



## NEWS REPORT

<b>Date:</b>	7 July 2010
<b>Expert:</b>	Aileen McColgan
<b>Title:</b>	Catholic Care (Diocese of Leeds) v The Charity Commission for England and Wales
<b>Country:</b>	United Kingdom
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Sexual orientation discrimination, goods and services
<b>Ground of discrimination:</b>	Sexual orientation
<b>Source:</b>	[2010] EWHC 520 (Ch)
<b>Field:</b>	Charity
<b>Legislative provisions:</b>	Equality Act (Sexual Orientation) Regulations 2007

### Content

**Case:** The Catholic Care organisation, which organised adoptions, sought to amend its memorandum of association in order to take advantage of an exception provided by the Regulations 2007, reg 18, which allowed a charity to provide benefits to persons only of a particular sexual orientation if this was in pursuance of a charitable instrument. The appellant sought the amendment in order to refuse to provide adoption services to gay men and lesbian women. The respondent, which is the body charged with policing charities, and subsequently the tribunal which hears appeals from the commission, refused permission on the ground that the proposed amendment to the memorandum would not bring the appellant within reg 18, and so the permission would serve no useful purpose. The first issue was whether the tribunal's conclusion on the preliminary issue that it would not be lawful for the appellant to decline to provide adoption services to a person on the grounds of sexual orientation if it adopted the proposed objects was wrong in law. If the appellant succeeded on that issue, the question arose whether the respondent ought to permit the adoption of the proposed amendments pursuant to its power to do so under the Charities Act 1993 s 64 read together with reg 18(2). In allowing the appeal, the Court ruled that the Sex Discrimination Act 1975, s 43(2A), permitted sex discrimination in the conferring of benefits by a charity as a proportionate

means of achieving a legitimate aim even if for a purpose which did not consist of meeting the special needs of the protected class. Further, some forms of differential treatment were justified under ECHR, art 14 if undertaken for a legitimate aim and in a manner where the means employed were proportionate to the aim sought. The Court ruled that exceptions in the 2007 Regulations were designed to permit justified differential treatment as contemplated by art 14, reg 18 by affording charities an exception from the prohibition of differential treatment on grounds of sexual orientation wherever the public purpose being achieved by the charity in question constituted an art 14 justification for that differential treatment. The question of justification was remitted back to the respondent.

**Internet link source and additional information: (no newspaper links)**

[www.bailii.org/ew/cases/EWHC/Ch/2010/520.html](http://www.bailii.org/ew/cases/EWHC/Ch/2010/520.html)