

Scottish Charities Appeal Panel decision in relation to St Margaret's Children and Family Care Society

Statement from the Equality and Human Rights Commission

On 31 January 2014, the Scottish Charities Appeal Panel (SCAP) issued its decision in relation to an appeal by St Margaret's Children and Family Care Society against directions placed upon it by the Office of the Scottish Charities Regulator, relating to complaints of sexual orientation discrimination. The Equality and Human Rights Commission (EHRC) had intervened in the appeal to set out its view of the discrimination law which was at issue in the appeal.

The EHRC notes that OSCR has now decided not to appeal the SCAP decision (www.oscr.org.uk/news-and-events/latest-news/st-margarets-statement/). The EHRC has no locus to appeal the decision itself, as only OSCR and the relevant charity have a right of appeal.

The EHRC has however carefully considered the SCAP decision as it relates to discrimination law. The decision is not easy to follow, but it is the EHRC's view that SCAP is mistaken in its understanding of the meaning of direct and indirect discrimination.

The Commission has carefully noted SCAP's finding of fact, based on evidence provided by St Margaret's Children and Family Care Society during the hearing of the appeal, that : "In principle [St Margaret's Children and Family Service] would consider an application to be considered as adoptive parents from a couple in a civil partnership."

The Commission has therefore written to St Margaret's advising it to ensure that its published policies and practices properly reflect its stated position that adoption applications from couples in civil partnerships will be considered in the same way as those from married couples; and to ensure that such applications are indeed considered equally. This will give gay couples wishing to adopt the confidence that they will be treated without unlawful discrimination.