

**Declaration on the Ministry of Bishops and Priests
(Resolution of Disputes Procedure) Regulations 2014**

**Report of the Independent Reviewer for 2017
to the Archbishops of Canterbury and York**

1. This is my third report to Your Graces as required by Regulation 30 of the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014. It is also my final report, as my term of office expired on 31 January 2018. As well as reporting to Your Graces the information I am required to provide by Regulation 31, I have therefore taken the opportunity to offer a brief personal reflection on my experience of the implementation of the House of Bishops' Declaration to date.

Grievances and Concerns Received under the Regulations

2. I did not receive in 2017 any grievance brought by a parochial church council (PCC) under Regulations 9-15 of the Regulations.

The See of Sheffield

3. I did, however, receive two expressions of concern under Regulation 27, into one of which I conducted extensive enquiries. This was, of course, the collection of concerns surrounding the nomination of a bishop to the See of Sheffield. These concerns were referred to me by Your Graces in your letter of 23 March 2017 and were the subject of the report I submitted to you in September 2017. The report was presented by me to a joint meeting of the House of Bishops and the College of Bishops on 14 September and was published the following day.
4. As my report has been published, there is no need for me to repeat the substance of it here or the four recommendations I made as a result of my enquiries. The House of Bishops' response to my report was published on 6 February 2018. In a joint statement, Your Graces announced that the House wholeheartedly accepted all four of the recommendations I had made and reaffirmed its commitment to the principles embodied in the House's Declaration on the Ministry of Bishops and Priests. In particular the House had set up an Implementation and Dialogue Group, chaired by the Bishop of Rochester with the support of the Bishop of Aston, to gather information and examples of good practice; to help further the process of education about the Declaration and its implications; and to assist dioceses, parishes and theological training institutions to implement the terms of the Settlement which in 2014 had enabled the passage of the Measure allowing the consecration of women as bishops. I am grateful for the House's positive response to all four of my recommendations.

A Concern relating to a Parish in the Diocese of Chichester

5. The second expression of concern I received was from a PCC member in the diocese of Chichester. The PCC member was concerned about the circumstances in which a priest who, on grounds of theological conviction, could not receive the ministry of

women as bishops or priests, had been appointed to the parish of whose PCC the complainant was a member, a parish which had not passed a motion as set out in paragraph 20 of the House of Bishops' Declaration and indeed had previously had a female curate who had ministered to it during a lengthy interregnum. Consistent with his theological convictions, the priest appointed was not willing to allow an ordained woman to minister as a priest in the parish.

6. On receiving this expression of concern, I made some preliminary enquiries of the diocese about the circumstances and also sought legal advice on the issues raised. The legal advice I received was unequivocal: the parishioner's concern did not fall within my jurisdiction as Independent Reviewer. The reasoning which led to this conclusion is set out in the appendix to this report. In brief, it may be summarised as follows. The jurisdiction of the Independent Reviewer relates to expressions of concern or grievances arising from the arrangements for which the House of Bishops' Declaration on the Ministry of Bishops and Priests makes provision. The particular situation raised – which as I have said concerned the appointment of a priest who, on grounds of theological conviction, was unable to receive the ministry of women bishops or priests, to a parish where the parishioners are not of that conviction – was not a situation in respect of which the Declaration made any arrangements. Consequently any cause for concern to which such an appointment might give rise was not a concern in relation to an aspect of the operation of the Declaration and was not therefore within the remit of the Independent Reviewer.
7. The advice also confirmed that, although the appointment made in the parish was that of a priest in charge rather than an incumbent, the PCC had in practice been afforded the same rights as they would legally have been entitled to if the appointment had been one of an incumbent. Moreover the person appointed as priest in charge had the same rights under Canon C 8 to allow another priest to officiate or not to officiate in his parish as an incumbent would have.
8. In the light of this legal advice, I informed the PCC member who had been in touch with me that I could not enquire further into the matter, nor would it be appropriate for me to comment on the particular circumstances surrounding the appointment of the priest in charge or the handling of the appointment by the diocese of Chichester. My letter continued:

“Nonetheless I am concerned that the situation you have drawn to my attention raises an issue of principle and of pastoral practice which it would be helpful for the Church as a whole to consider. It is clear to me that, provided the requirements of the parochial appointments system are observed, it is entirely acceptable under the terms of the House of Bishops' Declaration for a priest who on theological grounds cannot accept the ministry of women to be appointed to a parish which has not passed a resolution under the Declaration and indeed has a history of having accepted the ministry of women. The question raised is, I think, a narrower one and is as follows:

Before an appointment is made to a parish which has not passed a resolution under the terms of the House of Bishops' Declaration, does the PCC have a right to express a view on whether or not the parish would be willing to accept the appointment of a priest who, on grounds of theological conviction, cannot receive the ministry of women as bishops or priests?

"I should emphasise that in identifying this issue as one which I believe should be addressed, I do not imply any criticism of or view on what happened in relation to [the parish concerned]. For the reasons I have given I have no jurisdiction to do that, nor have I enquired sufficiently closely into the matters you referred to me to have the basis on which I could express a view one way or the other. My concern simply arises from the affirmation in the House of Bishops' Declaration of the need for reciprocity and the mutual flourishing of all and my sense that, if this is to be fully delivered, the Church as a whole would benefit from some further consideration of the pastoral implications of what should happen in the kind of circumstances which were to be found [in the parish you mention].

"In my report last year on my Review of a Nomination to the See of Sheffield, I recommended that the House of Bishops commission a group to review the practical and pastoral implementation of the Declaration. I understand that the House's response to this and other recommendations in my report is to be announced shortly. I will also shortly be preparing my annual report to the Archbishops of Canterbury and York. I intend to draw attention in that report to our exchange of correspondence and to recommend that, assuming my recommendation in the Sheffield report is accepted, the issue of principle I have identified above is addressed by the group I proposed be appointed. It will be for the group itself to decide whether and if so how to pursue the matter but I hope that it will choose to approach it not primarily as a legal question but as one where the development of pastoral advice on how best to handle such circumstances will assist mutual flourishing in the whole church.

"I hope you will accept that, in the circumstances I have described, this represents a sensible and proportionate way of handling the matter you raised with me."

9. **Accordingly I recommend to Your Graces that the issue of pastoral practice identified above be referred for consideration to the Implementation and Dialogue Group which the House of Bishops has established following my recommendation in my report on the See of Sheffield.**
10. The case I have described raises a further issue of some importance, in respect of the remit of the Independent Reviewer. The legal advice I received reflects the fact that the House of Bishops' Declaration essentially concerns the making of arrangements for those who, on theological grounds, cannot accept the ministry of women as bishops and priests, rather than arrangements for those who are happy to receive

such ministry. However, its effect appears to be to confine the Independent Reviewer to the consideration of expressions of concern relating only to arrangements made under the Declaration: the application of the Five Guiding Principles and Three Supporting Principles set out in the Declaration – the Three Supporting Principles being simplicity, reciprocity and mutuality (or mutual flourishing) – to those who have no difficulty in accepting the ministry of women as bishops and priests appears to be placed outside the Independent Reviewer’s jurisdiction (except where those concerns arise directly in consequence of an arrangement made under the Declaration). I am unsure whether this was intended by the authors of the 2014 Settlement and I am uneasy about the Independent Reviewer becoming seen solely or very largely as a channel of potential redress for those who, on theological grounds, cannot accept women’s ministry as bishops and priests as opposed to a channel through whom the application of the Five Guiding Principles may be considered whatever the circumstances in which they are relevant.

11. It is not for me to say more of substance on this matter than that **I also recommend that the issue of the scope of the Independent Reviewer’s jurisdiction which I have identified above be examined in whatever way seems best to Your Graces and the House.** I simply observe that reaching a conclusion on the matter will require not only reflection on the intentions of those who fashioned the 2014 Settlement but also on legal issues and on how the role of the Independent Reviewer should sit alongside the developing function of the House’s newly established Dialogue and Implementation Group.

Other Correspondence Received

12. In addition to the two cases mentioned above, I received in the course of 2017 various other items of correspondence expressing concern about matters relating to the 2014 Settlement. However, none of these in my view constituted an expression of concern raising an issue of general principle in respect of the 2014 Settlement which would have justified me treating them as an expression of concern under Regulation 27. Wherever possible and appropriate I referred those who had written to me to the relevant diocesan authority.

The 2014 Settlement in Practice

13. It may be appropriate to conclude my report with a few brief reflections on how the implementation of the 2014 Settlement is proceeding in practice. While no comprehensive information has been gathered so far on this, a paper presented by the Archdeacon of Berkshire, the Venerable Olivia Graham, to a colloquium on the Five Guiding Principles held at Corpus Christi College, Oxford on 28 October 2017, which drew on information supplied by archdeacons from twenty-two dioceses, concluded that:

“... on the whole it’s all going remarkably well, and the Church of England at a local level is behaving with characteristic flexibility, good humour and pragmatism”.

With her permission, I am making the Archdeacon of Berkshire's paper available to the Implementation and Dialogue Group mentioned earlier. The fact that in the first three years of the arrangements which followed the 2014 Settlement, no grievance has yet been brought by a PCC concerning the manner in which arrangements have been made under the Declaration for its parish, is at least circumstantial evidence that the Archdeacon's conclusion is well founded. She writes at the end of her paper:

“On the whole it appears that the Five Guiding Principles are being used with common sense and courtesy, generosity and good will. There are about twelve thousand, six hundred parishes in the Church of England. Only about five hundred (less than four percent) of these have written letters of request [under paragraph 20 of the House of Bishops' Declaration]. How many more will come remains to be seen, but so far, this “Settlement” appears to have had the intended effect of enabling the Church of England to stay together as a family.”

Whilst it is clear from my experience as Independent Reviewer over the past three years that tensions and anxieties remain and that there cannot be any grounds for complacency, overall my experience suggests that the Archdeacon's conclusion appears to be well founded.

Concluding Remarks

14. As this is my final report to Your Graces, I wish to put on record the valuable support and assistance I have received throughout my period of office from Mr Jonathan Neil-Smith and Ms Sue Moore of the Archbishops' Council's Secretariat and Mr Stephen Slack and the Revd Alexander McGregor, respectively Chief Legal Adviser and Deputy Legal Adviser to the Council. Their wise advice and practical help has been exemplary and in the best traditions of diligent lay servants of the Church. Your Graces have announced that Sir William Fittall will succeed me as Independent Reviewer. In wishing him well, I have no doubt that he will find himself equally well served.

Sir Philip Mawer
26 February 2018

A Concern relating to a Parish in the Diocese of Chichester

Is the concern that has been raised within the remit of the Independent Reviewer?

1. The starting point is Canon C 29 (Of the House of Bishops' Declaration on the Ministry of Bishops and Priests), paragraph 1 of which provides—

The House of Bishops shall be under a duty to make Regulations prescribing a procedure for the resolution of disputes arising from the arrangements for which the House of Bishops' Declaration on the Ministry of Bishops and Priests makes provision.

(The remaining paragraphs of Canon C 29 are concerned with the procedure for making and amending the Regulations.)
2. The House of Bishops made the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations ('the Regulations') 2014 on 17th November 2014.
3. Regulation 27 of the Regulations provides—

Any person may raise a concern, in writing, with the Independent Reviewer in relation to any aspect of the operation of the House of Bishops' Declaration. Any such concern may relate to more than one act or omission under the House of Bishops' Declaration and to more than one parish or diocese.
4. Regulations 28 and 29 provide for the undertaking of inquiries by the Independent Reviewer into the subject matter of concerns raised under regulation 27.
5. The effect of Canon C 29 is that the Regulations made under it must relate to the resolution of disputes about matters in respect of which the House of Bishops' declaration makes 'arrangements'. Regulation 27 is consistent with that in referring to "the operation of" the Declaration. The term 'arrangements' in Canon C 29 should not be construed too narrowly; it should be taken as encompassing any provision made by the Declaration, whether of a greater or lesser degree of formality or specificity. But where the Declaration simply makes no provision in relation to a particular situation, there are no 'arrangements' and, for the purposes of regulation 27, a concern about that situation would not be a concern about the operation of the Declaration.
6. The particular situation raised by Mr X concerns the issue of the appointment of a priest who, on grounds of theological conviction, is unable to receive the ministry of women bishops or priests, to a parish where the parishioners are not of that conviction. That is not a situation in respect of which the Declaration makes any arrangements. Any cause for concern such an appointment might give rise to is not a concern in relation to an aspect of the operation of the Declaration.

7. Accordingly, my advice is that the matters raised by Mr X are not within the remit of the Independent Reviewer.
8. For completeness, I would add that it would make no difference if the matter were raised under the grievance procedure provided for in regulations 8 – 21 instead of as a concern under regulation 27. The grievance procedure is founded on the same canonical provision – Canon 29, paragraph 1 – as the procedure for raising concerns and is also therefore concerned with matters in respect of which the Declaration makes arrangements. Moreover, regulation 8 makes it clear that the scope of the grievance procedure is acts or omissions under paragraphs 16 to 29 or 33 of the Declaration – arrangements for parishes which have passed a resolution requesting that arrangements be made for them under the Declaration. Any dispute as to what should happen in a parish which has not passed such a resolution is therefore outside the scope of the grievance procedure.

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