



Cornerstone
because foundations matter.

Cornerstone (NE)
The FuseBox
90 Coronation Street
Sunderland SR1 2HE

Tel: 0191 5656423
Email: info@cornerstoneuk.org

PRESS RELEASE 7 July 2020

High Court rejects Ofsted attempt to force England's only evangelical Christian fostering agency to abandon religious ethos

- High Court finds Ofsted wrong to try to force Cornerstone (North East) Adoption and Fostering Service to work with non-evangelical Christian carers
- Ruling rejects attempt to get Christian organisations to abandon faith when they enter the public square
- But the judge also ruled that Cornerstone cannot require carers to abide by its Christian beliefs on appropriate sexual conduct
- Cornerstone welcome the court's ruling confirming that they can continue to require carers to sign up to the charity's statement of faith, but will consider appealing on the sexual conduct ruling

The High Court has ruled that England's only evangelical Christian fostering agency, based in the north-east, can continue to work only with evangelical Christian carers – a judgment that confirms the freedom of Christian organisations to provide activities in line with their statement of faith.

It vindicates the decision by Cornerstone (North East), a small, independent adoption and fostering agency, to take legal action against Government regulator Ofsted over a highly controversial inspection report demanding that the agency abandon its religious ethos.

The judicial review of Ofsted's actions was heard in the High Court sitting at Leeds on 6 May 2020. Lawyers from both sides presented their arguments by video link alongside written submissions.

The legal action followed an Ofsted inspection last year. Despite previously being rated "Good" in all areas, the report issued in June 2019 downgraded Cornerstone's fostering work to "Requires Improvement".

It accused the evangelical Christian charity of unlawful discrimination because it only recruits evangelical Christian carers.

Ofsted also said it was discriminatory for Cornerstone to require its carers to abide by its code of conduct on living consistently with the charity's Christian beliefs about marriage between a man and a woman.

At the same time, a separate report, also issued by Ofsted, on Cornerstone's post-adoption support work graded it "Good".

Cornerstone was concerned that Ofsted, which has a track record of unsympathetic behaviour towards some religious groups – Chief Inspector Amanda Spielman infamously called for "muscular liberalism" in remarks widely interpreted as a call to enforce aggressive secularism – had misapplied the law.

Unity – Children – Development – Stewardship – Reverence - Integrity

Cornerstone (North East) Adoption and Fostering Service, trading as Cornerstone, is registered in England and Wales as a company limited by guarantee no: 05663749 and registered as a charity no: 1114213

Under the Equality Act 2010, religious charities may restrict “the provision of benefits” to those who share their faith and beliefs. Cornerstone’s right to rely on these provisions was endorsed by the Charity Commission in January 2011.

The Charity Commission agreed that Cornerstone does not restrict its services on grounds of sexual orientation but on grounds of religion. The Commission also accepted that under exceptions in the Equality Act it is lawful for the charity to limit its services to persons who are evangelical Christians. The letter from the Commission states:

“...Cornerstone is permitted to restrict the provision of services in the course of activities undertaken by the organisation or on its behalf or under its auspices where the restriction is applied for the following reasons:

“(a) because of the purpose of the organisation, or

“(b) to avoid causing offence, on grounds of the religion or belief to which the organisation relates, to persons of that religion or belief.”

[\(Read the Charity Commission’s letter.\)](#)

In a judgment handed down in the High Court earlier today, Mr Justice Julian Knowles rejected Ofsted’s assertion that Cornerstone’s recruitment policy unlawfully discriminates by requiring carer applicants to be evangelical Christians. In his order accompanying the judgment, the judge 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 [Equality Act] 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 [Human Rights Act] 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 judge disagreed with the Charity Commission’s long-standing finding that Cornerstone does not discriminate on grounds of sexual orientation by requiring sexual conduct consistent with a Christian profession of faith.

He 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.

Crucially, this hinged on his finding that Cornerstone recruits its carers on behalf of, and under contract with, local authorities – thus depriving them of the ability to rely on the exception.

Had the judge ruled otherwise on the technical local authority point, the court would have necessarily found Cornerstone’s policy to be lawful.

Cornerstone’s lawyers maintain that the decision on this point is incorrect. Cornerstone strongly denies that its recruitment process is non-compliant with equality and human rights legislation.

Speaking after the judgment was handed down, Cornerstone’s chairwoman, Reverend Sheila Bamber, said:

“The judgment justifies our decision to pursue this legal action. Our right to support Christian families in providing the best possible outcomes for vulnerable children and young people has been upheld.”

“But I am saddened that the fundamental place of biblically based Christian marriage in our beliefs has not been recognised. We will carefully and prayerfully consider how to continue our vocation and work to create forever families”.

Cornerstone is respected for its work with children and families. One letter of commendation submitted to the court from families and social workers describes staff at Cornerstone as “accepting, understanding and non-judgmental”. Another says Cornerstone’s work “clearly makes a difference to young people and their families” and describes staff as “friendly, knowledgeable and happy to assist”.

Cornerstone has facilitated the transition to adoption for around 80 per cent of the children it has placed, even though this cuts off the funding which it receives for the foster placement. And there have been no adoption breakdowns during the 20-year history of the organisation. Despite this, Ofsted has delayed accrediting Cornerstone as a Voluntary Adoption Agency (offering full adoption services). Its application was submitted in 2015.

Going into the hearing Cornerstone received the backing of the Nationwide Association of Fostering Providers’ Chief Executive, Harvey Gallagher, who said in May:

“Cornerstone NE have been members of NAFP since 2017. During that time, I have found them to be a child-focused and passionate group of people. This can be seen in their previous Ofsted inspection reports.”

“Within foster care, people of faith are represented more than the general population. This makes sense when we consider the motivation of most foster carers – that being to help a child. It also makes sense to me that we should aim to recruit more foster carers of faith. Of course, this should be undertaken in line with assessment practice for all prospective carers.”

“At the same time, prospective foster carers can choose to foster for any agency, usually one who covers their location. There is a wide range of fostering agencies. This is important because it means that carers can choose the agency that is right for them, the one that will understand them and be best placed to support them through some tough times ahead. Cornerstone NE represent a part of this important mix. A wider range of carers is good for children, who themselves have different needs and will be best matched when there is a choice.”

“I have no reason to doubt Cornerstone NE’s ethical base. In fact, I have found the agency to be open-minded and accepting. The contribution and commitment that I have seen them make to fostering (and adoption) is important and meets a particular need. If they were to be lost to the sector, this would be a real loss for children.”

Cornerstone is being supported by The Christian Institute, which defends the religious freedom of evangelical Christians in the UK. The Christian Institute has been involved in several major court successes, including Ashers Baking Company’s appeal to the UK Supreme Court in 2018.

The Institute’s Deputy Director for Public Affairs Simon Calvert commented:

“Ofsted has failed in its attempt to turn a small, much-loved Christian agency into another outpost of its ‘muscular liberalism’ worldview. Shockingly, it even argued in court that fostering was “a secular act” and that there is no demand for evangelical carers.”

“There are 305 other Independent Fostering Agencies in England. Cornerstone is the only one with an evangelical Christian ethos. It achieves excellent results for children and families. And now with this ruling the Court has put beyond doubt that it can continue to recruit only evangelical Christian carers.

“Ofsted tried to use human rights legislation to fatally undermine essential religious exceptions in the Equality Act 2010. But those exceptions were passed precisely to protect the ethos of faith-based agencies like Cornerstone.

“Cornerstone’s challenge should help protect churches and other religious bodies that rely for their existence on the protections afforded by the Equality Act.

“However, along with Cornerstone and its lawyers we believe the judge was mistaken in treating Cornerstone as if it recruits its carers on behalf of local authorities and therefore is not covered by the equality law exception allowing discrimination on grounds of sexual orientation.

“Cornerstone is a private organisation and places children with those within its existing pool of carers. It does not recruit carers on behalf of local authorities.

“This part of the judgment suggests the court failed to recognise that Christian belief informs and shapes every area of life – including sexual ethics and behaviour.

“A decision on whether to appeal will be taken in the coming weeks.”

For all media enquiries contact:

Alistair Thompson: alistair@teambritanniapr.com 07970 162 225

Notes for Editors

- Cornerstone’s legal team consists of Aidan O’Neill QC, Ben Silverstone and solicitors Ai Law. The Christian Institute’s Legal Defence Fund is underwriting the cost of the legal action. Our in-house lawyer, Sam Webster, has been working with Cornerstone for twelve years.
- Simon Calvert, Deputy Director for Public Affairs at The Christian Institute, is available for interview via Zoom or Skype. He can be reached on 07802 796 512 or simon.calvert@christian.org.uk
- Click [here to watch Cornerstone’s CEO](#) explain why they brought the case. To download broadcast-quality video of her remarks, [click here](#).
- Click [here to read a factsheet](#) on the case.
- Cornerstone is an independent fostering and post-adoption support agency based in the north-east of England. It recruits evangelical Christian foster carers to provide loving and stable homes for children with complex needs, motivated by the biblical command to care for the orphaned and fatherless. “Defend the weak and the fatherless; uphold the cause of the poor and oppressed” (Psalm 82:3). All carers must sign a statement of faith and code of conduct which reflects mainstream Christian belief, including Christ’s teaching that marriage is between a man and a woman.
- Cornerstone will place children with married couples and single people. Ofsted mistakenly asserted that it only places them with married couples.
- Cornerstone is a charity. It is primarily funded through the payments made by local authorities when Cornerstone places a child with foster carers.
- It provides a range of short-term, emergency and respite fostering placements, as well as continuing to provide the ‘Forever Family’ model which reflects the majority of its placements, and where young people are encouraged to stay and be supported when they leave the care system, until they are ready to transition to independence.
- Staff and carer retention rates are exceptionally high. Foster carers only resign because they adopt the children in their care, or they retire.
- Ofsted agreed not to publish its negative report on Cornerstone’s fostering work while the charity pursued a judicial review. Its report stating that Cornerstone’s post-adoption support work is ‘Good’ was published in June 2019. Click [here to read the 2019 report and the 2015 report](#) describing their fostering work as ‘Good’. Please note the relevant equality legislation has not changed since the 2015 report.