

## **TEACHERS MATERIALS**

### **MODULE: LAW REFORM AND MARRIAGE EQUALITY - NSW – YEAR 11**

*Thank you for your interest in TeachLaw! We hope that these materials are relevant and helpful to your students in educating them on their legal rights. For any correction or questions, please e-mail Youth Law Australia at [admin@yla.org.au](mailto:admin@yla.org.au) and include the word “TeachLaw” and the name of the module in the subject line.*

*TeachLaw Modules contain 3 parts – Teacher materials, Student materials and a PowerPoint presentation. Please note the PowerPoint is provided in PDF to preserve formatting. To present, please open using a PDF viewer, go to View > Enter Full Screen and use the arrow buttons to navigate.*

#### **This document is divided into 3 parts**

**Part 1:** Background information – this section contains briefing notes to provide you with information on what the law says.

**Part 2:** Lesson notes – this section contains suggested speaking points, timings and important notes about the presentation.

**Part 3:** Student activities – this section contains the suggested class activities and answers to any student handouts.

#### **Curriculum links**

- Legal Studies (Year 11) – Part I: The Legal System – “5. Law reform in action”

#### **Learning Objectives**

- 1.1 Students explain the process of law reform including what may lead to law reform
- 1.2 Students identify agencies involved in advocating for marriage equality
- 1.3 Students explain key arguments in the marriage equality debate
- 1.4 Students outline the process of law reform for marriage equality (including the place of the plebiscite)
- 1.5 Students identify the change made to the legislation

## **Part 1 – Background information**

### **1. INTRODUCTION**

Law reform is an important mechanism for achieving justice, and young people should be encouraged to be full participants in society. Law reform can involve bringing the law in line with social contexts, removing defects in the law, or adopting new or more effective methods for administering the law and dispensing justice.<sup>1</sup> This module complements the Year 11 Legal Studies syllabus, which requires study of the conditions that give rise to law reform, agencies of reform and mechanisms of reform, as well as an example of law reform. This module uses the issues surrounding marriage equality and the need for reform as an example of a contemporary legal issue in need of reform. Other areas of law that may be of interest include the changes to sexting or image based abuse laws, the examination by the Law Reform Commission of NSW on the rules of sexual consent following the Lazarus case, young offenders in NSW, recent protests for climate change action by school students, or the NSW law reform sentencing laws following the 2014 Thomas Kelly manslaughter case.

### **2. THE PROCESS OF LAW REFORM**

Law reform involves evaluating current laws and advocating for changes to the law to better govern, protect and respond to modern society. Much of the law reform in Australia results from enquiries conducted by the Australian Law Reform Commission (ALRC) which makes recommendations to the government. Each State and Territory also has its own law reform body which conducts similar work at a state level. While the process of each law reform project may differ according to the scope of inquiry, the range of key stakeholders, the complexity of the laws under review, and the period of time allotted for the inquiry, generally the ALRC works within a particular framework when it develops recommendations for reform.<sup>2</sup>

Framework for reform:

1. The government identifies an area of law that needs to be updated, developed or improved. Reasons for this may include community concern about a particular issue or a deficiency in the law has been highlighted by recent events or legal cases;<sup>3</sup>
2. Research into and consultation with those whom the law will affect;

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<sup>1</sup> <https://www.alrc.gov.au/about>

<sup>2</sup> <https://www.alrc.gov.au/law-reform-process>

<sup>3</sup> <https://www.alrc.gov.au/law-reform-process>

3. Consultation papers are released with general information used to guide submissions. This is a key step through which the ALRC involves the community in the law reform process;
4. There is a call for submissions for anyone wishing to respond to a consultation paper;
5. In-person consultations take place with stakeholders like NGOs and government agencies;
6. A final report is produced and given to the Attorney-General with reform recommendations;
7. The Attorney-General tables the report in Parliament and the government decides whether to change legislation or take administrative action.

ALRC recommendations do not automatically become law, and the government does not have to adopt the recommendations. However, over 85% of ALRC reports have had an impact on legal reform, making the ALRC one of the most effective and influential agents for legal reform in Australia.<sup>4</sup>

## **A. AGENCIES**

There are various organisations and individuals that can be involved in law reform. Most notably are the state-based and national law reform commissions (e.g. the Australian Law Reform Commission and the NSW Law Reform Commission). The process outlined above is the process by which law reform commissions can advocate for legislative changes. Other agencies include not-for-profit and non-government organisations such as Community Legal Centres, LegalAid, Aboriginal and Torres Strait Islander Legal Services and other NGOs with a vested interest in the law reform issue at hand. Researchers and academics from Universities may also be involved in law reform, as can parliamentary committees.

## **B. MECHANISMS**

Law reform may come about by a change in legislation as declared by the Parliament (see [this](#) page for more information on how laws are made/changed).

## **C. CONDITIONS**

As mentioned above, some of the conditions that may give rise to law reform include changes in societal values/culture, an application of the law that demonstrates its harshness/ineffectiveness/inequality on certain groups. Most notably, the media can play a highly influential role in identifying and raising awareness on issues that cause inequality or

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<sup>4</sup> <https://www.alrc.gov.au/about>.

injustice due to the application of a particular law. In addition, changes to society as a whole e.g. a specific event or a change in technology or other laws may also contribute to the need for law reform.

### 3. MARRIAGE EQUALITY

#### DEFINITIONS

**Referendum:** A referendum is a national vote to make an amendment or change to the constitution. It is compulsory to vote in a referendum and it must be supported by a double majority to be passed – that is, a national majority of voters AND a majority of voters in a majority of the states i.e. in four or more states there must have been a majority vote. In this case, the constitution *must* be changed in response to the referendum.

**Plebiscite:** A plebiscite is a vote put to the public, sometimes known as a “national vote”. In a plebiscite, voters are asked to vote on a single issue. It is similar to a referendum, however plebiscites ask voters to vote on issues that do not effect the constitution. Furthermore, there is no one definition of a plebiscite, nor is the Government bound to follow the vote of a plebiscite (e.g. even if a plebiscite receives overwhelming support, the Government does not have to change the laws in response to this).

More information on plebiscites and referendums can be found [here](#).

**Free vote:** A free vote in Parliament, as the name suggests, allows individual parliamentarians to vote according to their personal preferences, rather than according to how their party votes. More information on free votes can be found [here](#).

**Postal survey:** The postal vote (which was the method eventually used) is a voluntary polling of the Australian public to determine their opinion on the issue. The results of the postal vote can be seen [here](#). There was a strong disagreement about the legality of the postal vote and particularly the cost that would be involved. These arguments have been summarised by the University of Melbourne and can be read [here](#).

The issue of marriage equality has been a long-debated topic. It is outside the scope of this module to go into the history of how same-sex couples have typically been treated by the law in a range of areas, most notably, the issues that have arisen for long-term same-sex couples in de facto relationships and the rights they have under the law. However, it is sufficient to recognise that prior to 2017, the law defined marriage as “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.” (s 5, Marriage Act 1961 (NSW) prior to December 2017).

On 1 June 2015, Labor leader, Bill Shorten introduced the *Marriage Amendment (Marriage Equality) Bill 2015* to Parliament. Then Prime Minister Tony Abbott called a joint party room meeting of the Liberals and the Nationals on 11 August 2015 which resulted in 66 Coalition MPs voting against a free vote being held. After criticism for this joint meeting and arguments for and against the introduction of a plebiscite or constitutional referendum which would allow a national vote to occur on the issue of marriage equality, Malcolm Turnbull successfully challenged Tony Abbott for leadership of the Liberal Party on 14 September 2015. Then Prime Minister Malcolm Turnbull promised a plebiscite would occur after the next election.

There was significant parliamentary debate about the plebiscite, most notably what role it would play in making the decision to amend laws, and the cost it would place to hold a plebiscite. Finally, on 14 September 2016, the *Plebiscite (Same-Sex Marriage) Bill 2016* was introduced to the House to allow the plebiscite to be created. Under this, Australian voters would vote yes or no to the question “should the law be changed to allow same-sex couples to marry?” Allocation of taxpayer money to support both yes and no campaigns was given equally. On 11 October 2016, the Labor Party opposed the legislation. The Bill was debated between 11-20 October, with it being passed in the House of Representatives 76-67 before being defeated in the Senate at 33-29.

Considerable debate unfolded throughout 2017 on whether a plebiscite should be held, or if, instead, a free vote should be held in Parliament which would allow parliamentarians to vote on the issue of whether or not to pass legislation legalising same-sex marriage. Many MPs in favour of marriage equality publicly declared their support for a free vote.

Finally, after government resumed sitting on 7 August, the issue of a plebiscite was again raised. The Government committed to another course of action should the plebiscite be again rejected, being a voluntary postal vote, which would not require legislative approval. This was allowed under provisions governing the Australian Bureau of Statistics (‘ABS’). On 9 August, the plebiscite motion was again denied at 31-31 and an official direction was issued to the ABS to conduct the survey. The legality of the postal vote was challenged on the grounds that it might be outside of the Government’s executive authority, that it was not “urgent” under the Appropriations Act and that the ABS didn’t have the legal authority to conduct this kind of vote as it may not be considered “statistics gathering”. The Court handed down a ruling that rejected this and the postal vote was allowed to go ahead.

The survey was conducted between 12 September and 7 November 2017 and the yes campaign won with 61.6% of the votes. The *Marriage Amendment (Definition and Religious Freedoms) Bill 2017* was introduced which amended s 5 of the *Marriage Act* removing the term “man and woman” in favour of the term “two people”, and removed any provisions



which banned the recognition of overseas same-sex marriages. On 29 November 2017, the bill was passed 43 votes to 12 and was passed in the House of Representatives on 7 December. On 8 December, the bill received royal assent from the Governor-General and came into effect on 9 December 2017.<sup>5</sup>

Other interesting implications for the law can be read on the Department of Education website [here](#).

More information on the history and timeline of the process can be read [here](#).

The growing argument for same-sex marriage has been international with recent media events such as the [Irish Bakery who received criticism for being “discriminatory” after refusing to bake a cake for a same-sex marriage celebration](#), or the huge variation between same-sex marriage laws around the USA that eventuated in [the ruling that same-sex marriage should be legalised nation-wide](#). A summary of the arguments for the “yes” debate in Australia can be accessed [here](#).

As indicated in the above articles, the media plays a key role in bringing issues of injustice to the forefront – the media shares stories, alerts the public to various issues and can influence public opinion in the construction of their pieces. The media played a significant role in the marriage equality debate by alerting the public to the state of the Government, and the formulation of different opinions on marriage equality. See for example [this](#) article.

#### **4. HOW CAN INDIVIDUALS CONTRIBUTE TO LAW REFORM?**

Any action that makes governments (local, state or federal) aware that there is community concern regarding an area of law will have the potential to spark law reform. This can be done in many ways, most commonly by writing to a local member of parliament (MP), protesting, or going on strike. However, almost all actions can raise public concern, whether it means getting involved in an area of business, or discussing the issue through art and literature.

##### **A. RAISING AN ISSUE WITH YOUR LOCAL MEMBER**

Raising an issue with an MP at the state or federal levels is the first step in contributing to a law reform process. In the federal level, the MP will have an opportunity to present the issue to the House of Representatives and the ALRC might then be engaged to conduct an inquiry. In the NSW Parliament, the state government will need to be similarly persuaded of the need to engage the state law reform commission.

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<sup>5</sup> <https://pursuit.unimelb.edu.au/articles/the-legal-maze-of-the-marriage-equality-survey>

## B. STRIKES AND PROTESTS

Strikes involve the mass refusal of employees to work, in order to send a message of defiance to authorities. Protests and demonstrations involve people congregating in public places using publicity to communicate a message against a cause of concern.

One prominent example of public protest leading to substantive law reform is the change in NSW sentencing laws after the death of Thomas Kelly that followed an alcohol-fuelled one-punch assault. 500 protesters gathered in the Sydney CBD in 2013 to demonstrate their dissent over the four-year minimum sentence that was handed down by the courts to Kelly's attacker, who was convicted of manslaughter.<sup>6</sup> Subsequently, the NSW Parliament introduced a new offence of unlawful assault causing death, with a maximum sentence of 20 years.<sup>7</sup> This maximum sentence is increased to 25 years if the perpetrator is over 18 years of age and intoxicated at the time of the offence, with a minimum non-parole period of 8 years.<sup>8</sup> Though these offences do not increase the maximum sentence beyond that of manslaughter, at 25 years, they are easier to prove in court, with no requirement to show, as in manslaughter, that the death must have been reasonably foreseeable.<sup>9</sup> Finally, general sentencing procedures were also amended, meaning that an offender's self-induced intoxication is *not* to be taken into account as a mitigating factor.<sup>10</sup>

Most recently, thousands of school students across Australia set down their books on 30 November 2018 and gathered at Members of Parliament's offices and city centres to demand an end to political inertia on climate change as part of the 'Strike 4 Climate Action' protest. They brought banners and witty signs such as "I've seen smarter cabinets at Ikea" and "I'm sure the dinosaurs thought they had time too". The movement was inspired by a 15-year-old Swedish student, Greta Thunberg, who began boycotting classes on Fridays ahead of the Swedish parliamentary elections with the support of her school principal. Sydney students followed her example. School captains delivered speeches and the strike was supported and organised by teachers and principals to send a message to the government.<sup>11</sup> Whether change is in fact delivered, however, remains to be seen.

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<sup>6</sup> <https://www.smh.com.au/national/nsw/thomas-kelly-hundreds-protest-against-alcohol-related-violence-20131119-2xsf2.html>

<sup>7</sup> <https://www.theaustralian.com.au/national-affairs/state-politics/nsw-introduces-king-hit-law-after-outcry-over-thomas-kelly-sentence/news-story/c4875a2854b69b9ec67e85f349cedf8a>; *Crimes Act 1900* (NSW) s 25A(1).

<sup>8</sup> *Crimes Act 1900* (NSW) s 25A(2), s 25B(1).

<sup>9</sup> *Crimes Act 1900* (NSW) s 25A(4).

<sup>10</sup> *Crimes (Sentencing Procedure) Act 1999* (NSW) s 21A(5AA).

<sup>11</sup> <https://www.smh.com.au/environment/climate-change/why-aren-t-they-doing-anything-students-strike-to-give-climate-lesson-20181123-p50hvu.html>.

#### **4. SUPPORT SERVICES**

Some of the reasons why young people might not speak to a lawyer include concerns about cost, the “seriousness” of the situation, the stigma of seeking legal help or because they don’t realise their problems are legal. A lawyer can help a person to understand what the law says on a particular issue, and what the best course of action is to resolve the problem. For example, a lawyer could provide general information or advice, write a letter or other document, contact someone, start court proceedings, help talk to the police or interpret something. They can also help work out what option to fix a problem might be best based on money, time, effort and what the law says.

Fortunately there are many services available to young people for free. These services may offer specific help in a way that is convenient for young people including operating outside of traditional hours, offering online services, and allowing them to contact a lawyer without parental permission.

In addition, lawyers have a responsibility to keep client data and information confidential, so children can be assured that their parents/guardians/other people won’t be informed about their issues.





## **Legal**

For free and confidential legal help, you can contact **Youth Law Australia**. They have free legal information at [yla.org.au](http://yla.org.au) through their factsheets and personalised legal advice at [lawmail.org.au](mailto:lawmail.org.au).

The LegalAid **Youth Hotline** provides legal advice and information to people under the age of 18. Its business hours are 9:00 am - 12:00 am weekdays, with a 24 - hour service from Friday 9:00 am to Sunday 12:00 am. Call them on 1800 10 18 10.

Children can seek help from a **community legal centre** that helps adults. You can search for your local community legal centre from this website: [www.naclc.org.au](http://www.naclc.org.au)

**LawAccess** provides free information, advice and referrals on 1300 888 529, Monday to Friday from 9am to 5pm.

## **Counselling**

For counselling support you can call the **Kids Helpline** on 1800 55 1800 for free and private counselling (available 24 hours a day, but there can be a wait to get through). They are happy to talk to young people aged 5-25 about anything that's troubling them or email them or chat online at <http://kidshelpline.com.au>.

**eHeadspace** provides counselling to young people aged 12-25 who are worried about their mental health or are feeling alone. Call them on 1800 650 890 from 9am to 1am or email them or chat online at: <https://www.eheadspace.org.au>.

**Lifeline** offers 24-hour crisis support and suicide prevention counselling on 13 11 14 to speak to a counsellor online from 7pm to 4am at: <https://www.lifeline.org.au/Get-Help/Online-Services/Online-Services>.

## **Relationship support**

For family counselling support you can contact **Relationships Australia** for family counselling and mediation on 1300 364 277 or visit them at <https://www.relationships.org.au>.

Family Planning clinics provide sexual healthcare (safe sex) services and advice. Call **Family Planning NSW** on 1300 658 886 or visit them online at [www.fpnsw.org.au](http://www.fpnsw.org.au)

For relationship support contact **1800RESPECT** on 1800 737 732 or visit them at <https://www.1800respect.org.au>.

To speak to someone about relationship issues and what is or isn't ok, call **1800 MYLINE** (1800 695 463).

## **Other**

The Office of the **eSafety Commissioner** is committed to increasing online safety and supporting people to feel protected online. As part of this, they can hear reports on cyber-bullying and help to get the offensive material taken down. They also have helpful resources and guides on what you can do to remain safe online. Visit them online at <https://www.esafety.gov.au/>

The **FairWork Ombudsman** can provide information and help on anything to do with employment e.g. working hours or pay rates. Call them Monday-Friday from 8am to 5.30pm on 13 13 94.

## Part 2 – Lesson notes

Lesson details	
<b>Duration</b>	45 minutes – 1 hour
<b>Classroom set up</b>	Computer and Project Students should have their own devices (if this is not possible, please e-mail YLA at <a href="mailto:admin@yla.org.au">admin@yla.org.au</a> for alternate lesson materials)
<b>Materials</b>	1 x Presentation (PDF) 1 x Teacher's materials – 1 copy for the teacher 1 x Student worksheet – 1 copy per student
<b>Presentation details</b>	There will be 15 slides in the presentation slide deck to support the delivery of this module. Slides may be printed and provided to students should they request supplementary information.

Slide and Timing	Speaking notes	Other notes
1 0.5 minutes	Today we will be completing a module developed by Youth Law Australia through their TeachLaw initiative on the topic of Law reform and marriage equality. Youth Law Australia provides free legal information and help to children and young people under the age of 25. They do this through providing information factsheets on their website and specific legal advice through their e-mail service. All the information in this presentation was developed and checked by lawyers to explain what the law says and should not be taken as legal advice. If you want to know how the law might apply to a specific situation in your life, you can contact Youth Law Australia for more help.	Student will need to complete the survey on slide 3 - the survey is designed to be two-part with the first part being completed at the start of the lesson, and the second part being completed and submitted at the end of the lesson. Please emphasise to students that they should complete page 1 and then minimise their screen - <u>they should not exit the survey nor should they complete page 2 at the start of the lesson.</u> This survey is important in assessing students' preliminary knowledge, and could be used later as a starting discussion question/diagnostic assessment. We require the survey to be completed so that we can assess the effectiveness of TeachLaw materials and make modifications as necessary. If you are unable to complete the survey online, please visit <a href="#">this</a> page to download the paper survey.
2 0.5 minutes	You can find out more about Youth Law Australia's services through their website <a href="http://www.yla.org.au">www.yla.org.au</a> or through their social media.	
3 1.5 minutes	To begin this lesson, please go to the URL on the screen and complete the first page of the survey. Do not go to the second page as we will do that at the end of class. Once you have completed the survey, please minimise the browser but don't close the survey!	
4 0.5 minutes	The lesson today will cover the topics listed on the screen. I want to acknowledge that some of the content we cover in this lesson might be awkward, uncomfortable, hurtful or might remind you of something that you or someone you know has experienced and which could be upsetting to you. If, at any point in time, this content becomes too overwhelming, we can take a short break, or you can put your hand up and ask to step out for a moment. This is a	



	safe place and we should all agree not to talk about the issues that come up here with people outside of this classroom in a way that could make other people feel bad e.g. gossiping.	
5 3 minutes	To begin, please turn to the person next to you and see if you can come up with a definition of law reform and explain what the purpose of law reform is. We will share a few responses in class	Please do not let the discussion blow out the time by too much as this lesson is very content heavy.  We encourage class discussion + writing ideas on the whiteboard
6 2 minutes	Law reform is an important mechanism of achieving justice that involves advocating for changes to the law. The changes might come about as a response to a change in society or values, due to recent events, court cases or even through media and public opinion. Can anyone think of an example of this? One classic example of how it happens is through the law reform commission. The brief process involved in law reform by the commission is as follows from the diagram on this slide. An issue will be identified, and research will be conducted into the issue, including talking to people that have a stake in the issue. This might be because it affects them directly, or because it is their area of expertise or research. These results will be summarised, the important issues will be identified and people and organisations can formally submit responses to these issues. These submissions and further conversations with important parties will occur, before another similar round of review. Finally, a report will be released to the Government who will review the report and changes might be made as a response. It is important to understand that law reform is just one mechanism of achieving justice. Sometimes there might be changes to policies [ask if anyone knows what a policy is], or there might be changes to the way money is given to certain causes which can help to create new bodies that can better support rights and access to justice. In today's lesson we are going to focus on some legislative reform issues relating to youth justice. These issues might have a bigger impact beyond the law, including policy changes, however we are going to focus specifically on the legislative changes that could be made.	
7 1 minute	[read slide]	
8 1 minute	[read slide]	It is important to emphasise here that this lesson is not about discussing whether or not reform should have happened or whether



		it was reasonable etc. – the point of this lesson is to recognise that in response to a push from various individuals, organisations and public opinion, laws were amended to better reflect society's values and to understand the different people/mechanisms that drove this change.
9 5 minutes	When you think of the marriage equality debate and the changes that were made, what do you already know about the process? What happened to amend the laws? Are there any terms you remember hearing during this time?	Examples might include different organisations/individuals involved, postal vote, referendum, plebiscite etc
10 1 minute	[read slide]. This is a very brief overview of some of the key dates leading up to the eventual changing of the laws. Later in the lesson we will spend a bit more time going through this timeline in smaller groups.	
11 1 minute	[read slide]. Does anyone know which method was eventually used?	Explain that it was a postal vote – please refer to above briefing notes should students as for more background information.
12 1 minute	[Read slide]  To understand a bit more about the marriage equality debate and some of the key arguments, and issues, we're going to break into groups of 2s and 3s and use the articles that have been provided to answer one of the key questions on your handout. We will then come back together and share our answers and discuss what we can learn about law reform from marriage equality.	
13 1.5 Minutes	To conclude please go back to the survey you minimised at the start of class and complete page 2 before hitting submit. Please then turn to the person next to you and share one thing you have learnt from today's lesson.	This slide can be left on the screen whilst students complete their survey and discuss one thing they have learnt.
14 1.5 minutes	[read slide]	
15 0.5 minutes		Please leave this slide on the screen during question and answer time.

## **Part 3 – Student activities**

### **Part 1 – Law reform**

<b>What is law reform?</b>
Law reform involves evaluating current laws and advocating for changes to the law to better govern, protect and respond to modern society.
<b>What is the purpose of law reform?</b>
Law reform is an important mechanism for achieving justice by ensuring that laws continue to be applicable to modern day society and values, and that they do not cause unjust or harsh outcomes.
<b>What are the steps involved in law reform by the Australian Law reform Commission?</b>
<p>Framework for reform:</p> <ol style="list-style-type: none"> <li>1. The government identifies an area of law that needs to be updated, developed or improved. Reasons for this may include community concern about a particular issue or a deficiency in the law has been highlighted by recent events or legal cases;<sup>12</sup></li> <li>2. Research into and consultation with those whom the law will affect;</li> <li>3. Consultation papers are released with general information used to guide submissions. This is a key step through which the ALRC involves the community in the law reform process;</li> <li>4. There is a call for submissions for anyone wishing to respond to a consultation paper.</li> <li>5. In-person consultations with stakeholders like NGOs and government agencies;</li> <li>6. A final report is produced and given to the Attorney-General with reform recommendations;</li> <li>7. The Attorney-General tables the report in Parliament and the government decides whether to change legislation or take administrative action.</li> </ol>

### **Part 2 – Marriage equality**

**Task:** In pairs or small groups, use the lecture slides and the articles provided to write a brief summary to each of the following questions.

<b>1. Who were the key players in the Marriage equality debate and what were their roles?</b>
<ul style="list-style-type: none"> <li>- Malcolm Turnbull (led the Government in the process of plebiscite that led to the eventual postal survey)</li> <li>- Tony Abbott (opposed the Bill introduced)</li> <li>- Warren Entsch (long-term supporter who introduced a private bill to try and bring about legislative change)</li> <li>- Bill Shorten (leader of the opposition during the equality debate)</li> <li>- Penny Wong (another long-term supporter and advocate)</li> </ul>

<sup>12</sup> <https://www.alrc.gov.au/law-reform-process>



See <https://www.abc.net.au/news/2016-10-10/who-are-key-players-in-same-sex-plebiscite-debate/7915722> for more information

Several other influencers and organisations played key roles in terms of lobbying government and creating general awareness of issues in the population (from both sides of the debate) e.g.

- 'get Up'- community campaigning and awareness
- Australian Human Rights Commission
- Religious organisations
- Australian Marriage Forum

## 2. What is a brief timeline of the marriage equality debate?

Sources:

[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1718/Quick\\_Guides/SSMarriageBills](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1718/Quick_Guides/SSMarriageBills)

<https://www.sbs.com.au/news/timeline-of-same-sex-marriage-laws>

The 2004 amendment to the *Marriage Act 1961* (Cth) defined marriage as a union between a man and a woman and determined that same-sex marriages entered into overseas would not be recognised in Australia. Since then, 23 bills dealing with the issue have been introduced into the federal Parliament.

- 1961: Australia introduces its first Marriage Act – no formal definition of marriage
- 2004: Marriage Act is amended - marriage defined as a union of a man and no recognition of same-sex marriages entered into overseas
- 2004-15: ~20 attempts to introduce laws legalises same-sex marriage – no success
- 2015: Coalition government commits to a national plebiscite on same-sex marriage
- 2016: Senate rejects government's plebiscite plan
- August 2017: Senate rejects plebiscite proposal again. Coalition government takes the option for a voluntary postal survey.
- September 2017: Ballot papers sent out nationally
- November 2017: 61.6% of eligible Australians vote in favour of same sex marriage
- December 2017: new laws clear Parliament – allowing same-sex couples to marry in Australia
  - o 15 November 2017 - Bill introduced into the Senate to amend the Marriage Act 1961 (Cth), redefining marriage as 'a union of two people'.
  - o 29 November 2017 - The Bill passed the third reading stage in the Senate.
  - o 4 December 2017 - Bill was introduced into the H of R
  - o 7 December 2017 Bill passed the third reading stage
  - o 8 December 2017 - received Royal Assent

## 3. What mechanism/s contributed to the eventual law reform that was made? What were their contributions?

- Lobbying by the public and MPs (see above for more details)



- National Voluntary postal vote – all Australians over the age of 18 years invited to
- Free vote on the Marriage Amendment (Definition and Religious Freedoms) Bill 2017
- Media spotlight on the issues – particularly the legal inequality afforded to same-sex couples and the failure of current laws to bestow rights on de facto couples

#### **4. What were some of the arguments for/against marriage equality?**

##### **AGAINST**

What if I told you there was a reasonable, non-homophobic case against same-sex marriage?  
Michael F. Bird. Ridley College, Melbourne, Australia.

[https://www.acl.org.au/what\\_if\\_i\\_told\\_you\\_there\\_was\\_a\\_reasonable\\_case\\_against\\_same\\_sex\\_marriage#splash-signup](https://www.acl.org.au/what_if_i_told_you_there_was_a_reasonable_case_against_same_sex_marriage#splash-signup)

- Faith – marriage as a divinely created institution
- Marriage is a unique union between a man and woman that is oriented towards the formation of a family
- Allowing same-sex marriage creates a threat to the prohibition of incest and polygamy
- Threat to religious freedoms
- Removing children's birthright to a mother and a father

##### **FOR**

- Equality – equal access to the rights associated with marriage
- Recognition – people in same-sex relationships love each other in the same way as those in heterosexual relationships
- Freedom of choice – why should the State be able to decide how consenting adults live their life?
- Discrimination leads to exclusion and marginalisation – removing legislative discrimination would help to reduce this <https://www.humanrights.gov.au/lesbian-gay-bisexual-trans-and-intersex-equality-0>
- Human Right - Article 16 of the Universal Declaration of Human Rights:
  - “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family.”