

The Half-Baked Politicisation of Christian Cakeries

by Robert Harris (June 2015)

Who would have thought cakes, those (preferably) light sweet fragrant confections, would be the cause of abiding social turmoil? The cake shop just around the corner, where these flavoursome concoctions are made, can be a flash-point of contention, quite possibly of international proportions! Why are [QUANGO](#) funded by the tax payer.

The Commission's charge was that the Ashers Baking Company had [unworthy](#)" after the rejection.

In a ruling last month, the presiding judge agreed with the Commission's determination, and found against the McArthur family, who own the bakery in question:

Giving her ruling at Belfast County Court on Tuesday, district judge Isobel Brownlie said: "The defendants have unlawfully discriminated against the plaintiff on grounds of sexual discrimination."

Part of the judge's rationale, for making a decision against the bakery, was quite simply baffling:

Judge Brownlie said she was satisfied the McArthur family had "genuine and deeply held religious beliefs" but said they must have been aware that Mr Lee was gay and were aware of the ongoing same sex marriage debate.

The judge added: "They must have known or had the perception that the plaintiff was gay. They must have known that the plaintiff supported gay marriage or associated with others who supported gay marriage."

How exactly were the defendants to know Mr. Lee had and has an alternate type of sexual preference? Was Judge Brownlie suggesting he was and is an overt stereotype of the Kenneth Williams school? If not, then perhaps it should have occurred to the *Honourable Presiding* that Ashers' owners and employees may not possess such finely-honed GAYDAR as She, what with them being quite staunch born-again Christians, it might be reasonably safe to assume they do not regularly attend 'LGB' Pride events, and so forth!

Similarly, it is difficult to gauge the possibility that if the sexual identity of Mr. Lee

came to be known to the McArthur family, how the bakers could have then deduced that their client not only supported gay marriage, but actively campaigned for it, before he placed an order on that fateful summers day.

Surely all are entitled to believe what they wish? No doubt Justice Brownlie would agree but she would then need to explain how exactly the voluntary beliefs of one party (Mr. Lee) place any sort of legal obligation on any other party to act and behave in a certain way that satisfies the laws of the land?

According to the way in which Judge Brownlie made her argument, there are only two alternatives to avoid her objections: to either bake the cake or reject all orders from a prospective client, based on the fact that he is gay, and may at some point in the future ask for a cake that supports gay marriage! Of course, the latter crystal ball gazing would clearly be discriminatory, far more so than ever refusing the order of one item from an otherwise happy client, so why would the judge's stance indicate that this course of action would somehow have been more acceptable since it side-steps her objections.

In truth, Brownlie's objection is not in any way relevant to the issue of individuated discrimination. The judge may have been attempting to tie the client's identity to one of his opinions, which the bakers disagreed with. Indeed it would seem that most homosexual people support gay marriage but certainly not all. It is an undue conflation to subsume a person's sexual identity with that of their opinions. It is not the concern of the business owners who their customers consort with, nor should it be.

A Baker's Doesn't!

Judge Brownlee's [relevant subsection](#) ('Goods, facilities or services') of The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006:

5.-(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a person who seeks to obtain or use those goods, facilities or services – [...]

(b) by refusing or deliberately omitting to provide him with goods, facilities or services of the same quality, in the same manner and on the same terms as are normal in his case in relation to other members of the public or (where the person seeking belongs to a section of the public) to other members of that section."

With respect to section b, the “terms” ([attested](#) to the purpose:

Mr Lee, a volunteer member of LGBT advocacy group Queer Space, had ordered the cake for a private function in Bangor, Co Down staged to mark International Day Against Homophobia.

The order for the cake was placed shortly after the Stormont Assembly turned down, for the third time, a bid to legalise gay marriage in Northern Ireland. Mr Lee said the design of the birthday cake was meant to be “fun and topical”.

Daniel McArthur, of Ashers Bakery, signalled the reasons behind the refusal. He asserted in court that they have “always has been, willing to serve any and every customer who comes through our doors,” adding that:

‘Our problem with producing the cake we were asked to make last year was with the message, not the customer.

‘We just didn’t want to be forced to use our creative skills to help endorse and promote a campaign message that went against our sincerely held religious beliefs. We are just trying to be faithful to the Bible.

‘We think it is wrong to use the laws to force anyone to say something that they oppose and hope that the court will take the same view.’

With respect to freedom of expression, Article 10 (‘Freedom of expression’) of the [appeal](#) the present ruling, and the troubling precedent it entails.

Robert Harris contributes articles to several websites on contentious political issues (not to be confused with the popular English novelist (1957-) of the same name). He also blogs at [here](#).

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