



What the **Ashers victory** means

Ashers Baking Company's win in the UK Supreme Court over its refusal to bake a cake with the slogan 'Support Gay Marriage' was celebrated around the world. Previous court rulings that it had discriminated

on grounds of sexual orientation, religion, and political opinion were all overturned.

The unanimous judgment in its favour was a resounding affirmation of the great British tradition of free speech.

The Christian Institute has backed Ashers since the very beginning – back in June 2014. We give thanks to God for the remarkable ruling and for the quiet courage of Ashers' owners, the McArthur family.

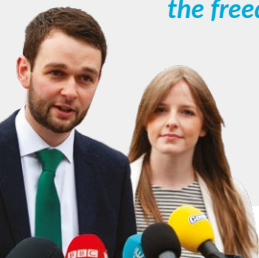
But what might their legal success mean for how equality law will be applied in the future? How might it help Christians facing similar challenges to their freedom to live for Jesus Christ? This leaflet explains.

"We took issue with the message on the cake and not the customer and as a family we believe we should retain the freedom to decline business that would force us to promote a cause with which we disagree."

Daniel McArthur, February 2016

"The objection was not to [the customer] ...they were being required to express a message with which they deeply disagreed. ...Nobody should be forced to have or express a political opinion in which he does not believe".

The UK Supreme Court, October 2018



Key quotes from the Supreme Court ruling

“...there was no evidence that the bakery had discriminated ...in the past. The evidence was that they both employed and served gay people and treated them in a non-discriminatory way.” [Para. 28]

“Nobody should be forced to have or express a political opinion in which he does not believe.” [Para. 52]

“The objection was to being required to promote the message on the cake. The less favourable treatment was afforded to the message not to the man. ...they were quite prepared to serve him in other ways.”

[Para. 47]



Baroness Hale,
President of The UK
Supreme Court

“The bakery could not refuse to provide a cake – or any other of their products – to Mr Lee because he was a gay man or because he supported gay marriage. But that important fact does not amount to a justification for something completely different – obliging them to supply a cake iced with a message with which they profoundly disagreed. In my view they would be entitled to refuse to do that whatever the message conveyed by the icing on the cake – support for living in sin, support for a particular political party, support for a particular religious denomination.” [Para. 55]

“...the bakery was required, on pain of liability in damages, to supply a product which actively promoted the cause, a cause in which many believe, but a cause in which the owners most definitely and sincerely did not.” [Para. 54]

“The [Sexual Orientation Regulations] do not, at least in the circumstances of this case, impose civil liability for the refusal to express a political opinion or express a view on a matter of public policy contrary to the religious belief of the person refusing to express that view.” [Para. 36]

“The bakery would have refused to supply this particular cake to anyone, whatever their personal characteristics. So there was no discrimination on grounds of sexual orientation. If and to the extent that there was discrimination on grounds of political opinion, no justification has been shown for the compelled speech which would be entailed for imposing civil liability for refusing to fulfil the order.” [Para. 62]

Supreme Court ruling against 'compelled speech' is great news

Some people think Christians should be forced to say things they don't believe. The case brought against Ashers effectively demanded that.



The Christian Institute helped Ashers assemble a top legal team who argued this was a misuse of equality law and a breach of human rights. Thankfully, the Supreme Court agreed, issuing the strongest statement it has ever made against compelled speech.

The Ashers judgment is one of the most important in the world on the limits of discrimination law, and the way human rights protect people

from compelled speech. It enshrines freedom to disagree. It does not permit unlawful discrimination against people.

But, for example, it may be relevant to schools where teachers and pupils are sometimes told to say things they don't believe. A Christian pupil should not be required to support gay pride, any more than a gay teacher should be required to oppose it. Such cases will have to be tested in the courts.

CHRISTIAN BELIEFS RESPECTED IN LAW

The Supreme Court ruling cited the McArthurs' religious belief that "the only form of full sexual expression which is consistent with Biblical teaching (and therefore acceptable to God) is that between a man and a woman within marriage".

In a previous Christian Institute case the High Court held that these Christian beliefs are worthy of respect in a democratic society.

We would want our Christian beliefs to have

more respect in law. But freedom of speech is still widely respected. For centuries Christians have been at the forefront of fighting for this freedom. This case continues that tradition.

It also shows the benefits of taking a stand. The McArthurs paid a price, and had to be in the public eye for over four years. But the legal precedent they have set will be followed by courts in all parts of the UK. It will benefit religious liberty for years to come.

Where the Supreme Court ruling helps

DISCRIMINATION AGAINST A MESSAGE ✓

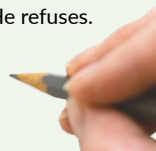
An atheist web-designer is asked to create a site promoting the belief that God made the world in six days. She politely declines, explaining it goes against her atheist principles.



A Christian architect is asked to design a Hindu temple. He argues that designing the place of worship involves promoting a religious message with which he strongly disagrees.



A Muslim printer is asked to print a satirical magazine containing cartoons of Mohammed. He refuses.



A T-shirt company in Northern Ireland owned and run by lesbians declines to print T-shirts with a message describing gay marriage as an "abomination".



A Christian baker declines to ice a cake with a message celebrating Satanism.



Being wise



Many admire the gracious way the McArthur family took their stand. Their Christian character was important to winning the case in both the court of law and the court of public opinion. If you decline to help promote a cause because of your Christian convictions, here are some principles to guide you:

- The Bible tells us to speak “the truth in love” (Ephesians 4:15) and to let our “gentleness be evident to all” (Philippians 4:5). Since everyone is made in God’s image, they must be spoken to with respect (James 3:9-10; 1 Peter 2:17).
- You don’t need to engage in long discussion. It is usually enough to say “As a Christian, I cannot do this with a clear conscience. I am sorry if this causes you inconvenience.”
- Discourtesy is unchristian. It could also mean the difference between winning and losing a court case.
- Mrs McArthur did not say anything about the customer. The issue was with the message she was asked to promote.
- If a small business refuses to help you promote your own Christian message, be prepared to accept it with good grace.

GET GOOD LEGAL ADVICE

This is very important. If your business could be asked to promote ideas you strongly disagree with, you must take legal advice. You may choose to limit bespoke services to avoid unnecessary conflicts. You should get your terms and conditions checked by a sympathetic lawyer. They must be familiar with equality and human rights law, including in relation to religious belief. Don’t forget, The Christian Institute’s Legal Defence Fund exists to help in cases where religious liberty is the central issue.



Find out more at christian.org.uk/ldf

What it doesn't allow

DISCRIMINATION AGAINST A PERSON ✕

A Belfast printing company run by Roman Catholics declines to produce adverts calling for legalised abortion on demand.



A public sector employee is ordered to wear a rainbow lanyard to celebrate gay pride. She politely declines.



A baker refuses to sell an off-the-shelf cake to a Christian, telling him “I don’t serve religious fanatics”.



A Muslim refuses to print business cards for an accountant because he is gay.



An atheist refuses to install a telephone system in a mosque because she objects to the teachings of Islam.



JUDGES NOTE MCARTHURS' COURTESY

When a gay activist ordered the 'Support Gay Marriage' cake, it was Karen McArthur behind the counter that day. The Supreme Court judgment summarises how the family responded:



“Mrs McArthur took the order but raised no objection at the time because she wished to consider how to explain her objection and to spare Mr Lee any embarrassment.”

This was a compassionate and wise response to a difficult situation. Karen did not overreact. Being in a business setting rightly constrains what we say. We must behave professionally.



“Over the following weekend, the McArthurs decided that they could not in conscience produce a cake with that slogan and so should not fulfil the order.”

They took time to discuss the situation, to pray about it, and to take advice from faithful Christians. This showed it really was an issue of conscience and not just a knee-jerk reaction.



“On Monday 12 May 2014, Mrs McArthur telephoned Mr Lee and explained that his order could not be fulfilled because they were a Christian business and could not print the slogan requested. She apologised to Mr Lee and he was later given a full refund and the image was returned to him.”

This was gracious and to the point. The activist actually thanked Karen for how she explained herself. There was, arguably, a minor technical breach of contract but this did not harm Ashers' case under equality law.

Bulls' case not overturned

Laws against race, disability and sex discrimination focus on biological or physical characteristics. But laws on religious and sexual orientation discrimination deal with beliefs and behaviour. They are much more likely to affect freedom of speech and conscience. That is why we helped B&B owners

Peter and Hazelmary Bull when they were sued for not providing a double-bed, in their own home, to a same-sex couple. Sadly, they lost. The judgment in Ashers does not overturn the ruling in the Bulls' case. But it does protect people from having to express ideas and messages they strongly disagree with.

This leaflet does not provide a definitive statement of the law and specific legal advice should always be taken in individual circumstances.

TIMELINE

May 2014

An LGBT activist orders an Ashers cake with the slogan “Support Gay Marriage” for a campaign event.



June 2014

Ashers receives a legal threat from the taxpayer-funded Equality Commission for Northern Ireland.



May 2015

The Belfast County Court rules that Ashers breached discrimination law and orders it to pay £500 damages for injuring the customer's feelings.



October 2016

The Belfast Court of Appeal rejects Ashers' appeal.

May 2018

The UK Supreme Court, sitting in Belfast for the first time, hears arguments relating to the appeal.

October 2018

The Supreme Court, sitting in London, rules unanimously in favour of Ashers Baking Co. on all grounds.



What the commentators said...



“The ruling has implications not simply for Christians or for religious people; it is an important safeguard for us all, because it upholds an important principle of freedom of expression – namely, that no one should be compelled to express a belief that they do not hold, still less a message with which they strongly disagree.”

“The truth is, if the McArthurs had lost, freedom of conscience would have been under threat, by order of the State. ...The law should never have been allowed to persecute a decent Christian family which chose to stick to its guns.”



“The Supreme Court’s recent ruling in the Ashers case lays down a crucial distinction between the general duty incumbent on us all not to discriminate and the protection that must be afforded to religious beliefs.”

Geoffrey Alderman,
historian and columnist for
The Spectator, and The Jewish Chronicle

“‘Cakegate’ is not about gay rights; it is about something even more important: freedom of conscience... The message from the Supreme Court came as a surprise to me, a very welcome surprise. And it said this: it’s getting late in the day, but still nobody can compel you to write down something with which you deeply disagree.”



“The decision of the Supreme Court in the great ‘gay cake’ row is a victory not just for common sense but for freedom of expression. ...The case is emblematic of a growing intolerance towards deeply held Christian beliefs which is rarely applied to other religions.”

The Daily Telegraph

“It is [about] the principle. The freedom not to say something is part of the freedom to say something.”

Ian Hislop, resident panelist on the
BBC’s Have I Got News for You



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