

We ♥ D&I 4 LGBT+ in Law

Candid Perspectives with Ingrid Gubbay and John McElroy



With Pride Month coming to an end in the UK and US, we speak to partner John McElroy and counsel Ingrid Gubbay, both members of the LGBT+ community. The government estimates that 5-7% of the population of England and Wales is gay or lesbian¹. With an adult population of 42.1 million in 2002, that means between 2.10 and 2.95 million. This group of people is undoubtedly much larger today. With no official figure on the number of transgender people in the UK, numbers range from 200,000 to 500,000. Stonewall, a charity supporting lesbian, gay, bisexual and transgender people, claims 1 in 5 LGBT people have suffered a hate crime in the last 12 months. This makes for a sizeable group of people who are being challenged for who they are. Still today. Ingrid and John share their experience with us in this candid conversation.

Have you seen a shift in attitudes since let's say 20 or 25 years ago?

John: There has definitely been a shift in attitudes since I joined the legal profession in 2003, but there are still many hurdles to progression in a conservative career such as the law. A significant development for the LGBT+ community has been an increase in the number of allies, those who are not LGBT+ but who celebrate and support diversity with us

¹ www.stonewall.org.uk

in an inclusive way. This is a real movement away from conservatism and towards acceptance rather than tolerance.

Ingrid: Things have changed considerably since the days of the conviction for homosexuality and the castration of Alan Turing, but unfortunately there is still a high incidence of LGBT+ bashing as Stonewall confirms. And while the law has changed - we now have gay marriage since 2005, which took long enough – and the UK appears on the statute books to be a world leader, changing attitudes will take much more and longer. Being LGBT+ is still too often perceived as a lifestyle choice or a phase, rather than a natural and essential part of one's being.

The 'lifestyle' choice is seen as a bit bohemian or risqué. That stereotype can permeate perceptions in professional life - especially in a conservative profession like the law - and make it harder to be taken seriously especially if you are a woman, maybe black and out. Hidden prejudices remain at play, and you can add age and background to the mix and how they intersect with sexuality.



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Have you encountered hurdles in your professional career because you are LGBT+?

John: I recently caught up with a number of fellow gay lawyers and we discussed whether we had encountered hurdles in our professional career. Sadly, everyone around that table had felt that their being gay had been an obstacle to progression at some stage, and every one of us had moved jobs as a result. It is therefore unsurprising that so many lawyers from a minority background leave private practice and join businesses as an in-house lawyer or in some other role.

Ingrid: Among my LGBT+ friends there has been a very mixed experience of the impacts in professional life depending on age and location. With the boom in rainbow families and more flexibility in the workplace, statutory career breaks and other considerations are now given to a broader kind of family. That is a welcome change.

We often speak about #LGBT using negative words like ‘issues’, ‘problems’, etc. Can we change the narrative? Or is it too early still?

Ingrid: That is in part a rhetorical question – it’s never ‘too early’ to change negative language. That said, a lot of ‘the problem’-type language leads to unconscious bias with respect to gender and LGBT+, and that also plays out in a similar way with other minority groups. It can and does translate to disadvantages for all these groups.

This is not helped by decision makers who are largely self-referential and informed by their cultural stereotypes and lack of/or avoidance of contact with LGBTI and minority groups. Diversity at the senior level is so important in breaking that up.

Have there been positive moments for you? Would you share some with us?

John: There have certainly been positive moments for me and one of the most satisfying aspects is that I am now often able to have a frank and open conversation with others in my work environment, including clients and barristers, about my personal situation. I no longer feel the need to hide my sexual status. However, it is still more often that these positive moments involve people outside of the legal profession celebrating diversity and inclusivity than people within private practice.

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Ingrid: I have generally worked for progressive organisations and been ‘out’ both in Australia and here. I have learnt to be the listener rather than the sharer, as many of my clients and colleagues live very different lives to my own and may not really relate. I try to connect largely on neutral ground through humour and empathy. I remember marching in Mardi Gras dressed as a chip as in fish and chip. It was a political theme about Pauline Hanson a very notorious and misinformed MP who used to run a fish and chip shop.

There are those who are not part of the LGBT+ community and who want to offer support but do not know where to start. What can they do?

Ingrid: Just be a decent person who understands that the person standing next to you may have a very different life going on. Don't assume yours is the normal and therefore more acceptable way to be. If you end up having kids, friends or family members who are LGBT+ then show them you care and lend support, as no doubt there will be some terror in coming out and some confusion and if you get it right it will go a long way and life will be good.

Where do we gain momentum? Where has progress been made?

John: Although the law has changed in recent years to allow marriage with that being a big battle in itself, the real challenge is ensuring that people do not approach it from unconscious bias. Inevitably that is going to be nigh on impossible to eliminate given the unconscious nature of it. However, there is a greater awareness around the LGBT+ community and their challenges now, and perhaps social media has been helpful in that respect. Recent events of George Floyd's unacceptable death and Black Lives Matter have shone the light on the plight of all minority groups. There seems to be a sentiment of 'enough is enough', but let's see whether we can transform that into permanent positive actions and outcomes.

Are there any progressive countries we should look up to? What have they done, which other countries should embrace?

Ingrid: Clearly it is still illegal to be LGBTI in many countries and I would not holiday or voluntarily visit those countries, which does restrict my choices. If you google this, you will see how many there still are. Immigration and asylum lawyers in the UK will tell you how hard it is to be granted asylum here, even when lives are clearly at risk due to sexuality.

If you were prime minister/president for a day, what law would you pass?

Ingrid: I would adopt NZ PM Jacinda Ardern's model of governing fearlessly with love, compassion and respect - leading by example. It leads to a healthier, greener, happier, sustainable society, demonstrably valuing people not just tolerating them! Plenty of opportunities these days to show that.

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