

Criminalisation in the UK



The criminalisation of homosexuality in the UK has a long history and the battle for decriminalisation took decades. Both gay men and lesbians faced ostracism and violence, besides which gay men also risked arrest and in some periods execution.

Gay male sex had been dealt with as a crime by ecclesiastical courts until the Buggery Act 1533 became the first civil sodomy law. It described 'buggery' as a "detestable and abominable Vice" punishable by death. In 1828, this Act was subsumed into the Offences Against the Person Act and in 1861 the punishment was downgraded to life imprisonment in England and Wales (Scotland in 1889). 'Gross indecency' was added to Section 11 of the Criminal Law Amendment Act 1885 (the Labouchere Amendment).

Lesbian sex was never criminalised: in 1921 a clause was added in to the 1885 Act to outlaw 'acts of gross indecency by females', but, after a debate in the Lords, it was removed to avoid bringing this 'most disgusting and polluting subject' to the attention of women 'who have never dreamed of it'.

The legal situation gradually changed after the 1957 Wolfenden Report. Homosexuality was partially decriminalised in the Sexual Offences Act 1967 in England and Wales (Scotland 1980 and Northern Ireland 1982): the age of consent was 21, it only applied to private acts behind a locked door, it did not apply to men in the armed forces or merchant navy; and the punishment for sex between men under the age of consent was actually increased from 2 to 5 years.

Section 28 of the Local Government Act 1988 took us backwards (adding to the cruelty of the AIDS epidemic), with local government and schools banned from 'promoting the acceptability of homosexuality as pretended family relationships'.

Again, LGB activists fought back. The age of consent for gay men was lowered to 18 in 1994 and to 16 (like straight sex) in 2001. 'Gross indecency' and sodomy were finally repealed as crimes in 2004 in England and Wales (N. Ireland 2008, Scotland 2013). Section 28 was repealed in Scotland in 2000, and England and Wales in 2003. Finally, the Civil Partnership Act 2004, the Marriage (Same Sex Couples) Act 2013 (N. Ireland 2020) brought us full legal parity with heterosexual relationships.

It's hard to gain solid evidence of the impact of the criminalisation of gay male sex, but the devastation is undeniable. We'll never know how many men killed themselves; nor the true numbers of LGB people who married for camouflage and led lives of hidden misery.

Walter Hungerford, 1st Baron Hungerford, was the first person to be executed in 1540 for homosexual acts under the civil legislation. Between 1806 and 1861, 56 men were executed; the last of these were James Pratt and John Smith, hanged at Newgate prison on 27 November, 1835.

Between 1885 and 1967, it's known that 49,000 men were convicted for same-sex acts, but some estimates put the number who were arrested or charged as much higher. Some 15,000 to 30,000 men were arrested after 1967, for either buggery or 'gross indecency' (which could include simply touching or kissing). Gay men charged or imprisoned under this Act included Oscar Wilde, Alan Turing (forced to take a synthetic form of oestrogen and who later killed himself) and Sir John Gielgud.

We must never forget what they went through.

All information on this page is based on official guidance and current law.