlier in the year

of the…complaint?"; (ii) if the Committee hearing the complaint was constituted by the board of governors under the grievance procedures?; (iii) was he advised "that on legal advice" the grievance "could not be dealt with under the…grievance procedures…?"; (iv) was he told about the negotiations to change the procedures?; (v) was he informed, prior to the verbal report, of management's culpability for not intervening on Mrs Weaver's behalf when she was "subjected to persistent and systematic abuse and harassment?"; and (vi) he was asked, as the chair of the body responsible for the grievance under McGoldrick v Brent, to obtain the report and other documents, to which Mrs Weaver is entitled.[35]

Councillor Banting was apparently told it "was a disciplinary matter and therefore not the direct concern of the Governing body", therefore, point (ii) was 'No' and point (iii) was 'Yes', having been told on the 16th July 1986. He had "no information" on the negotiations to change procedures (iv) and the first he knew of the outcome of the enquiry was when told "just prior to the verbal report given to Mrs B Weaver."(v) On the final point (vi) he said "the Grievance Procedure was not invoked and an investigation was undertaken by the LEA [and] the decision to release or to withhold papers remains within their jurisdiction." He felt "this is [not] a matter in which [he] could intervene." His final comment was that he understood "Principal Twyman did show [her] Mr Gates written apology dated 11th March 1987."[36]

The councillor seemed to know nothing about the grievance or about his responsibilities, as the chair of the sovereign body. It was NATFHE all over again – claiming that no grievance was invoked and, like NATFHE, passing the buck on to someone else.

Another letter went off to Councillor Banting. We referred to his letter of the 29th June 1986, in which he stated he "regarded the complaint with grave concern and would be having discussions with officers of the City regarding the correct way to proceed...and...would be advising Mrs Weaver...in due course." As Mrs Weaver's letter of the 25th June 1986 "invoked the grievance procedures...[and] if...the Teacher's Grievance Procedures...had not been the correct way of dealing with the complaint then...[he] would surely have communicated this to [Mrs Weaver]...[but] no such communication took place between [himself] and Mrs Weaver or anyone else and Mrs Weaver." Nor when writing to Mrs Weaver on the 14th June 1987 about Mrs Weaver's second complaint submitted under the grievance procedures did he "state that the Grievance Procedure was inappropriate." He had "replied that the complaint had inadvertently been filed away but…had requested the Principal to deal with the complaint as appropriate." To show that he relied too much on what he was told, it was pointed out "that Principal Twyman did not show Mr Gates' written

apology" but had "read out the contents of what we were told was Mr Gates' letter of apology." We referred him to points 18 and 48 of our comprehensive notes which had been sent to him.[37]

The LEA, under the 'tutelage' of Labour Group leaders, the city solicitor and a few well-chosen words from local NATFHE officers, had tried to minimise the issue by excluding racism and confine it to January to May 1985. This had been undertaken to exonerate the Principal (Jan 1986 to June 1987), the chair of governors; and the LEA for the debacle it had created. By not releasing the report, it had also benefitted NATFHE by preventing its use at the Industrial Tribunal case to rebut the claim of no merit in her complaint. * These objectives could only be achieved by producing a mythical account and ensuring the written evidence and the report was kept under wraps and divorced from the summary. This was a course of action that remained viable only if *Woodward and Bernstein* went out of business but this was an option not on the cards. Had the LEA learned nothing from the NATFHE fiasco? Apparently only one thing; not to put anything in writing!

We were about to be forced to fight on two fronts as the City Council/LEA, under the influence of the Orwellian pigs in the Birmingham Labour Group, began to strut around on their hind legs.

(b) Behind the Lines on the NATFHE Front.

The exposé of NATFHE's discriminatory policy at the Industrial Tribunal hearing appeared to have no visible effect on NATFHE in the West Midlands. The REC/BLC remained just as distant to the concept of justice and to effective anti-racism as it had ever been. Personal interests, union patriotism, outdated ideology or plain old-fashioned bile for being shown up as hypocrites still ruled the REC/BLC's roost. Denying the implications of NATFHE's policy and how this policy made a mockery of any claim NATFHE put forward of having an anti-racist commitment, enabled the REC/BLC officers to maintain their current position of inaction. Of course, they might be waiting for Bis Weaver's appeal to overturn the Tribunal decision and, therefore, have it all done for them without having to lift a finger.

At the national level, NATFHE was preparing for a one-day national strike over pay and conditions and this prospective strike action provided an opportunity for me to clarify my

* The report had not been needed as other evidence debunked NATFHE's claim

position in the branch from the new branch secretary and branch chair. I wanted to know if the branch motions calling for industrial action "agreed by…fully paid up ordinary members…with full benefits, facilities and services of NATFHE" also applied to "a fully paid up ordinary member without the right to full benefits, facilities and services"; and if "management or the LEA decide to take disciplinary action against me for breaking my contract…what protection can I expect from NATFHE…bearing in mind that any written request for assistance…would have to be referred to Head Office for authorisation before being acted upon."

I also raised the racially discriminatory ingredient in the April motion by reminding them that the action was taken "because I was assisting a Black member experiencing difficulties in the Branch and College" who registered "a complaint of possible racial harassment…with the union against a Branch officer, Mr D Gates." * I was also curious to know when: (a) "full rights will be restored to me…; [and] (b) a retraction made for the misrepresentations in the [Branch] statement and a written apology given to me by the Branch." I appreciated it was necessary for them to contact head office for approval under the conditions of the 29th April motion and hoped the situation would be clarified as soon as possible.[38] As far as I was really concerned the motion ceased to have any significance at a personal level but it was an important point of principle bearing in mind that motion had been proposed and passed in order to serve the partisan interests of several *kernels.* The branch was not going to be allowed to carry on as if nothing had happened.

Whether or not the branch secretary contacted head office, it was NATFHE head office that came to Bournville College within the next few days – not about the Weaver case although it was more than likely that the case figured in some way in the conversation between officers and the visiting head office official, Triesman. He was making his second visit to the branch, accompanied this time by a NATFHE devotee, Doughty. Triesman's visit was part of a whistle-stop tour of the country to speak on the salaries issue and a proposed strike.

Triesman delivered the standard appeal to the membership exhibiting all the qualities of an oft-repeated speech to rally the masses nationwide in support of strike action but it did bring wry smiles to my increasingly wrinkled countenance. Triesman said there was nothing more instructive than learning what colleagues in the branch thought about the proposed

* The action taken against me by the branch for representing a complainant in a case of racial discrimination was in itself likely to be discriminatory as it was covered by s2(c) of the 1976 Race Relations Act

action as he did not want NATFHE to fall into the trap of telling the membership that the situation was too complicated for them to understand. Wry smile number one since the secretaries of local NATFHE bodies appeared to have adopted that approach when dealing with enquiries from Bis Weaver and other parties (Christine Crawley). They had evaded requests for details on the grounds of complexity, which the Weaver complaint against Gates certainly was not.

Triesman criticised the local authority employers for not realising that the eventual aim of the government was to strip them of their rights. Wry smile number two because this was hardly the most suitable choice of words to use in a branch that had removed a Black woman's trade union rights, and those of her representative, of which Triesman was fully aware. Triesman then declared that lecturers were not going to have their rights to decent standards taken away from them and that "We must not let some hooligans destroy these things by their obduracy and stupidity." Wry smile number three. Triesman went on to praise the tradition of Birmingham's trade union movement and looked with optimism to NATFHE colleagues in the city to deliver the goods – the North of Watford designation conveniently put to one side on this occasion.[39]

My ration of wry smiles was exceeded when the branch secretary approached me a few days later to ask if I would join the picket outside the college on the 22nd October. Did he honestly believe that I would picket the college when I still did not have full rights in a union that discriminated against Black complainants? I told him I would not cross the picket line but would not participate in any other way in any NATFHE organised activity.[40]

A week later, the West Midlands REC did its best to ignore the implications arising from the Industrial Tribunal decision as if the Weaver v NATFHE case was done and dusted. Despite the fact that Black members and women could not look to the union for support in harassment cases, this did not enter into any of the REC's deliberations at its October meeting. There would be no call for action, on behalf of either Black and/or women members, to oppose NATFHE's discriminatory policy. How did the feminists on the REC square this with themselves and each other? What was discussed was an agenda item, from the BLG. It was the submission of a motion calling for the restoration of Bis Weaver's rights with an apology to be made by the branch. In its infinite (or should it be – finite) wisdom and knowledge of all things, the REC, yet again, decided to do nothing.[41]

The 'rights issue' was also to figure in the next meeting of the Bournville branch, and it was to share the same fate but not until some manoeuvrings had taken place. A motion had been proposed by the ex-branch secretary, Heather Stretton, calling on the branch to produce

an equal opportunities policy. The branch committee had thought it expedient to have the motion seconded by a Black member and chose the Access course coordinator, who had described a previous contact with branch officers during the *Beider affair* as akin to "a brush with the law." She was one of two Black women, alongside four other Black male lecturers, appointed in the last few months. After being approached by the proposer of the motion, she had deliberated on the request before coming to see me. She wanted to know more about the Industrial Tribunal decision and the branch motion concerning Bis Weaver's rights. I explained the Tribunal decision and its implications to Black and women members; and the wider effects of the branch motion. She then contacted the proposer and offered to second the motion provided the motion was linked to the withdrawal of the April 1986 motion otherwise the branch would have to look elsewhere for a seconder.[42] The branch executive agreed to her request.

The motion to be put to the branch on the 17th November was: "This Branch agrees to develop a comprehensive equal opportunities policy covering Anti-racism, Anti-sexism, Ageism, sexual orientation and people with disabilities. As a matter of urgency the Branch will: (i) write and negotiate an Anti-racist policy with College Management...(2) examine the Union's own rules and procedures with regard to equal opportunities...(3) Set up a working party of six people, 50% of whom would be black members of staff...[and] To facilitate this process the Branch withdraws the motion passed on the 29th April concerning correspondence from Bis Weaver and Gordon Weaver."[43] At least one element of the Weaver case had nestled its way into the consciousness of these 'anti-racists' with the inclusion of 50% Black members in the working party. However, the motion on developing an equal opportunities policy was unnecessary because the city council had a policy that had been in operation since October 1985, previously co-ordinated by Bis Weaver at Bournville college, which had been sabotaged by the actions of branch officers and other branch committee members in their attacks on the co-ordinator. Perhaps, the branch would be better served by adhering to the present policy and insisting that it was implemented with the co-operation of union officers rather than producing another one. But in NATFHE words speak louder than actions.

When the branch met it was again attended by the omnipresent liaison secretary, who was to speak on the government's Green Paper on Further Education. His presence may have more to do with his role as observer for NATFHE head office, especially as the agenda included an equal opportunities policy motion with its added dimension of implementing the spirit of the policy by restoring Bis Weaver's and my union rights. In the clamour of people moving into the meeting, the chair announced that the motion had been approved by the

branch executive except the last three lines on which the new branch secretary would later speak. The proposer, Heather Stretton, then moved the motion mentioning the six Black lecturers * and the overwhelmingly Black student population at Bournville College; and of the harassment of Black staff and students in the education sector – omitting one very significant case in Bournville College itself. But she did call for the withdrawal of the April motion. The motion was then seconded with the seconder speaking on the 50% Black membership of the Working Party, which was necessary for a Black perspective on any anti-racism policy.

As soon as the motion had been proposed and seconded, the new branch secretary intervened with an additional proposal to separate the motion into two parts – one part being the equal opportunities policy; the other part the proposal to restore Bis Weaver's and my rights, which constituted the last three lines of the overall motion. An SWP member and a constant thorn in the side of the *kernels* in 1986, he was now, as branch secretary, in the saddle and riding the branch's horse in a way little different from the *kernel* jockeys.

This prepared, but delayed, intervention had ensured that the equal opportunities policy motion had been seconded by a Black woman, but not in accordance with the undertaking the branch executive had given her. The 'rights issue' was left free standing for further Machiavellian intrigue. The motion on the equal opportunity policy was put to the branch and passed with twenty-four in favour; nil against, with six abstentions, which included, interestingly and somewhat uniquely, the Black seconder of the motion, disaffected by the branch secretary's intervention. The branch executive had used a Black woman to second the motion and had then thrown the condition she put forward for seconding the motion back in her face. Yet again Black members had their uses!

When it came to the vote on the 'three lines', 'lo and behold', another proposal was put forward by a member with sympathies to the previously dominant *kernels*. The proposal was to postpone the motion to another branch meeting – not the next meeting but some undisclosed meeting in the future; in other words to forget all about it. Could this intervention have been pre-arranged in association with the new branch secretary? The motion was seconded by Downey, one-time *kernel*, who took on himself the task of giving reasons for the call to 'postpone' the motion. According to Downey, the reason behind the April motion was the inability of the branch to carry out its business because of the weight of correspondence from Bis and Gordon Weaver. He also wanted to know the position of the new branch

* A six hundred per cent increase in a few months

committee, of which he was not now a member, on the April 1986 motion. Downey's reason for the previous committee introducing the April motion – 'the correspondence' ceased to have any bearing. Only one letter went to the branch executive for some considerable time and that was my query on the effects of a NATFHE strike on a member with restricted rights. All that was required to remove the motion was a show of hands since that was all the *kernels* required in April 1986 to introduce it. * Notwithstanding this, whatever the new branch committee thought of the 'rights motion' was of little relevance to either of us; the issue was to test whether or not the branch was prepared to act to remove an unjustified and partisan act. The *kernels* no longer held office but their views still permeated the dank atmosphere.

This Machiavellian manoeuvre was not all bad news since I thought it unlikely for the branch to restore our rights. A great deal of lobbying had gone on in the past couple of years to very receptive ears to prevent a 'Saul on the Road to Damascus' conversion. With this in mind I went to the meeting well prepared. The opportunity was taken to address the real effects of the April discriminatory motion and the lack of meaning of any equal opportunities policy with such a motion still in force. The branch was also informed that any "policy on anti-racism could not be effectively implemented because of NATFHE National policy which prevented any Black member (or woman) who was harassed from getting union support." NATFHE's policy was "clearly established at the Industrial Tribunal...[and], although NATFHE [officials] had been severely criticised for the way [they] dealt with Bis Weaver's complaint of racial harassment against an ex-officer of this Branch, the Tribunal found in favour of NATFHE..."

When I was outlining the Tribunal's decision, I noticed that Doughty adopted the characteristic reaction of local secretaries when confronted with unpalatable but indisputable facts by shaking his head – the regional secretary had demonstrated the same affliction at the WMARC meeting in June. But NATFHE's observer, like his colleague on the REC, could not dispute these facts and I suggested that he read the Industrial Tribunal report carefully, assuming that he had not already done so. Returning to the theme, I reassured members that the situation might be resolved in the New Year at the appeal, which was supported by the CRE, demonstrating the importance the CRE attached to Bis Weaver's case.

The next thing to be disclosed was the deal brokered between NATFHE officials and the City Council "to change established grievance procedures...in a detrimental manner to Bis

* When the Rule 8 against the branch committee inspired a motion in favour of the committee in February 1987 and no contributions from the floor were allowed, that too required only a show of hands

Weaver's [interests, which] should be a matter of concern to all members of the Branch." While disclosing these manoeuvrings there was no movement of the liaison secretary's head. After all, he had received a copy of Day's letter disclosing these negotiations before the grievance hearing had taken place.

Downey's claim that the April motion concerned correspondence was contested and facts were provided. The real issue was about rights in the branch, which brought a facial gesticulation of dissent from the new branch secretary, who seemed to have caught the 'NATFHE-secretary virus.' Unperturbed by the obvious disapproval from a revolutionary socialist, the restrictions imposed on Bis Weaver by the motion were explained: no Branch support when three members went to management in an attempt to discredit her with unfounded allegations; nor any support from the branch or liaison committee when Bis Weaver's movements were monitored by the city council shortly before she was to give evidence at the LEA enquiry; not permitted to nominate a candidate for elections without head office approval. As they should be able see "the motion had left Bis Weaver vulnerable to any attack [made] on her by anyone." They were also reminded that the April motion was passed without any appropriate procedures being followed.

I suggested that if "the Branch was serious in developing an anti-racism policy then it must remove discriminatory motions; obtain changes in NATFHE's national policies;…and ensure that NATFHE officials do not go behind the scenes and operate against the interests of Black members."

Ample time had been granted to me to oppose the proposal to postpone the motion. Perhaps this was due to the membership switching off or the members were interested in knowing the details, of which the majority had previously heard only a jaundiced NATFHE-laundered version. Any interest they may have had did not extend to the vote and the proposal to postpone was carried by twenty one in favour; three against; with five abstentions.[44]

I wrote out the details of some of my comments at the branch meeting and sent them to the branch chair and branch secretary for the record as it was unlikely the comments would find a place in the minutes. I also pointed out that it did not go unnoticed that the branch secretary, whose intervention effectively prevented the restoration of Bis Weaver's and my rights, had been a member of the previous branch committee against whom she and I have outstanding Rule 8 complaints. I thought the "reasonable person might consider [his]

intervention...to be partisan and to be subject to the likelihood of bias." *[45]

The WMARC with its new constitution was due to meet in November. The composition of the new committee would provide a more comfortable environment for the returnees and other BLC/REC appointees after the ousting of Black activists and re-establishment of an overwhelmingly White membership. The anti-racist committee had been de-gutted of any positive anti-racist action by this purge and were content to rehash its pre-1986 chat-show format, pontificating about racism while hiding behind platitudes and doing nothing for complainants. There was no sign of any Broad Left Coalition activists, having swallowed Triesman's post-Tribunal line, challenging NATFHE's now publicly exposed policy on tenure. These union jingoists had as much relevance to the anti-racism struggle as did NATFHE officials and officers at national level but this was no particular loss to Black members judging by the previous failings. The paid and unpaid bureaucrats were part and parcel of the problem, therefore, they could not be part of the solution. As Black people became more visible, the bureaucrats closed their eyes in an attempt to maintain Black people's invisibility.

Well ahead of this meeting we decided that working within NATFHE structures was a complete waste of time. However, in anticipation of the meeting, a copy of the Industrial Tribunal report and Christine Crawley's letter to the regional secretary were sent to Krishna Shukla for him to disclose the information to members of the committee.[46] Perhaps, it might help some of the returnees and other appointees to overcome their obsession with denying the significance of the Weaver case. They might also wish to re-appraise the 'fairness, impartiality and rationality' of referring BLG motions to NATFHE head office officials and lay officers. More likely the Tribunal report would be accepted by them as a twenty-one page study in 'interpersonal disputes.'

The BLG motion on rights was raised at the WMARC on the 25th November, but the regional secretary opposed it on grounds that "the matter had been overtaken by events due to Bis Weaver having left Bournville College." He also revealed that a motion on restoring Bis Weaver's rights was proposed in the branch and rejected. **[47] He was certainly still in close contact with events at Bournville College but his information was misleading on two counts:

* The new secretary was the only branch member, other than Bis Weaver and I, who, at the May 1986 branch meeting, supported her right to speak against the branch April motion, which shows that union posts should carry a health warning as occupancy can influence the holder in a detrimental way[48]
** At least Evans now recognised that her rights had been removed

(i) Bis Weaver was on a year's secondment and was she expected to take up this issue twelve months hence when she returned to Bournville College; * and (ii) the motion had not been rejected but deferred indefinitely, which did not seem to stir Evans into any anti-racist activity. These were the ingredients Evans and his REC colleagues served up to justify a further bout of inaction. But of course, the new WMARC was merely a 'policy-making body' – a figure of speech for a 'talk-shop', charged only to discuss policy initiatives and not to engage in anti-racism action. NATFHE's policy on tenure would not get an airing in this or any union committee in the region as that would require the Broad Left-REC-WMARC-appointees to recognise reality.

The Black activists, who turned the tables on the BLC/REC-appointees during 1987, had also given up on a committee, where they could only look and listen unless granted permission to speak, except for a couple keeping an eye on its deliberations. Anti-racism meant opposing racism by direct action. It should not be a platform for Broad Left Coalition 'anti-racists' to parade their rhetoric while preventing Black members from taking an active role in combatting racism within the union. The futility of working through the WMARC led Black activists to boycott it. However, unlike the BLC/REC appointees, who spent their time during their boycott in scheming to produce a McCarthyite enquiry and then a new WMARC constitution, excluding Black activists from a role other than as observers, those activists in the BLG decided to act outside the WMARC and started by forming the *Bis Weaver Defence Fund* "to provide financial and moral support for Bis Weaver."

A leaflet produced by the Defence Committee covered the racial and sexual harassment of Bis Weaver; the union's policy on tenure; the Industrial Tribunal's severe criticism of NATFHE; and the Tribunal decision to uphold NATFHE's policy. The Weaver case was identified as raising "serious questions concerning the rights of Black and women members in trade unions...which is now becoming an important test case in the pursuit of those rights." Supporting "Mrs Weaver in her struggle is not only to help her as an individual victim...of racism but also to send positive messages to Black people who are all potential victims of such harassment...[and] It would also demonstrate to racists that alternative sources of support exist for such victims." It also applauded Mrs Weaver for showing "admirable courage in taking on the whole of the union's machinery."[49] The leaflet was

* This also showed the regional secretary's tunnel vision on the responsibilities of an anti-racist committee because he had overlooked that I was still at Bournville College. The fact that I was White did not come into it because my rights were removed for representing a Black woman in a complaint of racial harassment. He was unfamiliar with the Race Relations Act 1976 s2(c)

distributed widely throughout the union nationally and to college principals throughout the West Midlands region.

The activities of the BLG with its emphasis on anti-racist action should be compared with the members of the Broad Left Coalition – the so-called vanguard of the proletariat, who were hiding under the mantle of NATFHE patriotism and self-interest. Their patriotic acquiescence was still of significance to officialdom in the wake of the Tribunal and they continued to wag their tails to NATFHE's officials. They could now return to their slumbers in the region but the victims of racism and those pursuing anti-racist justice would feel no real loss at the absence from the real struggle of these *tail-waggers*. As for us, our objective was directed to the national arena in the hope of watching the dissolution of NATFHE's 'feet of clay'. NATFHE was about to begin another, more public, journey of disrepute and all Bis Weaver had to do was sit on the river bank watching the floating bodies of the enemies of anti-racism drift by.

(c) Run Up to the Employment Appeal Tribunal

In the middle of November, the date of the Employment Appeal Tribunal was confirmed as the 11th December in London. Would a venue conforming to Triesman's pre-disposition to South of Watford, bring satisfaction to NATFHE officialdom,[50] which was, no doubt, eager to enhance its reputation in the light of public exposure to its handling of complaints of racial harassment/discrimination?

Even before the Appeal date had been fixed, our efforts to capture some publicity against the 'the all-conquering institution' had forced NATFHE to address the negative image it was acquiring. Despite NATFHE's counter-publicity aimed at combating the *exposé* of its so-called anti-racism position, the union must have realised it needed to garner credibility by doing something to reverse its increasingly tawdry image. Its crude presentation of myth as reality to minimise the case's seriousness, personified by Triesman's comments to Clare Short and in *7 Days*, or whoever else might have contacted him, was apparently not succeeding. Activists outside of NATFHE were not so gullible as to swallow the line pumped out by NATFHE officials. NATFHE's stance flew in the face of evidence in public documents, quoted in our correspondence, which always found space in the Black and ethnic minority press – a source of information for many anti-racists.

In November, NATFHE began organising an 'important conference' under the title: Strategies for Defeating Racist Harassment' to be held on the 3rd December. Those invited to

this NATFHE *durbar* included NATFHE officials, anti-racism officers and other officers; representatives from the CRE; and activists from community, equal opportunities and anti-racism organisations. The programme set out for this gathering included a keynote speaker; and presentations and seminars on the following themes: 'The extent to which the law can be of assistance in overcoming harassment in the employment environment'; 'The role of Trade Unions in assisting individuals experiencing harassment'; 'The role of Union Officials in cases of harassment'; and 'Employers' Strategy for overcoming harassment';[51] It was a catalogue of deficiencies displayed by NATFHE in 'dealing' with the Weaver harassment and discrimination cases. NATFHE's policy on tenure was the converse of all the items in the programme. NATFHE, in the Weaver case, had: (i) depended on the law to endorse its policy of not assisting Black victims of harassment; (ii) Union officials chose to support alleged harassers at the expense of the victim in the union's internal 'enquiry' and at the LEA's grievance hearing; and (iii) negotiated with the employers to subvert the statutory procedures for dealing with complaints of harassment. NATFHE had a lot to explain or a lot more to cover up. However, it did not come to that as knowledge of the Weaver case was more widespread than we thought.

A fortnight later, on the 27th November, Triesman was placed in what must have been a humiliating position of informing NATFHE colleagues that the conference had been postponed "due to lack of response from those invited to speak and attend. In particular, despite considerable efforts, [NATFHE has] been unable to obtain any outside speakers [and] no reply has been received from the Commission for Racial Equality." Triesman added that "the number of people agreeing to attend would have meant that there would not be enough for one of the small group seminars let alone the Conference." Therefore, "In view of the overall aims of the Conference, it has been decided that there is little point in proceeding with a poorly attended Conference entirely lacking in any significant external input."[52]

To say the least, it was somewhat unrealistic of NATFHE to expect the CRE, which was supporting a NATFHE member in a case of racial discrimination against NATFHE, to attend a NATFHE-run conference on racism a week before the Appeal hearing – a conference organised primarily to try to grasp some credibility for NATFHE on the eve of the Appeal. On the issue of anti-racism NATFHE always seemed to be operating on a different planet to anti-racists.

What we had thought to be limited publicity in bringing the issue to a wider range of people, especially to anti-racists outside of NATFHE, had certainly had some impact and this was a path we would continue to tread.

Triesman produced a ‘sound-bite’ on bargaining practices to be published in the press three weeks later, in which his advice was to “read the small print.”[53] This was sound advice and it was a good job Bis Weaver had recognised ‘the small print’ in Triesman’s letter of introduction in January 1986 when he offered to investigate her complaint, otherwise she would have been well and truly sold down the river. Triesman might then have been able to successfully organise a conference on anti-racism if NATFHE had been so inclined under differing circumstances. Sitting on the river bank was not without its rewards.

NATFHE did write to both Bis Weaver and I during this period about the Rule 8 hearing. The two letters, containing the same content, disclosed that “Having followed the necessary procedures...the Finance and General Purposes Sub-Committee decided that a Tribunal should be established to hear the Complaint and the National Executive Committee have appointed persons to serve on this body.” Several dates from the middle of January to the first week in February were offered as possibilities. We were asked to “retain all documents for later use at the hearing.” This last point was of interest since we had no access to ‘all documents’ as a result of the Bournville motion. However, this disability would enable us to test NATFHE’s attitude to ‘discovery of documents’.[54]

The union ‘Having followed the necessary procedures’ was certainly a first for Bis Weaver after: (i) Day’s outside the rules ‘carve up’; (ii) Triesman’s ‘racism-less’ and ‘Day-less’ informal enquiry; (iii) the April 1986 Bournville set up; (iv) the West Midlands REC *McCarthyite* witch-hunt; (iv) the Bournville branch/REC racist motion; and (v) Dawson’s ‘despatched to the waste-bin without a hearing’ inquiry into the regional official. But could we expect anything to be different from a further dip into the fetid waters of NATFHE procedures. Mackney and Triesman had been right about one thing and that was the length of time that would elapse with Rule 8 – a period of over thirteen months and still counting for Bis Weaver. This particular rule appeared to be more or less the same for White members, although technically my wait had been for only eleven months up to now. The Rule 8 procedures, already identified as inadequate, were allowed to plod on in NATFHE for a further thirteen years before anything was done about them. *

Not particularly interested in these Rule 8 complaints anymore other than to see how long it would take to deal with them on an equitable basis for the parties involved, we wrote

* In February 2000, following a successful case brought by Farhad Shahrokni against NATFHE, the general secretary, Paul Mackney, having moved on from the West Midlands, said to Shahrokni that “NATFHE acknowledges that, as a result of your claims, the union has taken a number of steps to improve its approach in the handling of discrimination cases and in particular its Rule 8 procedure, which have been to the benefit of all its members.”[55]

to Dawson – an unexpected act on our part because we thought we had left Dawson well and truly behind after the farce surrounding the 'Day complaint'. Dawson was reminded that Bis Weaver was still without full rights in the union and the restoration of those rights was a "pre-requisite for any Tribunal proceedings" as the restrictions imposed by the motion "prevented [her] from having access to information that could assist...in pursuing [her]…complaint whilst those against whom [she] registered the complaint have not been placed at the same disadvantage." Their advantages had been "acquired as a result...of action in favour of [their] own vested interests." The recent refusal of the Bournville branch to accept a motion to restore her rights was mentioned as maintaining this disadvantage. The action of the Bournville branch might be considered "to be partisan and…subject to the likelihood of bias." In other words, our particular complaints – Bis Weaver's complaint about the branch statement and mine concerning the removal of my rights, were being impeded by the extant April motion, which placed both of us at a disadvantage.[56]

In the meantime in preparation for the Employment Appeal Tribunal, a couple of press releases were sent out to around forty newspapers - national, local and ethnic. The first one sent out before Triesman had the ignominy of cancelling the anti-racism conference had the title: *Racism and Trade Unions: The case of Bis Weaver.* The article began with a message to the trade union movement, which said that:

> If the TUC's attempt to attract more Black people and women into the trade union movement is to be more than merely recruiting new financial sources (dues payers) for the benefit of trade union bureaucrats, the movement will have to address carefully its structures, procedures and policies and bring them into line with the new tasks confronting trade unionists, namely a genuine anti-racist and anti-sexist programme.

The article went beyond the Industrial Tribunal findings and their implications to look at the wider issues facing Black employees in the workplace. It covered the union's *Whitewash* investigation of the original complaint; the attempt to encourage Bis Weaver to sign away her rights to the formal procedures; the circumstances surrounding the April 1986 motion; the advice given by the CRE to formally complain to the employer about the harassment; NATFHE's refusal to provide advice and assistance to the complainant; and the CRE's advice to register a complaint against NATFHE for what the CRE saw as its racially discriminatory policies. The issues with the LEA were also mentioned, especially its refusal to release the report of the LEA enquiry because of its findings.

The Weaver case exposed "the corporativism * between trade union officials and employers…The lack of commitment to anti-racism and anti-sexism from trade unions, such as NATFHE, and from local authorities, such as Birmingham, which has already demonstrated its rejection of positive policies to counter racism and sexism by virtually disbanding the Race Relations and Women's Committees." **[57]

The second press release, sent out in direct preparation for the Appeal hearing, was given the title: *Racial Discrimination Test Case Appeal* and described the case as "an important landmark in the struggle of racial minorities for equality of rights in trade unions." It gave the date, time and place of the hearing.[58] For the first time, the NATFHE cartoon was included as the 'brand mark' of future press releases. ***

There was a week to wait to see if the legal sanction given to the policy revealed by Triesman at the Industrial Tribunal would become a legally enforceable precedent.

(d) An Unwielded Weapon Saves NATFHE's Neck

South of Watford was the next port of call and full of anticipation we travelled to London for the Employment Appeal Tribunal hearing. While waiting in the ante-room before the hearing began we were approached by NATFHE's newly appointed solicitor, Michael Scott, whose extended hand did not receive a reciprocal gesture from either Bis Weaver or I. After months and months of harassment and pressure from all levels of the union; Day's *Whitewash* report; NATFHE's disingenuous submission; and Triesman's article in 7 Days and his letter to Clare Short attacking Bis Weaver's integrity; did this addition to NATFHE's legal team expect a hand shake. He was no more than another tentacle attached to NATFHE's octopus-like form squirting yet more inky bile in her direction. The effect of dealing with NATFHE had modified our usual courteousness.

The case was heard before Mr Justice Popplewell and two others, who, at the beginning of the case, were informed of fresh evidence that cast serious doubts on the veracity of the policy described by Mr Triesman at the Industrial Tribunal hearing. The proposition put by Bis Weaver's Counsel was that if this evidence had been available at the Industrial Tribunal hearing, his cross examination of NATFHE's witness (Mr Triesman)

* To use Triesman's term describing the unacceptable relationship between employers and trade unions

** The Labour group eliminated these two separate committees and replaced them with a Personnel and Equal Opportunities Committee, which was much easier for the Labour group to control

*** The cartoon shown at the front of this book

would have focussed on NATFHE's policy being spurious and, therefore, it would have made a difference to the balance of probabilities. The letter sent by Linda Milbourne to the Guardian was provided for the Chair and for NATFHE's counsel. The Appellant's counsel referred to a detailed letter in his possession sent by Ms Milbourne, who was prepared to give evidence.

After reading the Guardian letter, Justice Popplewell agreed the evidence might well have an effect and bearing on the case. NATFHE's counsel objected to this new evidence, claiming it was clear the union would in no circumstances adopt one member's complaint that jeopardised another member's tenure, quoting from Triesman's 30th June letter; and adding that the union had not garnished evidence to show its policy to be anything but *bona fide*. He also thought the Appellant should have acquired this evidence before the Industrial Tribunal hearing. He obviously saw the significant benefit of this fresh evidence to Mrs Weaver's appeal and wanted it excluded. Justice Popplewell overruled the objection and asked NATFHE's counsel if he thought the Appellant should have written to every union branch to find out if they all applied the policy on tenure. Surprisingly, NATFHE's counsel thought that was an option available to Mrs Weaver – to contact all six hundred plus branches! The chair told counsel for the Appellant that if he wanted to submit new evidence the case would be returned to the Industrial Tribunal to hear the evidence and any rebuttal evidence. NATFHE's counsel registered another objection on the grounds that the new evidence had nothing to affect the Industrial Tribunal's decision. Another matter causing him some concern was the costs for this appeal and the additional costs for a recalled Industrial Tribunal hearing. These arguments did not impress Justice Popplewell, who adjourned the hearing while Mrs Weaver's Counsel decided what course of action to follow. After some discussion between barrister and solicitor, the lawyers decided not to submit this additional information but to proceed on the initial grounds of the appeal, which was the legal formulation presented to the Industrial Tribunal. *

Bis Weaver's counsel reproduced the formulation presented at the Industrial Tribunal; linking NATFHE's policy and its disproportionate impact on Black people in a workplace

* Why Bis Weaver's legal team decided to take this course of action is difficult to see because, as counsel had argued, this new evidence might have affected the Tribunal's decision. Not having seen Linda Milbourne's letter of the 17th November 1987 we did not know whether it provided sufficient evidence to challenge Triesman's evidence. I came across the letter in October 1988 when I was going through her file at the solicitor's office in preparation for a case against Birmingham City Council. It seemed to me that the contents of the letter would have altered the outcome of the case, given the comments of the Chair of the Industrial Tribunal about a policy not applied in good faith.[59]

where the overwhelming majority of the workforce was White – the proportionality argument. He argued that the policy and its effect had to be placed within both the spirit and letter of the 1976 Race Relations Act to eliminate discrimination in whichever of the "insidious forms it takes." He described, as absurd, the union's policy of assisting the accused and not assisting the complainant based solely on the word of the accused denying the charge. NATFHE's counsel reintroduced the extremely narrow formulation he pursued at the Industrial Tribunal despite having at his disposal the broader formulation put forward by Triesman and accepted by the Industrial Tribunal. Counsel argued the policy applied across the board and the proportionality argument was inapplicable as there was no evidence that a greater number of racial minorities complained of discrimination under the union's rules. He referred to the Industrial Tribunal having found no discrimination as advice and assistance was not available for complaints putting another member's tenure at risk. He argued that the policy on tenure was not applied to Mrs Weaver, "as a person," but "to the nature of her complaint or the course of action she wanted the union to take." This was not acceptable to Justice Popplewell, who reminded counsel that Mrs Weaver was a person bringing a complaint and it must be applied in that way, and rejected counsel's argument as much too narrow.

Counsel then drew on the broader formulation as the correct approach and quoted the Tribunal's decision. He admitted that the Industrial Tribunal found NATFHE's policy to have a limited racially discriminatory impact but held that it was justifiable. This was a bizarre position to be in for an 'anti-racist' trade union. In order to have the original decision upheld, NATFHE was relying on a policy that its own counsel admitted was racially discriminatory although not contravening the 1976 Race Relations Act. At the same time, NATFHE publicly claimed to have a vigorous anti-racism policy carried out by its officials and had tried to buttress its claims with a nationally organised anti-racism conference. Farce was being depicted as history. NATFHE's counsel also argued that Mrs Weaver's other rights were not affected as it was open to her to use the Union's Rule 8, which was not an option although few people, including ourselves, seemed to know that.

The Tribunal adjourned and reconvened after lunch with the decision. Justice Popplewell went through the points at issue. The Appellant had relied on S11(i)(3) of the 1976 RRA concerning discrimination in the provision of benefits, facilities and services by the union; (s1 h of the EAT Report) and on the union's rule 2.8, in which the union "render legal advice and assistance in professional matters wherever possible and desirable (and to protect members who are individually or collectively discriminated against on grounds of

colour, ethnic origin, sex, disability, age or sexual orientation).” (s2 c) The union had declined to assist her on two grounds: (i) the union’s policy was “not to support a [complainant] member where the tenure of employment of another member...was at risk; [and (ii)] the union did not believe there was any merit in the applicant’s claim.” The chair dealt with the second point by saying “The Tribunal considered the latter point and concluded that, having heard all the evidence, that was a conclusion to which the union were not reasonably entitled to come” (s2 e & f) and the chair agreed with the Industrial Tribunal’s findings “that there was not reasonable grounds for [the union] supposing that her claim was not meritorious.” (s 19 e)

The chair referred to Mr Triesman’s evidence, which the Industrial Tribunal had considered acceptable and that the policy put forward by him was not spurious. (s 2 h) Mr Triesman said “the union would not support that complaint and that they were entitled to do that having regard to their rules – rule 2.8 – namely it was either impossible or undesirable that they should seek to put another member of the union out of work.” (s 5 f & g) The EAT found that “the desire to protect the tenure of its members is a legitimate ground for having this policy.” (s 10 f) On the proportionality argument, the Appellant’s counsel “observes that although everyone in one sense is in the same position, that is...if there is an allegation of theft, taking drugs or drink, fighting, assault or other reasons for misconduct, the general policy...affects everybody the same; but....race discrimination...in [a] workforce [overwhelmingly consisting of] White people…, coloured people...are more likely to be discriminated against.” (s 6 h; and s 7 b & c)

Justice Popplewell said that if the complaint of racial discrimination could be separated from drunkenness, theft and drugs then the appellant would be disadvantaged under s 1 (i)(b). However, the EAT “saw no reason to differ from the conclusions [of] the Industrial Tribunal...that the condition...imposed was simply ‘You may not bring a claim where the tenure of another member is at risk.’” * (s 7 d & e) The chair also said “the risk of appearing on both sides is a matter the Union are undoubtedly entitled to take into account, and the

* In the light of Justice Popplewell’s comment, it might be argued that NATFHE had distinguished racist (and sexist) discrimination from other types of complaints in its Rules of Association. Although “complaints of theft, drunkenness, drugs, sex and race [discrimination] would be matters of maintaining standards of professional conduct which were covered by Rule 2.9 of the Rule Book,” NATFHE had decided that issues/complaints of racism and sexism were inadequately covered by this rule and were “of a different and special character.” If all types of misconduct were covered by Rule 2.9 there was no reason for NATFHE to have found it necessary to introduce additional rules to deal with racism and sexism – Rules 2.8 and 2.10.[60]

[Industrial] Tribunal, in our judgement, have properly applied the section [of the Act]." (s 10 g) In the EAT's judgement, "the Industrial Tribunal have properly directed themselves;...come to a conclusion upon the evidence...[and] there has…been no misdirection…or misapplication of law and, in those circumstances, this appeal must be dismissed." (s 11 d)

When asked by NATFHE's counsel for costs, Justice Popplewell refused to award them against Mrs Weaver on the grounds that the appeal was reasonable. He also refused an application by her counsel for leave to appeal to the Court of Appeal.[61]

By accepting Triesman's evidence covering NATFHE's policy on tenure as the basis for its decision, the EAT identified Triesman as the source upon which the policy on tenure had received the force of law, which set a precedent for the trade union movement as a whole to follow in the future. NATFHE and Triesman had provided trade unions with a policy preventing members, who are victims of racist or sexist harassment, from obtaining advice and assistance from a union when making complaints. This was an unexpected addendum for Triesman's anti-racist CV and for NATFHE's image as an anti-racist organisation.

The intention of NATFHE bureaucrats since June 1985 not to assist a Black complainant seeking a fair and impartial enquiry into a complaint of racial harassment had, in their circuitous and Machiavellian way, succeeded. At the end of a lengthy process they had ensured that its way of dealing with such complaints extended to cover all complainants in trade unions with the full force of law behind it. This was quite an achievement for all those who had made a contribution to this astounding set-back for the anti-racist and anti-sexist movements. This would not have been achieved without the support of officers in the West Midlands REC, especially those in the Broad Left Coalition; those local 'feminists' prepared to compromise principle in the interests of union solidarity; and officers at national level. This had been a team effort where officers and officials stood firmly together in the defence of *la patrie.* Success had been achieved against a solitary Black rank and file woman member and her small band of supporters in, of all places, the abominated bourgeois court. Future events would show that NATFHE's victory was at a heavy cost to what reputation it might have had prior to its attempts to cover-up the initial complaint of harassment.

Bis Weaver and Tony Rust were waylaid as they left the hearing by a newspaper reporter responding to the pre-hearing press release. They both gave their views on the decision which entered into print in some sections of the press. The way back to Birmingham began in a cloud of gloom. Tony Rust suggested making a personal application to the Court of Appeal and Bis Weaver agreed. Between Rugby and Birmingham I started to put together

a press release on the implications of the EAT's decision to be headed *NATFHE's Right to Discriminate Upheld*. It was typed up the same evening; edited the following morning and by lunchtime it was on its way to the same forty newspapers. The article briefly covered the Industrial Tribunal hearing, the union's policy and its implications with an expanded explanation on the significance of the findings.

The implication of the EAT's judgement on NATFHE's defence were clearly described. The decision "demonstrates the virtual impossibility of using the Race Relations Act to eliminate indirect racial discrimination from the institutional structure of the trade union movement [despite] The section of the Act on indirect racial discrimination [being] introduced to prevent institutions from evading their responsibility...by hiding behind blanket policies or rules." It was revealed that "NATFHE's Counsel acknowledged that NATFHE had racially discriminated against Bis Weaver...but claimed that this had only a limited discriminatory impact...[which was] accepted by the Appeal Tribunal." The opportunity was taken to contrast "NATFHE's successful defence of its discriminatory policy...with its failure to attract a single non-NATFHE member to its attempted credibility raising pre-Appeal Tribunal conference, 'Strategies for dealing with Racial Harassment'…[as] every external organisation invited to attend boycotted the conference, thereby, forcing its cancellation." A message was included for "Norman Willis and other trade union leaders [to] take note [of the decision] as they seek to attract Black and women workers into the trade union movement. Or will equal treatment under the rules for Black and women members...be as unimplementable as trade unions' present anti-racism and anti-sexism charters?" The whole of this press release was reproduced as an article in the Asian Times.[62]

The Express & Star (Wolverhampton) headed its report *Trade Union is blasted as 'racist'*. It referred to an "outburst" by top lawyer, Tony Rust, who "accused a trade union of racism, adding that "The union will always support the racist – it's desperately unfair." The paper quoted Mrs Weaver as saying that "The union could have lawyers for both sides or decide to choose the person complaining, I would say that the union should pick the one who is being discriminated against."[63] The Voice newspaper carried a more personalised heading *Bis Loses Racism Appeal* and quoted me as blasting the decision because it "bolsters institutional racial discrimination in trades union structures [and]...enables [the union] to evade any responsibility...to those black and women members who become victims of racial or sexual harassment." For the second time a Voice enquiry to NATFHE Head Office met with "Mr David Triesman, NATFHE Negotiating Secretary, [being] unavailable for comment."[64]

The Birmingham Post, widening the issue, contacted the Birmingham LEA, which in an unprecedented step for an internal LEA enquiry issued a press release. The LEA confirmed "an investigative enquiry under disciplinary procedures into allegations made by a senior member of staff at the college against subordinate staff relating mainly to events which took place some eighteen months previously" had been conducted. The LEA acknowledged it was not its usual "practice...to divulge to the media information referring to specific individuals...[however] professional misconduct was found to have occurred but no racial motivation was established...Action against the individual concerned...was not practical because the member of staff had left the college." The complainant "is currently on secondment, with the LEA's support,…[and] Any matters outstanding will be resolved on her return to Bournville."[65] At least in this account they accepted the 'professional misconduct' continued until June 1986 but misrepresented the form of the enquiry. The LEA also complied with the 'Knowles vetting directive' not to "provide the press with the sensationalist fodder upon which they seem to thrive" by denying racism was a factor.

On the 17th December, the Birmingham Post published the LEA's comments on professional misconduct and absence of racial motivations, and named both Bis Weaver and Gates as the parties involved. The report also set out the implications of NATFHE's policy on tenure. Tony Rust was quoted as saying, "We are considering going to the Appeal Court." Triesman, contacted by the Post, on this occasion, unlike his reaction to the Black newspaper, Voice, decided to comment and not unexpectedly rehashed Gates' membership of the union's anti-racism committee and his lengthy involvement in the Anti-Apartheid Movement. More significantly, Triesman disclosed that "The union was considering changing its rule to help people who bring cases of racial or sexual harassment against other members [but] This was not the result of Mrs Weaver's case. In future we are going to have to further qualify our rules so that the union may take a more active role in issues of this kind."[66]

Although the LEA's press release was principally an exercise in self-exoneration, by issuing a press release it brought further vindication for Bis Weaver in the public arena. The LEA had put something, however muted, in writing about her grievance and Triesman had been forced to admit the inadequacy of NATFHE's rules for dealing with harassment cases. This had been a long time coming but come it did!

Could anyone reasonably be expected to believe that any rule changes to deal with racist and sexist harassment on the union's part had nothing to do with the Weaver case? Very soon NATFHE officials would, discretely, be in touch with the Transport and General Workers Union seeking advice on dealing with complaints of racial and sexual harassment

between members. The TGWU interpreted this as NATFHE recognising "that its position is untenable and that efforts are being made to agree a practice which will not discriminate against certain groups of members."[67]

There was not an ounce of regret or humility for the thirty months pressure and stress the union had inflicted on Bis Weaver coming from the mouths or pens of NATFHE officials residing at NATFHE's new head office, Britannia House. This was an appropriate imperialist name for the union's residence; NATFHE officials could really 'Rule Britannia.' Nonetheless, NATFHE had to endure the humiliating experience of explaining what it was incapable of doing, namely, why did a trade union not assist its Black or women members when they were victims of harassment or discrimination. NATFHE's portrayal of the Weaver case as a Black woman using the 'race card' in a complaint against a 'dedicated anti-racist' was about to meet a whirlwind sweeping its way through the anti-racist movement to expose the *shamateurism* of NATFHE's approach to anti-racism. The key to exposure was publicity - one thing NATFHE did not want, and we would take every opportunity to spread information on the Weaver case.

An editorial in the local Daily News on harassment in the workplace provided the opportunity to link the inaction of Birmingham city council, NATFHE and local activists with the issue of harassment. My letter, published on the 22nd December, stated:

> Having watched a colleague suffer harassment at the hands of other colleagues, I applaud your recent editorial demanding legal protection for the victims of harassment in the workplace.
> The experience of this colleague in a city college of further education was additionally stressful because she was both a woman and a black person. Her experience of harassment consisted of verbal foul-mouthed abuse and intimidation which resulted in considerable mental and physical pressure. Her anxiety was increased because of the uncertainty of when she would next be abused or harassed.
> The persistent nature of the harassment required her to have considerable strength of purpose in order to continue to go to work. And she became subject to increasing hostility not only from the harassers but also from people around her as she sought assistance to stop the harassment. Her difficulties were increased by the ability of the harassers to isolate her within the college and she came very close to leaving employment altogether.
> She was unable to get union support to prevent the continued harassment, which covered a period of over two years, as the harassers were influential figures in the union. And the management of the college appeared not to want to involve itself.
> Complaints to the union were effectively disregarded and a complaint to the college governors was never properly acted upon.
> Nor was it any use turning to the so-called anti-sexist and anti-racist activists in the college because they were either involved in the harassment or supportive of the harassers or preferred to look the other way. She ultimately had to resort to the law for redress.
> It is obvious, as you write in your editorial, that the law must be brought in to protect the victims of harassment because trade union charters on the defence of women and

> racial minorities appear unimplementable, as does the local authority's equal opportunities policy.[68]

Our future strategy was to be in line with the sentiments expressed in this letter and was aimed at bringing as much pressure as possible on NATFHE. The publicity campaign would have to be an extended one because we did not know how long it would take for a personal application to the Court of Appeal to be heard and we needed to keep this case 'on the boil' during that period. As the saying goes, 'as big fish eat little fish so little fish have to be smart.'

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[1] BW to CRC 16 Sep 1987 File P 46 - 47
[2] Mtg CRC and BW & GW 24 Sep 1987 File N 36; GW to AR 8 Nov 1987 File P 64
[3] PMT to BW 13 Oct 1987 File P 48
[4] GW to AR 19 Oct 1987 File P 49
[5] T/p conv PMT & BW 7 Oct 1987; BW to PMT 18 Oct 1987 File V 21; and T/p conv PMT & BW 19 Oct 1987
[6] LEA to PMT 21 Oct 1987 File N 35
[7] DTr to BW 8 Jul 1986 BW IT Bundle 79
[8] AD to RJ 11 Aug 1986, copied to DTr, NATFHE IT Bundle 185
[9] GW to JC 17 Jun 1987 File P 11 - 12
[10] PMT to BW 30 Jun 1987; note made and sent in a letter to GH; GW to GH 30 Jun 1987 File P 31
[11] DTr *7 Days* 22 Aug 1987
[12] ACAS to GW 23 Feb 1989 File V 65
[13] See Wallace v South Eastern Education and Library Board (1980) IRLR NICA; Noone v North West Thames Regional Health Authority (No 2) 1988 IRLR 530 CA; Baker v Cornwall CC 1990 IRLR 194 CA; Neill LJ in King v Great Britain-China Centre [1992] ICR 516, [1991] IRLR 513 at 528-9
[14] McGoldrick v London Borough of Brent [1987] IRLR 67
[15] PMT to LEA 1 Oct 1986 File N 20 - 24
[16] Mtg GH & PMT 24 Sep 1987 written account sent GH to PMT 9 Oct 1987 File N 30 - 32
[17] Conv Bilston Coll Mgt & BW 12 Jun 1987; Conv Bils Coll NATFHE Mbr & BW Oct 1988 File Y 13
[18] Notes of Verbal Rept PMT to BW 6 Nov 1987 pts 1 – 50 & Appendix pts 1 - 24 File P 51 – 61; See also BW/GW to PMT 4 Feb 1988 Letters A, B, C & D File O 25 – 37; BW/GW to PMT 10 Feb 1987 File O 38 – 41; BW/GW to PMT 21 Feb 1987 File O 44 - 45
[19] Notes of Verbal Rept PMT to BW 6 Nov 1987 pts 27 - 32 File P 53 - 54
[20] Ibid pts 33 – 42 File P 54 - 55
[21] Notes of Verbal Rept PMT to BW 6 Nov 1987 Appendix Pts 1 – 24 File P 57 - 61
[22] PMT to LEA 1 Oct 1986 File N 20 - 24
[23] Mtg CRC & BW/GW 27 Nov 1987 File Y 12
[24] SB to BW 15 Jun 1987 File P 10; PMT to BW 22 Jun 1987 File P 18 - 19; LEA via PMT to BW in GW to GH 30 Jun 1987 File P 31
[25] Notes of Verbal Rept PMT to BW 6 Nov 1987 pts 43 - 50 File P 55 - 56
[26] BW/GW to PMT 8 Nov 1987 File V 22; GW(BW) to GH & SB 14 Nov 1987 File P 67; GW (BW) to CRC 15 Nov 1987 File P 68 ; conv CRC & BW/GW Nov 1987 File N 36 and File W 30 & 40
[27] BW/GW to PMT, LEA & SB 3 Dec 1987 File V 23 - 24
[28] BH at BEVN Enquiry (Cave & Hartland) 5 Dec 1986 p 2 File S 3
[29] Section 5 LEA Rept of Enquiry (undated) File N 33 - 34
[30] See Wallace v South Eastern Education and Library Board (1980) IRLR NICA; Noone v North West Thames Regional Health Authority (No 2) 1988 IRLR 530 CA; Baker v Cornwall CC 1990 IRLR 194 CA; Neill LJ in King v Great Britain-China Centre [1992] ICR 516, [1991] IRLR 513 at 528-9:
[31] PMT to BW 5 Jan 1988 File O 4
[32] PMT to BW 12 Jan 1988 File O 10
[33] PMT to BW 28, 30 & 31 Jan 1988 File O 17/18 & 21/22
[34] Mtg CRC & BW/GW 27 Nov 1987 File Y 12
[35] BW/GW to SB 3 Dec 1987 File P 70 - 71

[36] SB to BW/GW 13 Dec 1987 File P 72
[37] BW/GW to SB 20 Dec 1987 File P 75
[38] GW to GV & DS 2 Oct 1987 File J 16 - 17
[39] Notes Br Mtg 12 Oct 1987
[40] Conv GW & DS 21 Oct 1987
[41] REC Mtg 21 Oct 1987, in T/p Conv KS & GW 29 Nov 1987 File Y 12
[42] Conv GW & AO 6 Nov 1987 File Y 12
[43] Agenda Br Mtg 17 Nov 1987
[44] Mins Br Mtg 17 Nov 1987 File R 69; GW to GV & DS 17 Nov 1987 File J 28 - 29
[45] GW to GV & DS 17 Nov 1987 File J 28 - 29
[46] GW to KS 2 Sep 1987 File J 4
[47] WMARC Mtg, 25 Nov 1987 in T/conv KS & GW 29 Nov 1987 File Y 12
[48] Br Mtg 14 May 1986 File Q 17 - 19
[49] BWDF Campaign Leaflet Dec 1987 File J 39
[50] AR to BW 17 Nov 1987 File J 30
[51] DTr to ARNP 12 Nov 1987 File J 26 - 27
[52] DTr to Colleagues 27 Nov 1987 File J 34
[53] THES 18 Dec 1987
[54] NATFHE to BW/GW 18 Nov 1987 File J 32 - 33
[55] The Lecturer Feb 2000
[56] BW & GW to PD 28 & 29 Nov 1987 File J 35 - 38
[57] GW Press Release 27 Nov 1987
[58] GW Press Release 4 Dec 1987
[59] IT Report, p 16 s 8(c)(i)
[60] GW to AR 29 Dec 1987 File J 41
[61] EAT/551/87, 11 Dec 1987; Rept in ICR [1988] 599 London: and GW Notes File H 60 - 61
[62] AT 25 Dec 1987
[63] E & S 12 Dec 1987
[64] Voice 22 Dec 1987
[65] LEA Press Release 15 Dec 1987 File P 74
[66] Post 17 Dec 1987
[67] TGWU to GD 12 Feb 1988 sent by GD to GW 28 Feb 1988 File V 39 & 41
[68] DN 22 Dec 1987