

# Cornerstone Fostering and Adoption v Ofsted

## BACKGROUND

- ▶ Cornerstone is an independent fostering agency based in the north-east of England. It also runs a post-adoption support service.
- ▶ Founded in 1999 and registered as a charity in 2006, Cornerstone specialises in providing loving and stable homes for children with complex needs.
- ▶ Cornerstone aims to provide a “high quality adoption and fostering child care service according to Christian principles”.
- ▶ Cornerstone recruits foster carers who are evangelical Christians. This means its carers are required to sign its evangelical Statement of Faith and abide by its related Code of Practice.
- ▶ The Code covers a range of moral issues, including Christian teaching on sexual ethics and marriage.
- ▶ Cornerstone’s recruiting policy relies upon exceptions in the Equality Act 2010.

## THE CASE

- ▶ Between 27 February and 4 March 2019, Ofsted carried out a routine inspection of Cornerstone’s fostering service. The previous inspection in 2015 returned a rating of “Good”.
- ▶ The 2019 inspection reported that the service “Requires Improvement”. Ofsted’s primary reason for downgrading the charity was its policy of only recruiting evangelical Christians who abide by the charity’s beliefs on marriage. The regulator claims the recruitment policy unlawfully discriminates against potential carers on the basis of sexual orientation and religion or belief, and requires that Cornerstone change the policy.
- ▶ Cornerstone applied for a Judicial Review to challenge the decision. The case was heard by the High Court on 6 May 2020, via video link.
- ▶ The case has been supported by The Christian Institute.

## FIND OUT MORE

[christian.org.uk/cornerstone](https://christian.org.uk/cornerstone)

## THE RULING

- ▶ In a 7 July judgment at the High Court, Mr Justice Julian Knowles rejected Ofsted’s assertion that Cornerstone’s recruitment policy unlawfully discriminates by requiring carer applicants to be evangelical Christians. He said Ofsted’s decision to include this in their report was “wrong as a matter of law” and “erroneous”.
- ▶ The judgment states:
  - ▶ “Cornerstone is permitted to exclusively recruit evangelical Christian carers because of the exemption in [2] to Sch 23 to the EA 2010 for religious organisations.”
  - ▶ “Cornerstone’s recruitment policy does not violate Article 14 of the Convention read with Article 8, as given effect by s 6 of the HRA 1998, insofar as it requires carer applicants to be evangelical Christians.”
- ▶ As a result of the judgment, Ofsted is required to amend its inspection report.
- ▶ However, the Court also ruled that the exception in the Equality Act 2010 permitting religious organisations to impose restrictions on grounds of sexual orientation does not apply to Cornerstone. It decided that Cornerstone recruits carers on behalf of, and under contract with, local authorities. Cornerstone disputes this finding and may appeal.

## EQUALITY AND HUMAN RIGHTS LAW

- ▶ The Equality Act 2010 allows faith-based organisations to limit their services on the basis of religion or belief and sexual orientation in order to comply with their beliefs (Schedule 23, paragraph 2(3)).
- ▶ But the exception does not apply to sexual orientation discrimination if the organisation is acting “on behalf of a public authority, and under the terms of a contract” with the authority (Schedule 23, paragraph 2(10)).
- ▶ The Human Rights Act 1998 requires “public authorities” and those exercising public functions to act compatibly with the European Convention on Human Rights (Section 6(3)). This includes not discriminating on grounds of religion or belief, or sexual orientation.

## PREVIOUS SCRUTINY

- ▶ In 2008, the Equality and Human Rights Commission contacted Cornerstone over its policy of only placing children with committed Christians. Cornerstone was able to explain its position.
- ▶ In January 2011, Cornerstone was also given the all-clear by the Charity Commission. It recognised that Cornerstone’s recruitment policy was lawful discrimination on grounds of religion or belief because it seeks to provide a distinctly Christian service.  
[Read the letter from the Charity Commission](#)