

Children in Scotland awaiting adoption - who puts their best interests first?

Posted: Thu, 28th Feb 2013 by [Alistair McBay](#)

Imagine for a moment a secular public service, let's say an adoption charity, refusing to consider applications from prospective adopters who are Catholic purely on the grounds of their religion (equality law notwithstanding) and deliberately restricting the pool of prospective parents by excluding Catholics, (the public benefit charity test notwithstanding). What do you think the reaction of the Scottish Government would be?

Would it seriously suggest this wasn't a problem because Catholics could use other adoption agencies? Remember that in 2006, Alex Salmond, now Scotland's First Minister, demanded of Tony Blair in the House of Commons [the repeal of the Act of Settlement](#), saying: "It represents clear institutional discrimination against millions of our fellow citizens." Given how exercised he is over just one Catholic being discriminated against in acceding to the throne, would his reaction be anything other than outrage if all Catholics in Scotland were being discriminated against by secular adoption agencies?

And more importantly, what is in the best interests of children awaiting adoption? It surely can't be to deliberately reduce the pool of prospective parents looking to give children a loving home, and all in the name of preserving an unlawful prejudice?

With this in mind, please read on.

The story of the St Margaret's Family Care and Adoption Society case is contained [here](#) and [here](#). St Margaret's has been trying to amend its constitution to allow it to continue discriminating against same-sex couples, who can now legally adopt in Scotland. Found by the Office of the Scottish Charity Regulator, after an NSS complaint, to be breaking both equality law and charity law, St Margaret's has now asked OSCR to review that decision.

St Margaret's attitude is in direct contrast to that of Scotland's other (now former) Catholic adoption agency, St Andrew's in Edinburgh, which decided in 2008 to change its [Constitution](#) and break with the Catholic Church in order to consider and accept same-sex couples as prospective adopters. Scotland's retiring Catholic leader, Cardinal Keith O'Brien (a man noted for his outspoken hostility towards homosexual lifestyles) resigned as the Society's President in November 2008 to facilitate this. Although St Andrew's says it remains 'the agency of choice' for most Catholics wanting to adopt, it now openly welcomes same-sex couples, and indeed single gay men and women, as prospective adopters.

There was no publicity about this significant and welcome change at St Andrew's, no attempt to claim that it was being martyred on the altar of equality legislation, no attempt to exploit the drafting of the equality legislation that might permit it to continue to discriminate against same-sex people, against the spirit of the law. There was an accommodating and welcome attitude from the Catholic Church, even to the extent of it relinquishing any future claim on the Society's assets. The interests of the children came first, according to St Andrew's, and that meant widening the potential pool of adoptive parents to include same-sex couples, as required by law.

Perhaps the difference in approach between the two societies has something to do with the Scottish Government.

In July 2007, Scottish Government Minister Fiona Hyslop met with Cardinal O'Brien and other senior representatives of the Scottish Catholic Church. It was a very cosy affair, as [this e-mail exchange](#) within the Scottish Government reveals. In addition to promised efforts to let Catholic adoption agencies carry on discriminating, the Scottish Government was also intent, appallingly, on doing more to 'celebrate' Scotland's sectarian education system.

Another meeting took place in October 2008, as the Scottish Government continued to look for ways within the sexual orientation regulations to let St Margaret's continue to carry out discriminatory church teaching, rather than comply with the spirit of Westminster Government equality legislation.

There was a further meeting between Hyslop and Cardinal O'Brien in November 2008, which reinforced how complicit the Scottish Government had become in trying to enable St Margaret's to continue to discriminate against same-sex couples. This [minute](#) reveals that the St Margaret's agency was much more intent on upholding Church teaching than St Andrew's, a position that the Scottish Government also supported. It also sees a Scottish Government minister saying this:

"Cabinet Secretary Hyslop emphasised that key issue is to help and support children and is comfortable with gay couples being referred on to adoption agencies that have more experience of working with gay couples."

When [the Herald](#) newspaper asked the Archdiocese of Glasgow what would happen if a same-sex couple applied to St Margaret's, a Diocese spokesman replied: "They would be treated with respect but it would be explained to them that because of the nature of St Margaret's, they would be referred to the council adoption agency."

Consider for a moment if that attitude had prevailed in Alabama in 1955 and the days of [Rosa Parks](#). Both the Catholic Church and the Scottish Government are effectively arguing that she would not have suffered racial discrimination (that co-incidentally kick-started the civil rights movement) if she had been redirected to another bus that allowed black people to sit where they wanted. That way, she would not have been breaking the Alabama racial segregation law by sitting in a seat reserved for white folks.

It's hard enough to imagine that this 'solution' could be advocated more than 50 years after Rosa Parks to justify withholding a publicly-funded service from gay people in Scotland. It is even harder to imagine that it could be actively supported by a senior Minister in the Scottish Government, who appeared 'comfortable' with allowing such discrimination, even where the law clearly provided for gay people not to be discriminated against. Such an attitude implies that providing some B&B guest houses accept gay couples, it's not a problem if others refuse them accommodation, or that signs saying 'no blacks' or 'no asians' or 'no Irish' are perfectly acceptable as long as there are other establishments that do welcome them. But as the NSS argued in its [recent intervention](#) at the ECHR, the harm done by invidious and unfair discrimination goes far beyond the deprivation of a service. An individual's dignity, sense of worth and full membership of the community is significantly affected by acts of discrimination even if he or she can obtain access the relevant service elsewhere.

Fiona Hyslop is no longer the Cabinet Secretary for Education and Lifelong Learning, however. That role is now filled by Mike Russell, who lost no time in expressing his disappointment with the

Regulator's decision and in [promising](#) to do everything he could to ensure St Margaret's could continue with its vital work. At our recent meeting with the Minister, we were disappointed that he would not be drawn on whether that required them to be open to same-sex couples, despite the wealth of case law concluding it does. We pointed to [Scottish Adoption](#), and the Christian-founded [Barnardo's](#) and [Coram Foundation](#) adoption agencies all advocating opening their doors to same-sex couples as being in the best interests of children. Yet Mr Russell declined to express a view on this.

So what exactly is the agenda behind the Scottish Government approach to St Margaret's, when it is abundantly clear that the answer for the agency is to follow the example set by St Andrew's and obey the law? Why does the Scottish Government continue to express solidarity with St Margaret's, rather than simply suggest that the agency looks east to Edinburgh and the exemplary case of St Andrew's? Why is the Scottish Government, which likes to style itself as having a record on equality and diversity that is second to none, willing to support the blatant discrimination at work in St Margaret's? If the same-sex marriage Bill eventually becomes law, what will the Scottish Government do then about adoption agencies which continue to turn away married same-sex couples?

And who really has the interests of children awaiting adoption at heart – St Andrew's, St Margaret's, or the Scottish Government?

On this evidence, only the first.

Alistair McBay

Alistair McBay is the vice president of the National Secular Society and its spokesperson for Scotland. You can follow Alistair on Twitter [@AMcBay_NSS](#). The views expressed in our blogs are those of the author and may not represent the views of the NSS.

- [Share on What's App](#)
- [Share on Facebook](#)
- [Share on Twitter](#)
- [Share on Email](#)
- [Subscribe to RSS Feed](#)

Tags: [LGBT](#)

Related Campaigns

•

[LGBT rights](#)

Religion is no excuse for homophobia.

[Read More](#)

Related Articles

UN raises concerns over 'gay conversion' charity after NSS briefing

Charity regulator's failure to act on gay conversion therapy suggests it is "a protected religious practice" in Northern Ireland, says UN [Read More »](#)

NSS: investigate charity accused of exorcism and conversion therapy

Christian charity allegedly told gay teenager he was possessed by a demon and subjected him to four years of exorcism. [Read More »](#)

The universality of human rights needs defending

Seventy-five years on from the adoption of the Universal Declaration of Human Rights, its promise of freedom and equality remains a distant dream for those living under religious rule, says Stephen Evans. [Read More »](#)

Parents object to Catholic school lobbying on sex education

Parents and teachers call lobbying "scandalous", "heavy-handed". [Read More »](#)

NSS tells Scottish Government to keep religious dogma out of sex ed

NSS: provisions in new guidance on sex education leaves door open for religious ideology, risking children's wellbeing. [Read More »](#)