

Scottish charity regulator will not challenge appeal panel's ruling on Catholic adoption agency

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The Office of the Scottish Charity Regulator (OSCR) will not appeal a court ruling [quashing its decision](#) to revoke charitable status from a Catholic adoption agency which discriminates against same-sex couples.

St Margaret's Children and Family Care Society had been told in January 2013 by the OSCR that it was to lose its status over its refusal to place children with same-sex couples.

But the ruling was overturned by the Scottish Charity Appeals Panel (SCAP) last month, which ruled that the discrimination was indirect because St Margaret's gives priority to prospective parents who are a couple, Catholic and married for at least two years.

In a statement on its website, the OSCR said that its decision not to appeal was based on the fact that an appeal would be expensive, unlikely to succeed and have limited wider implications, especially given the recent passing of equal marriage legislation in Scotland.

"The SCAP made its decision having heard additional evidence from the charity, which was not available to the OSCR when it took its decision to issue a direction to the charity," it stated.

The regulator also said that the SCAP's decision "includes a number of comments on wider aspects of charity regulation which OSCR finds difficult to follow".

The note reiterates OSCR will continue to regard unlawful discrimination by charities as a serious issue that would prompt a re-examination of whether the charity meets the public benefit test. It also says that the OSCR is duty bound to promote equal opportunities, and that in cases where a charity's pursuit of benefit results in disbenefit by discrimination, it will "make a judgement on the whole picture of public benefit in the body being looked at".

The note also says: "There may be circumstances where our duty to ensure compliance with charity law will require us to take action which may result in charities being removed from the Scottish charity register, even if this affects their ability to continue in existence."

OSCR is planning to update its guidance on meeting the charity test, and will consider the issues raised by the St Margaret's case when doing so. No timescale has been decided and OSCR will consult on revised guidance.

The new ruling leaves St Margaret's Children and Family Care Society free to continue its discriminatory policy on refusing to consider potential adoption by gay parents.

Terry Sanderson, president of the National Secular Society – which made the original complaint about St Margaret's discriminatory policies – said: "It is a shame that this clearly incorrect appeals ruling will not be challenged. Our own lawyers have told us that the appeal panel's ruling is full of holes but unfortunately we do not have the legal standing to mount a court challenge ourselves."

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