

Terms of Reference Learning Lessons Case Review – John Smyth QC

These instructions set out the basis on which the National Safeguarding Team of the Church of England commissions Keith Makin (“the Reviewer”) to undertake a review into the Church of England’s handling of allegations relating to the conduct of the late John Smyth QC.

The Review will consider the response of the Church of England and its officers to those allegations, and the response of other organisations, namely Winchester College, the Titus Trust, and the Scripture Union, to the extent that those organisations are willing to co-operate. The approach of those organisation to the Review at the time of its commencement is as follows:

- Winchester College. Winchester College has stated that it anticipates that it will cooperate with the Review, providing all relevant information on a voluntary basis, i.e. with the status of an Interested Party rather than a Subject Organisation. In such a capacity, subject to the matter of any live litigation, Winchester College will share its own findings and answer any questions so far as it reasonably can.
- The Titus Trust. The Titus Trust has stated that it is restricted in its participation in the review by ongoing legal action and it is not able to engage in the Review until this has been resolved.
- The Scripture Union. The Scripture Union has confirmed that it will not participate in the Review.

These instructions are given by the National Safeguarding Team (NST) of the Church of England, acting on behalf of the Archbishops’ Council. This document should be read alongside, and forms part of, the agreement between the Reviewer and the Archbishops’ Council in relation to this review (“the Agreement”), in particular, provisions relating to confidentiality and data protection.

1. Objective of the Review

- 1.1 This review (“the Review”) will allow those individuals who have indicated that they have sustained harm at the hands of John Smyth and given an account to the Church of England to describe their experiences.
- 1.2 The Review will consider the actions of Church of England participants and will identify both good practice and failings in the Church’s handling of the allegations relating to John Smyth, including their safeguarding practice, in order that they can take steps to enhance and improve their response to allegations of abuse and, thereby, ensure the Church provides a safer environment for all.

2. Scope of the Review

- 2.1 The Review will focus on two related but distinct questions: (1) what did the Church of England (i.e. relevant officers and institutions) know about alleged abuse perpetrated by John Smyth, and (2) what was the response of the Church of England to those allegations.
- 2.2 In connection with the first question, the Review will consider:
- (1) What information was available to Church of England bodies or office holders relating to John Smyth's alleged abuse of children and individuals; and
 - (2) Who had this information and when and what did they do with it.
- 2.3 In connection with the second question, the Review will consider:
- (1) Whether, when the abuse was reported, relevant Church of England bodies and office holders responded in a timely and appropriate manner in line with child protection/or safeguarding best practice in force at the time, as well as relevant legislative requirements;
 - (2) Whether such abuse, and any further abuse, could have been prevented;
 - (3) Whether Church of England bodies and office holders responded appropriately to the needs of those subject to abuse by John Smyth; and
 - (4) Taking account of the [Gibb review](#), what additional lessons can be learnt which are relevant and which might improve safeguarding practice in the Church of England.

3. Principles underpinning the Review

- 3.1 The Reviewer should:
- (1) Place the actions of individuals and Church bodies in context, showing understanding of the underlying reasons that led to individuals and organisations acting as they did, or which might explain why they did so.
 - (2) Consider the actions of individuals and organisations against the standards of practice which applied at the relevant time, i.e. understand practice from the view point of the individuals and organisations at the time rather than using hindsight.
 - (3) Be transparent and open about the collection and use of information.
 - (4) Make use of relevant research (for example which allows the Reviewer to assess conduct at a particular date against the standards in place at that date) and appropriate evidence to inform all judgments.

- (5) Use their best endeavours to obtain accounts from as many individuals who have brought forward accounts of abuse by John Smyth as possible, taking account of the timeline for the Review.
- (6) Ensure that if, in the course of their work they identify additional relevant matters (whether additional allegations or failures to respond properly by a church officer¹ or Church body), that these are brought to the immediate attention of the police and other statutory authorities, the Director of Safeguarding, and Winchester College as appropriate.

4. Relevant material

Time frame

- 4.1 Because the exact dates of John Smyth's involvement with the Iwerne Trust are not known, the time frame for the Review will be the period from 1 January 1970 to 1 August 2019. For the purpose of these Terms of Reference, this is the "material period".

Evidence

- 4.2 The Reviewer will need to gather evidence from relevant Church of England bodies and office holders as set out below, so far as this is possible, to include:
 - (1) The oral accounts of those with an interest in this Review, namely survivors, clergy, and appropriate others ("Interested Parties"), to the extent that they are willing to take part in the Review; and
 - (2) Relevant documentary evidence as set out below.
- 4.3 Where appropriate the Reviewer may, with the agreement of the Director of Safeguarding, follow up any alternate material lines of inquiry with any other potentially relevant witness or organisation, not already detailed in these Terms of Reference, which in the Reviewer's opinion might be relevant to the Review.

Oral accounts

- 4.4 The Reviewer may approach Interested Parties, as defined above, to ask them to give an oral account in connection with any matter relevant to the Review. Any oral account given will be recorded and transcribed. Alternatively, where a relevant individual has already given their account to the police or a statutory agency, and would rather not retell their account, the Reviewer may have regard to any relevant account which that individual

¹ In these terms of reference, the meaning of the term "church officer" is to be broadly interpreted, taking into account a range of factors including how the person in question's role may be perceived by those in any relevant parish or congregation, including children, and whether or not the role is paid.

might obtain by making a data subject access request to the appropriate data controller.

4.5 The Reviewer should consider making approaches for accounts and for documentary evidence to:

- (1) Survivors and those who have brought forward allegations of abuse, whether formally investigated or not, including those who wish to remain anonymous
- (2) The Diocese of Ely;
- (3) Hampshire Constabulary;
- (4) Lambeth Palace;
- (5) The National Safeguarding Team of the Church of England;
- (6) The close living relations of John Smyth;
- (7) The Warden and Fellows of Winchester College;
- (8) The Round Church, Cambridge, and any associated church which may have promoted the Iwerne Trust; and
- (9) Other related individuals

Documentary evidence

4.6 The Reviewer will need to take every reasonable step to obtain and review the following documents, so far as they relate to the material period. A reference to a document is to any document in hard copy or electronic form:

Rev. David Fletcher

Any documents in the control or possession of the Rev. David Fletcher which:

- (1) Relate to the decision of the Iwerne Trust to instruct the Rev. Mark Ruston and the Rev. David Fletcher to undertake an investigation, including the instructions which they were given;
- (2) Relate to any report given by the Rev. Mark Ruston and the Rev. David Fletcher following their investigation, including any action taken;

Lambeth Palace

Any documents in the control or possession of the Archbishop of Canterbury which:

- (1) Relate to the report of any allegations of abuse by John Smyth; and

- (2) Relate to any action taken in connection with such allegations.

Diocese of Ely

Any documents in the control or possession of the Diocese of Ely (including any of its constituent bodies) which:

- (1) Relate to the report of any allegations of abuse by John Smyth; and
- (2) Relate to any action taken in connection with such allegations.

The Round Church (the Church of the Holy Sepulchre), Cambridge

Any documents in the control or possession of the Round Church, Cambridge, its parochial church council, clergy, and parish officers which:

- (1) Relate to the report of any allegations of abuse by John Smyth; and
- (2) Relate to any action taken in connection with such allegations

Hampshire Constabulary

Any documents in the control or possession of the Hampshire Constabulary which:

- (1) Document or record any accounts given by any individual who brought forward any allegation of abuse;
- (2) Document the response of any individual who was interviewed in connection with those allegations;
- (3) Record or document any consideration given by the Constabulary to any potential prosecution; and
- (4) Relate to or set out any report of the Constabulary's investigation.

National Safeguarding Team

Any documents in the control or possession of the National Safeguarding Team which:

- (1) Relate to the report of any allegations of abuse by John Smyth; and
- (2) Relate to any action taken in connection with such allegations.

5. Involvement of Interested Parties and the Smyth family

- 5.1 In order to ensure that the Review is transparent and fair:

- (1) These Terms of Reference will be shared with Interested Parties if they wish to see them.
- (2) Interested Parties will be asked if they wish to engage with the Review.
- (3) The Director of Safeguarding will ensure that the Review is shared with Interested Parties and the close living relations of John Smyth with reasonable advance notice of publication.

6. Content of Review

- 6.1 In light of the purpose of the Review (as set out above), based on the evidence available, the Reviewer will answer the questions which are set out in paragraph 3 above.
- 6.2 The Review should be accompanied by an executive summary.
- 6.3 The Reviewer should identify, in an appendix to the Review, all of the oral accounts and documentary records which he has considered.
- 6.4 The Reviewer will not be able to make formal findings of fact but is asked to give a view, informed by his professional judgment, as to what version of events seems most likely, on the balance of probabilities.
- 6.5 The Reviewer should identify examples of good safeguarding practice as well as examples of any inappropriate response.
- 6.6 The Review should be accompanied by a chronology of all events which are relevant in the Reviewer's reasonable opinion.

7. Timeline for the Review

- 7.1 Work on the Review commenced in October 2019.
- 7.2 It is anticipated that the Review shall be completed within no more than nine months from commencement.
- 7.3 The Director of Safeguarding will be the National Safeguarding Team's point of contact for the Review and it is anticipated that the Director and the Reviewer will meet regularly to review the progress of the Review. The Reviewer is asked to provide progress updates to the Director on a regular basis, to include consideration of the draft report.

8. Presentation and publication of Review

- 8.1 The Review should be drafted ready for publication, i.e. with appropriate steps taken to anonymise the name of individuals who do not wish to be named and to redact such information as might allow for identification.

- 8.2 The Reviewer should send the Review in a non-editable electronic format (pdf is best) to the Director of Safeguarding.
- 8.3 The Director of Safeguarding will share the Review with the National Safeguarding Steering Group at the earliest opportunity.
- 8.4 The National Safeguarding Team will publish the Review. The Director of Safeguarding may, in consultation with the Lead Bishop for Safeguarding and the Deputy Director for Communications, apply any redactions for a genuinely good faith reason, for example to preserve the anonymity of a participant in the Review or to comply with any legal obligation.
- 8.5 In advance of publication, the Director of Safeguarding will take reasonable steps to give advance warning to any organisation or individual they consider has been subject to criticism in the Review and will provide a reasonable opportunity for that organisation or individual to respond and take all reasonable steps to incorporate a response in the Review as appropriate.

October 2019