

Proposing change

How same-sex marriage became
a government success story



About this report

This report looks at how the government initiated, designed and implemented the Marriage (Same Sex Couples) Act 2013. It draws on an IfG policy reunion held in March 2023, which brought together ministers, officials, LGBT+ rights campaigners and representatives from religious organisations to discuss what made it a success.

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Introduction

Same-sex marriages are now celebrated all over the UK. They are a core part of the UK's culture, communities and institutions.

Passing legislation to introduce same-sex marriage was a landmark moment – for many couples personally, but also for the wider lesbian, gay, bisexual, trans plus (LGBT+) community. It marked an important step in addressing the UK's past legal discrimination against same-sex couples, building on the achievements of a long history of campaigners who worked to expand LGBT+ rights.

This case study looks at how the government passed the Marriage (Same Sex Couples) Act 2013. It examines the policy's journey, from a campaign aim of LGBT+ rights groups, to a contested issue in the 2010 general election, to official government policy, and finally to legislation that introduced same-sex marriage rights in England and Wales, while accommodating many of the concerns of those who remained opposed.

It draws on a policy reunion at the Institute for Government held in March 2023, which brought together officials, ministers, LGBT+ rights campaigners and representatives from religious organisations to discuss what made the policy making process for same-sex marriage a success, and what lessons the government can learn from it to inform future policy making. It also draws on interviews and a literature review.

It finds that the key factors in success were:

- the role of long-running cultural change, campaigns from LGBT+ rights groups, the introduction of civil partnerships and political support from the Liberal Democrats in creating the conditions for same-sex marriage to be a high-profile, serious policy option
- the political risks that senior Conservatives – led by David Cameron – took to adopt same-sex marriage as government policy at a time when neither the majority of the public nor many Conservative voters supported it
- the engagement processes the government used to ensure it introduced same-sex marriage while understanding and responding to the concerns of those groups who were opposed to it
- cross-government co-ordination to design and deliver same-sex marriage legislation, including working effectively with departments where it was a low priority
- keeping the bill tightly focused on its priority to manage the scope of parliamentary debate and minimise delays.

The work of government to deal with discrimination against the UK's LGBT+ population remains ongoing, particularly with rising hate crime in recent years. The government is also responding to calls to change legislation covering conversion therapy and gender recognition. This case study reflects on lessons the government could learn from how the 2010 coalition government approached the reform of marriage legislation, when deciding how to respond to these challenges.

Starting point – the road to 2010

Restrictions on LGBT+ rights in the UK have a long history. Sex between men was criminalised in state courts from 1533,* and was not treated as equal in law to sex between men and women until 2003 in England and Wales, 2008 in Northern Ireland and 2013 in Scotland.¹ The latter half of the 20th century saw slow and hard-won changes to laws restricting LGBT+ rights, fought for by a growing community of campaigners, including parliamentarians and external pressure groups like Stonewall (founded in 1989 in response to Section 28 legislation, which prohibited local authorities from “promoting homosexuality”) and OutRage! (a radical non-violent direct-action group set up in 1990).^{2,3}

Throughout this time, same-sex couples were excluded from marrying. It was in effect prohibited,** and in 1971 the government formally banned it in the Nullity of Marriage Act.⁴ In 1992, OutRage! held the first activist challenge to this ban. Five lesbian and gay couples filed applications for marriage licences, which were refused.⁵ Peter Tatchell, one of the founding members of the group, called this the “opening shot in the long campaign for equal marriage”.⁶ This matched similar calls for same-sex marriage in the US, including conservative commentator Andrew Sullivan’s landmark 1989 essay advocating for same-sex marriage as “conservative in the best sense of the word”.⁷

As LGBT+ rights were extended, there were growing calls for complete equality between same-sex and opposite-sex couples. In 2005, Tony Blair’s government introduced civil partnerships – a major step in remedying the legal inequalities. Through civil partnerships, same-sex couples could be formally recognised by the state, and could now access very similar legal rights to opposite-sex married couples (including tax, pensions, tenancy, parental responsibility, life insurance and next-of-kin rights). It also made an important cultural statement that same-sex relationships were a valuable and celebrated part of UK society, and gave couples opportunities to organise formal ceremonies to celebrate their relationships.⁸

Many in the LGBT+ community welcomed civil partnerships. But some felt they created a two-tier system; there were still some differences in rights (such as pension rights if one partner died),⁹ and some felt that civil partnerships could not match the symbolic significance of marriage.

* Sex between women was never criminalised in the UK. A proposed clause in the Criminal Law Amendment Act would have done this in 1921, but it was struck down in the House of Lords on the grounds that criminalising lesbianism would create a “great public danger” of amplifying it. See Wakefield L, ‘Absurd but true story of the UK lesbianism ban that never was – and why terrified men scrapped it’, *PinkNews*, 10 February 2022, retrieved 14 December 2023, www.thepinknews.com/2022/02/10/uk-lesbian-ban-lgbt-history

** The Marriage Act 1949 defined marriage as between a man and a woman, but did not explicitly ban same-sex marriages. See Day A, ‘The PinkNews guide to the history of England and Wales equal marriage’, *PinkNews*, 15 July 2023, retrieved 14 December 2023, www.thepinknews.com/2013/07/15/the-pinknews-guide-to-the-history-of-england-and-wales-equal-marriage

As Susan Wilkinson put it in her application to the European Court of Human Rights to have her marriage recognised in the UK (explored below):

I want to be able to refer to Celia as my wife and have that immediately and unproblematically understood as meaning that she is my life-partner... I want our marriage to be recognised institutionally by banks, insurance companies, the tax office, and so on... To have our relationship denied that symbolic status devalues it relative to the relationships of heterosexual couples.¹⁰

Civil partnerships were initially only available to same-sex couples. This too had opposition, as some opposite-sex couples preferred them, viewing marriage as an outdated institution. For some campaigners, including OutRage!, true equality meant all couples having the right to marry or enter into a civil partnership.

After civil partnerships were introduced, the push for equal marriage continued. Aiming to emulate the success of previous legal challenges,^{*} campaigners began taking same-sex marriage cases to the European Court of Human Rights. In 2006, Susan Wilkinson and Celia Kitzinger applied to have their marriage – registered legally in Canada – recognised in the UK, arguing that treating this as a civil partnership breached their human rights. The judge found against them. He agreed there had been discrimination but found it justified, on the grounds that civil partnerships are legally comparable to marriage, and that maintaining the separate status of marriage for opposite-sex couples would protect “the traditional family”.^{11,12}

From 2008, debates in the US – amplified through emerging social media networks – began to shape perspectives towards same-sex marriage in the UK LGBT+ community.¹³ After a state Supreme Court ruling in May 2008, California became the second US state to allow same-sex marriage (still without federal marriage benefits, which the Defense of Marriage Act 1996 confined to opposite-sex couples).^{14,15} But just six months later, Californian voters approved Proposition 8, adding a clause to the state constitution that banned same-sex marriage.¹⁶ Anger – at both the decision and the homophobia the debate stoked – was felt across LGBT+ communities, and generated increasing demand for equal marriage in the UK.¹⁷ By 2010, *PinkNews* found that over 90% of its readership supported same-sex marriage, along with almost every LGBT+ rights organisation and political group. The exception was Stonewall, which initially did not prioritise supporting same-sex marriage on the grounds that civil partnerships already gave almost equal legal rights to marriage.¹⁸ It changed its position in October 2010 after pressure from the LGBT+ community, including several of its own founders.¹⁹

Attitudes in the wider public were also beginning to shift. The proportion of adults believing that a same-sex relationship is “not wrong at all” increased gradually from 17% in 1983 to 39% in 2007, reaching 45% by the 2010 general election.²⁰ NatCen’s analysis of the 2023 British Social Attitudes survey attributes this partially to demographic trends, with each younger generation becoming more supportive. But, in contrast to trends in other issues like pre-marital sex, it also finds broader societal

* Such as *Dudgeon v UK* 1981 (causing Northern Ireland to decriminalise sex between men), and *Smith and Grady v UK* 1999 (lifting the ban on gay people serving in the military).

changes in attitudes. Support for same-sex relationships declined in the 1980s in the peak of the HIV/Aids crisis and the subsequent Section 28 legislation, and increased from the 1990s when laws restricting LGBT+ rights were revoked and there was more positive visibility of same-sex relationships, including large Pride events and popular public figures like Ellen DeGeneres, Sandi Toksvig and Will Young coming out as gay.²¹

There was still strong opposition to same-sex marriage within many religious groups. But some groups – the Quakers, Liberal Jews and Unitarians – were supportive, and welcomed same-sex relationships as part of their faith. From March 2010, after an amendment to the Equality Act introduced by Lord Waheed Alli, they exercised a new right to choose to conduct religious civil partnership ceremonies.²² These supportive religious groups also called for the right to conduct religious same-sex marriage ceremonies, paving the way for others like the Reform Jews, United Reformed Church, Baptists and Methodists who would later come to support same-sex marriage.

In the run-up to the 2010 general election, pressure for the main parties to develop and justify their official policy on same-sex marriage increased. Campaigners made equal marriage into a higher-profile issue, moving discussions beyond issues like tackling hate crime and homophobic bullying, around which the political debate had up to that point more comfortably coalesced.^{23,24} Increasingly, campaigners and commentators questioned party leaders about their stance.

Nick Clegg had advertised his support for same-sex marriage from July 2009, but did not make it a Liberal Democrat manifesto promise.²⁵ Gordon Brown continued his government's policy of opposing it, on the grounds that marriage was "intimately bound up with questions of religious freedom"²⁶ (later, in 2013, he would write that his position had changed and he now supported the legislation).²⁷ After protests and declining LGBT+ Conservative support, fuelled by several high-profile homophobic comments from Conservative MPs shortly before the general election,²⁸ David Cameron promised to "consider the case for gay marriage" – a lukewarm commitment but a sign the debate was beginning to gain ground.²⁹

Introducing same-sex marriage becomes official government policy

In 2010, the Conservative–Liberal Democrat coalition government was formed. Same-sex marriage appeared absent from the coalition negotiations, and was not mentioned in the Programme for Government that David Cameron and Nick Clegg agreed. Instead, the government committed to removing historical convictions for consensual gay sex from public records, and building support for civil partnerships abroad (a remaining disparity with marriages, which are recognised internationally).³⁰

Internally, however, the question of introducing same-sex marriage had not faded away. Lynne Featherstone was made minister for equalities in May 2010, working under Theresa May in the Home Office. At the start of her new role she attended a briefing session at the Institute for Government where Michael Heseltine advised new ministers to pick one or two things to “relentlessly drive forward” – she decided hers should be same-sex marriage.³¹

Featherstone – supported by Nick Clegg – managed to secure a vote on equal marriage at the September 2010 Liberal Democrat party conference. The vote passed, and equal marriage became official Liberal Democrat party policy.³² A month later Ed Miliband, also a proponent of same-sex marriage, was voted leader of the Labour Party.³³

Campaigners were keeping the debate in the public eye and continuing pressure on government for a change of stance. Peter Tatchell set up the Equal Love campaign, bringing a joint legal action in the UK courts and ultimately in the European Court of Human Rights to challenge the twin bans on same-sex marriages and opposite-sex civil partnerships. While the cases were ultimately ruled inadmissible,³⁴ they attracted sustained media interest.³⁵

At the same time, some attitudes within the Conservative Party were beginning to change. Increasingly, some Conservative politicians applied their support for stable, committed, loving relationships and families – historically reserved for opposite-sex couples – to same-sex relationships too. For this reason, shortly after starting her new role as home secretary, Theresa May said she regretted her voting record on gay adoption, telling a BBC *Question Time* audience that she now supported “a stable, family environment – be that a heterosexual couple or a gay couple”.³⁶ She agreed to support Lynne Featherstone’s efforts to make same-sex marriage government policy, and she proposed the policy to the prime minister and cabinet to seek collective agreement.³⁷

Tatchell and other campaigners began to draw together a block of senior Conservative MPs supporting same-sex marriage, starting with London mayor Boris Johnson, who asked “why not?” when asked about it at the 2010 London Pride.³⁸ Other Conservative MPs who supported the policy soon after included Margot James, Chloe Smith and Mike Weatherley.³⁹

David Cameron, the prime minister, was in a thorny position. Same-sex marriage was far from a priority when he had planned the Conservative election manifesto and negotiated the coalition's Programme for Government, and the majority of Conservative voters were against it. Supporting same-sex marriage would risk losing the support of MPs and party members, while opposing it risked leaving the Conservatives politically isolated, and fuelling attacks branding them outdated and "the nasty party".⁴⁰ Given that Cameron's coalition partner supported same-sex marriage, responsibility for failing to adopt it would sit squarely with the Conservatives. Personally, he was also unsure where he stood, admitting in his memoir that it was something he did "worry and even wobble over".⁴¹

Over time, with "a few people to convince" him, Cameron's perspective solidified and he decided to take the first steps to introduce same-sex marriage.⁴² He credits conversations with his wife Samantha, who brought him round to the view that the particular institution of marriage and its symbolic meaning (as distinct from civil partnerships) should be available to everyone. He also notes the influence of key people around him – "George [Osborne], Kate [Fall], Danny [Finkelstein], Nick Boles, and Michael Salter" – who encouraged him to make reform a political priority and see it as part of his project of modernising the Conservative Party.⁴³

As a result, when Theresa May's proposal to introduce same-sex marriage did not reach collective agreement – at least two cabinet ministers opposed it – Cameron decided to overrule them.⁴⁴ In September 2011, Lynne Featherstone announced that the government would launch a consultation on how to implement equal civil marriage. Cameron famously confirmed his support at the 2011 Conservative Party conference a month later, saying: "I don't support gay marriage despite being a Conservative. I support gay marriage because I am a Conservative."⁴⁵ (Notably, Cameron disagreed with the idea of opposite-sex civil partnerships, which was ruled out despite being a Liberal Democrat policy aim.)

Consultation

The government knew that introducing same-sex marriage would be controversial. It was keen to understand where the public were on the policy and, where possible, take their views into account in its design.

Consequently, the government ran a 13-week public consultation from March 2012. It worked up proposals for how the new legislation would work. Alongside setting out its implications for marriage and civil partnership rights, the Government Equalities Office (GEO) set up a cross-government working group to determine proposals for how the legislation would affect related issues: the conditions for dissolution, divorce and annulment, recognising overseas same-sex marriages, spousal pension entitlements, and the implications for free speech and education. The consultation asked the public to respond to these proposals, asking:

- whether civil marriage should be available to same-sex couples or not, and why the respondent felt so
- whether LGBT+ respondents would wish to have a civil marriage ceremony themselves, and if they would personally prefer a civil partnership or a marriage
- whether religious marriage ceremonies should be available to same-sex couples
- whether the government should keep civil partnerships as an option for same-sex couples when it introduced civil marriage
- whether the government should open up civil partnerships to opposite-sex couples
- whether respondents in a civil partnership would wish to convert it into a marriage, and whether there should be a civil ceremony available for this occasion
- whether married trans respondents would like to use this policy to remain in their marriage while obtaining a full gender recognition certificate (previously, they needed to divorce to obtain this)
- whether they had any comments on the government's proposals to manage related issues.

Throughout the period during which the government was designing, conducting and responding to the consultation, ministers and senior officials met with key stakeholders – both those supporting and those opposing the policy – to hear their views.

The consultation generated a fierce public debate. Opponents – including some religious groups, socially conservative voters and a tranche of Conservative MPs and peers – reacted vocally, and were especially unhappy that the consultation's framing was not *whether* the government should implement same-sex marriage but *how* it

should do so. The discussion was inflammatory⁴⁶ and amplified by extensive media coverage. Mail Online ran an article by Lord Carey, former Archbishop of Canterbury, which claimed that marriage would “only remain the bedrock of society if it is between a man and a woman”, with a picture of two brides kissing, captioned “Threat... such communions would jeopardise the stability of the country”.⁴⁷ The Coalition for Marriage, a Christian campaigning group opposing same-sex marriage, submitted a petition to the consultation, which more than 650,000 people had signed. The Roman Catholic Church in England and Wales released a letter condemning the government’s proposals, which was read out in 2,500 parish churches across England and Wales, and encouraged churchgoers to sign the petition.

The position of some religious groups was more complex than their public stance. A few participants at our policy reunion described how, while there was some ingrained homophobia within the Church of England, a significant number of clergy and churchgoers were open to the idea of reform – and remain so.⁴⁸ Cameron has also noted that some religious leaders – including Justin Welby – were privately more supportive than their public line.⁴⁹

Meanwhile, pro-same-sex-marriage campaigners galvanised support from the LGBT+ grassroots. Reunion participants noted that campaigners were concerned that No.10 “had received a big pile of letters opposing it, and [a] very small pile of letters in favour”, and aware that LGBT+ grassroots’ attention had partially moved on to other issues now the government had announced it would introduce civil same-sex marriages. In response, Benjamin Cohen (*PinkNews*) and Mike Buonaiuto (Coalition for Equal Marriage) launched the Out4Marriage campaign. They published a series of YouTube videos featuring public figures explaining why they supported same-sex marriage, from celebrities like Hugh Grant to politicians like Yvette Cooper and Theresa May. The series reached a large audience and is widely credited with increasing popular support for the policy.

The consultation closed in June 2012. It had 228,000 responses (excluding petitions) – at that point the most ever received by a government consultation. The government took six months to process the results and respond.⁵⁰ Policy reunion participants told us that this had been planned strategically. Anticipating a high response rate, officials had worked with analysts and lawyers to design the consultation questions with a plan for categorising and analysing responses in mind. After the consultation closed, they contracted additional staff to process responses quickly according to this pre-planned system. A response would be labelled initially according to whether it supported or opposed the policy, then would be further categorised by the reasons given. This ensured each response was read and considered, but the government could produce a useful overall summary of the public position relatively quickly, crucial for making the subsequent policy decisions. The results of this analysis are shown in Table 1. The government now had several decisions to make.

Table 1 **Responses to the government’s consultation on same-sex marriage, 2012**

Proposal	Applicable responses	Support	Oppose	Don’t know
Civil marriage ceremonies for same-sex couples	226,860	53%	46%	1%
No religious marriage for same-sex couples	131,520	27%	63%	10%
Retaining civil partnerships for same-sex couples	128,780	66%	20%	14%
Not introducing civil partnerships for opposite-sex couples	128,780	24%	61%	15%

Source: Institute for Government analysis of HM Government, *Equal Marriage: The Government’s response*, 2012.

Policy questions

Civil same-sex marriage

Just over half of the responses supported civil marriage ceremonies for same-sex couples. There was opposition from some religious groups, mostly on the grounds that their religion defined marriage as between a man and a woman. Many felt that allowing same-sex couples to marry would have a negative impact on the institution of marriage, and have wider negative consequences for society. While the government had already committed to introducing same-sex civil marriages, reunion participants told us that ministers had actively decided that it was important to properly understand the concerns of those who disagreed with the policy. The government had to decide how best to respond to these.

Religious same-sex marriage

While the petitions submitted were overwhelmingly against religious same-sex marriages, most people responding to the consultation thought that the legislation should permit religious marriages for same-sex couples. Some religious groups – the Quakers, Liberal Jews and Unitarians – wanted to perform these ceremonies in line with their beliefs.

This created a complex implementation dilemma. The government's initial strategy had been to introduce solely *civil* same-sex marriage ceremonies. Reunion participants confirmed this had allowed a tentative detente; once religious leaders "realised they couldn't stop it happening, they aligned around it being OK as long as they didn't have religious marriage". But this strategy was no longer viable. If implemented, it might open the government up to challenge on the grounds that the Act did not account for the religious freedom rights of those who wanted to perform religious same-sex marriage ceremonies.

At the same time, religious groups that did not want to perform religious same-sex marriages expressed concern in the consultation that they would be forced to do so, either under domestic legislation or after a ruling of the European Court of Human Rights.⁵¹

At this point, the entire policy was at risk of being dropped. Senior politicians and officials felt that the political cost of stepping into the regulation of religious marriages would be too high, pushing already strained relationships with opposing Conservatives and religious groups to breaking point.⁵² Advocates, however, pointed to the crucial precedent set by Lord Alli's Equality Act amendment, which had allowed religious organisations to 'opt in' to perform religious civil partnerships, and protected those who chose not to from legal retribution. The government had to decide whether it would negotiate a path forwards with religious organisations, or drop the legislation altogether.

Civil partnerships

The government's proposal to retain civil partnerships for same-sex couples was widely supported, alongside its plans for a new process to convert civil partnerships to civil marriages. But its commitment not to introduce civil partnerships for opposite-sex couples was controversial – the majority of respondents opposed it on the grounds that there should be the same choices available to opposite-sex and same-sex couples. The government had to decide how to manage this.

Wider legal implications

The government also had to make decisions about how same-sex marriage legislation would apply to related legislative issues. Some aspects of its proposals required little discussion – for instance, the ceremonies and legal restrictions for civil marriages could remain the same, and overseas same-sex marriages could be treated as such in England and Wales (rather than treated as civil partnerships as previously). The government also repeated its assurance that existing hate speech legislation would remain unchanged, and expressing the belief that marriage can only be between a man and a woman would remain legal.

Several more complicated questions also emerged. The government had proposed to make dissolution, divorce and annulment conditions the same for same-sex marriage as they were for opposite-sex marriage. For opposite-sex couples, adultery and non-consummation were legally defined by case law, so the government proposed to allow new case law to develop to create a definition for same-sex couples. But several responses from legal experts indicated that it would “not be acceptable to leave such uncertainty in the law”, requiring a different course of action.⁵³

As the law stood, married men, widowers and civil partners had slightly more restricted state pension entitlements than married women and widows. There were also some differential entitlements between men and women for occupational pensions. The government had to decide what entitlements same-sex married couples would have in this context.

A number of consultation responses also raised questions about whether teachers would be required to teach that marriage could be between two people of the same sex, even if it was against their religious beliefs. The government had not considered this in its initial proposals so needed to clarify its position.

Policy decisions

In September 2012, Maria Miller, a Conservative, took over as culture secretary and equalities minister with responsibility for same-sex marriage legislation. She announced the government's response to the consultation three months later.

Civil marriage and partnerships

The government confirmed its commitment to introducing same-sex civil marriage. It also confirmed that it would retain civil partnerships for same-sex couples, introduce a process for couples to convert their civil partnerships to marriage, and enable individuals to change their legal gender without having to end their marriage.

Controversially, the government chose not to introduce opposite-sex civil partnerships. While most consultation respondents supported them, it argued that civil partnerships were "not intended or designed as an alternative to marriage", and that it was not clear "what detriment opposite-sex couples suffer by not having access to civil partnerships". It also emphasised that the purpose of the consultation was solely to enable same-sex couples to get married, not wider reform, and therefore it did not consider opposite-sex civil partnerships necessary as part of this legislation.

After continued calls for opposite-sex civil partnerships, and a successful legal challenge in the Supreme Court in 2018 on the grounds of discrimination, the government later introduced them in December 2019.

Religious marriage

Acknowledging the wishes of some religious groups in the consultation, the government confirmed it would legislate to introduce religious same-sex marriages. But it made clear that it would "ensure unequivocally" that no religious organisation would be forced to marry same-sex couples.

It introduced a 'quadruple lock' of protections for religious organisations:

- A religious same-sex marriage ceremony would only be possible if the governing body of the religious organisation had opted in, the individual minister wished to conduct the marriage and the place of worship was registered for same-sex marriages.
- No religious organisation or minister could be compelled to opt in to or conduct same-sex marriages.
- The Equality Act 2010 was amended so it was not unlawful discrimination for a religious organisation or minister to refuse to marry a same-sex couple.
- The common law legal duty on the clergy of the Church of England and Church in Wales to marry parishioners would not extend to same-sex couples. The Church of England's canon law, which says that marriage is the union of one man with one woman, was protected so it did not conflict with civil law.

Reunion participants told us that arriving at this decision involved extensive engagement with religious groups, particularly the Church of England (as the largest established church in England).

The Church's position was that it wanted to be able to exclude itself from performing same-sex marriage ceremonies. One participant noted that it had particular views about how the opt-out process should work. Senior Church figures wanted the government to specify that religious organisations had to opt in as a whole institution, ruling out the possibility of allowing individual ministers to choose to marry same-sex couples. This would have split the Church very obviously, and would risk in effect permitting Church of England same-sex marriages if the majority of ministers chose to administer them, bypassing the Church leadership. At the same time, participants explained that the provisions also needed to allow the Church to choose to permit same-sex marriage in future, "to pacify those elements of the Church who wanted progress".

The quadruple lock achieved the government's aim of introducing same-sex marriage, while protecting the religious freedoms of those religious groups that both did and did not want to conduct same-sex ceremonies. Reunion participants felt that it was vital for getting the Marriage (Same Sex Couples) Act passed.

However, it did come at a cost. David Cameron has since reflected that stipulating the whole Church must opt in for any same-sex weddings to take place was "excessive".⁵⁴ When it came to marrying divorcees, individual ministers could opt out but their common law "duty to marry" meant they must find an alternative minister. For same-sex marriages, the state instead revoked this duty to marry, and protected the Church's canon law position that marriage was between a man and a woman, ensuring it was legal for the whole Church to opt out of marrying same-sex couples. A decade on, the Church still does not allow same-sex marriage and remains caught up in fierce debates about how to reconcile its position. It represents the "Mother Church" for Anglicans everywhere, including in other countries where same-sex relationships remain illegal and opposed by most Church members, but it also has many members in the UK who would like to see reform. Its recent decision to allow religious blessings for same-sex couples has been widely criticised, both by those who think it is against Anglican faith, and by those calling for the Church to go further to introduce equal marriage ceremonies.⁵⁵

Wider legal implications

Responding to the feedback it received in the consultation, the government excluded non-consummation or same-sex adultery as qualifying reasons for annulment or divorce, matching the conditions already in place for civil partnerships. Similarly, it decided that same-sex married couples would be eligible for the same spousal state and occupational pension entitlements as same-sex civil partners. This meant it retained some legal differences in state and occupational pension rights between opposite-sex and same-sex married couples. For state pensions, the government reasoned that differences in treatment were a legacy from the past and would

eventually cease to exist,⁵⁶ and would cost an estimated £80 million to rectify, which it did not deem good value for money. Questioned by the Public Bill Committee in February 2013, Maria Miller said: “We would be paying disproportionately, and potentially not always hitting the right target.”⁵⁶ Differences in occupational pension entitlements have now been resolved after a legal challenge in July 2017.⁵⁷

The government’s consultation response also set out its position on teaching marriage in schools. Teachers would need to abide by existing hate speech and discrimination law, and should not express their beliefs “in a way that exploits pupils’ vulnerability”. But as long as this remained the case they would be free to describe their belief that marriage is between a man and a woman.

* Different state pension entitlements only affect: (1) access to the lower-rate basic pension for a same-sex spouse, civil partner or opposite-sex married man whose spouse was born before April 1950; and (2) access to additional state pension inheritance for survivors who reached pension age before April 2010 but whose deceased same-sex married spouse, civil partner or wife (of a man) died while still under pension age. These do not affect anyone reaching state pension age after 5 April 2016.

Implementing same-sex marriage legislation

Officials now had the task of drafting the bill and getting it through its parliament stages. They originally planned to introduce the bill in parliament in May 2013, but shortly after transferring the equalities brief to the Department for Digital, Culture, Media and Sport (DCMS), David Cameron asked the new team to achieve this by January 2013 – a tight timeline but one Maria Miller and her team were ultimately able to meet.

To draft the bill, civil servants had “lots of very technical detail” to grapple with. Joined-up working across departments, the Office of the Parliamentary Counsel and the wider Cabinet Office was imperative. Officials described the DCMS/GEO team as a “rod of iron” in its approach to co-ordinating across government. Miller cited clear direction and strong support from the top – she spoke to Cameron daily at some points as the bill passed through parliament – as essential to the passage of the legislation. She also noted that the team of officials and lawyers working on the policy were highly committed.

Nevertheless, some of the typical challenges of cross-government working arose. Some reunion participants noted that the process of working with other departments that did not seem to prioritise the legislation could be frustrating. One recalled some moments of apparent “obstruction”, including comic scenes like needing to lay a statutory instrument in parliament but being told by the Ministry of Defence it wasn’t ready because they “didn’t have the right kind of paper”.

Thinking through the precise legislative impact of the bill was a major exercise. Reunion participants told us that the government did not want to amend the original 1949 Marriage Act, as this would “open up the whole of marriage law” to amendments, potentially delaying legislation considerably. Instead, it opted for a separate bill that solely pertained to same-sex marriage, limiting the bill’s scope and reducing the potential for amendment. The government also needed to update every law that referenced marriage to ensure it applied to same-sex married couples appropriately. For simplicity, the Marriage (Same Sex Couples) Act 2013 did this in one go,^{*} but it meant that all legislation affected had to be checked to make sure no loopholes were created. The cross-government working group brought together by DCMS/GEO officials worked in parallel with this process to discuss how they should implement legislative changes, from how Department for Work and Pensions (DWP) and General Register Office forms and IT systems needed to change, to the process of changing the judicial rules for same-sex divorces (to exclude non-consummation and adultery as a basis for divorce^{**}).

* Through a ‘gloss’, which applied a rule to interpreting existing law relating to marriage/married people such that it also referred to same-sex marriages. Any exceptions to that general rule were specified where appropriate.

** Due to the absence of legal definitions for same-sex consummation and adultery, these clauses have been excluded from applying. See Farrands J, ‘Same sex marriage and divorce law’, Moore Barlow Lawyers, 18 August 2021, retrieved 15 December 2023, www.moorebarlow.com/guides/guide-to-same-sex-marriage-and-divorce-law-moore-barlow

Officials also continued to meet with stakeholders opposing the bill – like the Coalition for Marriage group – to understand their perspective and manage amendments, aiming to “properly address their concerns or explain why we can’t address their concerns”.

A few months before the bill passed, Miller learnt that same-sex couples had been able to marry in France within a couple of weeks of legislation passing.⁵⁸ She requested that officials expedited their implementation plans to allow same-sex couples to marry as soon as possible. Officials drew up a new plan that would allow the first marriage ceremonies to take place eight months after legislation passed (March 2014), cutting “six months off the original timetable”. Other provisions requiring more time to implement – the ability to convert civil partnerships to marriages and obtain a gender recognition certificate while remaining married – were pushed back to December 2014.

Ministers were not overly concerned about having the total votes to pass the bill – they knew there were enough MPs from Labour and the Liberal Democrats – but they were mindful of internal government divisions over the policy, particularly within the Conservative Party. A “great deal of thought and care” was given to how ministers would handle debates within parliament.⁵⁹ Nevertheless, several backbench MPs threatened the bill’s passage through amendments. The biggest threat was from an amendment introduced by Conservative MP Tim Loughton, which would grant civil partnerships for opposite-sex couples. While many proponents of same-sex marriage supported this principle, it was widely seen as a “wrecking amendment”, expected to delay implementation of the bill by at least two years and into the next electoral cycle. Labour initially supported the amendment but changed tack after an appeal from Conservative whips for their support, and the government in turn committed to conduct a review of civil partnerships for future legislation.⁶⁰ The amendment was rejected, and the bill passed its third reading in the House of Commons by 366 votes to 161. Cameron noted that 134 of those voting against were Conservatives – some clear “lost causes”, but others “shocked” him.⁶¹

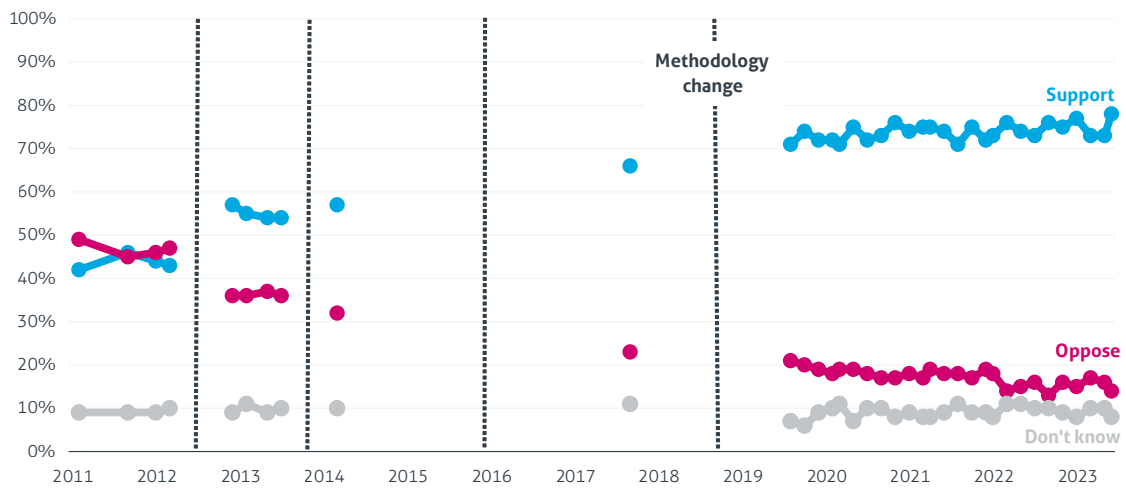
The bill passed its second reading in the House of Lords by 390 votes to 148. These numbers may overstate support for same-sex marriage – a second reading vote is on the principle of whether to legislate, which some peers supported on principle in accordance with the wishes of the democratically elected House of Commons, and because they wanted to continue scrutinising the bill.* Nevertheless, the bill enjoyed majority support, and many peers spoke passionately in its favour. They also praised the sensitive, respectful tone of the debate, and some noted a contrast with their experience of earlier debates on LGBT+ rights.⁶²

* Those in favour of denying the bill a second reading noted that there were precedents for this, like the War Crimes Bill. But others noted that this presented a “constitutional issue”, given the large majority the bill received in a free vote in the House of Commons, and would risk the Commons passing the bill under the Parliament Act in the form that it left the Commons originally (without any Lords amendments).

Consensus

Same-sex marriage is now widely celebrated. Over three quarters of the UK public support it, and only 14% oppose it – less than half the proportion opposing it in May 2013 when the bill was passing through parliament. Public attitudes and policy have been closely intertwined; more supportive attitudes have paved the way for policy milestones like civil partnerships and same-sex marriage, and once implemented, public support has increased considerably.⁶³ National support for same-sex marriage jumped by 24 percentage points between May 2013 and June 2023, with NatCen analysis noting a clear link to the Marriage (Same Sex Couples) Act 2013, on top of wider social liberalisation over time.⁶⁴

Figure 1 **Attitudes towards same-sex marriage, 2011–23**



Source: Institute for Government analysis of YouGov surveys of British adults, 2011–23. Notes: Responses are compiled from multiple surveys. Methodology change indicates a change in the survey question. See Methodology section for details.

Crucially, while a minority of politicians still oppose it, there is no real political platform for challenging same-sex marriage legislation. It was notable that at the 2023 National Conservatism conference, Conservative MP Danny Kruger’s statement that marriages between men and women were “the only possible basis for a safe and successful society” attracted widespread criticism, and was notable for its rarity. Prime Minister Rishi Sunak actively distanced himself from the remarks.⁶⁵ It appears that same-sex marriage has become a firmly embedded right, such that it is difficult to see any mainstream party seeking to undo it.

Reflections – what made same-sex marriage policy a success?

Policy reunion participants discussed what made same-sex marriage policy a success, and the lessons government can learn from this for future policy.

The discussion brought out five key factors:

- the role of long-running cultural change, campaigns from LGBT+ rights groups, the introduction of civil partnerships and political support from the Liberal Democrats in creating the conditions for same-sex marriage to be a high-profile, serious policy option
- the political risks that senior Conservatives – led by David Cameron – took to adopt same-sex marriage as government policy at a time when neither the majority of the public nor many Conservative voters supported it
- the engagement processes the government used to ensure it introduced same-sex marriage while understanding and responding to the concerns of those groups who were opposed to it
- cross-government co-ordination to design and deliver same-sex marriage legislation, including working effectively with departments where it was a low priority
- keeping the bill tightly focused on its priority to manage the scope of parliamentary debate and minimise delays.

Long-running cultural change, activism, the introduction of civil partnerships and support from the Liberal Democrats created the conditions for same-sex marriage policy

Reunion participants cited four factors that were important in making same-sex marriage a serious mainstream policy debate, an essential step in its journey to becoming official government policy in 2012.

Long-running cultural change played its part, as UK society has generally become more socially liberal with each generation in recent history. Public attitudes towards same-sex relationships have become much more positive, influenced in a major way by LGBT+ rights groups and increasing LGBT+ visibility.

The long history of **activism** and legal battles has been vital to addressing discrimination against LGBT+ communities, expanding their rights to the point that it became possible to call for same-sex marriage. LGBT+ rights groups played a direct role in putting same-sex marriage on the mainstream political agenda in the run-up to the 2010 general election. From OutRage!'s first activist challenge to the ban in 1992, to Peter Tatchell getting senior Conservative politicians on the record saying

they supported same-sex marriage, campaign groups put same-sex marriage in the spotlight. They increased public support for introducing same-sex marriage – amplified by activism in the US – and put pressure on politicians to have a public stance on it, encouraging them to consider it as an option for reform.

Government played its part too. **Civil partnerships** – brought in by Tony Blair’s government in 2005 – were a major legal and cultural milestone for LGBT+ rights. This established equivalent rights to recognition from the state for same-sex couples, and set the context for same-sex marriage to then be seen by some (including, eventually, David Cameron) as “the missing piece” that was needed for full legal equality between opposite-sex and same-sex couples.

Leading the way, the **Liberal Democrats** also played an essential role in creating the conditions for all three main political parties to commit to introducing same-sex marriage. They adopted it as official party policy shortly after the 2010 general election, and as the junior coalition partner they created political pressure on David Cameron to support it.

Together, these factors helped create the conditions for same-sex marriage to become government policy. They made it into a high-profile issue, and – as one participant put it – a test of whether Cameron’s modern Conservative Party would move away from its “homophobic record”.

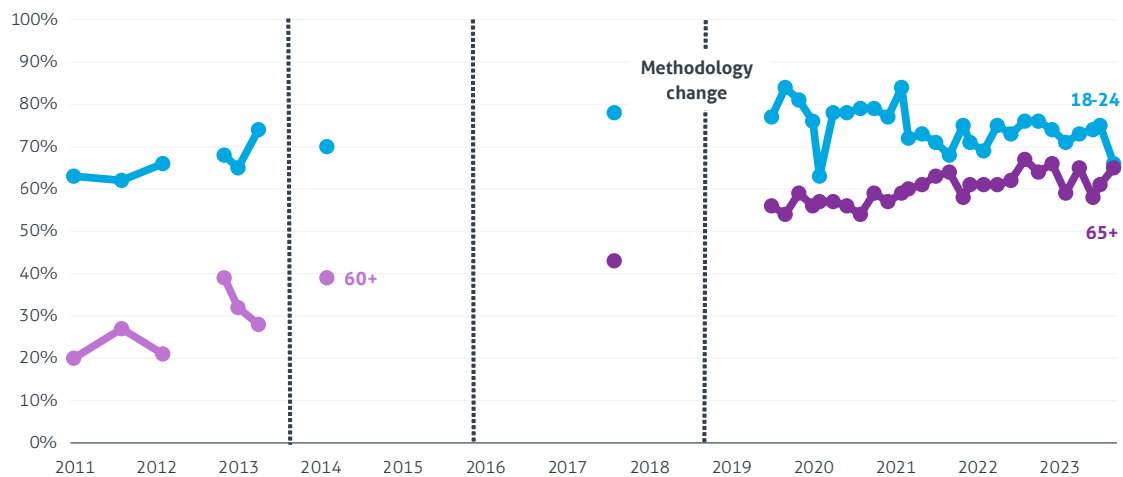
Senior Conservatives, led by David Cameron, took political risks

The political courage that senior Conservatives needed to commit to same-sex marriage policy should not be underestimated. First, the step those Conservatives who gave their support in the policy’s early stages took – Boris Johnson, Chloe Smith, Margot James, Mike Weatherley and others. It should not be forgotten how vehemently many Conservatives still opposed same-sex relationships at this time, let alone same-sex marriage. It was no small thing to express support (and indeed deeply personal for some MPs who were LGBT+ themselves).

Deciding to introduce same-sex marriage, after persuasion from those around him, was a bold political choice for Cameron. While public support for the policy was growing, in September 2011 when Lynne Featherstone announced that the government would consult on introducing same-sex marriage, still only 46% of British adults supported it. Among Conservatives only 37% supported it.⁶⁶

Cameron now says he has no doubts that it was the right decision, and cites same-sex marriage as one of his proudest legacies.⁶⁷ Reunion participants noted that this is an important lesson for those in government – in the right context, political risks pay off and legislation can lead public opinion. They noted that same-sex marriage has amplified many positive stories about same-sex relationships, showing that “all the things people were scared of didn’t happen”. One participant commented that people seeing friends and family in a same-sex relationship getting married had particularly helped to change attitudes among older generations.⁶⁸ Public attitudes polling supports this, as the views of 18- to 24-year-olds and those aged 65 and over have converged since same-sex marriage was introduced.

Figure 2 **Support for same-sex marriage, 18–24, 60+ and 65+ age groups, 2011–23**



Source: Institute for Government analysis of YouGov surveys of British adults, 2011–23. Notes: Responses are compiled from multiple surveys. Methodology change indicates a change in the survey question. See Methodology section for details.

The government’s stakeholder engagement processes helped it to find the best area for consensus over a controversial issue

The government had decided from September 2011 that it would introduce civil same-sex marriage. Beyond this it had the philosophy that it was important to understand the views of those who disagreed with the policy, and to either “address their concerns or explain why it couldn’t”. Ministers and officials consulted stakeholders throughout the process of designing and passing the legislation.

Reunion participants said that they thought this had helped build long-term consensus around same-sex marriage. Officials could be “an honest broker in a contested space”, which participants thought helped defuse some disagreements over the policy and guard against any major “lasting backlash”.

In particular, working closely with stakeholders helped the government to design legislation effectively that introduced same-sex marriage while protecting religious freedoms, both for those religious groups that wanted to conduct same-sex marriage ceremonies and for those opposed. Through sensitive, honest conversations with religious organisations, particularly the Church of England, ministers and civil servants were able to understand their unique position and develop a sophisticated policy design to meet their needs. They saw that allowing religious institutions the option to opt in to the policy was essential, even for those who did not want to take it up, as it would “pacify” their members calling for reform. For those opting out, they knew the ‘quadruple lock’ needed to unequivocally prevent any legal consequences. While to some, including Cameron, it now seems “excessive”, the fact that the government supported the Church’s position that religious institutions should opt in as a whole institution showed its sophisticated understanding of the Church’s internal politics, and its willingness to make compromises to deliver its main priority.

Through these close conversations, the government was able to carefully design legislation that occupied the best area for consensus – a crucial factor in building enough political and public support to pass the legislation.

The government used effective cross-government co-ordination to design and deliver same-sex marriage legislation

While the GEO was the lead department responsible for designing and passing same-sex marriage legislation, doing so required close collaboration with other departments, including the Ministry of Justice (overall responsibility for marriage law), the Ministry of Defence (army marriages), the Foreign and Commonwealth Office (consular marriages), the DWP (pensions), the Department for Education (teaching) and HMRC (inheritance).

The UK government, like others across the world, famously struggles with effective cross-government co-ordination – departments often work in silos, while policy aims and budgets are rarely shared so departments often have little incentive to work closely together. Reunion participants noted that this was a challenge with designing and delivering same-sex marriage legislation, as the GEO was “not a big beast” and “had to make the whole of government do things” that were not a ministerial priority outside of the GEO.

Despite the challenge, officials were able to co-ordinate well across the departments and deliver the bill to tight deadlines. Reunion participants said that regular meetings with a cross-government group were key, helping them to build strong professional relationships across departments, and providing a forum for making decisions about the design and wording of the bill. The DCMS/GEO team made the most of this machinery. The “rod of iron” authority they had to co-ordinate work across departments – arising from the clear direction of and tight timelines set by the prime minister – meant that they could call on departments to help draft and implement the legislation at pace. Chiming with past Institute for Government analysis,^{69,70} reunion participants also noted that the prime minister’s investment in the bill, with regular phone calls between him and Maria Miller, was crucial for sending a signal that this was a top priority for the government, helping to secure collaboration across departments and give a clear direction for their work.

The government kept the bill tightly focused on its priority

The government made careful strategic calls when it came to the policy’s design and implementation. Its focus on delivering same-sex marriage, rather than wider marriage reform or introducing opposite-sex civil partnerships, was disappointing for some. But, in hindsight, it was an effective strategic decision that delivered the government’s priority. Ministers recognised that opening up wider marriage law or introducing opposite-sex civil partnerships would at best delay the bill, and at worst scupper it altogether. Instead, the government focused on getting same-sex marriage legislation passed – setting up the principle of equal legal partnership rights for same-sex and opposite-sex couples – and trusted that questions around other marriage reforms would be resolved later, either of the government’s own volition or through decisions made in the courts (as was the case for occupational pension entitlements and opposite-sex civil partnerships).

Future challenges

The government still has more to do to address discrimination against LGBT+ people in the UK. Hate crimes based on sexual orientation have more than doubled in the last five years, while hate crimes against trans people have nearly tripled.⁷¹ Some of this may be due to increased reporting, but not all; the 2023 British Social Attitudes survey has noted an 18 percentage-point decrease in people who say they are “not at all prejudiced” against trans people since 2019, in the context of heated debate about gender and trans issues.⁷²

The government is also responding to calls to introduce further legislation to enhance LGBT+ rights. Since 2018 the government has promised to ban conversion therapy in England and Wales, but it has not yet introduced any legislation to parliament.⁷³ In November 2023, Liberal Democrat peer Baroness Burt tabled a private members’ bill in the House of Lords to introduce the ban. While it is unknown how far through the legislative process the bill will get, it is likely to have at least a second reading in the Lords and if it proceeds further – especially to the House of Commons – the government will need to decide its stance.⁷⁴ In December 2023, the Outer House of the Court of Session ruled that the government’s use of Section 35 of the Scotland Act 1998 to block the Scottish government’s Gender Recognition Reform (Scotland) Bill was legal. The Scottish government now needs to decide if it will appeal the case. This reflects ongoing debates about the process by which people can legally change their gender, and how reforming this might affect how the Equality Act 2010 applies and access to sex-segregated services.⁷⁵

Whatever the outcome of these ongoing discussions, the government can learn from what worked well in its approach to introducing same-sex marriage. An effective approach should include understanding long-term trends in public and political attitudes, and engaging with a range of stakeholders to understand their needs and concerns. Where policy decisions require co-ordination across government to implement, the government can draw on prime ministerial leadership and high-powered cross-government decision making structures to drive progress.

Conclusion

Same-sex marriage is a great government success story of the 2010s. Reunion participants reflected that there are few policies that give such joy to so many people; several ministers involved recall tearful members of the public approaching them on the street to thank them.

Success has many parents and there is no one 'hero' of the same-sex marriage story. Many factors played a role: long-running cultural change, the powerful campaigns of LGBT+ rights groups and international communities, Tony Blair's government introducing civil partnerships, public figures and media outlets like *PinkNews* promoting positive LGBT+ stories, the religious groups calling for same-sex marriage, the Liberal Democrats making it official party policy (led by Nick Clegg and Lynne Featherstone), senior Conservatives (especially David Cameron) standing up for it as government policy and the work of officials in its delivery.

Now, same-sex marriage is a thoroughly embedded and celebrated part of British society. As discussion about the rights of LGBT+ people and other minority groups continues, governments, campaigners and all those involved in public and private debates could usefully learn from the approach the coalition government took to designing and implementing same-sex marriage legislation.

Methodology

Figures 1 and 2 are drawn from YouGov survey data. A complete list of survey questions and data sources is below.

Survey questions

February 2011 – March 2012: Since 2005 same-sex couples have been able to enter into civil partnerships. While civil partnerships offer the same legal rights as marriage, same-sex couples are not able to marry. Which of the following best reflects your view?

December 2012 – July 2013: Since 2005 same-sex couples have been able to enter into civil partnerships. While civil partnerships offer the same legal rights as marriage, same-sex couples are not able to marry. Would you support or oppose changing the law to allow same-sex couples to marry?

March 2014: Do you support or oppose the change in the law to allow same-sex couples to marry?

September 2017: To what extent would you support or oppose each of the following policies? [Same-sex marriage]

August 2019 – present: In 2013 and 2014 the law was changed in England, Wales and Scotland to allow same-sex couples to get married. Do you support or oppose the change in the law that allowed same-sex couples to marry?

Data sources

Figure 1

Smith M, 'Record number of Britons support same-sex marriage 10 years after key vote', YouGov, 3 July 2023, retrieved 18 December 2023, <https://yougov.co.uk/society/articles/45868-record-number-britons-support-same-sex-marriage-10>

Figure 2

YouGov and *The Sun* Survey Results, 6–7 February 2011, sample of 2278 GB adults.

YouGov Survey Results, 20–21 September 2011, sample of 2601 GB adults.

YouGov and *The Sunday Times* Survey Results, 8–9 March 2012, sample of 1707 GB adults.

YouGov Survey Results, 9–10 December 2012, sample of 1729 GB adults.

YouGov and *The Sunday Times* Survey Results, 3 January – February 2013, sample of 2030 GB adults.

YouGov and *The Sunday Times* Survey Results, 16 – 17 May 2013, sample of 1809 GB adults.

YouGov Survey Results, 17–18 March 2014, sample of 2284 GB adults.

YouGov and Bright Blue Survey Results, 11–13 September 2017, sample of 3326 GB adults.

YouGov, 'Support for marriage of same sex couple', bimonthly tracker, 2019–2023, sample of 1,627–1,817 GB adults per wave.

Notes

For surveys conducted between February 2011 and March 2013, respondents were given the option to state that they support civil partnerships but would oppose same-sex marriage. Respondents choosing this answer have been counted as opposing same-sex marriage.

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