

# Advocate for Change

Andrew Pickles SC discusses his new role on behalf of the LGBTQI community with Stephen Ryan



**Stephen Ryan:** *Could you firstly tell us about your journey into the legal profession and then on to the Bar?*

**Andrew Pickles:** It was fairly conventional really, although I am not from a legal background at all. I don't have any lawyers in my family whatsoever. I went to Sydney University studying economics-law – a combined degree. I was a summer clerk at Freehills and became a paralegal for my final year at law school. And then I went travelling overseas as everyone does. I came back and worked at Freehills for three years as a solicitor, firstly in their environmental group and then in their litigation team.

Then I moved to Malleasons because I wanted to do planning and environmental work.

Then I went to Phillips Fox.

I think it was one of my colleagues here (Martin Place Chambers) who I was against in a matter in the Land and Environment Court and I was doing my own advocacy as a solicitor and she said to me, 'Have you thought of coming to the Bar?' and I thought 'Well, I haven't,' and she said, 'Well you should because you're quite good'. And that planted the seed. Then about 18 months later I decided to make a break for it.

I had the support of the partners that I worked for who encouraged me to go to the Bar and the firm were very good. I gave them six months' notice. They were very happy with that. And then they sent me work when I got here, as did Malleasons.

**SR:** *How did you obtain the Advocate For Change role and why do you think you were selected?*

**AP:** Richard Weinstein SC had been in the

role. He got appointed, just as it happens... it got announced on the same day that we were hosting 'Gay Bar' drinks. The Diversity and Equality Committee were looking for someone to replace Richard and it was suggested that I put my name forward. So I did. I don't know what moved them to think I'm suitable, but I've got a history I suppose of being involved in LGBTQI issues, not so much at the Bar, though I was on the Equal Opportunity Committee in 2005-2006.

Outside the Bar I was on the Gay and Lesbian Rights Lobby executive for several years, the secretary and then the co-convenor back in 2002-2003 and during that time I was involved in saving Mardi Gras and re-establishing the new company that could take it forward. I'm also an avid supporter of Queer Film. I'm a True Love Sponsor of Queer-Screen Inc.

**SR:** *What are some of the ideas you've had or issues you'd like to tackle during your time in the role?*

**AP:** One of the things that we've thought of doing is an open day for LGBTQI identifying students at the universities. And just as the women lawyers run an open day for women students we could try and do something like that for LGBTQI identifying students. There is already a queer officer at the University of Sydney Law School and through that contact Richard [Weinstein] had established a moot. So we might build on that. The moot might get opened up to a wider range of students from other universities as well.

The second thing is that I'd like to develop some partnerships with LGBT organisations. This has been tried in part before with Pride and Diversity with ACON [AIDS Council of NSW]. I think one of the problems has been that because we're an association and not an employer it's been difficult to structure a program that works at an association level rather than at an employer level. I'm trying to work with ACON to see whether we can structure a program that would work at an association level so that it would provide benefits to members, an ability for members to connect with whatever Pride and Diversity offer including... tickets to the annual conference and awards, member events throughout the year, that sort of



thing. As well as training and development for the association.

One possibility is to engage with another provider to provide an annual CPD seminar for members of the Bar to promote understanding. There are two elements to it. One is to promote an understanding of LGBTQI issues among members of the Bar and the other is to promote inclusiveness. I think those are the two distinct strands to work on.

Another organisation that we're going to



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have some discussions with soon is the Gay and Lesbian Business Association. They invited me and some other members of the Diversity Committee to one of their functions, Fruits in Suits and they do another event called Lemons with a Twist. We'll see if we can work up a partnership which would allow barristers to attend... and it's a great networking opportunity.

**SR:** *Have you noticed changes in attitudes*

*during your time as a solicitor and barrister and the difficulties members of the LGBTQI community can have?*

**AP:** It's interesting reflecting on my time at Freehills. Freehills is probably now regarded as one of the most inclusionary law firms to work at. They have an inclusion and diversity officer in their HR department who happened to be a summer clerk at one stage when I happened to be working there. They

are also a sponsor of Queer Screen and a number of LGBTQI organisations. But at that time, back in the early 90s, it wasn't easy, actually, being gay.

I wasn't out at Freehills. I suppose I came out at the end when I was leaving, but that was perhaps a mark of how difficult it was in a sense. I hate to say it, but in pockets here and there, there was open homophobia. There were things said around the office, probably not intended to be hurtful, but that really made it impossible to be out. Even though the firm was in so many ways very open, it wasn't that easy to be out.

[At Mallesons] the environment there was very different. For me it was a fresh start where I didn't have a history. I felt there it was kind of almost easier to be out in a sense, but it was a very small and clandestine kind of LGBT community at Mallesons. There were a few of us who would go out for lunch from time to time, but it was a firm that was very much head-down-tail-up get on with your work, which in its own way was good because there wasn't intrusion into your personal life. Unlike Freehills, which was a bit more intrusive on your personal life. And so, you either had to be out or you had to keep it to yourself depending on how you felt. Whereas at Mallesons it just didn't matter because we were just there to get on with our work and that was fine.

[At Phillips Fox] I worked for a partner who was gay and it was a warm and embracing environment as well because it was a very inclusive firm.

I had good experiences really with the firms that I worked at, albeit perhaps a shaky start at Freehills. But I can't say I ever felt, apart from the experience at Freehills, that I felt a harsh wind of discrimination at all. But I think being out and being myself was an important part of that though.

My apprehension about coming to the Bar was a fear of how stuffy and conservative and straight-male dominated that it was. For me that really was a concern. I was comfortable. I could have stayed at Phillips Fox. I could have applied for partnership. And the very heavy nagging doubt was 'how comfortable will I feel at the Bar?'

Then when I came to the Bar all of a sudden I was joining a very small floor where they'd never had a woman member let alone



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an openly gay man. Of course, things have moved on an awful lot on that floor as well. They've now got several women members and, I know, another gay member.

Things then – 1999 – were still 'stuffy' I think at the Bar. And initially I went back into my shell in a sense. The only people who knew I was gay were the clerk, well, maybe not even the clerk initially, and my tutor and maybe one other reader who was on the floor knew because we were in the Bar Course together. But otherwise, the other members of the floor were limited to middle-aged and older white, straight men. So I felt very out of sorts and I ... didn't feel comfortable about being out.

**SR:** *How did things change?*

**AP:** I think Chris McEwen encouraged me [to be out] because the partners got invited to floor dinners and things and my partner, Adrian, didn't come to the first one, but he came to the next one I think and nobody batted an eyelid. And it became a very warm and embracing environment in the end.

Then it was 2003 when we set up this floor which was a planning and environment specialist floor. I came across with Chris McEwen at that time and I think even when we started here we had three gay members at the outset, so we were already more diverse to begin with, and three women. And now we've got eight women and five gay members.

At our peak we had six gay men and together we form a majority. A clear majority. I

think we leave the straight men as a minority.

**SR:** *Have you ever encountered homophobia in the Courtroom? Richard Weinstein spoke of two occasions he was verbally abused.*

**AP:** No. I was trying to think of anything, but I can't think of anything as strident as that at all and not even less strident than that. No experience that you would say that that was clear and blatant homophobia. I haven't experienced that in a Courtroom environment. I don't think I've experienced that from a judge or a colleague. That doesn't mean that it's not there in whispers or in whatever form it might be.

Certainly in very recent months on this floor there has been an example of a female member of this floor experiencing outrageous misogyny audibly stated in a Courtroom by a person in the gallery. And it was very pleasing to hear the response on the record from the judge. If that can happen for women I'm sure it can happen for others. And for gay women they have the dual effect of gender and sexuality.

**SR:** *What do we know about the sexuality and identity of the NSW Bar?*

**AP:** That's another area to look at and it's to understand or to see what we can do out of the data that has been collected by the Bar Association this year for the first time in the Practising Certificate questionnaire that asked the question.

We don't know a lot and that's what we really want to come to grips with. And I'll be very interested to know what the results are. And it may be that the question has to be asked more than once because it has been the experience of law firms asking those kinds of questions that the numbers prepared to identify has increased over time. So while in one year you might get a certain result, three years' hence you might get a different result and that doesn't necessarily reflect a massive increase in the number of people at the Bar or number of people who are [gay]. It's just a number of people who are prepared to identify.

**SR:** *What are some of the issues that stem from that?*

**AP:** It's actually difficult to know what the issues are except at a much more one-to-one level. We've only just taken the first step in

asking people to identify as LGBTQI. We haven't gone any further to find out what ramifications that has for people and their careers. And I'm not sure we're going to be able to readily get an understanding of that. For the reasons that: I think LGBTQI identifying is something that people do at different levels of comfort. They may or may not be out at work and the level of comfort they feel with that can vary very much from individual to individual.

I think it's going to be much harder to understand the data than simplistic issues such as how many of us are there? And to what extent are they prepared to identify and be out?

**SR:** *Could you share with us some of your other work over the years advocating on LGBTQI issues?*

**AP:** When I was on the Equal Opportunity Committee Kathy Sant and I put a paper together of some things we should look at. And, of course, the Bar Association has moved very much along those lines. The name of the committee itself reflects that. It's now called the Diversity and Equality committee.

The diversity is the point and that's reflective of the change in approach. It had been focussed very much on issues relating to women, equitable briefing and other issues relating to the challenges for women at the Bar in juggling family commitments and all of those things.

One of the things that we found very difficult to tackle [at the time] and couldn't resolve was that barristers as self-employed people don't have ready access, unless they pay for it themselves, to income protection insurance. One of the problems with income protection insurance policies at the time, earlier this century, was that they would either refuse or they would require you to go through significant hoops if you were a gay man regardless of HIV status. And there are significant discriminatory issues in relation to insurance policies for HIV positive men and women. I was experiencing and certainly some of my other colleagues were experiencing a great deal of difficulty in obtaining a policy. They ask the question, 'Do you sleep with other men?' And the answer is 'yes' and then, well, this whole series of questions is then expected to be answered.

I've ended up not ever bothering other



than the one offered by [BarCover]. But the hoops [insurers] want you to go through and the intrusiveness of the questions. Now I'm an HIV-negative man, but I just found the questionnaire offensive. I thought, 'I'm not giving you that information. You wouldn't ask for that information of anybody else.'

In terms of other issues, there was, e.g., a sexual harassment policy at the Bar, but it was clearly directed at sexual harassment from men to women. It had no element considering any other aspect of sexual harassment and in fact funnily enough back in my Phillips Fox days I experienced some sexual harassment from a male secretary. I was conscious of the fact that we had to contemplate that these policies needed to be re-thought and reconsidered in a gender-neutral context. Secondly, while there were policies relating to discrimination against women, there were no policies relating to discrimination on the basis of sexuality.

And so of course the Bar has moved an awfully long way from that perspective and the model policies that the Bar has adopted and many floors have adopted essentially reflected a lot of work by other people that perhaps started with me and Kathy back then.

**SR:** *Have people reached out to you so far and who would you like to hear from during your time in the role?*

**AP:** I would encourage people, particularly younger members of the Bar, to reach out and contact me if there are issues or indeed just to have a chat and discuss their experiences because I'd like to know what it's like for other members in other parts of the Bar. I know what it's like for me. I've got a comfortable environment where I am because

we've got a diverse floor, but I'd be interested to know if other people have a different experience and what their experiences are.

It would be good to know whether things have moved on or how it is for others and I suspect that it wasn't as easy for others as it was for me.

**SR:** *Is it getting easier for members of the LGBTQI community to connect and enjoy success at every level at the Bar and beyond?*

**AP:** It's only been in the past year that we've had, informally, Gay Bar drinks. And that was something that was started by a couple of barristers in a private home, but we seized the nettle and hosted it here at Martin Place [Chambers].

We had some great luminaries [at the last one at Sixth St James Hall] like Justice Kirby and we had some members of the Bench and the Bar and so that was terrific. I think we can carry on doing that independently of the Bar Association. It's got a life of its own now which is good. It's a good networking opportunity and it's an opportunity for other members of the Bar to understand what other issues other people have. And it's a social event at which everyone can feel comfortable and they know they're among like-minded people I suppose.

Things have changed a lot in my time at the Bar to say the least. I can't think of any judge who went to the Bench before I went to the Bar who at their swearing in had been out and proud. And that's changed dramatically. Richard [Weinstein] at his swearing in and other judges in recent times have had no fear or concern about identifying and acknowledging the support of their partners. That's a noticeable change.