

A GRIEVANCE BROUGHT UNDER *THE DECLARATION ON THE MINISTRY OF BISHOPS AND PRIESTS (RESOLUTION OF DISPUTES PROCEDURE) REGULATIONS 2014*, REG. 10 BY THE PAROCHIAL CHURCH COUNCIL OF THE PARISH OF LULLINGTON WITH ORCHARDLEIGH IN RESPECT OF CERTAIN ACTS AND OMISSIONS OF BISHOP PETER HANCOCK, BISHOP OF BATH AND WELLS AND OF BISHOP RUTH ELIZABETH WORSLEY, BISHOP OF TAUNTON

**Submitted by S P M^cKie Esq.
on behalf of the Parochial Church Council
of the Parish of Lullington with Orchardleigh**

3rd November 2020

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SECTION I

INTRODUCTORY MATTERS

THE PURPOSE OF THIS PAPER

- 1.1.1 The purpose of this Paper¹ is to set out the grievance of Lullington with Orchardleigh Parochial Church Council in respect of certain actions and omissions of Bishop Peter Hancock, Bishop of Bath and Wells² and of Bishop Ruth Elizabeth Worsley, Suffragan Bishop of Taunton brought under *The Declaration on the Ministry of Bishops and Priests (Regulations of Disputes Procedure) Regulations*, Reg. 10.

INTERPRETATION

- 1.2.1 In this Paper we use various words and phrases in special senses which we define in Appendix I. In the main, such words and phrases are given initial capitals. Other words and phrases which are conventionally given initial capitals are also given them in this Paper. Some words and phrases given special definitions in Appendix I do not, however, have initial capitals in order to distinguish their use in their defined sense from definitions given to the same word or phrase with initial capitals.³

¹ See Appendix I

² We understand that Bishop Hancock is a Non-Resolution Bishop (see Appendix I)

³ For example the defined phrases Diocesan Bishop and diocesan bishop (see Appendix I)

FURTHER CORRESPONDENCE AND DISCUSSION

- 1.3.1 Correspondence and discussion in respect of this Paper and the Grievance⁴ will be conducted on the PCC's⁵ behalf by Mr M^cKie⁶ who is authorised by the PCC to do so.

His address and contact details are:-

Rudge Hill House

Rudge

Somersetshire

BA11 2QG

Tel No: 01373 830956

Email: simon@mckieandco.com

- 1.3.2 All correspondence should be copied to the PCC's secretary, Mr Bridges⁷ at wardens@lullandorch.org.uk.

⁴ See Appendix I

⁵ See Appendix I

⁶ See Appendix I. Mr M^cKie has been a parishioner of Beckington Parish since September 2004. He has been a Reader licensed in the Benefice since 6th December 2012 and has regularly taken services in all the churches in the Benefice. He was a member of Rodden's pcc from April 2007 to July 2019. He is on the electoral role of the Parish and is a member of the PCC. He is a highly respected specialist in Revenue Law and a designated member of M^cKie & Co (Advisory Services) LLP. He is a Barrister (non-practising), a Fellow of the Institute of Chartered Accountants in England and Wales, a Fellow of the Chartered Institute of Taxation and a Trust and Estate Practitioner. His professional and legal expertise and experience is relevant to his role in the events summarised in this Paper. Further information about that expertise and experience is available at www.mckieandco.com

⁷ See Appendix I

THE REASONS FOR THE LENGTH OF THIS PAPER

The paucity of previous decisions

- 1.4.1 As far as we are aware, this is only the second grievance which has been sent to the Independent Reviewer⁸ under the Regulations,⁹ Reg. 10 and has not been rejected under Reg. 16 *ibid*. Only four concerns have been raised with the Independent Reviewer under Reg. 27 *ibid* into which the Independent Reviewer has enquired.

Difficulties with the construction of the Declaration and the Regulations

- 1.4.2 It will be apparent from this Paper that there are many provisions in the Declaration¹⁰ and the Regulations the construction of which can only be determined by a process of close reasoning. The construction of these provisions has not previously been considered in detail, or, in respect of some matters, at all, in the published decisions of the Independent Reviewer.

Complexity of the factual background

- 1.4.3 It will be apparent from this Paper that the factual background which is relevant to the Grievance¹¹ is complex.

Dictated at length

- 1.4.4 For all these reasons the Paper has had to be lengthy. In order to help the reader in his consideration of the Paper we give the following guide to its structure.

⁸ See Appendix I

⁹ See Appendix I

¹⁰ See Appendix I

¹¹ See Sections II – XXV below

THE STRUCTURE OF THIS PAPER

Introductory matters

- 1.5.1 We consider in this **Section** the purpose, interpretation, reasons for the length of and structure of the Paper and specify arrangements for further correspondence and discussion in respect of the Paper.

The relevant facts

- 1.5.2 We give the relevant facts in **Sections II - XXV**.

Relevant elements of the Declaration

- 1.5.3 In **Sections XXVI – XXXI** we examine various elements of the Declaration of relevance to the Grievance.

Sections XXXII to XXXVII

- 1.5.4 **Section XXXII** gives the text of the Implementing Steps¹² and a commentary upon them explaining why they take the form that they do including the relevant legal provisions which govern their operation and the way in which they satisfy the Arrangement Criteria.¹³
- 1.5.5 In **Section XXXIII** we set out the text of the Memorandum of Understanding¹⁴ drafted by the Registrar¹⁵ the execution of which constitutes Bishop Worsley's¹⁶ proposed course of action in respect of making arrangements under the Declaration for the Parish.¹⁷ We provide a commentary on the Memorandum of Understanding in which

¹² See Appendix I

¹³ See Appendix I

¹⁴ See Appendix I

¹⁵ See Appendix I

¹⁶ See Appendix I

¹⁷ See Appendix I

we explain why its execution would not fulfil Bishop Hancock's¹⁸ duty under the Declaration to make arrangements to implement the Declaration Resolutions¹⁹ and why, even if the Memorandum of Understanding would be legally enforceable if it were executed, which it would not be, it would not do so.

1.5.6 In **Section XXXIV** we analyse the provisions of the Regulations which govern the PCC's submission of a grievance under Reg. 10 *ibid* explaining why the conditions for the submission of this Grievance are satisfied.

1.5.7 In **Section XXXV** we specify the Grievance first in respect of Bishop Hancock and then in respect of Bishop Worsley.

1.5.8 In **Section XXXVI** we set out various recommendations for addressing the Grievance which we respectfully request the Independent Reviewer to include in his decision on the matter.

1.5.9 In the final section, **Section XXXVII**, we explain the need for Interim Relief²⁰ and an informal process under the Regulations by which the Independent Reviewer may encourage the provision of that relief.

The Appendices

1.5.10 As we have said,²¹ in **Appendix I** we define various words and phrases which are used in this Paper in special senses.

¹⁸ See Appendix I

¹⁹ See Appendix I

²⁰ See Appendix I

²¹ See para. 1.2.1 above

1.5.11 In **Appendix II** we provide copies of various documents supporting our statement of the relevant facts. In these copies we have attempted to redact all private email addresses but not email addresses which are published.

SECTION II

THE RELEVANT FACTS: BACKGROUND INFORMATION

THE PARISH: ITS PLACE IN THE DIOCESE AND ITS GEOGRAPHICAL CHARACTERISTICS

- 2.1.1 The parish of Lullington with Orchardleigh is a small rural parish in the benefice of Beckington with Standerwick, Berkley, Rodden and Lullington with Orchardleigh which is in the Diocese²² of Bath and Wells. The Benefice²³ is a multi-parish benefice of four parishes. The Parish is the result of the amalgamation of the parish of Lullington with that of Orchardleigh and, because of that, has two churches, All Saints, Lullington and St Mary the Virgin, Orchardleigh. All Saints is in the small and picturesque village of Lullington. St Mary's sits on an island in Orchardleigh Lake forming part of land which used to constitute a landed estate but is now principally a golf club. There are 25 dwellings in the Parish in addition to Orchardleigh House and Gold Club and about 50 inhabitants.²⁴

OUR MINISTRY

- 2.2.1 There are services in the Churches²⁵ on every Sunday except on most of the fifth Sundays of the month when the churches of the Benefice take turns to hold a Benefice-wide service. In addition there are services in the Churches on other occasions. There are 22 persons on the electoral roll of the Parish.²⁶ The average

²² See Appendix I

²³ See Appendix I

²⁴ See Appendix II, Doc. 20 pp.22-28

²⁵ See Appendix I

²⁶ These figures are taken from graphs on the website of the Diocese at:- https://www.bathandwells.org.uk/wp-content/uploads/2019/11/FROME_510106_Lullington-w-Orchardleigh.pdf

Sunday attendance is 28 and the Christmas carol service normally has a congregation of 100 to 150.²⁷

2.2.2 A particular feature of the Parish is its wedding ministry.²⁸ It is one of the busiest parishes in the country for weddings.²⁹ In each year between 2012 - 2018 inclusive fifty to a hundred and twenty couples were married in the Churches.³⁰ The PCC regards this wedding ministry as an important part of its mission, often reconnecting the couples who are married with the Church at a point in their lives when they are open to considering fundamental questions about their place in the world and their commitments.

2.2.3 The couples come from far afield to be married and they are required to make the considerable commitment of attending a service in the Parish once in each of six months. They do not normally become part of the Parish's permanent congregation because they tend to come from outside the Parish but they are often prompted to begin, or to resume, worshiping in their home parishes if they do not already do so. Not infrequently, when they have children, they like to have them christened in the church in which they were married.

2.2.4 Maintaining weekly services and this wedding ministry is very time consuming. Not only does the wedding ministry require a heavy investment of time by the retired

²⁷ These figures are taken from graphs on the website of the Diocese at:- https://www.bathandwells.org.uk/wp-content/uploads/2019/11/FROME_510106_Lullington-w-Orchardleigh.pdf

²⁸ See Appendix II, Doc. 20 pp. 23 and 24

²⁹ See Appendix II, Doc. 20 p. 23

³⁰ These figures are taken from graphs on the website of the Diocese at:- https://www.bathandwells.org.uk/wp-content/uploads/2019/11/FROME_510106_Lullington-w-Orchardleigh.pdf

clergymen who take the weddings³¹ but it also involves a considerable amount of administrative work which is undertaken primarily by one of the Churchwardens.³²

2.2.5 It has been many years since an Incumbent³³ has been able to spend very much time in the Parish as our Incumbents have concentrated their efforts on the much larger parish of Beckington.

2.2.6 Our Previous Rector³⁴ was suspended from the exercise of the Cure³⁵ under the Clergy Discipline Measure 2003 s.36(1)(b) on or shortly before Sunday 26th April 2015. He resigned the Cure with effect from the end of 30th September 2018 by agreement under the Clergy Discipline Measure 2003 s.16(3A). Since the Suspension³⁶ the Church's ministry in the Parish, including our services and the provision of pastoral care, has been wholly maintained by volunteers including, originally the four, but now three, Churchwardens, one of whom is a Reader³⁷, other active members of the congregation, two other Readers who regularly take our services of Mattins, Mr Clark³⁸ who takes most of the wedding and Holy Communion services and several other retired clergymen who also help with them. There is also a professional director of music who was previously the fourth Churchwarden.³⁹

³¹ See para. 2.2.6 below

³² See Appendix I. The current Churchwardens are Mr Bridges, Mrs Bridges and Mrs Ladd. Mrs Ladd is the wedding administrator

³³ See Appendix I

³⁴ See Appendix I

³⁵ See Appendix I

³⁶ See Appendix I

³⁷ Mr Bridges, who has been a member of the PCC and its secretary and a Reader licensed in the Benefice for many years. He is also the Vice-Chairman of the PCC. See Appendix I

³⁸ See Appendix I. Mr Clark is over the age specified in the Ecclesiastical Offices (Age Limit) Measure 1975

³⁹ Mr King. See Appendix I

OUR THEOLOGICAL AND LITURGICAL TRADITION

2.3.1 Our regular congregation contains some members who might describe themselves as Evangelicals and one member who might describe himself as Anglo-Catholic but we do not identify corporately with any particular description of churchmanship. Almost all those who are active in the affairs of the congregation, and the PCC corporately, are united, however, in holding a faith firmly based on the scriptures interpreted in accordance with the tradition of the church and wholeheartedly affirm the statement of Canon⁴⁰ A5 that:-

'The doctrine of the Church of England is grounded in the Holy Scriptures, and in such teachings of the ancient Fathers and Councils of the Church as are agreeable to the said Scriptures.

In particular such doctrine is to be found in the Thirty-nine Articles of Religion, The Book of Common Prayer, and the Ordinal.'

2.3.2 The PCC is a corporate member of The Prayer Book Society⁴¹ and almost all our services, with minor variations, are conducted according to The Book of Common Prayer.⁴² The Parish, from time to time, holds special services in conjunction with the Society.

⁴⁰ See Appendix I

⁴¹ Which is registered with the Charity Commission under no. 1099295. See <https://www.pbs.org.uk/>

⁴² Before the lockdown most of the services in the Benefice were conducted according to the Book of Common Prayer. One other parish in the Benefice used the Book of Common Prayer exclusively and the other two used it for at least some services each month. Theologically, the parishes were similar except that Beckington's congregation included a group of conservative evangelicals the members of which in the main attended only its services according to Common Worship

SECTION III

THE RELEVANT FACTS: THE PCC'S THEOLOGICAL CONVICTION AS TO THE ORDINATION AND CONSECRATION OF WOMEN

A THEOLOGICAL IMPOSSIBILITY

- 3.1.1 The PCC considers that it is impossible for a woman to be a bishop or priest in theological reality⁴³ although it entirely accepts that it is now possible for a woman to have those legal status.⁴⁴

THE CONSEQUENCES OF THAT CONVICTION

- 3.2.1 The PCC considers that, because a female cannot be consecrated as a bishop or ordained as a priest in theological reality rather than in law, to be a priest in reality not only must the individual concerned be a legally ordained male but his ordination must be the result of a chain of ordinations and consecrations none of which depend on the ordination or consecration of a female. We have reflected this conviction in the definition of a Recently Lawful Priest or Bishop⁴⁵ given in Appendix I.

⁴³ In describing the PCC's theological conviction on this matter (see paras. 3.2.1 – 3.5.2) we are, of course, summarising the end result of a complex process of reasoning from authority on a matter which, in recent decades of Christian history, has been the subject of almost continual discussion, argument and controversy. It is a description of conclusions forming the PCC's conviction, not a logically ordered argument justifying those conclusions

⁴⁴ Canons C2(1) and C4(1)

⁴⁵ See Appendix I

**THE CONSISTENCY OF SCRIPTURAL HEADSHIP AND THE LONG-STANDING
PRACTICE OF THE WORLDWIDE CHURCH**

- 3.3.1 The arguments of those who consider the ordination of women as priests and the consecration of women as bishops either to be theologically impossible, wrong or a change of practice which, although possible and not in itself wrong, is inexpedient because it should not have been made independently of the other great Christian confessions forming the Universal Church are often rather crudely characterised as being grounded on two radically difference bases. That is that they are based either on a concern for conformity with the tradition of the church, and, in particular, a concern as to the apostolic succession and communion with the wider, worldwide church, or on a scriptural understanding of the complementarity of men and women in which men are to exercise a role of headship. The former view is said to be associated with Anglo-Catholicism and the latter with Conservative Evangelicalism.
- 3.3.2 It is doubtful whether such a crude dichotomy truly reflects the opinions of many who cannot receive the ministry of females as bishops or priests but, in any event, it certainly does not reflect the PCC's view.
- 3.3.3 As we have said, our corporate conviction on the matter is firmly based on scripture interpreted in accordance with the Church's tradition. Church tradition is, in essence, the history of Christ's revelation of Himself in the hearts of the members of the Church. Plainly, understood in this way, Church Tradition cannot contradict the Scriptures or itself and the Scriptures cannot contradict Church Tradition or themselves. Rather, all must reflect the same revealed truth. What contradicts the Scriptures, therefore,

cannot be a part of Church Tradition and an interpretation of the Scriptures which contradicts an interpretation which forms part of Church Tradition must be incorrect.⁴⁶

3.3.4 In our view, the expression in the Scriptures of the complementary roles of men and women, and in particular of husbands and wives, in which men have a role of leadership analogous to the relationship of the head to the body and of Christ to the Church, is consistent with Christ's decision to choose only male apostles and the Church's previously unbroken practice, in following Christ's example, of ordaining only men as priests and consecrating only men as bishops. There is, therefore, in the view of the PCC a congruence between the Church's Tradition, initiated by Christ, in respect of ordination and consecration and God's revelation in the Scriptures of the complementary nature of men and women.

3.3.5 It is important to understanding the issues relevant to the matters set out in this Paper that the PCC does not consider the ordination or consecration of women to be wrong or inexpedient. It considers them to be theologically impossible; to be actions which are simply not within the power of the Church.

THE MINISTRY OF AN INCUMBENT IS INDIVISIBLE

3.4.1 The ministry of an Incumbent being the exercise of leadership of the Christian life of the Parish is, the PCC considers, an indivisible role which includes, *inter alia*, presiding over the sacraments, taking the daily and occasional offices, leading the deliberations of the PCC and overseeing the ministry of curates, Readers and others, providing pastoral care, instructing in Christian doctrine and evangelising those in the

⁴⁶ The PCC is not naively unaware of the difficulties of determining the text and correct interpretation of the Scriptures or the content of Church Tradition

Parish who are uncommitted to Christianity. The exercise of any part of that role by a female Incumbent, therefore, would contradict, because of the role's indivisibility, the theological conviction of the PCC.

THE PRACTICAL EFFECTS OF THE PCC'S THEOLOGICAL CONVICTION

- 3.5.1 The PCC absolutely accepts that this theological conviction is held only by a minority of those in England who consider themselves to be members of the Church and that they are in the minority within the Benefice.⁴⁷ Whilst it considers that its theological conviction on the matter is part of the truth which God has revealed to mankind and, therefore, part of that revealed truth which it is the duty of every Christian to proclaim, it has no wish to impose its views on the other parishes of the Benefice or, indeed, on any other part of the Universal Church or to be discourteous or unkind to those who take a different view and who act upon it.
- 3.5.2 It cannot, in conscience however, receive the ministry of a woman as its incumbent⁴⁸ because for it to do so would be to treat as real something which it considers has existence only as a legal fiction; it would be to indulge in a dishonest pretence in the most sacred areas of our corporate life. It is a logical result of this conviction that all the Churchwardens, and all the Readers of the Benefice particularly associated with the Parish,⁴⁹ have indicated that they will be unable to continue their involvement in parish affairs unless arrangements are put in place under which they are not forced to receive directly the ministry of a female through the direct exercise by her of powers over the parish which are in law episcopal or which are those of the legal Incumbent.

⁴⁷ Although there are many other individuals within the Benefice who share that conviction or are concerned at the appointment of Prebendary Crossman for other reasons (see Section VII below and Appendix II, Docs. 31, 32, 33, 35, 41, 126)

⁴⁸ See Appendix I

⁴⁹ Mr Bridges, Mr Daniel and Mr McKie

SECTION IV

THE RELEVANT FACTS: THE ALTERNATIVE OVERSIGHT RESOLUTIONS⁵⁰

THE RESOLUTION UNDER THE PRIESTS (ORDINATION OF WOMEN)

MEASURE 1993 S.3

- 4.1.1 On 5th February 2004 the PCC passed a resolution under the Priests (Ordination of Women) Measure (No. 2) 1993 s.3 in the form of Resolutions A and B set out in Schedule 1 to that measure.⁵¹ The 2004 Resolution⁵² was not rescinded with the result that after the repeal of that Measure and until 17th July 2016 that resolution was treated under the Declaration as a resolution made in accordance with the Declaration para. 20.⁵³

THE 2016 RESOLUTION

- 4.2.1 With the transitional period having expired, the PCC passed, in accordance with the Declaration para. 20, the 2016 Resolution⁵⁴ under which it requested '*.... on the grounds of theological conviction, that arrangements be made for it in accordance with the House of Bishops' declaration on the ministry of Bishops and Priests.*⁵⁵

⁵⁰ See Appendix I

⁵¹ See Appendix II, Docs. 1-3

⁵² See Appendix I

⁵³ See Declaration para. 43. Canon C29 was promulgated under Amending Canon 33 on 17th July 2014

⁵⁴ See Appendix I

⁵⁵ See Appendix II, Doc. 5. It will be seen that the minuted meeting (Appendix II, Doc. 4) refers to the Resolution but does not record its wording but the wording is recorded in a letter to the Diocesan Bishop of 26th October 2016 (see Appendix II, Doc. 5) which was copied to the Archdeacon of Bath, the Registrar and the Rural Dean of Frome Deanery. Note that due to a typographical error the letter to Bishop Hancock of 26th October 2016 was dated '26th October 2106'

4.2.2 Notice of the passing of this resolution was sent to Bishop Hancock⁵⁶ in accordance with the Declaration para. 20.

The Vacancy begins

4.2.3 As we have said,⁵⁷ the Previous Rector resigned his Cure with effect from 30th September 2018 creating the Vacancy⁵⁸ on 1st October 2018.

The Advowson

4.2.4 The Diocesan Bishop⁵⁹ holds an eighty per cent share in the advowson of the Benefice and, under arrangements made in respect of the advowson under the Pastoral Measure 1968, it was the turn of Bishop Hancock to exercise the right of presentation in respect of the Vacancy.

THE 2018 RESOLUTION

4.3.1 The Resignation⁶⁰ had been agreed with Bishop Hancock some time before it took effect and had been announced in the churches of the Benefice on 12th August 2018. A meeting was held between Archdeacon Gell⁶¹ and the Benefice Churchwardens⁶² at some time after the announcement of the Resignation on 12th August 2018 and before 17th September 2018. A further meeting was held on 17th September 2018 at which Mr McKie represented one of the churchwardens of Rodden parish. At that meeting:-

'The Archdeacon ... said that the meeting must decide whether, because one of the Parishes has passed the Sacramental Provision Resolution, applications

⁵⁶ See Appendix II, Doc. 5. Copies of the letter were sent to the Archdeacon of Bath, the Registrar and the Rural Dean of the Frome Deanery

⁵⁷ See para 2.2.6 above

⁵⁸ See Appendix I

⁵⁹ See Appendix I

⁶⁰ See Appendix I

⁶¹ See Appendix I

⁶² See Appendix I

should only be invited from male Priests. She said that she would give to ...[Mr M^cKie]... a note of the legal authority which provides that that decision must be made at the meeting.⁶³

The Archdeacon asked that the PCC of Lullington and Orchardleigh should, if it wished to maintain its Resolution under the House of Bishops Declaration on the Ministry of Bishops and Priests, confirm that formally by a further resolution of the PCC.'

- 4.3.2 Although it was not necessary under the Declaration for the PCC to confirm its previous Resolution under the Declaration, in accordance with Archdeacon Gell's request the PCC met on 23rd October 2018 and passed the following Resolution:-

'The PCC is minded to reconsider its resolution on the ministry of women priests and bishops as follows: "This PCC requests, on grounds of theological conviction that arrangements be made for it in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests."

Those in favour of retaining the existing resolution 5 those in favour of considering the resolution 2. The resolution previously passed will therefore remain in force.'

- 4.3.3 Shortly thereafter a copy of the 2018 Resolution⁶⁴ was sent to Archdeacon Gell as Bishop Hancock's representative.⁶⁵

The PCC's initial statement of its theological conviction to which the Declaration Resolutions refer

- 4.3.4 Archdeacon Gell asked in response to her receipt of the 2018 Resolution what were the PCC's theological reasons for making it. Some time in late 2018 Mr Bridges sent a response on behalf of the PCC setting out those theological reasons in which he

⁶³ Mr M^cKie asked for the legal authority for the Archdeacon's statement because he thought the statement to be incorrect (see the Patronage (Benefices) Measure 1986 s.11(1) (see Appendix II, Doc. 11, page 2 and Doc. 12). It subsequently transpired that Archdeacon Gell was unable to provide any authority for her statement which, it appears, was based on her personal opinion that acting in accordance with it would be sensible (see Appendix II, Doc. 14)

⁶⁴ See Appendix I

⁶⁵ It will be seen that the history of these resolutions reflected in the relevant correspondence was at first somewhat confused (see Appendix II, Docs. 155, 158, 188 & 191)

made it clear that the PCC considered that both the ordination of women as priests and their consecration as bishops are theologically impossible.⁶⁶

THE FAILURE TO COMPLY WITH PARAGRAPH 22 OF THE DECLARATION

- 4.4.1 In spite of the fact that both the 2016 Resolution and the 2018 Resolution had been passed and that a copy of the former had been sent to Bishop Hancock⁶⁷ and of the latter to Archdeacon Gell as Bishop Hancock's representative,⁶⁸ no consultation with the Parish was made by Bishop Hancock as is required by para. 22 of the Declaration either at the times Bishop Hancock, or Archdeacon Gell on his behalf, was informed that the Declaration Resolutions had been made or at any subsequent time until 8th June 2020.⁶⁹

⁶⁶ See Appendix II, Doc. 15. See para. 3.1.1 above

⁶⁷ See para. 4.2.2 above

⁶⁸ See paras. 4.3.2 and 4.3.3 above

⁶⁹ See Appendix II, Doc. 60 and paras. 10.10.1 & 10.10.2 below

SECTION V

THE RELEVANT FACTS: THE BENEFICE'S DEFERENCE TOWARDS AND EXPECTATIONS OF THE DIOCESAN PERSONNEL

AN INHERITED DEFERENCE AND TRUST

5.1.1 In common with most active members of Church of England congregations in respect of their diocesan bishops⁷⁰ and diocesan personnel,⁷¹ the active members of the congregations of the churches of the Benefice had always had a considerable feeling of deference towards, and trust of, the Diocesan Bishop and the other Diocesan Personnel.⁷² They had always had the reasonable expectation that the Diocesan Personnel would understand those matters of Ecclesiastical Law which were relevant to diocesan and parochial affairs and would explain to them what they needed to know about any such law which was relevant to any matters with which they dealt in conjunction with the Diocesan Personnel.

DEFICIENCIES⁷³ OF THE DIOCESAN PERSONNEL DURING THE SUSPENSION

5.2.1 This deference and trust was not entirely lost even though many in the Benefice considered the behaviour of Bishop Hancock and the other Diocesan Personnel who

⁷⁰ See Appendix I

⁷¹ See Appendix I

⁷² See Appendix I

⁷³ The material in paras. 5.2.1 – 5.4.1, is not included to criticise gratuitously any of the Diocesan Personnel or any other person or to exploit the process under the Declaration para. 10 to pursue dissatisfactions which are irrelevant to that process. It is included in order to explain the Parish's expectation that the provisions of the Declaration would be correctly implemented by the Diocesan Personnel and the reasonable doubts of Mr and Mrs McKie and subsequently of the Churchwardens and the PCC as to the reliability of the Registrar's opinions as to the law

were responsible for the Benefice in respect of, and during, the Suspension to have been deficient.⁷⁴

DEFICIENCIES IN THE REGISTRAR'S ADVICE

5.3.1 Those deficiencies included the provision by the Registrar of incorrect advice in a matter of the greatest importance to the life of the parishes of our Benefice concerning an important legal duty imposed under Charity Law on each of the Benefice PCCs⁷⁵ and on the Diocese.⁷⁶

5.3.2 This incorrect advice concerned the following matters.

The duties to make reports to the Charity Commission

5.3.3 Acts which the Previous Rector was alleged to have committed which were the subject of two complaints made against him under the Clergy Discipline Measure 2003 s.10 created serious safeguarding situations within the Church of England's practice guidance entitled '*Practice Guidance: Responding to Serious Safeguarding Situations relating to church officers*' published on 24th June 2015 and the second such complaint was an allegation to which the Church of England's practice guidance entitled '*Practice Guidance: Responding to, assessing and managing safeguarding concerns or allegations against church officers*' applied. As such they were Serious Safeguarding Situations⁷⁷ in respect of which the members of the Benefice PCCs⁷⁸

⁷⁴ These deficiencies are currently themselves the subject of proceedings under the Clergy Discipline Measure 2003 s.10. Further information will be supplied on request subject to suitable arrangements as to confidentiality being put in place

⁷⁵ See Appendix I

⁷⁶ The Registrar's behaviour in respect of the business of the ad-hoc sub-committee of the core group formed in respect of the complaints against the Previous Rector gave further grounds to Mrs Bridges and Mr and Mrs McKie to doubt the reliability of the Registrar's legal advice. Information as to that behaviour forms part of the information referred to in the previous footnote

⁷⁷ See Appendix I

⁷⁸ See Appendix I

and Bishop Hancock as the Diocesan Bishop were each required to make a Serious Incident Report⁷⁹ to the Charity Commission.

Mrs M^cKie's discovery of these duties

5.3.4 Mrs M^cKie,⁸⁰ who was a member of an ad-hoc sub-committee⁸¹ created by the core group which was convened in respect of these complaints, discovered the existence of these duties to make a report to the Charity Commission through her own independent research. No churchwarden, Benefice PCC member or parish safeguarding officer of the parishes of the Benefice received advice of any sort from the Registrar or the Diocesan Safeguarding Department that such a return was required. Indeed, the Registrar advised that it was not required.⁸²

The Charity Commission's view

5.3.5 In a telephone discussion which took place on 7th December 2017 between Mrs M^cKie and a representative of the Charity Commission, that representative gave his opinion that a report was in fact required. Thereafter, Mrs M^cKie repeatedly brought her concern that such returns were required to the attention of the Bishop's Chaplain⁸³ and the Diocesan Safeguarding Adviser and subsequently to that of Bishop Hancock setting out her detailed grounds for considering that the Registrar's advice on the matter⁸⁴ was incorrect.

⁷⁹ See Appendix I

⁸⁰ Mrs M^cKie has been a parishioner of Beckington Parish since September 2004. She was a member of Rodden PCC from April 2007 to April 2019 and Rodden pcc's Treasurer and Safeguarding Officer from November 2012 to April 2019. She is on the electoral roll of the Parish. She is a highly experienced and well respected expert in Revenue Law and a designated member of M^cKie & Co (Advisory Services) LLP. She was admitted as a solicitor in 1992 and is a Fellow of the Chartered Institute of Taxation. Her professional and legal expertise and experience is relevant to her role in the events set out in this Paper. Further information about that expertise and experience and expertise is available at www.mckieandco.com (see Appendix I)

⁸¹ As was Mrs Bridges (see Appendix I)

⁸² See paras. 5.3.8 & 5.3.9 below

⁸³ The individuals who fulfilled this role changed over the period concerned

⁸⁴ See para. 5.3.11 below

The false statement

5.3.6 At a meeting of the ad-hoc sub-committee which took place on 10th January 2018⁸⁵ the Diocesan Safeguarding Adviser, in the presence of the Registrar, stated that returns were not required by the Benefice PCCs on various grounds including that the Diocese had already made a return in respect of the incidents. In fact, it later emerged that, at that time, no such return had been made.⁸⁶ The Registrar did not at that, or any future, time, attempt to correct that misstatement. It is extraordinary that, in respect of an important legal duty falling on the Diocese, the Registrar should either have been unaware that the Diocesan Safeguarding Adviser's statement was incorrect or, being aware, should not have corrected it.

5.3.7 In an email of 22nd January 2018⁸⁷ the Diocesan Safeguarding Adviser revealed that at that time the Diocese had not made a Serious Incident Report to the Charity Commission. The statement she had made at the meeting on 10th January 2018 at which the Registrar was present, that a return had already been made to the Charity Commission by the Diocese, was, therefore, incorrect.

The Registrar's incorrect advice

5.3.8 In an email from the Diocesan Safeguarding Adviser of 26th January 2018 to Mrs M^cKie, the Diocesan Safeguarding Adviser gave an extract of advice which she said⁸⁸ had been given by the Registrar to one of the churchwardens of the Benefice.

5.3.9 The extract appeared to be a quotation from an email to Mr King, sent when Mr King was a Churchwarden,⁸⁹ in which the Registrar said:-

⁸⁵ See Appendix II, Doc. 8

⁸⁶ See Appendix II, Doc. 6 and para. 5.3.7 below

⁸⁷ See Appendix II, Doc. 6

⁸⁸ See Appendix II, Doc. 9 page 4. This advice has been the subject of much further correspondence with the Diocesan Safeguarding Adviser, Canon Dodds, Bishop Hancock and others

⁸⁹ See Appendix II, Doc. 7

'If you read the Charity Commission's guidance this does not fall as a reportable incident. The overarching advice from the Charity Commission is that a report should be made of any adverse event, actual or alleged, which results in harm to a charity's work, beneficiaries or reputation; the loss of a charity's money or assets, or damage to a charity's property. If you drill down into the reportable categories this matter does not fall within any of them. With specific reference to a parochial church council as a distinct legal entity, I would not normally regard episcopal disciplinary proceedings against an incumbent in respect of allegations of misconduct not involving any members of the church as being reasonably capable of harming the PCC's work ("work" being defined as the statutory functions of a PCC as set out in the Parochial Church Councils (Powers) Measure 1956) or the reputation of the PCC.

That said, I agree with the Diocesan Safeguarding Advisor, that there is no reason why a PCC should not report the fact that their incumbent is facing Clergy Discipline Measure proceedings if it wishes to do so.'

- 5.3.10 There is a great deal of difference between advising that a corporate body has a duty to make a report and saying that it may do so if it so wishes.
- 5.3.11 Mrs M^cKie considered the grounds given by the Registrar for his opinion inadequate and unconvincing and advised the Benefice PCCs accordingly in a substantial paper⁹⁰ in which she considered the grounds of the Registrar's advice and explained her reasoning as to why it could not be relied upon. Following Mrs M^cKie's advice, three of the four Benefice PCCs made returns to the Charity Commission in respect of these incidents and on 19th February 2018, almost a month and a half after the statement of the Diocesan Safeguarding Adviser, made in the Registrar's presence, that such a return had already been made, a return to the Commission was made by the Diocese.
- 5.3.12 In response to those returns, the Charity Commission launched an enquiry and required a meeting to be held between three of their staff and representatives of the Benefice PCCs and of the Diocese. That meeting took place on 25th July 2018 and opened with the Charity Commission representatives circulating a copy of the Charities Act 2011 s.60 which provides that it is an offence for a person knowingly or

⁹⁰ See Appendix II, Doc. 9

recklessly to provide the Commission with information which is false or misleading in various circumstances and also that it is an offence for a person wilfully to alter, suppress, conceal or destroy any document which a person is or is liable to require to produce to the Commission. It also specifies the penalties for those offences which include a term of imprisonment of up to two years. Having been thus cautioned, each of the representatives of the Diocese and PCCs were then asked to sign a copy of the Section 60 to confirm that they had read and understood it.

5.3.13 The minutes of that meeting report the following exchange:-

*'...[Mr McKie said]...that the Diocese's guidance on whether a return to the Charity Commission of the incidents involving[the Previous Rector]... was required had been both inaccurate and contradictory. It was ...[Mrs McKie]... who had first identified that a safeguarding return to the Commission was required. Diocesan representatives had first said that a return was not required, then that it could be postponed until the disciplinary procedure was over and then that such a return had been made by the Diocese when it had not been. Finally the Diocese had only made a return itself after Lullington and Orchardleigh parish had done so on ...[Mrs McKie's]... advice and very shortly before Rodden and Berkley did so. ... [the Diocesan Safeguarding Adviser]... said it was unfortunate that the advice the Diocese had given on this matter was incorrect. ...[Mr McKie]... said that it was clear that no returns would have been made had not ...[Mrs McKie]... identified the need for one and persisted in the face of the Diocese's incorrect advice.'*⁹¹

5.3.14 Although the Charity Commission decided to take no further action in respect of the failures to make these returns by the Diocese and the Benefice PCCs, it expressed its concern *'that the incidents were not reported in a timely manner'* emphasising that in future *'in the event of a serious incident arising which results in, or risks, significant harm to your charity's reputation, the trustees must report it to the Commission.'*⁹²

⁹¹ See Appendix II, Doc. 16

⁹² See Appendix II, Doc. 16

THE BENEFICE'S CONTINUING DEFERENCE TOWARDS, AND TRUST OF,
THE DIOCESAN PERSONNEL

5.4.1 In spite of the fact that the members of the Benefice PCCs had good reason to doubt the reliability of the Registrar's advice,⁹³ and the fact that there was widespread dissatisfaction with the general conduct of Bishop Hancock and the other Diocesan Personnel in respect of the Suspension,⁹⁴ the attitude of deference towards them of those active in the Benefice and the expectation that the Diocesan Personnel would be familiar with relevant aspects of Ecclesiastical Law and would communicate, accurately, any such aspects which were relevant to any matters on which the Diocesan Personnel dealt with the parishioners of the Benefice persisted up to and after the time that Prebendary Crossman's⁹⁵ appointment was announced.

⁹³ See paras. 5.3.1 – 5.3.14 above

⁹⁴ See para. 5.2.1 above

⁹⁵ See Appendix I

SECTION VI

THE RELEVANT FACTS: THE INITIAL PROCEEDINGS IN RESPECT OF FILLING THE VACANCY

MR AND MRS M^cKIE HAD THEN NO SUBSTANTIAL INVOLVEMENT IN RESPECT OF THE VACANCY OR IN THE PARISH

- 6.1.1 Although Mr M^cKie had been involved in the Benefice's planning for the Vacancy,⁹⁶ neither he nor Mrs M^cKie were involved in the formal procedure under the Patronage (Benefices) Measure 1986 Part 2. At that time, they were not involved in the affairs of the Parish beyond the fact that they were occasional attenders at its services and Mr M^cKie occasionally took Mattins in the Parish in his capacity as a Reader.

THE PCC'S LACK OF ACCESS TO INDEPENDENT EXPERT ADVICE

- 6.2.1 The PCC, therefore, did not then have the access to independent expert legal advice⁹⁷ which it now has and, sharing the deference towards the Diocesan Personnel common throughout the Benefice, assumed that having passed the 2018 Resolution and communicated the fact that it had been passed to the Diocesan Bishop through Archdeacon Gell, in appointing an individual to the Cure Bishop Hancock would take proper account of that Resolution. At that time, the PCC had only the haziest idea of the interaction between the provisions of the Declaration and the rules governing the filling of the Vacancy.⁹⁸

⁹⁶ See para. 4.3.1 above

⁹⁷ Mr Daniel having retired as a practising solicitor and, being very elderly (see para. 6.3.3 below) the PCC did not feel that it could ask him to make a detailed study of the relevant law relating to the Vacancy and the Declaration

⁹⁸ Which were, of course, although the PCC could not have been expected to be aware of the fact, to be found in the Declaration and the Patronage (Benefices) Measure 1986 Part 2

BEFORE THE SECTION 11 MEETING

The meeting on 20th May 2019

- 6.3.1 Before the Section 11 Meeting⁹⁹ took place, Archdeacon Gell had a meeting with the PCC on 20th May 2019. None of the Churchwardens have any clear recollection of this meeting. David King, however, recalls that the following points were discussed: Mr and Mrs Bridges' conscientious objections to the ministry of female priests, the willingness of the PCC not to block the appointment of a female priest provided appropriate arrangements were made for the Parish and the fact that, in the event that such arrangements were not made, the three Churchwardens who are now in post would resign their positions.
- 6.3.2 It does not appear, however, that any consideration was given to whether it would be possible to make arrangements for the Parish in accordance with the Declaration if a female priest were appointed to the Benefice or what arrangements might be made for it.
- 6.3.3 The PCC has repeatedly pointed out¹⁰⁰ to Bishop Hancock and other Diocesan Personnel that the Bishop failed in his duty under the Declaration to consult the PCC at the time the Declaration Resolutions were made and to take account of those resolutions in making the appointment. At no time has it been asserted by any of the Diocesan Personnel that the 20th May 2019 Meeting constituted such a consultation or that it led to the Declaration Resolutions being taken into account when the appointment was made. In the PCC's view it did not constitute such a consultation.

⁹⁹ See Appendix I

¹⁰⁰ See paras. 9.2.1, 10.6.1, 10.10.4, 11.4.5, 12.1.1, 12.3.3, 16.1.1 & 20.5.3 below

Archdeacon Gell's remarks

- 6.3.4 A remark of Archdeacon Gell's at this meeting on 20th May 2019 and subsequent advice given by the Registrar led to the Benefice Representatives¹⁰¹ and, it appears, the Diocesan Personnel directly involved in the Vacancy process, receiving an incorrect view of the relevant law with the result that they misunderstood the options available to Bishop Hancock.

Mr King's email

- 6.3.5 On 21st May 2019 Mr King emailed the Registrar and said:

'At a meeting with the Lullington with Orchardleigh PCC yesterday the Archdeacon (and I've copied her in so she's aware) gave the impression that the S11 meeting would make the decision as to whether the appointment would only be open to male candidates or to candidates of either gender. (The background is that we were discussing how to make sure the profile reflected what was likely to happen in terms of Readers¹⁰² should a woman be appointed.)

This is now being challenged and from my reading of the material we've got quite correctly. [sic]

*Could you please clarify the legal position and whether the parishes or patron decide this or whether it has to be open candidates [sic] of either gender.'*¹⁰³

Archdeacon Gell's response

- 6.3.6 The Archdeacon, to whom Mr King's email was copied, responded to that email saying:-

'What I was hoping/trying to do yesterday was to open up a conversation around, and help you to try to think about, how or whether Lullington and Orchardleigh PCC would be able to accept the appointment of a woman – provided that provision was made for sacramental and pastoral ministry from a male priest.

In a multi parish benefice, not all of whom have passed the resolution, this is a way in which a range of theological convictions on the ministry of women can

¹⁰¹ See Appendix I

¹⁰² That most were likely to resign their licences were a female priest to be appointed as the Incumbent

¹⁰³ See Appendix II, Doc. 19

be respected.¹⁰⁴ It is set out in section 8.7 of the document “Vacancies in Society Parishes” from Forward in Faith.

It is not the case that the Section 11 meeting has to decide whether the appointment is open to men only, or to both genders equally. I’m sorry if that is what I appeared to say. That is an immensely complicated circle to try to square, and it is hard to point to a straightforward path through.

At the Section 11 [sic] each PCC must decide whether they can agree to a joint statement of needs (ie the benefice profile) or whether any individual PCC wants to make a separate statement. The joint benefice statement opens the post to priests of either gender. If Lullington and Orchardleigh PCC can’t agree to that, then they need to make a separate statement, and the two statements would then go together into the appointment process.’¹⁰⁵

- 6.3.7 Archdeacon Gell did not explain why she considered that writing a joint statement opened ‘the post to priests of either gender’ or why she thought that ‘If Lullington and Orchardleigh PCC can’t agree to that, then they need to make a separate statement...’ It would, of course, have been quite possible to consider only male priests if the Bishop had decided this was the appropriate way to implement the Declaration Resolutions and it would have been quite possible for a joint statement to reflect the differing views on the matter of the Benefice PCCs. Indeed, the joint statement did just that.

The Registrar’s advice

- 6.3.8 More significantly, however, the Registrar also responded by email to Mr King on the next morning and said:-

‘Archdeacon Anne’s response correctly sets out the position.

From the legal perspective, Lullington’s resolution would qualify for the religious exemption in the Equality Act 2010 and protect your PCC and the Bishop from a discrimination claim if priestly ministry is confined to your parish in accordance with the House of Bishops’ Declaration on the ministry of Priests and Bishops.

The view I take is that the religious exemption in the Equality Act will not protect the Bishop from a discrimination claim if the benefice restricted applications to male candidates. This is because the exemption only applies where it is

¹⁰⁴ As we shall see, however, in Section XXII below, there appears in fact actually to be no precedent for the Parish’s situation

¹⁰⁵ See Appendix II, Doc. 19

required to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers. Only Lullington has passed a resolution and that does not represent the theological conviction of the benefice as a whole.

Legally, the post must be open to priests of either gender¹⁰⁶ ...'

6.3.9 The Registrar gave no specific authority beyond the unspecified reference to the 'Equality Act' for his opinion and it is very difficult to reconcile his statement with the provisions of the Equality Act 2010 to which, one presumes, the Registrar referred.

6.3.10 His statement that '*... the exemption only applies where it is required to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers. Only Lullington has passed a resolution and that does not represent the theological conviction of the benefice as a whole*' seems to have been a reference to the Equality Act 2010 Sch. 9 para. 2 which provides that:-

- '(1) A person (A) does not contravene ...[the relevant provisions of the Act]... applying in relation to employment a requirement to which sub-paragraph (4)¹⁰⁷ applies if A shows that—*
- (a) the employment is for the purposes of an organised religion,*
 - (b) the application of the requirement engages the compliance or non-conflict principle, and*
 - (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).*

The Non-Conflict Principle

6.3.11 Sub-paragraph (6) *ibid.* then provides that:-

- '(6) The application of a requirement engages the non-conflict principle if, because of the nature or context of the employment, the requirement is applied so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.'*

¹⁰⁶ See Appendix II, Doc. 19. One presumes by 'gender' the Registrar meant 'sex'

¹⁰⁷ Which applies, *inter alia*, to a requirement to be a particular sex (Equality Act 2010 Sch. 9 para. 2(4)(a))

6.3.12 So the ‘non-conflict principle’, if applicants for the Vacancy had been restricted to males, would have been engaged if, because of the nature or context of the Cure, the requirement that an applicant must be male was applied ‘*so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion’s followers.*’

6.3.13 One is, therefore, to look at a group of people whose religious convictions conflict with what it is the purpose of the restriction to avoid. One must determine whether the number of those persons is significant in relation to the whole of the religion’s followers. That is clearly a numerical comparison.

The Registrar’s view of the required comparison

6.3.14 The Registrar based his opinion on the fact that Lullington’s conviction in the matter did not ‘*represent the theological conviction of the Benefice as a whole*’.

6.3.15 The Registrar’s construction involves, therefore, a comparison of the Parish with the Benefice as a whole. That construction is wrong for two reasons. First because it equates the Benefice as a whole with the ‘religion’s followers’. Secondly, because in considering who are the holders of the relevant ‘strongly held religious convictions’ he considers only the members of the Parish and not the followers of the religion as a whole.

The Benefice or the religion’s followers?

6.3.16 It is not entirely clear how one determines who are a ‘*religion’s followers*’ but in respect of Christianity that must be a reference to the followers of Christianity as a whole or at least to those of them who are adherents of a major confessional division of Christianity; in this case the Church of England.

The Parish or those who hold the relevant convictions amongst the followers of the religion?

- 6.3.17 Implicit in the Registrar's construction is the view that in determining the group which holds the relevant religious convictions one must have regard only to those immediately affected by the decision as to who should be employed in respect of the relevant appointment. If that were the case, the non-conflict principle is unlikely ever to be engaged. That is because the persons affected by a decision in relation to a particular employment are likely to be measured in tens, hundreds or thousands whereas the Church of England's active followers are measured in hundreds of thousands¹⁰⁸ and Christianity's followers as a whole are numbered in hundreds of millions.
- 6.3.18 Indeed if that construction were correct, even in respect of a single parish benefice which had passed a resolution under the Declaration of which every parishioner shared the conviction underlying the resolution, a decision to restrict applicants to male priests would not engage the non-conflict principle. That is because, even in that situation, the number of persons holding the relevant theological conviction who would be directly affected by the employment would be insignificant in respect of the number of the religion's followers in total.
- 6.3.19 The Registrar's construction, therefore, clearly wrong as a simple matter of English usage, also defeats the purpose of the non-conflict principle by making it effectively redundant.

¹⁰⁸ Average weekly attendance at Church of England services was 871,000 in 2018

A construction doing justice to the legislative purpose

- 6.3.20 In fact, read literally or purposively, sub-paragraph (6) is not to be constructed as the Registrar suggests. The Registrar's construction confuses the avoidance purpose of the restriction with the sub-paragraph's definition of the religious conviction. The purpose of the restriction may be to protect a small group from employing an individual whose appointment would conflict with their religious conviction but that religious conviction must be one which is held by a significant number of the followers of the religion concerned.
- 6.3.21 This construction clearly does justice to the words of the sub-paragraph and is in accordance with its purpose because it does not result in the provision being redundant.
- 6.3.22 It is clear that under this construction, in contrast to that adopted by the Registrar, it is possible, as is clearly envisaged by the Declaration, that applications for at least some benefices may be restricted to males and this may be the case in respect of a multi-parish parish where only one of the Benefice PCCs has passed a resolution under the Declaration. Whether it is appropriate for such a restriction to be made is to be determined by the diocesan bishop of the parish concerned in accordance with the Declaration.

The result of the Registrar's advice

- 6.3.23 Unfortunately, the Registrar's incorrect advice seems to have led those involved in the Vacancy to assume that, as the Registrar advised, *'the post must be open to priests of either' sex*.

THE PCC REPRESENTATIVES UNDER THE PATRONAGE (BENEFICES) MEASURE

1986 S.11

- 6.4.1 The Benefice PCCs held the Section 11 Meeting on 5th June 2019 under the Patronage (Benefices) Measures 1986 s.11.
- 6.4.2 The minutes of the Section 11 Meeting¹⁰⁹ do not record that it was decided that the post should not be restricted to males or that it should not be so restricted nor that applications should be invited from males and female nor that they should be invited only from males.
- 6.4.3 At the Section 11 Meeting it was agreed that each Benefice PCC would appoint two representatives under s.11(1)(b). The representatives appointed by the PCC were Mr Daniel¹¹⁰ and Mr King.
- 6.4.4 Mr Daniel is a Reader licensed in the Benefice and a retired solicitor. He is now 89 years old. He regularly takes Mattins in the Parish as well as Mattins and Evensong elsewhere throughout the Benefice. In view of his age Mr Daniel had intended to gradually wind down his activities as a Reader in the Benefice over the next year or so.¹¹¹ He has indicated to the PCC that he cannot receive the ministry of women bishop and priests and in view of Prebendary Crossman's proposed appointment as Rector he has decided to accelerate his retirement from ministry. He has written to Prebendary Crossman to inform her of that fact.¹¹²

¹⁰⁹ See Appendix II, Doc. 21

¹¹⁰ See Appendix I

¹¹¹ See Appendix II, Doc. 20 page 5

¹¹² On 17th September 2020 Mr Daniel had a major stroke. Whether he will return to his ministry is uncertain

6.4.5 Mr King has, for some years, been the Parish's director of music and was, until recently, a Churchwarden. He considers that he can receive the ministry of women bishops and priests. Indeed, he resigned his position as Churchwarden because he felt that he could not continue in that position under the alternative oversight of Bishop Goodall.¹¹³

¹¹³ See Appendix I and paras. 8.2.2 & 11.1.1 below

SECTION VII

THE RELEVANT FACTS: AFTER THE SECTION 11 MEETING UNTIL THE ANNOUNCEMENT AND ITS IMMEDIATE AFTERMATH

A LACK OF RELEVANT INFORMATION

- 7.1.1 What happened in respect of the appointment to the Vacancy in the period between immediately after the holding of the Section 11 Meeting¹¹⁴ and the Announcement,¹¹⁵ which was on 1st March, is largely unknown to the PCC.

THE BENEFICE REPRESENTATIVES' VIEW THAT THEY WERE UNDER A COMPREHENSIVE DUTY OF CONFIDENTIALITY

- 7.2.1 It seems that the Benefice Representatives were told by one or more of the Diocesan Personnel involved in the Vacancy process that they were under a broad duty of confidentiality going well beyond a simple duty to keep the personal details of the applicants¹¹⁶ confidential.¹¹⁷ It seems that the Benefice Representatives think that this duty of confidentiality prevents disclosure of information within its terms by any individual Benefice Representative even to the pcc¹¹⁸ which he represented.¹¹⁹ One such representative was unclear whether he could reveal Prebendary Crossman's name even after it had been publicly spoken by the Area Dean at the 5th February Service.¹²⁰ It seems that at least some of the Benefice Representatives think that this duty of confidentiality prevents them saying even whether consent to the appointment

¹¹⁴ See paras. 6.4.1 – 6.4.5 above

¹¹⁵ See Appendix I

¹¹⁶ Or rather applicant because there appears to have been only one (see para. 7.7.1 below)

¹¹⁷ See Appendix II, Docs. 27, 29, 30, 31, 40, 217, 242 & 244

¹¹⁸ See Appendix I

¹¹⁹ See Appendix II, Docs. 217 & 228

¹²⁰ See Appendix I

under the Patronage (Benefices) Measure 1986 s.13(1)(b)(i) has been given.¹²¹ Mr King seems to consider that it prevents him saying expressly whether or not more than one applicant was interviewed.¹²²

- 7.2.2 The few facts which the PCC does know about the events which occurred in the Vacancy process are as follows.

THE SECTION 12 MEETING

- 7.3.1 A meeting was held under the Patronage (Benefices) Measure 1986 s.12 on 27th June 2019.¹²³ At that meeting the Declaration Resolutions were mentioned but not discussed.¹²⁴

NO DISCUSSION OF THE IMPLICATIONS OF THE DECLARATION RESOLUTIONS

- 7.4.1 In the meetings of the Benefice Representatives with Diocesan Personnel, the fact that the Declaration Resolutions had been passed was mentioned but they were not discussed save as to passing comments by one or more of the other Benefice Representatives as to the making of those Resolutions.¹²⁵ It seems that no consideration was given to awaiting an application from a suitable Resolution Priest.¹²⁶

¹²¹ See Appendix II, Doc. 28

¹²² Although his indirect statement indicates that there was only one applicant. See Appendix II, Doc. 217

¹²³ See Appendix II, Doc. 21

¹²⁴ See Appendix II, Docs. 22, 23 & 217

¹²⁵ See Appendix II, Doc. 217

¹²⁶ See Appendix I and Appendix II, Docs. 23 & 217

THE JOINT STATEMENT

- 7.5.1 The Joint Statement which was prepared under the Patronage (Benefices) Measure 1986 s.11(1)(a) refers to the 2018 Resolution on pages 2, 4 and 25.¹²⁷

ADVERTISEMENT OF THE POSITION

- 7.6.1 It seems that the position was advertised only twice.¹²⁸ It was first advertised on 17th August 2019.

THE SOLE APPLICANT

- 7.7.1 It seems that Prebendary Crossman was the only applicant for the position.¹²⁹

INTERVIEW OF PREBENDARY CROSSMAN

- 7.8.1 Prebendary Crossman was interviewed on 6th February 2020.¹³⁰

BISHOP HANCOCK'S DECISION TO APPOINT PREBENDARY CROSSMAN

- 7.9.1 Bishop Hancock's decision to appoint her was made at some time before 1st March 2020.¹³¹

¹²⁷ See Appendix II, Doc. 20

¹²⁸ See Appendix II, Docs. 24 & 217

¹²⁹ See Appendix II, Doc. 217

¹³⁰ See Appendix II, Doc. 217

¹³¹ See Appendix II, Doc. 27

THE ANNOUNCEMENT

7.10.1 The following announcement of the decision was made on that date in the churches of the Benefice¹³²:

'Following the recent interviews and in consultation with the Parish representatives, the Bishop is pleased to announce the appointment of the Reverend Prebendary Sharon Margaret Joan Crossman (Ronnie) to the post of Rector of the Benefice of Beckington with Standerwick with Berkley with Rodden with Lullington with Orchardleigh. This appointment is subject to a satisfactory completion of the standard DBS checks made on all clergy taking up a new post.

The PCC of Lullington and Orchardleigh has passed a resolution that arrangements be made for it in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests; therefore alternative sacramental and pastoral provision will be made for that parish.

Details of a Service of Welcome and Institution will be announced in due course.

*Please hold Ronnie in your prayers as she prepares to begin a new ministry among us. We expect Ronnie to arrive in the Benefice in the summer.'*¹³³

WAS THE CONSENT OF THE BENEFICE REPRESENTATIVES GIVEN AND, IF SO,

HOW?

7.11.1 It is unclear how the Parish Representatives' decision to consent to the appointment under the Patronage (Benefices) Measure 1986 s.13(1)(b)(i) was given. Prebendary Crossman attended an evening service in St George's Church, Beckington on 5th February 2020 accompanied by a female.¹³⁴ It appears that she was interviewed on 6th February 2020.¹³⁵ It further appears that a meeting of the Benefice Representatives was held after her visit at which the proposal to appoint Prebendary Crossman was discussed by the Parish Representatives.¹³⁶

¹³² The Announcement was made in the church of St Mary's, Orchardleigh and not in the church of All Saints, Lullington

¹³³ See Appendix II, Doc. 37

¹³⁴ Which we refer to as the 5th February Service (see Appendix I)

¹³⁵ See para. 7.8.1 above

¹³⁶ See Appendix II, Doc. 45

- 7.11.2 It appears that this meeting broke up in disarray. This was because during her visit, one of the Benefice Representatives had learned that Prebendary Crossman had said that she intended, if she was appointed, to live in the rectory with the female whom she had brought with her on her visit to be interviewed and whom she described as her 'partner'. It appears that this meeting was the first occasion on which at least most of the Benefice Representatives were made aware of Prebendary Crossman's intention. This was of considerable concern to some of the Benefice Representatives particularly to those who held conservative evangelical beliefs.¹³⁷
- 7.11.3 It may be that the consent of each of the eight Benefice Representatives was obtained by each signing the form known as 'Form 37' but we have no firm evidence that this was the case.¹³⁸ On 25th August 2020¹³⁹, and again on 25th September 2020¹⁴⁰, Bishop Worsley was requested, in emails from Mr M^cKie, to provide copies of the documentary evidence that the Benefice Representatives consented to the appointment and the manner in which that consent was obtained, Bishop Worsley has ignored these requests.
- 7.11.4 Mr Daniel has said¹⁴¹ that he was summoned to the diocesan offices to sign a letter of appointment of Prebendary Crossman without any further meeting having taken place at which the Benefice Representatives voted together to consent to her appointment. If the consent of the Benefice Representatives was obtained, it is not clear how, after the meeting at which her appointment was discussed broke up in

¹³⁷ See Appendix II, Docs. 31 & 45

¹³⁸ See Appendix II, Doc. 217

¹³⁹ See Appendix II, Doc. 206

¹⁴⁰ See Appendix II, Doc. 236

¹⁴¹ It will be seen that Mr Daniel described events in respect of the Appointment in a telephone conversation with Mr M^cKie which took place on 22nd April 2020 (see Appendix II, Doc. 45). Mr M^cKie was in the process of arranging to have a more detailed discussion at a meeting with Mr Daniel when, on 17th September 2020, Mr Daniel had a stroke which prevented the meeting taking place (see para. 6.4.4 above)

disarray, such consent arose or whether it was given unanimously by all the Benefice Representatives.

WHY DID THE PCC REPRESENTATIVES CONSENT TO PREBENDARY CROSSMAN'S APPOINTMENT?

7.12.1 We do know that the PCC Representatives¹⁴² consented to the appointment. Why was this?

7.12.2 Mr Daniel:-

*'... said that he had made it clear to the Diocesan Representatives and the Appointments Panel that he had voted for Prebendary Crossman's appointment very reluctantly indeed and only on the basis that alternative arrangements would be made for L&O. There had been no discussion with the Diocesan Representatives, in particular the Archdeacon and the Area Dean, as to what those alternative arrangements might be.'*¹⁴³

7.12.3 It appears that Mr Daniel did so because he felt that the PCC would not like to override the wishes of the other parishes if its theological conviction on the matter could be accommodated in other ways.

7.12.4 Mr King has said¹⁴⁴ that he decided to vote according to his own personal conviction and to take no account of the Declaration Resolutions because he had not been directly instructed by the PCC to do otherwise. The PCC had assumed that if he were called upon to consent to the appointment of a female he would, in view of the Declaration Resolutions, revert to the PCC for its instructions.

¹⁴² See Appendix I

¹⁴³ See Appendix II, Doc. 45

¹⁴⁴ See Appendix II, Doc. 217

WIDER CONCERNS IN THE BENEFICE AS TO THE PROPOSED APPOINTMENT

7.13.1 The fact that it was proposed that a woman be appointed as Rector became common knowledge to those who are active in the Benefice after the 5th February Service. Shortly afterwards, various individuals in the Benefice became aware that not only was she accompanied to that service by a female whom she described as her 'partner' and that she intended to live in the rectory with her but that materials on the internet suggested that she was an active campaigner to change the Church's teaching on the sinfulness of homosexual acts.¹⁴⁵

7.13.2 These facts resulted, amongst a number of the conservative evangelicals and of others in the Benefice, in a feeling of dismay at the proposed appointment which, after the appointment was formally announced, led some to withdraw from the congregations of the other churches of the Benefice. Prebendary Crossman's views as to the acceptability of homosexual practice and her proposal to live in the rectory with a female whom she describes as her 'partner' were of concern to a greater number of the members of the congregations of the Benefice than the fact that she was a female *per se*.¹⁴⁶

THE PCC'S GRIEVANCE IS CONCERNED ONLY WITH THE THEOLOGICAL VALIDITY OF THE ORDINATION OF PREBENDARY CROSSMAN

7.14.1 It is no part of the PCC's grievance under the Declaration para. 10, however, that Prebendary Crossman is living in the rectory with a female whom she describes as her 'partner' or that she appears to hold heterodox opinions on Christian sexual ethics.

¹⁴⁵ See Appendix II, Docs. 30, 31, 32 & 33

¹⁴⁶ See Appendix II, Docs. 30, 31, 32, 33, 35, 36, 39 & 41

The PCC's concern in submitting this grievance is solely as to the theological validity of her ordination.

- 7.14.2 It mentions these wider concerns amongst the parishioners of the Benefice merely because they indicate a reluctance on the part of the Diocesan Personnel both to be open with the Benefice Representatives and the Benefice PCCs in respect of matters of importance to the life of the parishes and to the convictions of the parishioners of the Benefice and to take account, in reaching a decision as to the appointment, of matters which were clearly of concern to a significant number of members of the congregations of the Benefice and, therefore, of relevance to the decision as to whether Prebendary Crossman was a suitable person to appoint.
- 7.14.3 They are, therefore, of relevance, in conjunction with Bishop Hancock's similar failure to consult the PCC in respect of the Declaration Resolutions and to take account of those in making his decision to appoint Prebendary Crossman, to demonstrating a pattern of behaviour. The difference is, of course, that Bishop Hancock's duty to consult on the Declaration Resolutions and to take account of them are duties specifically imposed by the Declaration.

SECTION VIII

THE RELEVANT FACTS: AFTER THE ANNOUNCEMENT AND ITS IMMEDIATE AFTERMATH UNTIL THE 26TH APRIL 2020 LETTER

MR AND MRS M^CKIE'S INVOLVEMENT IN THE PARISH

- 8.1.1 Mr M^CKie was part of the congregation at the 5th February Service which was the first time he became aware that it was likely that a woman would be appointed as the Incumbent. At that service he had a brief conversation with Mr Daniel who told him that he thought that it was likely that he could not minister in the Parish if a woman were appointed as Rector. Mr and Mrs M^CKie were immediately concerned for the effect that the Appointment would have on the Benefice and its implications for their own involvement in it, for their access to orthodox worship and for Mr M^CKie's ministry as a Reader.¹⁴⁷

THE MEETING ON 4TH MARCH 2020

- 8.2.1 Knowing that the PCC had passed resolutions under the Declaration and hoping that the Parish might provide a spiritual home in which Mr M^CKie could continue to conduct his ministry as Reader and in which they could worship and could make a worthwhile contribution to the Parish, Mr and Mrs M^CKie had a meeting on 4th March 2020 with Mr and Mrs Bridges to discuss their mutual situations in the light of the proposed appointment.¹⁴⁸ At that meeting Mr and Mrs Bridges made it clear that in the absence of suitable arrangements to implement the Declaration Resolutions they would have, in conscience, to resign their positions as Churchwardens and retire from the life of

¹⁴⁷ Mr M^CKie expressed these concerns in a letter to Bishop Hancock dated 19th February 2020 (see Appendix II, Doc. 32)

¹⁴⁸ See Appendix II, Docs. 32 & 40

the Parish and to cease to attend its services. They also said that Mrs Ladd¹⁴⁹ felt similarly although, because of her sense of obligation to the couples in respect of whose marriage ceremonies she was responsible for administering, she was prepared to stay on until she had completed the administration of those weddings which had already been scheduled.

8.2.2 At that stage, no member of the PCC had much familiarity with the provisions of the Declaration and no member was familiar with normal practice in relation to them. In the expectation that Bishop Hancock would shortly contact the PCC to inform it what arrangements he would make for the Parish, Mr and Mrs McKie undertook to research the matter so that the PCC should understand the provisions under which such arrangements would be made. They did so and in the course of their research Mr McKie contacted Bishop Goodall and conducted a correspondence with him by telephone and email on the matter.

8.2.3 Subsequently, a conference call took place on Monday 20th April 2020 between Bishop Goodall, Mr and Mrs Bridges and Mr and Mrs McKie.

¹⁴⁹ See Appendix I

SECTION IX

THE RELEVANT FACTS: THE 26TH APRIL LETTER

THE PCC'S CONCERN AT BISHOP HANCOCK'S DELAY

- 9.1.1 Concerned that, almost two months after the proposed appointment was announced and with Prebendary Crossman's induction scheduled to take place on 9th July 2020, neither the Bishop nor any of the other Diocesan Personnel had been in contact with the PCC in respect of making arrangements under the Declaration, Mr and Mrs Bridges, having taken the advice of Mr and Mrs M^cKie and Bishop Goodall, wrote jointly to Bishop Hancock, in their capacity as churchwardens, sending the 26th April Letter.¹⁵⁰ In that letter they reminded Bishop Hancock that the fact that the 2018 Resolution had been passed by the PCC was well known to him and to those other Diocesan Personnel who had been involved in the process of filling the Vacancy. They explained that they wrote:-

*'... on behalf of our Parochial Church Council (the "PCC"), that of Lullington & Orchardleigh parish ("L&O"), concerning the resolution (the "Resolution") under the 2014 House of Bishops Declaration that the PCC passed on 23 October 2018. We seek clarification as to how you will give effect to that Resolution. One of our Churchwardens has already written informally on the matter to the Archdeacon of Wells but, in view of the imminent appointment of a new Rector to our Benefice, our PCC has now instructed us to write formally to your Lordship.'*¹⁵¹

TENTATIVE PROPOSALS

- 9.2.1 The PCC entirely appreciated that the arrangements to be made for the Parish under the Declaration were to be decided by the Bishop, although, of course, those arrangements had to conform to the requirements of the Declaration. In view of the

¹⁵⁰ See Appendix I and Appendix II, Doc. 46

¹⁵¹ See Appendix II, Doc. 46

fact, however, that no arrangements had as yet even been proposed let alone made and the planned date for the induction of Prebendary Crossman was only a few weeks away,¹⁵² Mr and Mrs Bridges tentatively made outline proposals for arrangements which, if made, would satisfy Bishop Hancock's duty under the Declaration. These proposals, refined and given detailed form over the following months, developed into the Implementing Steps.¹⁵³ Mr and Mrs Bridges' proposals in the 26th April Letter were as follows:-

'Giving effect to the Resolution

As we understand it, in order that a diocesan bishop might make appropriate sacramental and pastoral provision for a parish under the Bishops' Declaration, it is usual for him to ascertain the nature of the PCC's theological convictions in the matter (Declaration 23). To that end, in 2018 after our passing of the Resolution, at her request we submitted to the Archdeacon of Wells for transmission to you a statement of the PCC's theological convictions which had led to the passing of the Resolution. We enclose a copy of that statement although we no longer have the covering note submitting it to the Archdeacon.

So that we should know how ministry in our parish is to be conducted and how it is to be resourced in relation to the rest of the benefice we should have expected that process of ascertainment and the determination of the alternative arrangements which are to be made to have been concluded before the appointment was decided upon (Declaration 25). Unfortunately, the decision as to the appointment has been made without, as far as we know, any decision having been made as to the alternative provision which is to be made for our parish.

With only a few weeks to go before the planned institution of Prebendary Crossman as Rector we hope that these questions can now be answered quickly. Plainly all involved, not least the new Rector, need to know what provision is to be made for our parish, and how it will operate in the future.

Our thoughts

We appreciate, of course, that the decision as to what alternative arrangements should be made is yours but, in view of the short time available, we put forward, tentatively, some thoughts of our own.

There are two levels of relevance to our situation.

The local level

The first level to consider is the local. We understand that in law the new Rector will have the cure of souls for all the parishes in the benefice, and cannot be

¹⁵² It was scheduled for 9th July 2020. In the event, due to the coronavirus plague, Prebendary Crossman's induction was postponed and she was licensed as a priest-in-charge instead (see para. 13.2.1 below)

¹⁵³ See Section XXXII below

subject to a legal restriction as to the celebration of sacraments¹⁵⁴ so that the operation of the Declaration depends on your and her co-operation. So we look to you not only to implement the Resolution, but also to ensure for us that the Rector-designate fully intends to act in accordance with the Resolution and with the Declaration.

While we have various kinds of pastoral and missionary activity in the parish, not least a vigorous wedding ministry, a stipendiary ministry is not required. We believe, however, that, rather than our being dependent on a purely informal ministry, the best solution may be the appointment of a clergyman, designated and licensed by you and working in the fullest collaboration possible with the new Rector, to undertake the functions of the Rector in the Parish. We are currently served by a number of retired clergy to whom we are immensely indebted. One of them might be willing to assume the responsibility for sacramental and pastoral ministry in our Parish. We should hope that, as the person with immediate pastoral oversight, such a clergyman might oversee the Readers and lay volunteers in the Parish and be the usual chairman of our PCC.

If you thought it worth considering licensing one of our regular retired clergy in this way, we should commend David Clark to you. David has been particularly supportive of the parish during the difficult times resulting from our former Rector's suspension and subsequent resignation. If you thought that an appropriate course of action, might it help if we were to take informal soundings of David to determine whether he would be willing to consider such an appointment and to let you know his response?

The episcopal level

The second level to consider is the level of episcopal oversight. Naturally we have the greatest respect for you personally and for your position. Clearly nothing in the 2014 Declaration alters your position as diocesan ordinary (Declaration 7). We believe, however, that the best arrangements are likely to be the simplest ones; arrangements that are not dependent in the long term on the sex of the diocesan bishop. On that principle, therefore, you might be willing to consider the appointment of a bishop who is a Provincial Episcopal Visitor to provide oversight and to exercise episcopal ministry in the parish.

We should be very content if you were to choose to approach the Bishop of Ebbsfleet, who is, of course, a suffragan bishop in the Diocese and the Provincial Episcopal Visitor for the western part of the Province, to undertake this role. We have previously contacted the Bishop's office to obtain information about the process by which alternative provision is made.

Next steps

The Resolution was passed and accepted in the parish in 2018 because we all hoped, and hope, for the parish to remain united, to flourish and to find its place in the life of the benefice which, as it turns out, will now have its first female incumbent. As things stand, however, there are many points still to be resolved including how ordained and lay ministry is to be conducted in the parish and

¹⁵⁴ Although her duty to comply with the Declaration will indirectly restrict her right to celebrate the sacraments and to conduct her ministry in the Parish if Declaration Arrangements are made (see paras. 27.3.1 – 27.3.5 and 32.3.1 – 32.3.6 below)

*how that ministry is to be resourced. With Prebendary Crossman's institution now so close we hope that these points can be speedily resolved.*¹⁵⁵

9.2.2 The hope expressed in the last paragraph of the letter given above was not fulfilled.

9.2.3 There was almost no progress on the matter during the rest of April, May and June.

¹⁵⁵ See Appendix II, Doc. 46

SECTION X

THE RELEVANT FACTS: AFTER THE 26TH APRIL LETTER UNTIL IMMEDIATELY BEFORE THE 22ND JUNE RESOLUTIONS ARE PASSED

THE CHASING EMAIL OF 13TH MAY 2020

- 10.1.1 No reply was received to the 26th April Letter so Mr and Mrs Bridges sent a chasing letter to Bishop Hancock on 11th May 2020. In that letter they said:

'We refer to our letter of 26th April 2020 concerning the making of alternative arrangements for Lullington and Orchardleigh Parish. We have not received a response to that letter and we are conscious that there is now only a very short time before Prebendary Crossman's licensing on 9th July 2020.

We should be grateful if you would inform us, as a matter of urgency, what process you intend to adopt for making arrangements for this parish under the House of Bishops' Declaration' ¹⁵⁶

THE FURTHER CHASING EMAIL OF 16TH MAY 2020

- 10.2.1 Again they did not receive a reply to this letter but they did receive from Prebendary Crossman an email which suggested that she was proceeding without reference to the theological convictions of the Parish, the 2018 Resolution or the need for arrangements to be made for the Parish to implement the Declaration Resolutions.¹⁵⁷
- They sent, therefore, an email to Bishop Hancock on 16th May 2020 saying:

'My Lord

We respectfully draw your attention to the email that we have received from Prebendary Crossman dated 15th May 2020, a copy of which is given below and to our letters to you of 26 April 2020 and 11th May 2020 to which we have not yet received a reply. To date Prebendary Crossman has not given any assurances that she will respect the alternative arrangements which you are to determine under the House of Bishops Declaration and will work with any priest or bishop to whom you assign sacramental and pastoral care of our parish. It appears from Prebendary Crossman's e-mail that she may be proceeding in respect of this parish as if no arrangements are to be made for it under the

¹⁵⁶ See Appendix II, Doc. 47

¹⁵⁷ See Appendix II, Doc. 48

*Declaration. In view of this, we should be grateful if you would respond to our previous correspondence as a matter of the greatest urgency.*¹⁵⁸

AN INADEQUATE RESPONSE ON 16TH MAY 2020

10.3.1 On 16th May a response from the Bishop's Chaplain, Canon Dodds,¹⁵⁹ was received.

It was short and inadequate saying:

*'Bishop Peter asked me to investigate this¹⁶⁰ after your first letter and I have been talking with both Bishop Peter, and then this week with ... [Prebendary Crossman] I still have a little more work to do with regard to your letters. I am due to report back to the Bishop early next week and either he or I will be in touch with you further to that.'*¹⁶¹

10.3.2 In fact, it later become apparent that, even by that later date, that work had hardly begun.¹⁶²

AN EMAIL OF 18TH MAY 2020 EMPHASISING THE URGENCY OF THE MATTER

10.4.1 In response to Canon Dodds' email of 16th May Mr and Mrs Bridges replied on 18th

May saying:

*'We are rather surprised that the Bishop should have taken no steps in the matter until he received our letter of 26th April 2020. Obviously there is now very little time left to put in place suitable arrangements and so we hope the matter will now be dealt with despatch. We look forward to hearing from you as soon as possible.'*¹⁶³

A LACKADAISICAL RESPONSE ON 22ND MAY 2020

10.5.1 In response Mr and Mrs Bridges received another email from Canon Dodds on 22nd

May which displayed no sense of urgency about the matter whatsoever:

¹⁵⁸ See Appendix II, Doc. 49

¹⁵⁹ See Appendix I

¹⁶⁰ This was clearly a reference to the matters referred to in Mr and Mrs Bridges' letter of 11th May 2020 rather than to the email Mr and Mrs Bridges had received from Prebendary Crossman

¹⁶¹ See Appendix II, Doc. 50

¹⁶² See para. 10.9.1 below

¹⁶³ See Appendix II, Doc. 51

*'There have been various conversations this week concerning the arrangements. I haven't got anything definite to report, and I'm on leave next week, but as soon as things become clearer I shall be in touch.'*¹⁶⁴

THE EMAIL OF 25TH MAY 2020 ENUMERATING BISHOP HANCOCK'S FAILURE TO FULFIL HIS DUTY UNDER THE DECLARATION

10.6.1 Alarmed at this lackadaisical response and with only 45 days remaining before the proposed licensing, Mr and Mrs Bridges sent a response by email to Canon Dodds on 25th May 2020 setting out Bishop Hancock's failure to undertake the consultation required by the Declaration when the 2018 Resolution had been made and his continuing failure to consult the PCC and stressing the urgency of his addressing those matters.¹⁶⁵

3RD JUNE 2020 - ANOTHER LACKADAISICAL REPLY

10.7.1 The only response to this email was an email of less than two lines from Canon Dodds on 3rd June 2020 saying:

*'Thank you for your email and the points you make. I have put them to the bishop and will get back to you as soon as he and I have discussed it.'*¹⁶⁶

10.7.2 One might have thought that Bishop Hancock would have discussed the points in Mr and Mrs Bridges' email of 25th May with his Chaplain at some point before this as they consisted of reiterations of points made several times before in Mr Bridges' emails and letters to Bishop Hancock.

¹⁶⁴ See Appendix II, Doc. 53

¹⁶⁵ See Appendix II, Doc. 54

¹⁶⁶ See Appendix II, Doc. 55

REITERATING MR BRIDGES' CONCERNS AT THE UNNECESSARY DELAY

10.8.1 On 4th June 2020 Mr Bridges responded¹⁶⁷ to Canon Dodds' email of 3rd June reiterating his concern at the delay in making suitable arrangements for the Parish and suggesting a Zoom meeting be held involving Canon Dodds, Mr M^cKie and the Churchwardens.

THE TELEPHONE CONVERSATION ON 4TH JUNE 2020

10.9.1 On 4th June 2020 Bishop Hancock telephoned Mr Bridges and had a brief conversation with him in which Bishop Hancock gave no substantive information about the steps he was taking to determine the arrangements or as to the timetable to which he was working but gave vague assurances of his goodwill.

THE 8TH JUNE ZOOM MEETING

10.10.1 On Mr Bridges' behalf, Mr M^cKie organised the Zoom meeting which Mr Bridges' had proposed and it took place on Monday 8th June 2020. Due to a technical difficulty Mr and Mrs Bridges were unable to take part in the meeting but Mr M^cKie represented them at it.

10.10.2 Up to this point, as we have explained,¹⁶⁸ Mr and Mrs Bridges had pursued the matter of the arrangements in their capacity as Churchwardens, also being members of the PCC and part of the majority which had passed the 2018 Resolution. At the 8th June Zoom Meeting,¹⁶⁹ Mr M^cKie put forward, on Mr and Mrs Bridges' behalf, suggestions

¹⁶⁷ See Appendix II, Doc. 56

¹⁶⁸ See para. 9.1.1 above

¹⁶⁹ See Appendix I

as to what would be suitable arrangements for the Parish which were essentially the same as those which Mr and Mrs Bridges had suggested in the 26th April Letter but with a little more detail. In due course¹⁷⁰ his proposals proved to be an accurate representation of the wishes of the PCC and to be consistent with the 22nd June Resolutions¹⁷¹ made subsequently by the PCC.¹⁷²

10.10.3 Mr King took part in the 8th June Zoom Meeting. He set out his personal views in a subsequent email¹⁷³ to Canon Dodds which were at odds with those expressed at the Zoom Meeting by Mr McKie on behalf of Mr and Mrs Bridges and by Mrs Ladd and with the known position of the PCC. Canon Dodds chose to represent this single expression of dissent by Mr King, in his email of 10th June 2020, as indicating that there was ‘a *variety of views*’.¹⁷⁴ One presumes this was meant to suggest that there was a variety of views amongst the members of the PCC on whether, and what, arrangements should be made under the Declaration. In fact there was, and is, a substantial majority of the PCC which cannot, as a matter of theological principle, accept the ministry of females as priests and bishops and continues to support the 2018 Resolution so that it is clear that arrangements must be made for the Parish under the Declaration.

10.10.4 Concerned that this dissenting voice might become an excuse for further delay Mr Bridges emailed Canon Dodds on 12th June 2020 saying:

‘Our PCC has passed the Resolution under the House of Bishop’s Declaration. There is no doubt, therefore, that the Bishop is under a duty to make suitable arrangements for this PCC. David King voted against that Resolution and does not share the PCC’s view that the ordination and consecration [of women] is theologically impossible. We are not discussing whether arrangements should be made for the Parish but the exact details of those arrangements. I believe

¹⁷⁰ See para. 11.1.1 below

¹⁷¹ See Appendix I

¹⁷² See Appendix II, Docs. 60 & 61 and para. 11.1.1 below

¹⁷³ See Appendix II, Doc. 63

¹⁷⁴ See Appendix II, Doc. 64

that the arrangements which Simon put forward on my and Ruth's behalf at the Zoom meeting on Monday correspond to the PCC's wishes in all essentials.

A PCC meeting has been convened for 22nd June 2020 so that the PCC may make its formal decisions as to all the matters which were discussed last Monday at the Zoom meeting. I do not believe that there is "a variety of views" in our PCC on these matters. There is a clear majority of over two thirds of the PCC who cannot accept the validity of the ordination and consecration of women and there are two people, including David, who do not take that position. It is clear from the House of Bishop's Declaration that in these circumstances the view of the majority must prevail.

*The arrangements for our Parish should have been specified and discussed with us before the decision on the appointment was made. It is now time for that omission to be repaired. In view of the short time before the commencement of Prebendary Crossman's ministry I suggest that we proceed on the basis that Ruth's and my, views recorded in Simon's note of Monday's meeting do represent the PCC's views in the expectation that it will be confirmed at the PCC's meeting on the 22nd June 2020. In the event that some part or all of our proposals are not accepted by the PCC the proposed arrangements will have to be modified but if we make no progress at all until then it is very unlikely that the arrangements will be in place by Prebendary Crossman's licensing.'*¹⁷⁵

BISHOP HANCOCK'S INACTION BETWEEN THE 8TH JUNE ZOOM MEETING AND 22ND JUNE 2020

- 10.11.1 It appears that neither Bishop Hancock nor Canon Dodds took any immediate further action in respect of the matter in spite of Mr Bridges' email of 12th June¹⁷⁶ except that Canon Dodds sent another anodyne email on 19th June 2020¹⁷⁷ saying that Bishop Hancock was '*... fully aware of the conversations regarding arrangements, and the meeting on Monday, and that ... [he was] ... listening carefully to all the concerns of the PCC. ...*' but giving no indication of when he would propose arrangements under the Declaration that he considered suitable for the Parish.

¹⁷⁵ See Appendix II, Doc. 65

¹⁷⁶ See para. 10.10.4 above

¹⁷⁷ See Appendix II, Doc. 67

SECTION XI

THE RELEVANT FACTS: FROM THE 22ND JUNE RESOLUTIONS TO THE 1ST JULY

ZOOM MEETING

THE 22ND JUNE RESOLUTIONS

11.1.1 In view of these continuing delays, on 22nd June 2020 the PCC met and made various resolutions as to what it considered to be suitable arrangements which, if made, would fulfil Bishop Hancock's duty under the Declaration. The arrangements proposed in the 22nd June Resolutions corresponded to the position which Mr and Mrs Bridges had set out in the 26th April Letter¹⁷⁸ and which Mr M^cKie had set out on Mr and Mrs Bridges' behalf at the 8th June Zoom Meeting.¹⁷⁹ The 22nd June Resolutions were:-

'5 Advice of Simon M^cKie

That Simon M^cKie should be asked to provide such advice in respect of the making of arrangements under the House of Bishops' Declaration of 2014 as he is willing to provide and should be invited to join the meeting.

6 Arrangements under the House of Bishops' Declaration of 2014

- a. *That the PCC considers that the arrangements (the 'Arrangements') made by Bishop Hancock under the House of Bishops' Declaration of 2014 (the "Declaration") for the episcopal oversight of the Parish should be exercised by a Provincial Episcopal Visitor and not by Bishop Hancock. A person exercising episcopal oversight of the Parish in accordance with this Resolution is hereinafter referred to as the "Overseeing Bishop".*
- b. *That the PCC considers that the Arrangements should provide that the Overseeing Bishop should be Bishop Goodall, the Bishop of Ebbsfleet.*
- c. *That the PCC considers that the Arrangements should provide that David Clark, or if David Clark is unwilling to fill the role another suitable male clergyman (in either case referred to as the "Overseeing Clergyman"), should be appointed to exercise all the functions of the Rector in the Parish and that Prebendary Crossman should not exercise those functions except to the extent that those functions are exercised by her by being delegated to, and exercised by, the Overseeing Clergyman*
- d. *That the PCC considers that the Arrangements made in accordance with (c) above, but without limiting (c) above in any way, should expressly provide that:*

¹⁷⁸ See Section IX above and Appendix II, Doc. 46

¹⁷⁹ See paras. 10.10.1 and 10.10.2 above

- (i) *Prebendary Crossman should not take any services in the Parish of any kind whatsoever except that, at the request of the marrying couple and with the permission of the Overseeing Clergyman, any suitably qualified person, whether male or female, may be permitted to take a marriage service and, at the request of the next of kin of the deceased and with the permission of the Overseeing Clergyman, any suitably qualified person, whether male or female, may be permitted to take a burial service;*
 - (ii) *the Overseeing Clergyman will be authorised to act as Chairman of the Parochial Church Council;*
 - (iii) *the Overseeing Clergyman will be responsible for the provision of pastoral care in the Parish;*
 - (iv) *the Overseeing Clergyman will be responsible for making any applications for the licensing of Readers for ministry in the Parish to the Overseeing Bishop;*
 - (v) *the Overseeing Clergyman will make applications to the Overseeing Bishop for Hilary Daniel, Glyn Bridges, Simon McKie and Edmund Phillimore to be licensed as Readers for ministry in the Parish;*
 - (vi) *the Overseeing Clergyman will be responsible for the oversight of the ministry of Readers in the Parish;*
 - (vii) *the fees charged by clergymen for taking services in the Parish should either be borne directly by the Diocese or should be deducted in arriving at the amount which the PCC decides should be given to the Diocese by way of Parish Share in a year.*
- e. *That the PCC considers that the Arrangements should be specified in a statement of particulars given to Prebendary Crossman under the Ecclesiastical Offices (Terms of Service) Regulations 2009 reg. 3 and that, if Prebendary Crossman is licensed to minister in the Benefice before she is inducted, they should also be specified in her licence and that any such specification or specifications should expressly include all of the matters specified in this Resolution.*
- f. *That the PCC appoints Glyn Bridges to act on its behalf in respect of the Arrangements and, without restricting the generality of the foregoing, confers on him authority to conduct any discussions or take any decisions on its behalf in respect of the Arrangements of any type whatsoever subject only to his acting in accordance with any resolutions made by the PCC.*¹⁸⁰

MR BRIDGES' EMAIL OF 22ND JUNE 2020

11.2.1 On the same day Mr Bridges emailed Canon Dodds setting out the 22nd June Resolutions and again stating the urgency of making progress on the matter saying:

'As it is intended that Prebendary Crossman will be licensed in the Benefice in just over two weeks' time, on 9th July 2020, there is very little time left for the

¹⁸⁰ See Appendix II, Docs. 68 & 69

arrangements to be included in her licence as is best practice in respect of arrangements under the House of Bishop's Declaration. I should urge particularly, therefore, that this matter is dealt with urgently.

*Finally, you will see that, in view of the PCC's Resolution 6(b) and the urgency of the matter I have copied this email to the Bishop of Ebbsfleet and his assistant, Catherine Williamson.*¹⁸¹

11.2.2 On 24th June 2020 Canon Dodds replied in an email which again gave no indication that any steps were being taken in the matter:

*'Thank you for this. Just to say it's safely received and Bishop Peter has been considering and reflecting on it.'*¹⁸²

MR M^CKIE'S CHASING TELEPHONE CALL AND EMAIL OF 26TH JUNE 2020

11.3.1 At Mr Bridges' request, therefore, Mr M^CKie rang Canon Dodds at 12:25 on 26th June and then confirmed the substance of that conversation in an email¹⁸³ to him sent later that day. He pointed out, once again, Bishop Hancock's failure to comply with the Declaration and emphasised the urgency of the matter in the following terms:

'I am writing further to our telephone conversation which took place today at 12:25. As I explained then, I have been asked by Glyn Bridges to contact you on his behalf. As you know Glyn has been appointed to act on behalf of Lullington and Orchardleigh PCC which authorised him, in respect of the arrangements which are to be made under the House of Bishop's Declaration, to conduct discussions, and to take decisions, on its behalf.

In our telephone conversation you informed me that a letter from the Bishop to the PCC is currently in draft and that you expect it to be signed and posted on Monday or Tuesday of next week. If the post is reliable the PCC may receive it on Tuesday or Wednesday. Wednesday is just eight days before Prebendary Crossman is due to be licensed.

The arrangements which the Bishop makes must be in accordance with the principles set out in the House of Bishop's Declaration and, if the PCC considers that they are not, it has the right to make a referral to the independent reviewer under the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014. I am sure that nobody involved will wish it to become necessary for the PCC to make such a referral.

It is therefore essential that the PCC should have sufficient time to consider whether the arrangements which the Bishop proposes to make are

¹⁸¹ See Appendix II, Doc. 69

¹⁸² See Appendix II, Doc. 70

¹⁸³ See Appendix II, Doc. 71

arrangements in accordance with the principles set out in the House of Bishop's Declaration. It will only be able to do that when it has received the Bishop's statement of the arrangements he proposes. It is clearly unsatisfactory to allow just eight days for the PCC to make that consideration and to communicate with the Bishop, or with you on the Bishop's behalf, in response to the proposed arrangements.

This assumes, of course, that the Bishop's letter when it is received will actually make concrete proposals. If the present draft does not do that I strongly urge you that it should be amended so that it does make concrete proposals as to the arrangements for the PCC, and Glyn Bridges on its behalf, to consider.

As time is so short in our telephone conversation I asked you to send a copy of the Bishop's letter, by email, as soon as it is signed, to Glyn Bridges, and myself. In our telephone conversation you would not commit yourself to doing so and so I asked that, if the Bishop were unwilling to allow this simple step to save the waste of unnecessary time, you would email me as soon as you knew that was his decision to say so.

Paragraph 22 of the House of Bishop's Declaration on the ministry of Bishops and Priests provides that a diocesan bishop should consult with a PCC which makes a resolution under the declaration at the time the resolution is made. The fact that such a resolution had been passed was first communicated to the Bishop in 2018 and yet no consultation was undertaken either then or before the Bishop made his decision, at some point before 1st March 2020, to appoint Prebendary Crossman.

The concern of the PCC, however, is not to rake over old failings but that arrangements should be made in accordance with the principles set out in the House of Bishop's Declaration which will allow this vibrant rural Parish to continue to flourish as it has throughout the difficulties of the previous incumbent's suspension, the inter-regnum and the closure of Churches during the Coronavirus plague.

*I look forward, therefore, to hearing from you as a matter of urgency.*¹⁸⁴

THE 26TH JUNE BISHOP HANCOCK LETTER AND THE RESPONSES TO IT

The 26th June Bishop Hancock Letter

- 11.4.1 In response to this email Canon Dodds later undertook to have Bishop Hancock's letter, the 26th June Bishop Hancock Letter,¹⁸⁵ emailed to Mr Bridges and Mr M^cKie as soon as it was signed. It appears that if it were not for Mr M^cKie's email Bishop

¹⁸⁴ See Appendix II, Doc. 71

¹⁸⁵ See Appendix I

Hancock would have been content to delay the process still further whilst Mr Bridges' awaited delivery of the letter by post.

11.4.2 When it was received¹⁸⁶ the 26th June Bishop Hancock Letter revealed for the first time that Bishop Hancock expected to license Prebendary Crossman to exercise her ministry in the Parish without having made any arrangements under the Declaration at all.

11.4.3 Far from containing concrete proposals as to what arrangements should be made, it contained no proposals at all, concrete or otherwise, no statement of the time by which such proposals might be formulated and communicated to the PCC and no explanation of why Bishop Hancock had failed to consider what arrangements should be made for the Parish in making his decision to appoint Prebendary Crossman.

Mr M^cKie's response of 29th June

11.4.4 Dismayed at the contents of the 26th June Bishop Hancock Letter, revealing, as it did, that, with less than a fortnight remaining before Prebendary Crossman's licensing, no effective steps had been taken by Bishop Hancock to make arrangements in accordance with the Declaration and that he did not expect to make any such arrangements before the Licensing,¹⁸⁷ at Mr Bridges' request, Mr M^cKie sent an email to Canon Dodds on 29th June¹⁸⁸ expressing his concern and suggesting that he and Canon Dodds should have a 'Without Prejudice' discussion. A Zoom meeting was arranged to take place between them on 1st July.

¹⁸⁶ See Appendix II, Doc. 74

¹⁸⁷ See Appendix I

¹⁸⁸ See Appendix II, Doc. 76

The 30th June Letter

11.4.5 In addition, Mr Bridges sent to Bishop Hancock the 30th June Letter¹⁸⁹ formally stating the PCC's view that Bishop Hancock's letter was '*both unsatisfactory and unacceptable*' and explaining why that was so. That letter provided an extensive analysis of the principles set out in the Declaration and of their relevance to the making of arrangements for the Parish. It also set out Bishop Hancock's repeated failures to fulfil his duties under the Declaration and the reasons why there was no good reason for this delay. It stated that unless the failures were addressed, the PCC would have to submit a grievance under the Regulations, Reg. 10 but said:-

'Our concern is for the future of the Parish

As I and Mr McKie, on my behalf, have both said on a number of occasions to your Chaplain, however, our desire is not to become embroiled in a formal process of complaint. Rather it is to ensure that you make arrangements for this Parish which recognise and respect the Resolution in accordance with the principles and provisions of the Declaration. If that is achieved the ministry of a vibrant rural parish, including a particularly successful ministry to young adults who are about to be married, will be allowed to continue and to develop further in the fullest possible co-operation with the other parishes of the Benefice.

We cannot, however, continue to send you communications such as this, and the communications referred to in this letter, only to receive anodyne and vague assurances of unspecified future action at an unspecified future time. With the imminence of Prebendary Crossman's licensing the situation is now urgent.'

11.4.6 The 30th June Letter concluded by setting out three steps which Bishop Hancock should take which would allow the PCC to refrain from submitting a grievance under the Regulations, Reg. 10 in the event of Prebendary Crossman's licensing proceeding on 9th July. They were:-

'Avoiding the need to submit a grievance to the Independent Reviewer under the Regulations

Unless we are satisfied that you intend to make suitable arrangements for this Parish in accordance with the Declaration which respect and take full account of our Resolution, we shall submit a grievance to the Independent Reviewer under Reg. 10 of the Regulations. We shall be satisfied only if, by close of business on Wednesday 8th July 2020, the following has occurred:

- *you have put forward proposals for the arrangements which you consider suitable for this Parish which take proper account of the theological convictions of the PCC expressed in the Resolution;*

¹⁸⁹ See Appendix I and Appendix II, Doc. 78

- *either personally, or through your Chaplain, you have entered into substantial discussions with us in respect of those proposals;*
- *you have set out a reasonable time-table for the implementation of suitable arrangements which provides that they will be implemented before Prebendary Crossman's induction to the Benefice;*
- *if they are not to be implemented before Prebendary Crossman's licensing in the Benefice, her licence will exclude her from exercising her ministry in, or in respect of, the Parish.*

In giving you this opportunity to rectify, as far as it is possible to do so, your previous failures to act in accordance with the Declaration we provide the opportunity required by Reg. 9 of the Regulations.'

11.4.7 Bishop Hancock replied promptly on 1st July¹⁹⁰ but in an email which addressed none of the points which Mr Bridges had made.

¹⁹⁰ See Appendix II, Doc. 79

SECTION XII

THE RELEVANT FACTS: FROM THE 1ST JULY ZOOM MEETING TO IMMEDIATELY BEFORE THE LICENSING

MR M^CKIE'S ATTEMPTS TO REACH A COMPROMISE

The Three Actions

12.1.1 At the 1st July Zoom Meeting¹⁹¹ Mr M^CKie, in an attempt to reach a compromise under which the Parish would not be directly subjected to Prebendary Crossman's ministry on her licensing eight days later, agreed to modify the actions which Bishop Hancock would have to take if a grievance were not to be submitted by the PCC under the Regulations, Reg. 10. He confirmed that offer in the 1st July M^CKie Email¹⁹² sent to Canon Dodds on the same day:

'The Three Actions

..., I shall recommend to the PCC that a grievance is not submitted to the Independent Reviewer immediately on Prebendary Crossman's licensing on 9th July if the following occurs before that licensing.

An undertaking by Bishop Hancock and Prebendary Crossman as to her conduct during her licence

First, that the Bishop and Prebendary Crossman give an undertaking in writing to the PCC that she will not exercise the ministry to which she is licensed in any way which is contrary to the principle stated in the Declaration "...that the resolution [passed by the PCC on 23rd October 2018, the "Resolution"] can be implemented effectively."

If the Bishop and Prebendary Crossman are willing to make that undertaking, it would be sensible for us to agree the wording before it is made so as to avoid any disagreement as to the adequacy of the actual wording used.

I suggest the following wording:-

"We undertake to the Parochial Church Council of Lullington & Orchardleigh (the "PCC") that when Prebendary Crossman is licensed to undertake her ministry in the Benefice of Beckington with Standerwick, Berkley, Rodden and Lullington & Orchardleigh she will conduct her ministry so as to give effect to the Resolution of the PCC made on 23rd October 2018 and in accordance with the House of

¹⁹¹ See Appendix I and para. 11.4.4 above

¹⁹² See Appendix I

Bishops' Declaration on the Ministry of Bishops and Priests made on 19th May 2014"

The undertaking must be signed by both Bishop Hancock and Prebendary Crossman.

An undertaking by Bishop Hancock to make arrangements

Secondly, that the Bishop gives an undertaking to the PCC that he will put in place arrangements to implement the Resolution under the Declaration before Prebendary Crossman is inducted to the Benefice.

I suggest the following wording:-

"I undertake to the Parochial Church Council of Lullington & Orchardleigh (the "PCC") that I shall have put in place arrangements to give effect to the Resolution of the PCC made on 23rd October 2018 in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests made on 19th May 2014 before I induct Prebendary Crossman to the Benefice of Beckington with Standerwick, Berkley, Rodden and Lullington & Orchardleigh."

The undertaking must be signed by Bishop Hancock.

A statement as to the reasonableness of the resolutions made by the PCC on 22nd June 2020

Thirdly, that without committing himself to implementing arrangements which are exactly as set out in the resolutions of the PCC of 22nd June 2020, the Bishop states either that he accepts that each of the arrangements suggested in those resolutions are in general a reasonable way of implementing the Resolution or, if he does not consider that to be the case, indicates which of the resolutions he considers to be unreasonable and that the remainder, if any, are reasonable.

I suggest the following wording:-

either:

"I accept that each of the resolutions from 6(a) to 6(e) made by the Parochial Church Council of Lullington & Orchardleigh (the 'PCC') at its meeting on 22nd June 2020 is in general a reasonable way of implementing the Resolution of the PCC made on 23rd October 2018 in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests made on 19th May 2014."

or

"I do not accept that each of the resolutions 6[INSERT LETTERS OF RESOLUTIONS CONSIDERED UNREASONABLE] made by the Parochial Church Council of Lullington & Orchardleigh (the "PCC") at its meeting on 22nd June 2020 is in general a reasonable way of implementing the Resolution (the "2018 Resolution") of the PCC made on 23rd October 2018 in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests made on 19th May 2014 but I accept that each of the resolutions 6[INSERT LETTER OF RESOLUTIONS CONSIDERED REASONABLE] made by the PCC at

its meeting on 22nd June 2020 is in general a reasonable way of so implementing the 2018 Resolution.”

The statement must be signed by Bishop Hancock.

Next steps

I hope that Bishop Hancock will appreciate that the proposals I make in this letter are a considerable concession when compared to the position set out on p 5 of Glyn Bridges’ letter to Bishop Hancock of yesterday’s date. As the time before Prebendary Crossman’s licensing is now so short, I should be grateful if you would respond as soon as possible to say whether or not the Bishop will, before that licensing, implement the three actions I have set out above.

If he does implement those three actions and he subsequently makes suitable arrangements which are in accordance with the Declaration and otherwise acts in the future in accordance with the Declaration I shall recommend to the PCC that a grievance is not submitted to the Independent Reviewer in spite of the fact that, to date, the Bishop has acted contrary to his duties under the Declaration and will do so again in licensing Prebendary Crossman without having made arrangements for the parish in accordance with the Declaration.

*Please would you also say whether the wordings I have suggested for the two undertakings and the statement are acceptable and, if they are not, what amendments to them you would suggest?*¹⁹³

- 12.1.2 Mr M^cKie continued to emphasise the urgency of the matter in emails sent on 2nd¹⁹⁴ and 3rd¹⁹⁵ July 2020.

THE 3RD JULY BISHOP HANCOCK LETTER

- 12.2.1 Bishop Hancock sent the 3rd July Bishop Hancock Letter¹⁹⁶ to Mr Bridges attached to an email. In that letter he did not address the points which Mr Bridges and Mr M^cKie had made in their correspondence of the previous week but Bishop Hancock did say:

*‘I am pleased that over the past few days I have had a number of conversations with the Bishop of Ebbsfleet directly and with his office. He is aware of the discussions which have been happening. You will therefore be pleased to know that I have invited and have received a gracious acceptance from Bishop Jonathan Goodall to undertake the role of “a bishop chosen by the Diocesan Bishop to **provide oversight**” of Lullington with Orchardleigh.’*

¹⁹³ See Appendix II, Doc. 80

¹⁹⁴ See Appendix II, Doc. 82

¹⁹⁵ See Appendix II, Doc. 84

¹⁹⁶ See Appendix I and Appendix II, Doc. 87

12.2.2 He also said:

'As you are aware, The House of Bishop' Guidance on the Declaration recommends that when a resolution is passed in a multi-parish benefice, the Diocesan Bishop should consult with representatives of the other parishes in the benefice in relation to the practical arrangements that need to be made to give effect to the resolution. I am therefore making steps to undertake this consultation through the PCC Secretaries in the benefice.'

12.2.3 In saying this Bishop Hancock appears to have deliberately omitted to mention the fact that the Consultation should have been made at the times he received the Declaration Resolutions.

12.2.4 Bishop Hancock also proposed that:

'To avoid misunderstandings, it would be good to gather all those who are involved in the oversight of the parish. I suggest this should include myself and Bishop Jonathan, Bishop Ruth and Archdeacon Anne from the Diocese, yourself and Simon M^cKie and of course Ronnie. If others from the PCC wish to be present that would of course be acceptable, but I think it might be better to have a smaller number, especially if we are to meet by Zoom.'

12.2.5 Finally, Bishop Hancock said:

'In conversation with others, including Ronnie and Bishop Jonathan, I believe that it would not be appropriate for Ronnie to be inducted as Rector of the benefice until we have a good working relationship which enables Lullington with Orchardleigh, the other parishes in the benefice and Ronnie, as incumbent of the whole benefice, to flourish. I appreciate this will be a disappointment to many in the benefice and it means an induction date cannot be finalised at this stage.'

12.2.6 Although this did not amount to the undertaking which Mr M^cKie had set out in the 1st July Zoom Meeting as constituting the second of the three actions which Bishop Hancock should take before the Licensing,¹⁹⁷ it went some way towards doing so. There was no mention in the 3rd July Bishop Hancock Letter of the other two undertakings which Mr M^cKie had requested.

¹⁹⁷ See para. 12.1.1 above

THE 6TH JULY M^CKIE EMAIL

12.3.1 Mr M^CKie acknowledged this letter on the same day and, at Mr Bridges' request, replied on his behalf in the 6th July M^CKie Email.¹⁹⁸

The damage done by Bishop Hancock's delay

12.3.2 In many ways, the Bishop's 3rd July Letter was very unsatisfactory and in the 6th July M^CKie Email, Mr M^CKie referred to the discourtesy of not paying attention to, and of not actually addressing, the points made by one's correspondents, the need for honest, open, clear and precise responses and the fact that the grounds already existed for a submission of a grievance under the Regulations, Reg. 10. He explained that he did not enumerate Bishop Hancock's previous and intended failures simply in order to score points in a debate but so that Bishop Hancock could appreciate the damage which had been done by his delay and that Bishop Hancock would determine *'to make suitable arrangements for the Parish to implement the 2018 Resolution in accordance with the Declaration with the greatest possible despatch'*.

The requested three undertakings

12.3.3 He referred Bishop Hancock to the three undertakings which he had set out in the 1st July Zoom Meeting and had confirmed in the 1st July M^CKie Email saying:

'On reflection, I hope that you will see the justice and necessity of making, before Prebendary Crossman's licensing, the specified undertakings and giving the specified statement in the terms which I set out in the 1st July E-mail. It is only by your doing so that we shall be able to refrain from submitting a grievance to the Independent Reviewer.'

In the light of your previous and intended derelictions of duty it would not be reasonable to expect that we shall, without the security of having received those undertakings and that statement, refrain from submitting that grievance. Without your taking these three actions before Prebendary Crossman's licensing, therefore, we shall be forced to make arrangements to submit such a grievance. In order to do so we shall need to convene a meeting of the PCC and undertake

¹⁹⁸ See Appendix I and Appendix II, Doc. 91

the considerable work of drafting the grievance. Again, that expense of volunteer time would be avoided if you made a straightforward response to our offer and agreed to make the undertakings and statement we have specified.

I have referred previously in this letter to the burden imposed on the lay volunteers in the Parish by your repeated failures to fulfil your duty under the Declaration. Those burdens continue to accumulate as we attempt to repair, as far as possible, the results of those failures by conducting this correspondence and participating in meetings such as the Zoom meeting which you propose in the 3rd July Letter. You say in that letter that you "... know only too well how full episcopal diaries are ..." I am sure that is true but you, perhaps, are unaware how full are the diaries of professionals and those, such as Glyn, with a distinguished record of public service. We have been forced to expend our time in this way and to accommodate that expenditure within our personal and professional schedules so as to protect the Parish from the consequences of your failure to fulfil your duty.

There can be no good reason why you should add to the burdens imposed on the lay volunteers by refusing to take the three actions we have specified.

If you were to refuse to do so, it would be necessary for the process of discussing the arrangements which are to be made and the process of submitting a grievance to proceed in parallel. That would be very unfortunate and it would be a consequence of your failure to respond positively to the offer which we have made.'

An analysis of the Declaration

12.3.4 Mr McKie also set out, once again, a considered analysis of the Declaration and of its implications for the arrangements which must be made for the Parish.

Bishop Worsley's standing in the matter

12.3.5 Finally, he turned to a new issue which had arisen from the 3rd July Bishop Hancock Letter which was the question of the involvement of Bishop Worsley in the matter. He said:

'Keeping numbers at the Zoom meeting to a minimum to ensure the meeting is fruitful

As I said last week we are, therefore, very happy to take part in the Zoom Meeting which you have proposed. As you say in the 3rd July Letter, in order that the meeting may be as useful as possible it is best to keep the number of attendees to a minimum. We have already said that in order to help achieve that the PCC will be represented at the meeting only by Glyn Bridges and I shall be, in my advisory capacity, the only other person in attendance, from the Parish. Depending on what day the meeting takes place I may be able to offer the services of my personal assistant to listen to the meeting so as to make notes of it.

Attendance of those who have ‘oversight of the Parish’

You have stated as a principle governing involvement in the meeting that in addition to one or more representatives of the Parish:

“To avoid misunderstandings, it would be good to gather all those who are involved in the oversight of the parish”.

We agree with that principle. We quite understand, therefore, why you have suggested that the Archdeacon of Wells, Archdeacon Gell, should participate in the meeting. I confess, however, that we are puzzled by your suggestion that Bishop Worsley should be involved. We are not aware that Bishop Worsley is “involved in the oversight of the Parish”. Canon C20 provides that:

“Every bishop suffragan shall endeavour himself faithfully to execute such things pertaining to the episcopal office as shall be delegated to him by the bishop of the diocese to whom he shall be suffragan.

Every bishop suffragan shall use, have, or execute only such jurisdiction or episcopal power or authority in any diocese as shall be licensed or limited to him to use, have, or execute by the bishop of the same.”

Have you conferred jurisdiction, episcopal power or authority on Bishop Worsley in respect of the Parish? It would be surprising if you had in respect of a parish that holds the theological conviction that the consecration of women is impossible and, therefore, that Bishop Worsley is a bishop in law but not in theological reality. In the spirit of promoting agreement, however, if you insist on the involvement of Bishop Worsley we shall not absolutely object to her involvement but such insistence seems to conflict both with your desire to improve the quality of the meeting by having only a small number of attendees and with the principle of the Declaration of respecting the theological convictions of a parish which has passed a resolution under the Declaration.

I should emphasise that we have no wish to exclude Bishop Worsley from the meeting simply because she is female. After all, we entirely accept the need for the involvement of Archdeacon Gell and Prebendary Crossman. It is simply that we agree with you that the number of attendees should be kept to a minimum and it seems probable that she has no direct standing in respect of the matters to be discussed.’

SECTION XIII

THE RELEVANT FACTS: THE LICENSING

A LAST-MINUTE MODIFICATION TO PREBENDARY CROSSMAN'S LICENCE

13.1.1 By 9th July, the day on which Prebendary Crossman was to be licensed, Bishop Hancock had given no indication of whether he would or would not give the three undertakings, set out by Mr M^cKie at the 1st July Zoom Meeting.¹⁹⁹ On that day, however, Bishop Hancock sent an email to Mr M^cKie saying:

'In advance of the service tonight the PCC might be reassured to know that I have added a clause to the licence for Preb Ronnie Crossman. It includes the words:

"...and to perform all ecclesiastical duties belonging to that office saving unto Ourselves provisions for the Parish of Lullington with Orchardleigh in consequence of their resolution under the House of Bishop' Declaration."

I hope that will help to reassure the PCC that the provisions which have been working up till now will be respected and will continue, until after we have had the opportunity to meet and agree what practical arrangements need to be put in place going forward.

*You will also have noted my intention not to induct Preb Crossman until these arrangements are in place.'*²⁰⁰

THE LICENCE

13.2.1 The text of the licence granted to Prebendary Crossman at the licensing was:

'Peter by divine permission Lord Bishop of Bath and Wells to our beloved in Christ Sharon Margaret Jane Crossman Clerk in Holy Orders. Greeting. Whereas the Benefice of Beckington with Standerwick, Berkeley, Rodden, Lullington and Orchardleigh within our diocese and jurisdiction now stands vacant we do hereby grant you our licence and authority to serve at a stipend in accordance with the diocesan scale during our pleasure or until the admission of an incumbent for the said benefice whichever period shall be the shortest as Priest in Charge of the said Benefice and to perform all ecclesiastical duties belonging to that office saving unto ourselves provisions for the Parish of Lullington with Orchardleigh in consequence of their Resolution under the

¹⁹⁹ See para. 12.1.1 above

²⁰⁰ See Appendix II, Doc. 104

*House of Bishops' Declaration. In testimony whereof we have hereunto set our hand and caused our episcopal seal to be of fixed this ninth day of July in the year of our Lord two thousand and twenty and in the tenth year of our consecration and of our translation the seventh.'*²⁰¹

POSTPONING SUBMITTING A GRIEVANCE UNDER THE REGULATIONS REG. 10

13.3.1 Although Bishop Hancock had given none of the three undertakings requested by Mr M^cKie in the 1st July Zoom Meeting Bishop Hancock had made expressions of intent approximating to two of those undertakings.²⁰² Mr M^cKie felt that these expressions of intent coupled with the scheduling of the 13th July Zoom Meeting²⁰³ were sufficient for him to advise that the PCC might refrain, for the moment, from submitting a grievance under the Regulations Reg. 10.

²⁰¹ See Appendix II, Doc. 106

²⁰² See paras. 12.2.5 & 13.1.1 above

²⁰³ See Appendix I

SECTION XIV

THE RELEVANT FACTS: A SEA CHANGE

THE 10TH JULY BISHOP HANCOCK EMAIL

14.1.1 Mr M^cKie was anxious to know whether Bishop Worsley would be participating in the proposed Zoom meeting or not in the light of the comments he had made in the 6th July M^cKie Email.²⁰⁴ The meeting was to take place on Monday, 13th July 2020 and at 5pm on the preceding Friday he still did not know who the participants of the meeting were to be. In response to his chasing emails²⁰⁵ he received a substantial email from Bishop Hancock, the 10th July Bishop Hancock Email,²⁰⁶ in which Bishop Hancock took the trouble to give a considered reply in response to Mr M^cKie's question, in the 6th July M^cKie Email, regarding Bishop Worsley's standing in the matter.²⁰⁷

14.1.2 In the PCC's view, that email marked a sea change in Bishop Hancock's handling of the matter. Having previously failed to fulfil his duty under the Declaration for a period of almost four years, failed to respond adequately, or sometimes at all, to correspondence from the PCC or its representatives and having been largely passive he now seemed to awake to his duty to make arrangements for the Parish and became active in trying to carry the matter forward. He continued to be so until his unfortunate withdrawal from his duties due to illness.²⁰⁸

²⁰⁴ See para. 12.3.5 above

²⁰⁵ See Appendix II, Docs. 96, 102, 107 & 109

²⁰⁶ See Appendix I and Appendix II, Doc. 110

²⁰⁷ See para. 12.3.5 above

²⁰⁸ See para. 19.2.1 below

AN EXPRESSION OF APPRECIATION

14.2.1 In his reply to the 10th July Bishop Hancock Email Mr M^cKie expressed his appreciation of this change:

*'I very much appreciate your having taken the trouble to explain in detail the reasons for the actions that you have taken in these matters. That is the most important thing I have to say in responding to your email. If I say anything further it is because of the importance of our understanding one another's views on the difficult issues which arise in respect of making arrangements for our parish in accordance with the Declaration.'*²⁰⁹

²⁰⁹ See Appendix II, Doc. 112

SECTION XV

THE RELEVANT FACTS: BISHOP WORSLEY'S POWERS OVER RESOLUTION

PARISHES

THE EXPLANATION IN THE 10TH JULY BISHOP HANCOCK EMAIL

15.1.1 In respect of Bishop Worsley's proposed participation in the 13th July Zoom Meeting,

Bishop Hancock had said in the 10th July Bishop Hancock Email,:

'I did however also wish to reply to a question you raised with me earlier in the week about the role of the Bishop of Taunton in the Diocese. I note your comments are not connected with gender in any way and am grateful to you for clarifying that.

There are a number of reasons why I believe the Bishop of Taunton needs to be aware of the arrangements that I very much hope we will be able to put in place on Monday.

When I became Bishop of Bath and Wells I made arrangements for the three archdeacons to be in effect ordinaries in each other's archdeaconries. This was enacted by an Instrument after consultation with the relevant bodies. This had the effect of allowing each archdeacon to have authority to act in another archdeaconry should the need arise. This provides reassurance that relevant matters can be dealt with expeditiously, should illness, absence or holiday mean one archdeacon was not available for any reason.

I also made similar arrangements with regard to the Bishop of Taunton using a similar legal Instrument, so that saving to myself certain functions, all other functions of the Diocesan Bishop could be undertaken by the Suffragan. This is something which I do not believe is common practice for a diocese but has the similar effect in that parishes and clergy can be reassured that matters can be dealt with promptly and legally, even in my absence. In a diocese with only two bishops and with some 560 churches and 180 Church Schools this has proved to be an invaluable provision.

In addition to that, Bishop Ruth has a greater involvement in Ministerial Development Reviews (MDR) for clergy than I do. So it is far more likely that she will be involved in MDR conversations with Prebendary Crossman than me. It is important that she therefore has a clear understanding what the parish have requested and what provisions are being made in regard to Prebendary Crossman's ministry, as she is the person who will be more involved in the support and development of her ministry.

I think it will be helpful if the practical arrangements which will be put in place as a result of our conversations are put in a letter of understanding which is appended to and cited in the Statement of Particulars and the MDR is one way in which those things are monitored.

In addition to this, Bishop Ruth has a particular responsibility, delegated by me, for our women clergy. We had until recently a Dean of Women in the diocese. Currently this post has not been filled, incidentally making a small saving to diocesan expenditure, but Bishop Ruth currently fulfils this role. As such she will also be relating to Prebendary Crossman in this regard.

I trust that this has helped to clarify this matter for you. I know too that because Bishop Ruth and Bishop Jonathan have worked closely together in the past in similar matters, and that Bishop Jonathan, as an Honorary Assistant Bishop in this Diocese, he is very keen to continue working with her in in this diocese.

Thank you for raising this with me as it has allowed me to clarify things for you in advance of our meeting.’²¹⁰

THE DELEGATION OF POWERS OVER RESOLUTION PARISHES REVEALED

15.2.1 This revealed for the first time that Bishop Hancock had delegated to Bishop Worsley²¹¹ substantial powers over the Resolution Parishes²¹² in the Diocese. This was clearly inconsistent with the Bishop’s duty under the Declaration to implement the resolutions under the Declaration, paras. 18 – 20 made by those parishes.

ANOTHER FAILURE TO FULFIL THE DUTY IMPOSED BY THE DECLARATION

15.3.1 In the 11th July McKie Email,²¹³ therefore, Mr McKie said:

‘My puzzlement about the involvement of Bishop Worsley was, as you know, based on the fact that in specifying the attendees you said that you wished “to gather all those who are involved in the oversight of the parish” and, subject to that, to keep numbers to a minimum. If I have understood what you say in your email below correctly, you have given a blanket authorisation to Bishop Worsley to exercise all your powers in the Diocese save certain powers which you have reserved to yourself. The powers which you have reserved to yourself do not include all powers over parishes which have passed a resolution in accordance with the Declaration. That fully explains why you regard Bishop Worsley as having oversight of our parish and, therefore, why you have included her in those who should participate in the meeting.

I hope you will understand when I say, however, that reserving some powers to yourself but not all your powers over parishes which have passed resolutions

²¹⁰ See Appendix II, Doc. 110

²¹¹ At least he thought that he had done so (see Section XXIV below)

²¹² See Appendix I

²¹³ See Appendix I

*under the Declaration is inconsistent with the Declaration's requirement that suitable arrangements should be made for parishes which have passed resolutions in accordance with the Declaration to implement those resolutions. No doubt you will take that into account when deciding on the arrangements which are to be made for our parish.'*²¹⁴

15.3.2 As the PCC had not been aware that Bishop Worsley possessed powers in respect of their Parish the 22nd June Resolutions did not contain provisions to deal with that problem. This issue is discussed further in para. 18.2.1, Section XXIV and para. 32.7.2 below.

²¹⁴ See Appendix II, Doc. 112

SECTION XVI

THE RELEVANT FACTS: THE 13TH JULY ZOOM MEETING

A FAILURE TO HAVE THOUGHT ABOUT THE RELEVANT ISSUES BEFORE THE 13TH JULY ZOOM MEETING

16.1.1 The 13th July Zoom Meeting²¹⁵ was disappointing in many ways. In the 16th July M^cKie Email²¹⁶ Mr M^cKie expressed the reasons for that being so:

'It was very disappointing, however, to find that, some year and three quarters after the matter should first have been considered, almost half a year after the decision to appoint Prebendary Crossman was made and almost a quarter of a year after Glyn Bridges formally reminded you, in a carefully considered letter, that you had breached your duty to have made suitable arrangements for the Parish under the Declaration, a number of the participants in the meeting had hardly begun to think about the principles governing the making of arrangements under the Declaration or what arrangements might be suitable to implement the Resolution in accordance with the Declaration.

You made the decision to appoint Prebendary Crossman as rector of our benefice, Archdeacon Gell was heavily involved in the process of appointment and Prebendary Crossman accepted the appointment. All three of you knew that the PCC had passed the Resolution under the Declaration and yet it seems that no consideration was given in the process of the appointment or thereafter, until Glyn recalled you to your duty, as to the effect on Prebendary Crossman's ministry of the necessity for suitable arrangements to be made to implement the Resolution. It cannot have come as a surprise to you or to Prebendary Crossman that arrangements had to be made to implement the Resolution or that those arrangements must have significant effects on the exercise of her ministry because, as you are aware, the fact that the Parish had passed the Resolution had been communicated at the time that it was passed to Archdeacon Gell and was referred to at several points in the joint statement made by the Parochial Church Councils of the Benefice under The Patronage (Benefices) Measure 1986 s. 11.

I should like to emphasise what I said in previous correspondence and at the meeting. The egregious delay there has been in considering what arrangements should be made threatens the viability of the Parish. You will be aware that many of the persons in the other three parishes of the Benefice who have been most involved in its affairs, and in maintaining its Christian life during Mr Chalkley's suspension and the subsequent interregnum, have, due to the appointment you have made, already decided that they must become members of congregations of churches outside the benefice. As I said at the meeting, almost all of those most involved in maintaining the Christian life of the Parish

²¹⁵ See Appendix II, Doc. 114

²¹⁶ See Appendix I and Appendix II, Doc. 126

feel that they cannot, consistently with their Christian faith, continue that involvement in the affairs of the Parish unless suitable arrangements are made to implement the Resolution. They cannot be expected to maintain their commitment to our churches indefinitely whilst a process which should have been undertaken a very long time ago but which has only just begun continues for an indeterminate period. It is for this reason that what arrangements are to be made for the Parish should be decided quickly.

I hope that you will acknowledge your moral and legal duty to remedy your previous failures to fulfil your duty under the Declaration by doing so with the utmost despatch.

16.1.2 Prebendary Crossman's contributions to the meeting were notably confused. They showed no sign that she had given any thought to the arrangements which might be appropriate for a parish, of which she had decided to accept the Incumbency,²¹⁷ which had passed a resolution under the Declaration that for reasons of theological conviction it could not receive her ministry.²¹⁸

16.1.3 Archdeacon Gell, who was the member of the Diocesan Personnel most involved in the Vacancy and at whose request the 2018 Resolution was passed spoke only occasionally at the 13th July Zoom Meeting and, when asked to comment, she spoke as if she had considered the matter for the first time only at that meeting.²¹⁹

LACK OF PRIOR THOUGHT LED TO A MISUNDERSTANDING OF BASIC CONCEPTS

16.2.1 This lack of prior thought about the implications of the passing of the Declaration Resolutions by Prebendary Crossman and the Diocesan Personnel who took part in the meeting resulted in the discussion at the meeting being diverted by simple misunderstanding of some basic matters. One such misunderstanding was as to the

²¹⁷ See Appendix I

²¹⁸ See Appendix II, Doc. 114 Items 53, 66, 71, 130, 146

²¹⁹ See Appendix II, Doc. 114 Item 174

extent to which Bishop Hancock's powers included the power to determine the law conferring them. It was said at the meeting that:

*'... the supreme legislator in this situation is the Bishop. There is no cast of people called lawyers. The Bishop is the chief lawyer in this situation. He is the one with the ordinary power to administer the laws and if he chooses to minister the laws in such a way whether or not the lawyers ... professional lawyers might come up with a different opinion well that's because it is in pursuit of his pastoral responsibility.'*²²⁰

16.2.2 In the 16th July McKie Email Mr McKie explained:

'Determining the relevant law

I must correct one misunderstanding as to the law which was expressed at the Zoom Meeting. It was said that the person who has to determine the law in respect of this matter was yourself. That is not strictly correct. It confuses determining the law and exercising a power under the law in order to fulfil a legal duty.

Your duty under the Declaration is to use your powers to make arrangements to implement the Resolution. As I have said it is true that you are given by the Declaration a wide power of determination as to what arrangements are to be made but that power must be exercised in accordance with your duty to implement the Resolution having regard to the purpose and principles of the Declaration. In order to do that, you must come to a conclusion on the correct construction of the Declaration but, if you apply an incorrect construction, your determination as to what arrangements are to be made can be reviewed through the process of submitting a grievance under the Regulations.

The prudence of relying on legal advice

*It would be very unwise, therefore, for a diocesan bishop to rely on his own construction of the Declaration rather than taking legal advice upon it in respect of any matter of construction on which a legally qualified person has taken a different view from that of the bishop concerned.'*²²¹

THE SCOPE OF THE PHRASE 'THE MINISTRY OF WOMEN BISHOPS AND PRIESTS'

16.3.1 One very important issue which emerged at the meeting was the scope of the phrase *'the ministry of women bishops or priests'* in the fourth of the five guiding principles stated in the Declaration, para. 5. In the 16th July McKie Email, Mr McKie referred to the view expressed by Bishop Goodall:

'... during our Zoom Meeting that an incumbent's ministry consists only of sacramental provision and pastoral care. This seemed to be based on a

²²⁰ See Appendix II, Doc. 114 Item 73

²²¹ See Appendix II, Doc. 126

distinction between actions which form part of an incumbent's ministry and actions which do not and there was a suggestion that the former consisted only of those actions which could only be performed by a priest in any circumstances and, in addition, could be characterised as being sacramental or pastoral provision.

So, if I understood the point correctly, it was said that there were activities such as taking Mattins or Evensong or chairing a PCC meeting which, although they were undertaken in pursuance of the individual's office as incumbent, did not form part of an incumbent's ministry but of some other category of the incumbent's activity. The result, if I have understood the point correctly, is that whereas arrangements under the Declaration must ensure that a parish which has passed a resolution under it must not be required to receive directly Holy Communion, Baptism or Pastoral Care from a female incumbent they could be required to receive the incumbent's leadership in her taking Mattins or Evensong, chairing or participating in PCC meetings or overseeing the work of Readers. As an aside, I should say that as pastoral care may be provided by a layman or laywoman I cannot see how the provision of pastoral care could be said to fall within the priestly ministry under the narrow definition put forward at the Zoom Meeting.

This view of the meaning of the word "ministry" in the Declaration is, as a matter of construction, clearly too narrow and does not do justice to the width of the term in ordinary English usage or to the manner in which parishioners interact with their incumbent. No parishioner would speak of his "vicar" as acting as his priest when he baptises his child or counsels him on the break-up of his marriage but not when he takes Mattins, conducts the funeral of his father or leads the deliberations of the PCC in deciding what forms of service to use.

*A Cure of Souls can only be held by somebody who has been ordained as a priest or a bishop. He ministers, and therefore exercises his ministry, in conducting his Cure. The role of a person holding such a Cure includes the provision of leadership of the Christian community in the Cure. Providing leadership to the PCC in the conduct of its responsibilities is something which an incumbent does because he is the incumbent priest. Making applications for Readers to be licensed and reviewing their activities is also something which the incumbent does because he is that incumbent. It is part of the indivisible role of leadership which an incumbent has as a priest who has the Cure of souls of a benefice. To suggest that such matters are not part of that priest's ministry is simply untenable as a matter of construction.'*²²²

16.3.2 This issue is discussed in Section XXX below which expands upon the arguments put forward in the 16th July M^cKie Email and in later correspondence.²²³

²²² See Appendix II, Doc. 126

²²³ See Appendix II, Docs. 126 & 188

**THE FAILURE TO ADDRESS MATTERS AT THE CORRECT TIME MADE ALTERNATIVE
OPTIONS MORE DIFFICULT TO IMPLEMENT**

16.4.1 Another important point made by Mr M^cKie during the 13th July Zoom Meeting was that Bishop Hancock's failure to address the matter at the correct time, that is when he was informed of the passing of the Resolution Declarations and in considering the characteristics of the person who should be appointed to the Vacancy, meant that options which should have been considered at that time could now only be taken with great disruption to the Benefice's affairs.

16.4.2 In the 16th July M^cKie Email, Mr M^cKie pointed out that even if arrangements were to be made in accordance with the 22nd June Resolutions this would:

'...not entirely remove the difficulty of conscience which will be presented to the Parish by the incumbency of a person who, the majority of the parishioners who are active in the Christian life of the Parish consider, is not a priest in reality but only in law for they will have to receive her indirect ministry by its delegation to the Overseeing Clergyman. That is the unfortunate result of this appointment having been decided upon without proper consideration having been given to the PCC's Resolution, a resolution which was made as long ago as October 2018.²²⁴

Difficulties are caused by irregularities of procedure

It would clearly be a breach of the Declaration for a female incumbent to be appointed to a benefice consisting of a single parish which had passed a resolution under the Declaration. The Declaration, however, does clearly envisage that it might be appropriate in respect of a multi-parish benefice only one or some of the PCCs of which have passed such a resolution, to appoint a female incumbent (Declaration para. 25). Such an appointment, as our situation demonstrates, will always cause practical difficulties and so, in practice, it will be very rare for such appointments to be made if the principles of the Declaration are followed. It is probable that they could only be made in conformity with the Declaration where there was clearly no suitable person whose ministry could be received by all the parishes in the benefice concerned who was, or was likely to be, an applicant

Had the proper procedure been followed in making this appointment it would, therefore, probably only have been possible for you to comply with the Declaration by deciding to await an application from a suitable clergyman or

²²⁴ Actually, of course, the failure to consider these matters was of even longer standing as the PCC's first resolution under the Declaration, the 2016 Declaration, was made in October 2016

alternatively to separate the Parish from the benefice under a pastoral reorganisation, a possibility to which you referred in the Zoom Meeting.’²²⁵

16.4.3 These issues are examined further in Sections XXXV and XXXVI below.

PROTECTING PREBENDARY CROSSMAN

16.5.1 A further important issue which was discussed at the 13th July Zoom Meeting, which had already been taken into account by the PCC in arriving at the 22nd June Resolutions, was the importance that both the PCC and Prebendary Crossman should be protected under the arrangements to be made for the Parish. The PCC should be protected both now and in the future from having the ministry of a Recently Lawful Priest²²⁶ imposed upon it. The effect of the arrangements should not be to leave Prebendary Crossman or a future Rector exposed to disciplinary proceedings in respect of the acts of the clergyman called in the 22nd June Resolutions the ‘Overseeing Clergymen’ and referred to in the Implementing Steps as the ‘Appointed Clergymen’.²²⁷ These issues are considered further in Section XXXII below.²²⁸

²²⁵ See Appendix II, Doc. 126

²²⁶ See Appendix I

²²⁷ See Appendix II, Doc. 114 Item 86

²²⁸ See also para. 18.4.2 below

SECTION XVII

THE RELEVANT FACTS: PREBENDARY CROSSMAN PURPORTS TO EXERCISE POWERS OVER THE PARISH

PREBENDARY CROSSMAN'S EMAIL OF 17TH JULY

17.1.1 On 17th July 2020 Prebendary Crossman sent an email to the Churchwardens saying:

*'I've just signed a memorial application for a gravestone at Lullington. It meets all the churchyard guidelines so all is in order, just in case you notice a new headstone going up.'*²²⁹

17.1.2 Alarmed that Prebendary Crossman was acting as if her licence extended to Lullington with Orchardleigh Mr Bridges sent an email to Bishop Hancock on 20th July 2020 saying:

'Prebendary Crossman's exercise for²³⁰ purported powers

As you know, when you licensed Prebendary Crossman you declared to her that:

"We do hereby grant you our licence and authority to serve ... during our pleasure or until the admission of an incumbent to the said benefice whichever period shall be the shortest as priest in charge of ... [this]... benefice and to perform all ecclesiastical duties belonging to that office saving unto ourselves provision for the parish of Lullington with Orchardleigh in consequence of their resolution under the House of Bishops' Declaration."

Our understanding of the result of that saving provision is that Prebendary Crossman is not licensed to exercise any power or function as priest-in-charge in respect of our Parish.

That is clear simply from the words used but, to the extent that the proposition needs support, it gains it from the circumstances in which these words were added to Prebendary Crossman's proposed licence as a response to our insistence that it was improper to license her before arrangements were made for our Parish under the Declaration. To pre-empt misunderstanding I should also say that it cannot mean that you reserve for yourself making arrangements under the Declaration for, of course, it is you that have a duty under the Declaration to make those arrangements so that, if it were to mean that, the saving provision would be redundant.

²²⁹ See Appendix II, Doc. 127

²³⁰ A typographical error for 'of'

As Prebendary Crossman is not licensed to exercise any power or function as priest-in-charge in respect of our Parish I was very surprised that Prebendary Crossman should send an email to the Churchwardens on 17th July 2020 (the text of which is given below) in which she referred to signing “a memorial application” which seems to have been a purported exercise of powers as priest-in-charge of the Benefice in respect of our Parish. If that is what Prebendary Crossman has purported to do it is not within the powers conferred on her by her licence.

Prebendary Crossman does not give sufficient details of the memorial application which she has signed for us to know its exact nature or, indeed, who has requested her to sign it or in what circumstances she decided to do so. It seems likely, however, that any works carried out in accordance with the application will be an illegal interference with the churchyard concerned. I imagine Prebendary Crossman was simply trying to be helpful but, so as to avoid confusion and inadvertent illegality, it is clearly essential that she should not act beyond the powers conferred by her licence and that the Churchwardens should be aware of the exact extent of Prebendary Crossman’s current powers.

...

A statement by you

I therefore request on behalf of the Continuing Churchwardens that you state:

(a) whether you agree with our understanding of the effect of the saving provision in Prebendary Crossman’s licence;

(b) if you do agree with that understanding, whether you agree that in signing the memorial application Prebendary Crossman acted beyond the powers conferred by her licence;

(c) if you agree with that understanding of the saving provision and that in signing the memorial application Prebendary Crossman acted beyond the powers conferred on her by her licence, what steps you will take to ensure that she acts only in accordance with her licence in the future;

...

This is a matter of urgency because, as Churchwardens we must understand ... because of the risk of illegality if her powers are misunderstood, the extent of Prebendary Crossman’s powers.

We have a Zoom meeting arranged for 23rd July. I should be grateful to receive your reply in sufficient time before that meeting for me to have given proper consideration to its contents.’²³¹

²³¹ See Appendix II, Doc. 141

17.1.3 On the same day, Mr M^cKie, writing to Bishop Hancock, principally in respect of the 23rd July Zoom Meeting²³² and its agenda, said:

'An important and urgent preliminary issue

One issue raised in my email to you of 16th July which I have not included in these suggestions for the agenda is Prebendary Crossman's exercise of her ministry before her induction. Glyn Bridges has written to you in respect of this matter on his own behalf and on behalf of his fellow Continuing Churchwardens specifically in respect of an action which Prebendary Crossman has taken which appears was not within the powers granted to her under her licence. Glyn has asked that you deal with this matter before our meeting on Thursday. I think that would be wise so as not to create controversy and so retard our discussions. If, however, the matter has not been successfully resolved before then I feel that it must be the first item on our agenda.

*I look forward to hearing from you and receiving the Agenda for the meeting. If any of the items which I have suggested are not to be placed on the Agenda I should be grateful if you would telephone me, on the telephone number given below, to discuss the matter.'*²³³

17.1.4 Mr M^cKie returned to the matter again in the 22nd July M^cKie Email:²³⁴

'The extent of Prebendary Crossman's powers and responsibilities under her licence

I shall now turn to the agenda for Thursday's meeting which I have received from Andrea Howlett. I see that the second item on the agenda is "The responsibilities of an incumbent". I take it that this is a response to the important and urgent preliminary issue which I discussed in my email of 20 July and which was raised by Glyn Bridges in his email of the same date. I think there may be a misunderstanding. In those emails we were not concerned with the general issue of what are the responsibilities of an incumbent or indeed what will be Prebendary Crossman's responsibilities when she becomes an incumbent of the Benefice which she will not do until she is inducted. The concern which Glyn and I have raised is as to the extent of Prebendary Crossman's powers and responsibilities under her licence before she becomes an incumbent of the Benefice and whether she has acted within those powers. The agenda item would be better expressed, therefore, as "The extent of Prebendary Crossman's powers and responsibilities under her licence".

As we have said, Glyn and I are firmly of the opinion that it would be better for you to deal with this issue before the meeting. The questions which Glyn asked in his email of 20th July are straightforward ones which can, and should, be dealt with before the Zoom meeting. You must know what is your understanding of the effects of the licence which you granted to Prebendary Crossman on 9th July just as you must know whether you have received the resignation to which Glyn referred and, if so, what is its effective date. Dealing with this matter of Prebendary Crossman's powers under her licence at the meeting is unlikely to create a positive atmosphere in the opening part of the meeting.

²³² See Appendix I

²³³ See Appendix II, Doc. 142

²³⁴ See Appendix I

*If you do not intend to deal with this matter before the meeting so that is necessary for us to discuss it at the meeting, I suggest that you circulate this e-mail to those who are to participate in it so that they may be aware of the relevant issues. I give ... [below extract] ... from Glyn Bridges' email of 20th July 2020 so that, if you do so, the participants will be further informed about those issues.'*²³⁵

17.1.5 In fact, the issue was not discussed in the 23rd July Zoom Meeting. At that meeting, Mr McKie said:

*'There is one matter which I have deliberately not mentioned in this meeting which is the questions we have asked you about Prebendary Crossman's licence and a related matter and rather than hold us up now, could I ask you Bishop just to reply to the questions which we posed to you earlier in the week because that is important, it is important because it has important practical results. But apart from that I think that we have had a very good meeting and if you could put me directly in touch with the Registrar perhaps, you know, just drop me an email to say here's the Registrar's address and he is expecting you to be in touch with him then I will take things on from there as far as that goes.'*²³⁶

²³⁵ See Appendix II, Doc. 144

²³⁶ See Appendix II, Doc. 150 Item 159

SECTION XVIII

THE RELEVANT FACTS: THE 23RD JULY ZOOM MEETING AND THE PROPOSAL FOR A DIALOGUE WITH THE REGISTRAR

A MUCH MORE POSITIVE MEETING

- 18.1.1 Bishop Worsley was unable to take part in the 23rd July Zoom Meeting²³⁷ because she had begun a period of study leave. The Meeting was very much more positive than the 13th July Zoom Meeting primarily because Bishop Hancock ensured that the meeting concentrated on the 22nd June Resolutions and their implementation considering each such resolution in turn. Nonetheless progress was retarded by the failure of some of the participants to distinguish between theological issues and practical issues on the one hand, which properly fell within their areas of competence, and matters of law, on which they could not speak with expertise.²³⁸

BISHOP WORSLEY'S POWERS OVER RESOLUTION PARISHES

- 18.2.1 Mr McKie again²³⁹ raised the question of Bishop Hancock's delegation of his powers over Resolution Parishes, including the Parish, to Bishop Worsley pointing out that this was incompatible with his duty under the Declaration to implement the resolutions passed under the Declaration para. 20. He said:-

'Perhaps I can explain. If Bishop Worsley has oversight over the parish she is exercising her ministry and we are receiving it. The implementation of the resolution has to be that we aren't required to receive the ministry either of a female priest or a female bishop. Now I don't think in practice this makes a huge amount of difference because I don't think the parish has ever had any specific dealings with Bishop Worsley but it does seem to me as a matter of principle that it is an imposition of the ministry of a female bishop on a parish which has

²³⁷ See Appendix II, Doc. 150

²³⁸ See Appendix II, Doc. 150

²³⁹ See Section XV above

passed a resolution which is to implement its theological conviction that it cannot receive that ministry.

*So, it seems to me that this is just tidying up. There is no doubt by the way that you have the power to do this Bishop Hancock, I have looked it up this morning and ... you are empowered to amend any licence which you grant to a suffragan bishop so there is no difficulty in doing it. I should have thought it would have been a tidying up exercise simply to provide that Bishop Worsley's delegation is in respect of the whole diocese except ...[a]... parish which had passed the resolution.'*²⁴⁰

THE REGISTRAR'S PAPER

18.3.1 On 22nd July Bishop Hancock's personal assistant circulated a short paper which had been written by the Registrar which had no title and no explanation of its purpose. Its form and content suggested that the Registrar's Paper²⁴¹ was directed towards the question of whether there were any legal obstacles to the implementation of the 22nd June Resolutions.

18.3.2 At the 23rd July Zoom Meeting Bishop Hancock gave the following explanation of the Paper:

'I asked ... [the Registrar] ... to prepare something, I felt that our conversation last time which although it was helpful, we were trying to do two things at the same time. One was to look at the principles and one was to look at the practicalities and we oscillated between the two so I asked him to set out for me and also particularly for Ronnie's sake, a real understanding of what the roles and responsibilities are of an incumbent, what are those things that can be accommodated, what are those things that can be delegated and what are those things that actually by virtue of Canon Law belong exclusively to an incumbent.'

18.3.3 Later in the meeting Bishop Hancock said:

'I did thank the Registrar for his opinion and he was very quick to say no it was not an opinion. He was actually not giving an opinion or advice he was stating what he understood to be canon law so it was helpful that he made that point

²⁴⁰ See Appendix II, Doc. 150 Item 142. Bishop Hancock seemed rather alarmed at the prospect of talking to Bishop Worsley about this. He responded:-

'Simon, what you've said is very clear and I understand it. Let me give thought to it with Jonathan, I obviously must have the courtesy to talk to Ruth about this as well. Ruth has some very strong views...' (See Appendix II, Doc. 150 Item 143)

²⁴¹ See Appendix I

*to me that he was not positing an opinion, he was responding to my request to set out what the law says ...'*²⁴²

18.3.4 In respect of the Registrar's Paper Mr McKie said at the 23rd July Zoom Meeting:

*'... having read this through, I read it through last night and then again this morning, there is nothing in it which I think comes as a great surprise to me and, although it is true that certainly as far as the relevant canons go and other relevant legislation, it is a simpler matter for a bishop to delegate to a suffragan bishop. In effect, I do not believe that there is anything in this paper which would make it impossible to implement the arrangements which we have suggested.'*²⁴³

THE PROPOSED DIALOGUE WITH THE REGISTRAR

18.4.1 It had been agreed at the 13th July Zoom Meeting that Mr McKie would discuss such matters of law as were relevant to the arrangements for the Parish under the Declaration with the Registrar²⁴⁴ and at the beginning of the 23rd July Zoom Meeting Bishop Hancock reported:

*'I was asked to arrange a meeting, Simon, for you and the registrar. That's been agreed and I think once we get to the end of this meeting there may well be some actions that want to be taken forward in discussion ...'*²⁴⁵

18.4.2 Later in the meeting Mr McKie made the following suggestion:

*'... if at the end of this meeting we are happy with the idea in principle that we are going on to try to implement the proposals which the PCC has made, then I think the next step is for me to put down on paper to the Registrar how I think that might be achieved, discuss it with the Registrar, and one of the things which must be achieved is sufficient protection for Prebendary Crossman. So having, as it were, got the two lawyers together to agree how that can be done, then I would think one would leave it to the Registrar to explain that to you, Prebendary Crossman, to reassure you as to your responsibility.'*²⁴⁶

²⁴² See Appendix II, Doc. 150 Item 91. This was a very strange comment. When a lawyer summarises in the course of his practice or in the exercise of an office 'what the law says' he gives his opinion as to what is the law. That opinion constitutes his advice

²⁴³ See Appendix II, Doc. 150 Item 24

²⁴⁴ See Appendix II, Doc. 114 Items 96 & 97 and Doc. 150 Item 8

²⁴⁵ See Appendix II, Doc. 150 Item 8

²⁴⁶ See Appendix II, Doc. 150 Item 35

18.4.3 At the end of the Meeting Mr McKie said:

‘... I think we have reached quite a lot of unanimity unless I am misinterpreting. The next step seems to me, an important next step anyway, is for me to get together with the Registrar. Now what I was intending to do was to write a paper to set out how the 22nd June Resolutions could be implemented taking into account the material which the Registrar has provided so that we actually have a series of legal steps for the Registrar to examine. I should explain, of course, that there will be things he knows because he will have a great deal wider experience than I of ecclesiastical law, there will be things that I don’t know and things which I know that he won’t know but we will be better off if we exchange ideas and come to a joint view of how these proposals might be implemented. And obviously there are other steps going on such as the consultations which you are making Bishop Hancock.’²⁴⁷

18.4.4 The Meeting proceeded on the basis that the steps Mr McKie had set out would form the basis of the arrangements which were to be made by Bishop Hancock provided they could be lawfully implemented in a way which satisfied various criteria, the Arrangement Criteria, which emerged during the meeting.²⁴⁸ As we shall see,²⁴⁹ Mr and Mrs McKie subsequently wrote a substantial joint paper to fulfil Mr McKie’s undertaking made at the 23rd July Zoom Meeting. The first two Sections of the McKie Paper set out its scope and the facts relevant to the matters discussed in it including what had been the consensus at the 23rd July Zoom Meeting as to Mr McKie’s dialogue with the Registrar. In the McKie Paper²⁵⁰ it was explained that:

‘At the Zoom Meeting Simon McKie undertook that he would write a paper specifying in detail a series of steps (the “Implementing Steps”) which could be taken in order to implement arrangements constituting Implementing Arrangements and that he should subsequently give a copy of that paper to the Registrar and discuss that Paper with him. The purpose of doing so being to come to an agreed view of the lawfulness and legal effectiveness of the Implementing Steps and as to whether they fully give effect to arrangements which are Implementing Arrangements²⁵¹ and are consistent with the Arrangement Criteria.’²⁵²

²⁴⁷ See Appendix II, Doc. 150 Item 159

²⁴⁸ See para. 18.5.1 below

²⁴⁹ See Appendix I and para. 18.5.1 below

²⁵⁰ See Appendix I

²⁵¹ Implementing Arrangements were defined in the McKie Paper as being arrangements which were in accordance with the 22nd June Resolutions (see Doc. 187 Appendix I)

²⁵² See para. 18.5.1 below

18.4.5 Mr McKie sent the first two Sections²⁵³ of the McKie Paper in draft to Canon Dodds to ensure that his statements in relation to the Zoom Meeting and other factual matters were correct. Canon Dodds replied:

*'Replying, not on behalf of Bishop Peter, but instead of him, as someone who was in the zoom meeting, I have listened again to the recording of the second meeting we had and I believe your sections are a fair reflection of what was generally agreed should happen. I agree that there were no formal votes or decisions, and there was nothing specifically stated, but your sections seem to reflect, in my opinion, where we were going.'*²⁵⁴

18.4.6 It was clear, therefore, that Mr McKie's discussion with the Registrar was to be focused on the Implementing Steps specified in the McKie Paper to give effect to the 22nd June Resolutions and was to concentrate on coming to an *'agreed view of the lawfulness and legal effectiveness of the Implementing Steps and as to whether they, ... [would] ... fully give effect to arrangements [which were in accordance with the 22nd June Resolutions and were] consistent with the Arrangement Criteria.'*²⁵⁵

THE ARRANGEMENT CRITERIA

18.5.1 During the 23rd July Zoom Meeting, a consensus had emerged as to five criteria which the Arrangements must satisfy. The Arrangement Criteria were summarised in Section II of the McKie Paper which, as we have seen, Canon Dodds accepted as being *'a fair reflection of what was generally agreed should happen'*. The Arrangement Criteria were that the Implementing Arrangements:

'(1) should be capable of continuing for the foreseeable future and of surviving changes of the Diocesan Bishop, the Incumbent, the Appointed Bishop²⁵⁶ and the Appointed Clergyman;

(2) and their purpose, should be formally recorded in writing so as to provide a permanent record of them;

²⁵³ See Appendix II, Doc. 175

²⁵⁴ See Appendix II, Doc. 188

²⁵⁵ See para. 18.4.4 above

²⁵⁶ See Appendix I

(3) *should provide protection to Prebendary Crossman from complaints against her under the Clergy Discipline Measure 2003 being upheld in respect of any acts of commission or omission by the Appointed Clergyman;*

(4) *should provide protection to the PCC and the Parishioners²⁵⁷ from being forced or required to receive the ministry of a female priest or bishop and against any breach of the Implementing Arrangements; and*

(5) *should, in the event that persons resident in the Parish seek the pastoral care of Prebendary Crossman other than specifically in her capacity as the Incumbent, not prevent her from responding to such a request by giving the appropriate care.'*

18.5.2 It is clear that the purpose of the discussion was that two expert lawyers should discuss whether the steps which would be specified would give legal effect to the 22nd June Resolutions so that Bishop Hancock could make arrangements in accordance with those Resolutions.²⁵⁸

THE NORMAL CHARACTERISTICS OF DISCUSSIONS BETWEEN PROFESSIONALS

A minority of adversarial situations

18.6.1 Some matters in respect of which more than one party engages expert legal advice are very contentious and therefore very adversarial. It is sometimes the case in such matters that the lawyers of one party will stand on legal privilege in order to avoid providing details of the advice which they have given to their clients so as to avoid exposing any weaknesses there may be in their position.

18.6.2 Less scrupulous lawyers go beyond this using every relevant procedural device to avoid sharing information with the lawyers advising the other parties. The Courts frown on such behaviour.

²⁵⁷ See Appendix I

²⁵⁸ This was to be subject only to whether arrangements could be specified which satisfied the Arrangement Criteria (see Appendix II, Doc. 175 and para. 18.4.4 above)

A majority of co-operative situations

- 18.6.3 Most matters, however, involving two or more parties who are advised by different legal advisers, involve proposals for transactions in which the parties are attempting to co-operate with one another. Contracts for the sale of property, entering into joint ventures or partnerships, a family creating different interests in property so as to meet the needs of different generations of a single family are all examples of transactions in which agreement and co-operation are necessary if the transactions are to achieve their purpose.
- 18.6.4 The parties to such matters quite properly wish to protect their own individual interests by taking independent advice but in such situations the aim of the legal advisers is to identify any real barriers to co-operation and to overcome them.
- 18.6.5 In such situations it is in the interests of all the parties for the legal advisers to exchange their analyses of the relevant law in order to come to a consensus view so that all parties can be reassured that no legal obstacles to their co-operation have been overlooked. If an expert opinion has been obtained from Counsel or another legal expert by one party it is in the interests of all that that opinion should be shared with the other parties. To evaluate such an opinion requires one also to know what instructions were given and so it is common to share the instructions which have elicited the opinion as well as the opinion itself.
- 18.6.6 Lawyers confident in their own abilities are happy to enter into such a process of discussion and exchange citing authorities for their opinions in order to arrive at a consensus view which will probably be better than the legal advisers could have achieved acting individually.

An expectation of open discussion and exchange of analysis

18.6.7 It was just such a process of open discussion which Mr M^cKie expected to have with the Registrar. He was willing to put aside his experience of the unreliability of the Registrar's advice²⁵⁹ and to listen carefully to whatever the Registrar had to say and to examine the authorities on which the Registrar relied in coming to his opinion. He expected that a registrar advising a senior bishop of the Church of England would take as his model, not the jealous guarding of information, analysis and opinion which is sometimes the mark of contentious proceedings, but, rather, the more common co-operation between legal advisers to parties who are concerned to make a proposed transaction work for the benefit of all the parties.

²⁵⁹ See paras. 5.3.1 – 5.3.14 & 6.3.8 – 6.3.23 above

SECTION XIX

THE RELEVANT FACTS: BISHOP HANCOCK'S ILLNESS FOLLOWED BY AN IMMEDIATE DETERIORATION IN THE CONDUCT OF THE DISCUSSIONS

INITIAL CONFIDENCE

- 19.1.1 After the 23rd July Zoom Meeting Mr Bridges and Mr M^cKie were confident that arrangements would at last be made for the Parish which satisfied the Bishop's duty under the Declaration to implement the Declaration Resolutions to a sufficient extent that the PCC could accept them and would not need to submit a grievance under the Regulations, Reg. 10. The arrangements would do so by ensuring that the Parish did not have imposed on it the direct receipt of the ministry of a Recently Lawful Priest.
- 19.1.2 They were also confident that the arrangements which they expected to be made could satisfy the Arrangement Criteria.²⁶⁰

BISHOP HANCOCK'S ILLNESS

- 19.2.1 Shortly before Mr and Mrs M^cKie completed their drafting of the M^cKie Paper, however, it was announced that Bishop Hancock had been diagnosed with acute myeloid leukaemia and that he would be stepping back from his duties.²⁶¹

²⁶⁰ See Appendix I and para. 18.5.1 above

²⁶¹ See Appendix II, Doc. 173

THE DIOCESAN PERSONNEL'S CHANGE OF APPROACH

19.3.1 Almost immediately the whole tone of the discussions changed.

19.3.2 Bishop Hancock had hoped that the process of making the Arrangements and the Arrangements themselves might provide an example of good practice to which other dioceses²⁶² could refer in making arrangements for parishes in a similar situation to that of the Parish.²⁶³ Within a very short period of time it became apparent that the behaviour of those Diocesan Personnel now acting in the matter did indeed provide an example - one which is a warning of how such matters ought not to be conducted.

19.3.3 For the sake of clarity, in the Sections²⁶⁴ which follow, which set out the relevant events following the announcement of Bishop Hancock's withdrawal from the duties of his office due to ill-health, we abandon a strictly chronological narrative of events, arranging our narrative thematically.

²⁶² See Appendix I

²⁶³ See Appendix II, Doc. 114 Item 21

²⁶⁴ Sections XX - XXV

SECTION XX

THE RELEVANT FACTS FOLLOWING BISHOP HANCOCK'S WITHDRAWAL: THE LEGAL ENFORCABILITY OF THE ARRANGEMENTS

THE 11TH AUGUST ZOOM MEETING

20.1.1 Mr M^cKie and the Registrar took part in the 11th August Zoom Meeting²⁶⁵ which was on a 'Without Prejudice' basis. At that meeting the Registrar simply refused to discuss the M^cKie Paper or the Implementing Steps²⁶⁶ which were specified therein. He refused to discuss the legal construction of the Declaration or indeed any legal question whatsoever.²⁶⁷ Instead, he merely asserted that it was 'inappropriate' for the arrangements to be legally enforceable. The only reason he gave for this was not a legal reason based on authority but that to make them enforceable would be 'restrictive' and 'inflexible'.²⁶⁸ He proposed to draft a Memorandum of Understanding' which he said would not be legally enforceable.²⁶⁹

20.1.2 The Registrar's assertion that it was 'inappropriate' for Declaration Arrangements to be legally enforceable because to make them so would be 'restrictive' and 'inflexible' as Mr M^cKie pointed out it in the 12th August M^cKie Email²⁷⁰ sent on the same day as this Zoom Meeting took place, was not:

' ... a legal judgment but an expression of preference which a legal adviser could only properly have made on instruction' ²⁷¹

²⁶⁵ See Appendix I

²⁶⁶ See Appendix II, Doc. 194

²⁶⁷ See Appendix II, Doc. 194

²⁶⁸ See Appendix II, Doc. 194

²⁶⁹ See Appendix II, Docs. 192 & 193

²⁷⁰ See Appendix II, Doc. 194

²⁷¹ See Appendix II, Doc. 194

20.1.3 As the Registrar's duty was to advise Bishop Hancock²⁷² he could only properly have expressed that preference on instruction and yet it was clearly at odds with the understanding of the purpose of the discussion which Mr M^cKie was to have with the Registrar which had been set out at the 23rd July Zoom Meeting which Bishop Hancock chaired.²⁷³

RESTATEMENT OF INTENTION TO DRAFT A MEMORANDUM OF UNDERSTANDING

20.2.1 Immediately after the 11th August Zoom Meeting, the Registrar had sent an email²⁷⁴ repeating his intention, which he had stated at the meeting, of drafting what he referred to as a Memorandum of Understanding and so, in effect, confirming his intention to ignore the M^cKie Paper and the stated purpose of the 11th August Zoom Meeting. Mr M^cKie replied on the same day:

'I should like to make myself entirely clear.

You have suggested that the arrangements should be set out in a Memorandum of Understanding. I have suggested that the arrangements should be set out under Deed. The significant difference between the two is that, unless the Memorandum is a contract, it will be unenforceable at law whereas a Deed will not. I made it plain in our meeting that I consider that making arrangements that are not enforceable at law will not fulfil the Diocesan Bishop's duty under the Declaration and that, unless enforceable arrangements are made, I shall recommend that the PCC submits a grievance to the Independent Reviewer.

It is absolutely fundamental that legally enforceable arrangements are made.

I shall be writing at greater length to Bishop Worsley tomorrow.²⁷⁵

20.2.2 Mr M^cKie did so in the 12th August M^cKie Email.²⁷⁶ In that email he reiterated that the purpose of the discussion between himself and the Registrar had been to consider the legal issues relevant to the Implementing Steps which Mr M^cKie was to specify to

²⁷² Ecclesiastical Jurisdiction and Care of Churches Measure 2018 s.30(1)

²⁷³ See para. 18.4.4 above

²⁷⁴ See Appendix II, Doc. 192

²⁷⁵ See Appendix II, Doc. 193

²⁷⁶ See Appendix I and Appendix II, Doc. 194

give effect to the 22nd June Resolutions and yet the Registrar had simply refused to discuss those matters.²⁷⁷

20.2.3 In that email he said in respect of whether the Arrangements should be legally enforceable:

'The only significant difference between a memorandum of understanding and the Deed of Covenant, in which, I had suggested in my Paper, the Implementing Steps should be set out, is that the latter is enforceable in law and the former, unless constituting a contract, is not. The restrictiveness or inflexibility of arrangements will only be greater if the arrangements are unenforceable than if they are enforceable in that, in the former case, the arrangements could be breached with impunity.'

I should state clearly, that as a matter of law it is possible for the arrangements to be made in an enforceable form and the Implementing Steps specified in my Paper show how that can be done.

*In my meeting with the Registrar, I expressed the view, which is my considered opinion, that making arrangements in the circumstances of the Parish under which the Parish has no right to secure compliance with the Arrangements if they are breached would not satisfy the Diocesan Bishop's duties under the Declaration. The Registrar's proposal is a fundamental change from the Arrangements which have been discussed with Bishop Hancock.'*²⁷⁸

THE FIRST DRAFT OF THE MEMORANDUM OF UNDERSTANDING

20.3.1 On 20th August 2020 the Registrar sent to Bishop Goodall and to Mr McKie a draft of what he called a 'Memorandum of Understanding'²⁷⁹ which he said he had prepared 'following discussions with the Chancellor of the Diocese, Mr Timothy Briden', although he gave no indication of the nature or extent of those discussions.²⁸⁰

²⁷⁷ See para. 20.1.1 above

²⁷⁸ See Appendix II, Doc. 194

²⁷⁹ See Appendix II, Doc. 198

²⁸⁰ The Memorandum of Understanding contained an obvious error in respect of Ecclesiastical Law, which is also present in the final version (see para. 33.5.18 below) in that its provisions assumed that the reading of Morning and Evening Prayer on a Sunday is reserved to Priests. Canon E4(2)(b), however, clearly authorises Readers to read Morning and Evening Prayer. In the light of this error, it is surely unlikely that the draft Memorandum of Understanding could have been reviewed closely by anyone familiar with Canon Law

20.3.2 That document contained the following clause:

*'This Memorandum is governed by grace and the parties intend it to be an expression of co-operation and collaboration to give effect to the five guiding principles of the Declaration and the mutual flourishing of the Parish and Benefice. It does not and is not intended to create any legal relationship between the parties whatsoever.'*²⁸¹

20.3.3 On the same day Mr M^cKie replied:

*'I refer to your e-mail of today's date a copy of which is given below. Your proposed memorandum expressly says that it is not to create legally binding arrangements. I have already said in the clearest terms that making arrangements which are not legally binding will not fulfil the Diocesan Bishop's duty under the Declaration. That is really all that needs to be said. I shall add, however, that even if the memorandum were legally enforceable the arrangements to which it would give effect would not fulfil the Diocesan Bishop's duty to make arrangements to implement the Resolution.'*²⁸²

*I also consider it unlikely that your proposals are in accordance with Bishop Hancock's intentions in the light of the Arrangement Criteria which Bishop Hancock seemed to accept at the Zoom meeting on 23rd July 2020 (see para 2.5.3 of my paper and Canon Dodds' email to me of 7th August 2020 sent at 14.47).'*²⁸³

20.3.4 Bishop Worsley did not make an immediate written response to the 12th August M^cKie Email but Canon Dodds contacted Mr M^cKie to arrange a telephone conversation with Bishop Worsley. That conversation was scheduled for 25th August 2020.

THE 21ST AUGUST BISHOP WORSLEY LETTER

20.4.1 Four days before that telephone conversation was due to take place, Bishop Worsley sent the 21st August Bishop Worsley Letter²⁸⁴ to the Benefice Churchwardens, which was copied to various persons including Mr M^cKie, for their comment. It purported to be an informative letter setting out progress towards making arrangements for the Parish under the Declaration and enclosing the Draft Memorandum of Understanding

²⁸¹ See Appendix II, Doc. 198 Clause 10

²⁸² The reasons why this is so are set out in Section XXXIII below

²⁸³ See Appendix II, Doc. 199

²⁸⁴ See Appendix I and Appendix II, Doc. 201

but it made no mention of the fact that Mr McKie had given his considered opinion that the Memorandum of Understanding would fail to satisfy the Diocesan Bishop's duty under the Declaration because, *inter alia*, it was without legal effect. On the same day, Mr McKie sent an email to Bishop Worsley saying:

*'I was dismayed to receive the email a copy of which is given below and its attachments. As you know it is my considered opinion that the Memorandum of Understanding which the Registrar has drafted would fail to satisfy the Diocesan Bishop's duty to implement our PCC's Resolution which is imposed on him by the Declaration. It is disingenuous to circulate this material to Churchwardens in the Benefice most of whom have little knowledge of the relevant background without making it plain that a person of considerable legal experience, has expressed that opinion after a careful consideration of the relevant law. Do you consider this to be an honest method of proceeding?'*²⁸⁵

THE 25TH AUGUST TELEPHONE CONVERSATION

20.5.1 When the 25th August Telephone Conversation²⁸⁶ took place, it was clear that Bishop Worsley had no intention of taking proper account of the points which Mr McKie had made to her in his previous correspondence. Mr McKie followed up the telephone conversation with the 25th August McKie Email.²⁸⁷ In it he said:

'As I said in our telephone conversation which took place today, it is clear that, after a very positive Zoom meeting which took place with Bishop Hancock on 23rd July 2020, when it appeared that a substantial measure of agreement had been reached, we have now arrived at an impasse. Although there are other issues of greater detail on which it appears that we differ, the primary issue is whether the arrangements should be legally enforceable or not.'

20.5.2 He then set out at length the reasons why he considered that the Arrangements must have legal effect conferring legally enforceable rights upon the parties. Those reasons included reasons common to any implementation of a resolution under the Declaration²⁸⁸ and other reasons specific to the situation of the Parish.

²⁸⁵ See Appendix II, Doc. 202

²⁸⁶ See Appendix I

²⁸⁷ See Appendix I and Appendix II, Doc. 206

²⁸⁸ See Section XXXI below

20.5.3 He set out the specific reasons as follows:-

'Reasons specific to the current situation

That is the general principle [which he had set out in the preceding paragraphs] emerging from a simple consideration of the terms of the Declaration. It is all the more important in this case where there has been a history of repeated breaches of the Declaration.

As you know, Bishop Hancock failed to comply with his duty to consult in 2016 when a resolution was first made by the PCC under the Declaration and again in 2018 when a further such resolution was made and again during the process of appointment in arriving at his decision to appoint Prebendary Crossman. Bishop Hancock failed in his duty under the Declaration to take into account the need to make suitable arrangements in arriving at that decision. Even after the decision was announced the Bishop took no steps to implement the resolution so that Glyn and Ruth Bridges, Churchwardens of the Parish, on 26th April 2020 wrote a lengthy and considered letter to Bishop Hancock reminding him of his duty. In spite of that he still took no effective action with the result that Mr Bridges was forced to remind him again of his duty in a substantial letter of 30th June 2020 which was accompanied by a schedule setting out the Bishop's, and his Chaplain's, repeated failure to respond to Mr Bridges' urgings to deal with the matter which had been made between the 26th April and 30th June.

Bishop Hancock thereafter did make substantial efforts to repair his previous derelictions of duty and made a handsome apology to the PCC for them in his e-mail of 29th July 2020. Nonetheless, such an apology can neither expunge, nor repair all the consequences of, his previous derelictions of duty.

In the course of later correspondence with Bishop Hancock it emerged that he had delegated powers to you which could be exercised in respect of the Parish and that he had not amended this delegation in spite of the fact that he was aware that the Parish had passed resolutions in 2016 and 2018 in respect of the Declaration. That was, as I have explained, a breach of his duty under the Declaration.

Further, until the PCC protested, it had been Bishop Hancock's intention to license Prebendary Crossman as priest-in-charge of the Benefice with no restriction as to her ministry in the Parish in spite of the resolution having been passed. This displayed an intention to breach the Declaration.

In response to the PCC's protest Bishop Hancock restricted Prebendary Crossman's licence so that it did not authorise her to minister in the Parish. In spite of that, Prebendary Crossman purported to exercise that ministry both in anticipation of her licensing and after it so that Mr Bridges had to refer these breaches to Bishop Hancock. It was clear from the Zoom discussions that Prebendary Crossman had given no previous consideration to the effect on her ministry of the fact that, as she was perfectly well aware, the PCC had passed a resolution under the Declaration.

In acting in respect of the appointment, the Archdeacon of Wells took no steps to ensure that the fact that the Resolution had been passed was properly taken into account in the process of appointment.

*In the light of this protracted and repeated course of breaches of the provisions of the Declaration by Bishop Hancock and other clergy and senior clergy of the Diocese it would be quite unreasonable to expect the PCC to rely entirely on unenforceable assurances that the Declaration will be respected in the future. Indeed, the very refusal to make enforceable arrangements is itself a refusal to comply with the Declaration indicating an unwillingness to comply with it.'*²⁸⁹

²⁸⁹ See Appendix II, Doc. 206

SECTION XXI

THE RELEVANT FACTS FOLLOWING BISHOP HANCOCK'S WITHDRAWAL:

REQUESTS FOR RELEVANT INFORMATION AND DOCUMENTS

DID BISHOP WORSLEY RECEIVE ANY LEGAL ADVICE?

21.1.1 In the 25th August Telephone Conversation and the 25th August McKie Email,²⁹⁰ Mr McKie raised the question of whether Bishop Worsley was basing her course of action on anything which could be characterised as 'legal advice'. He explained why he considered that, as far as he was aware, Bishop Worsley had not received any such advice:

*'In our telephone conversation you referred, in explaining why you had decided on the course of action which you have, to the legal advice which you have received. It appears from our conversation, however, that you have not received any such advice. The opinions expressed by the Registrar in our Zoom conversation were without prejudice, were made to me and consisted, in any case, almost entirely of mere expressions of preference and not of a legal reasoning or opinion. The Registrar's email of 20th August 2020 sent at 10:08 contained a draft "Memorandum of Understanding" but no advice. The Registrar's email of 25th August sent at 08:59 was addressed to me, although it was copied to you, and contained a mere assertion in respect of the construction of the Instrument without any legal reasoning as to how his view was reached and a further assertion, in respect of the House of Bishops' Declaration, which was also unsupported by legal reasoning and was quite clearly incorrect. That email could not be characterised as advice. You informed me that leaving aside the correspondence to which I have referred, you have received no legal advice, either from the Registrar, or any other legally qualified person in relation to these matters.'*²⁹¹

BISHOP WORSLEY'S UNDERTAKINGS

21.2.1 Mr McKie also recorded two important undertakings which Bishop Worsley had made in the course of the 25th August Telephone Conversation:

'You have said that in general you wish to be open in respect of these matters and that, accordingly, you will provide me with copies of any legal advice which

²⁹⁰ See Appendix II, Doc. 206

²⁹¹ See Appendix II, Doc. 206

*you receive which is relevant to the arrangements or to the extent of your powers. I very much appreciate that undertaking and look forward to receiving copies of the advice when it is received.'*²⁹²

21.2.2 We shall see that Bishop Worsley did not comply with this undertaking.²⁹³ Mr McKie also recorded his request which he had made in the 25th August Telephone Conversation as follows:

'I also raised the issue of the indications that there were irregularities in the process of arriving at the decision to appoint Prebendary Crossman and, in particular, the question of whether and how the consent of the Parish Representatives was obtained under the Patronage (Benefices) Measure 1986 s.13(1)(b)(i). I asked that you should send to me any evidence there may be as to that consent having been obtained and of the manner in which it was obtained.

*I look forward to receiving copies of that evidence.'*²⁹⁴

BISHOP WORSLEY'S FAILURE TO COMPLY WITH HER UNDERTAKINGS

21.3.1 In the 26th August Bishop Worsley Email,²⁹⁵ Bishop Worsley said:

*'As you know I have taken the advice of Roland our Registrar who, in consultation with the Chancellor, Tim Briden, and Alex McGregor, the Church of England's chief legal adviser, believes the appropriate way forward is with a Memorandum of Understanding. A draft was sent to yourself, Bishop Jonathan, Prebendary Ronnie Crossman, Archdeacon Anne Gell and the church wardens of the Benefice, welcoming their comments. Bishop Jonathan has made some suggestions and Ronnie has spoken with the other Readers of the Benefice as to their willingness to be named in the MoU. I know that you do not share the view that a Memorandum is adequate, and your email confirms that therefore you will be advising the wardens of Lullington and Orchardleigh to bring this matter to the attention of the Independent Reviewer.'*²⁹⁶

21.3.2 In response to Bishop Worsley's claim that she had had advice on the matter from the Registrar and her references to the Chancellor and the Church of England's Chief Legal Adviser, Mr McKie responded on the same day as follows:

²⁹² See Appendix II, Doc. 206

²⁹³ See paras. 21.3.1 – 21.3.7 below

²⁹⁴ See Appendix II, Doc. 206

²⁹⁵ See Appendix I

²⁹⁶ See Appendix II, Doc. 208

'You refer to having "taken the advice of Roland our Registrar". It appeared from our conversation of yesterday, however, that, as I said in my subsequent email, you have not received any advice from the Registrar but only a draft memorandum without any advice on why it takes the form it does or why the Registrar has chosen to ignore the very substantial paper which my wife and I have written. If that is not the case I should be grateful, in accordance with the undertaking you gave yesterday, to receive a copy of the Registrar's advice. I take it that you cannot have relied, in such an important matter, on advice given orally without any written record having been made of it.

You refer to "the Chancellor, Tim Briden, and Alex McGregor, the Church of England's chief legal adviser" but I do not understand your email as indicating that you have received advice from them on the matter and your email gives no information as to the nature of the Registrar's consultation of them. An assertion that a person has consulted other persons with no indication of the nature or content of that consultation is not one on which any weight can be put. So it is impossible to determine the significance, if any, of this "consultation". Is it correct that no advice has been given by these persons? If such advice has been given I should be grateful to receive a copy of it.

You do not refer to the points I have raised as to the extent of your powers, a matter on which, as far as I am aware, you have also, as I said in my email of yesterday, received no advice from the Registrar.²⁹⁷

21.3.3 Following up his previous requests for information Mr McKie sent the 2nd September (First) McKie Email²⁹⁸ in which he made the following request:

'I should be grateful to receive the information and documents which are referred to in my email of 25th August 2020 sent 16:01, my email of 26th August 2020 sent at 10:08 and my email also of 26th August 2020 sent at 13:01.

In accordance with the spirit of openness to which you referred in our telephone conversation on 25th August 2020, please would you also send to me copies of any instructions given to the Registrar, in particular, but not confined to, instructions given by Bishop Hancock or by you, in respect of the discussions he was to have, and has had, with me in respect of the arrangements to be made for Orchardleigh & Lullington Parish under the Declaration and to the memorandum which he subsequently drafted and sent to me attached to his email of 20th August 2020? I should like to consider these instructions in order to understand why the Registrar refused to enter into a discussion of the legal effectiveness of the Implementing Steps set out in Section V of my, and my wife's paper, to the Registrar dated 6th August 2020 which was the purpose for which our discussion was arranged as was stated in the Zoom Meeting with Bishop Hancock which took place on 23rd July 2020.'²⁹⁹

²⁹⁷ See Appendix II, Doc. 209

²⁹⁸ See Appendix I

²⁹⁹ See Appendix II, Doc. 211

21.3.4 Bishop Worsley sent the 4th September Bishop Worsley Letter³⁰⁰ attached to an email of the same date. In respect of the advice which she had received she said:

*‘... I have consulted widely as to the practice and convention of other Bishops and dioceses. Our Registrar’s view is that “the House of Bishop’s Declaration does not involve the discharge of specific functions under statute, measure or canon and is therefore capable of a purely informal delegation because no transfer of legal power is involved.” This advice, and the conventions of those who have undertaken similar arrangements, suggest that this is best done without legalistic deeds and Bishop Jonathan shares my view that we can therefore proceed with suitable arrangements under a Memorandum of Understanding.’*³⁰¹

21.3.5 In response, in the 9th September McKie Email,³⁰² Mr McKie said:

‘In my e-mails sent between 25th August at 16:01 and 2nd September at 17:03 I have asked for various information and documents. I now summarise those requests.

The information requested in the 25th August Email and the Second 26th August Email

In my email of 25th August (the “25th August Email”) I recorded your undertaking to “send to me copies of any legal advice which you receive which is relevant to the arrangements or to the extent of your powers.” In the Second 26th August Email I made the following request in respect of any legal advice you might have received as to the correct method in law of implementing the Resolution:-

“It appeared from our conversation of yesterday, however, that, as I said in my subsequent email, you have not received any advice from the Registrar but only a draft memorandum without any advice on why it takes the form it does or why the Registrar has chosen to ignore the very substantial paper which my wife and I have written. If that is not the case I should be grateful, in accordance with the undertaking you gave yesterday, to receive a copy of the Registrar’s advice. I take it that you cannot have relied, in such an important matter, on advice given orally without any written record having been made of it.”

In response to such a request I should have expected either to have received a copy of the advice or a frank admission that you had not received any such advice. Instead, your 4th September Letter simply gives a quotation from the Registrar’s email to me of 25th August 2020 which was concerned with the extent of the powers delegated to you by Bishop Hancock and not with the arrangements to be made for the Parish and which does not address the question as to what reasons in law there are to adopt the Registrar’s draft memorandum rather than the legally effective arrangements set out in Section V of the Implementing Steps Paper.

The information requested in the Second 26th August Email

³⁰⁰ See Appendix I and Appendix II, Doc. 213

³⁰¹ See Appendix II, Doc. 213

³⁰² See Appendix I and Appendix II, Doc. 215

In the Second 26th August Email I made a straightforward request in respect of the advice you had received in respect of your powers:-

“You refer to “the Chancellor, Tim Briden, and Alex McGregor, the Church of England’s chief legal adviser” but I do not understand your email as indicating that you have received advice from them on the matter and your email gives no information as to the nature of the Registrar’s consultation of them. An assertion that a person has consulted other persons with no indication of the nature or content of that consultation is not one on which any weight can be put. So it is impossible to determine the significance, if any, of this “consultation”. Is it correct that no advice has been given by these persons? If such advice has been given I should be grateful to receive a copy of it.”

Again, in respect to such a straightforward request I should have expected either to have received copies of the advice you had received or a straightforward admission that you had not received any such advice. Instead, you have merely repeated the unsupported assertion made in your email of 26th August.

The information requested in the 2nd September Email

In my email of 2nd September 2020 sent at 11:45AM (the “2nd September Email”) I asked that you send to me:-

“copies of any instructions given to the Registrar, in particular, but not confined to, instructions given by Bishop Hancock or by you, in respect of the discussions he was to have, and has had, with me in respect of the arrangements to be made for Orchardleigh & Lullington Parish under the Declaration and to the memorandum which he subsequently drafted and sent to me attached to his email of 20th August 2020?”

Again you have neither supplied me with copies of such instructions nor stated either that no such instructions were given or that the instructions were given orally. In the latter case I should have expected you to give me a summary or note of those oral instructions.

In the 2nd September Email I also asked whether you considered:-

“that in making such arrangements [that is arrangements under the Declaration for Lullington & Orchardleigh] you would exercise any powers having any other source [than the Dioceses, Pastoral and Mission Measure 2007 s.13(1)]”.

In the 4th September Letter you do not give an unequivocal response to this question. Your comment which I have quoted above that Bishop Goodall “...has already spoken with ... [me]... and given his view that the above Instrument or Deed is all that is necessary to confirm that I am legally entitled to act as Acting Diocesan Bishop in +Peter’s absence and thus it is unnecessary for a further Instrument or Deed to be enacted by the Archbishop of Canterbury as Metropolitan” may be meant to imply that no powers have been granted to you other than under the Dioceses, Pastoral and Mission Measure 2007 s.13(1) but you do not say so expressly.

Failure to respond in a spirit of openness and transparency

I acknowledge that I do not have an enforceable legal right to require you to provide the information and copy documents which I have requested and which I have discussed above. In our telephone conversation of 25th August 2020,

however, you said that you were anxious to be open in your dealings with the representatives of Lullington & Orchardleigh and you gave the undertaking as to the provision of copy legal advice which I recorded in my 25th August Email. In the 4th September Letter you referred to your desire “for open and transparent communication.”

Yet, as I have said, you have neither supplied the information for which I have asked, and part of which you undertook to provide in our telephone conversation of 25th August, nor given unequivocal explanations as to why you have not done so and, in particular, you have not given unequivocal explanations that particular documents or information which I have requested do not exist.

I should be grateful if you would now supply the requested information and documents or, to the extent that the requested information and documents do not exist, state unequivocally that is the case.’³⁰³

21.3.6 No response was received from Bishop Worsley to this request for information which, in the main, merely reiterated requests made previously until the 25th September Bishop Worsley Email³⁰⁴ in which, far from complying with the undertaking which she had given in the 25th August Telephone Conversation or conducting herself with the attitude of openness which she claimed in that conversation she wished to adopt, she rested on the fact, which Mr McKie had already acknowledged,³⁰⁵ that she did not have a legal duty to provide the information:

‘The information and documents you requested in your email of 9th September appear to relate to the provision of legal advice given by the Diocesan Registrar, the Chancellor and the Official Solicitor to the Church of England. You have been informed of the advice that I have received regarding the appropriateness of a Memorandum of Understanding and the validity of the Instrument of Delegation but as you have no entitlement to receive copies of any communications passing between the Bishop’s Office and its legal advisers I do not propose going beyond what I have already told you.’³⁰⁶

21.3.7 In the 25th September McKie Email³⁰⁷ Mr McKie responded to the Bishop’s refusal to comply with her undertaking by saying:

‘In spite of the undertaking that you made in our telephone conversation on 24th³⁰⁸ August 2020, you now refuse to give the information and documents

³⁰³ See Appendix II, Doc. 215

³⁰⁴ See Appendix I

³⁰⁵ See para. 21.3.5 above

³⁰⁶ See Appendix II, Doc. 235

³⁰⁷ See Appendix I

³⁰⁸ This is a typographical error and should read ‘25th’

which I have requested on a number of occasions, requests which I summarised in my email of 9th September 2020, on the grounds that I “have no entitlement to receive copies” of those documents (you do not deal specifically with the information requests). I have, of course, always acknowledged that I have no legal entitlement to require you to provide these information and documents and that in requesting them I was relying on your undertaking, which does not bind you legally but only morally, and your claim that you “wished to be open in respect of these matters.” It appears that you are not willing to keep your undertaking or to act in the way you claim you wish to do.

Although you claim that I “have been informed of the advice that ...[you]... have received”, I have not been so. I have explained at length in correspondence why that is the case.

In my email of 25th August 2020 sent at 16:01 I raised the question of the consent of the representatives of the PCCs of the Benefice which is required to have been given to the proposed appointment under the Patronage (Benefices) Measure 1986 s.13(1)(b)(i). I asked:-

“that you should send to me any evidence there may be as to that consent having been obtained and of the manner in which it was obtained.”

You have not provided that evidence.’ ³⁰⁹

³⁰⁹ See Appendix II, Doc. 236

SECTION XXII

THE RELEVANT FACTS FOLLOWING BISHOP HANCOCK'S WITHDRAWAL:

COMPARABLE PARISHES

BISHOP GOODALL'S PREVIOUS STATEMENTS

22.1.1 In previous telephone conversations and correspondence with Bishop Goodall, Bishop Goodall had informed Mr McKie that he had had no previous experience of, and had no knowledge of there being, a parish in the same situation as the Parish. That is being a Resolution Parish forming part of a Mixed Benefice³¹⁰ to which a female priest in charge or incumbent had been appointed. At the 23rd July Zoom Meeting Bishop Goodall said:

*'... I have asked certainly two of the three other colleagues with an analogous job and while we have, all of us, plenty of multi-parish benefices where only one parish within the benefice has passed a resolution, in no case is the incumbency occupied by a female incumbent ...'*³¹¹

BISHOP WORSLEY'S ASSERTIONS

22.2.1 During the 25th August Telephone Conversation Bishop Worsley asserted that there were two such parishes.³¹²

22.2.2 In the 2nd September (Second) McKie Email³¹³ Mr McKie said:

'In our telephone conversation on 25th August you mentioned that there was a parish in Exeter under Bishop Goodall's oversight and another parish in Salisbury both of which were in the same situation as Lullington & Orchardleigh will be when Prebendary Crossman is inducted to the Benefice. That is that the parish concerned has passed a resolution under the Declaration but another parish or other parishes in the same benefice have not, the benefice is a multi-

³¹⁰ See Appendix I

³¹¹ See Appendix II, Doc. 150 Item 12

³¹² See Appendix II, Doc. 207

³¹³ See Appendix I

parish benefice and a female has been appointed as its incumbent. I have called such a benefice a “Mixed Benefice.”

Bishop Goodall said clearly that he was not aware of there being any Mixed Benefices in Salisbury or Exeter or, indeed, anywhere else.

It is rather important to know whether there are any precedents for our situation. I have already asked you in my e-mail of 26th August sent at 10:08 for the identity of the parishes involved. Please would you let me know whether the information which you gave to me in our telephone conversation was correct and, if you are aware of there being any Mixed Benefices, tell me which ones they are?’³¹⁴

22.2.3 In Bishop Worsley’s 4th September Letter, she had said:

‘As you say this is an unusual situation as a “mixed Benefice” in your words, with a parish which holds a Resolution within a Benefice having other parishes that accept the theological principle of female ordination. However, it is not without precedent. Bishop Sarah Mullally of London had a similar Benefice in her care when Bishop of Crediton. This is the Benefice of Holsworthy and I have been in contact with Bishop Robert of Exeter who is happy to offer the wisdom of this example. Archdeacon Anne is therefore liaising with the Archdeacon there to ensure that we can learn from their experience. In particular I have asked for more information in respect of the licence given to the female Rector, (which I believe +Jonathan advised +Sarah about,) in terms of how it describes both the temporal and spiritual distinctions of the duty of care. The Benefice remains under the oversight of the male Diocesan Bishop rather than having the need of extended episcopal oversight.

A further example in Salisbury diocese is similarly a multi-parish “mixed benefice” however the Resolutions were passed under the Act of Synod. I understand the arrangements made then were that the Benefice remained under the oversight of the male Diocesan Bishop. In this case a traditional Catholic priest in a neighbouring Benefice gave spiritual care to the one parish within this “mixed” Benefice which could not receive the ministry of the female team vicar. Apparently, this worked well for a number of years until the time when the parish chose to rescind the Resolutions.’³¹⁵

22.2.4 Mr M^cKie was very surprised that Bishop Worsley had been able to identify two comparable parishes when Bishop Goodall, the Provincial Episcopal Visitor for the western half of the province of Canterbury, had said, after enquiry of his colleagues, that he was unaware of any such comparable parishes.³¹⁶ Mr M^cKie telephoned Bishop Goodall on 2nd September at 3:45 when the following exchange took place:

³¹⁴ See Appendix II, Doc. 212

³¹⁵ See Appendix II, Doc. 213

³¹⁶ See para. 22.1.1 above

'First, in previous telephone conversations and in the Zoom meetings with Bishop Hancock, +EF³¹⁷ had said that he was not aware of any other parishes in a similar situation to that in which Lullington & Orchardleigh will be when Prebendary Crossman is inducted to the Benefice. That is that the parish concerned is part of a multi-parish benefice and has passed a resolution under the Declaration but another parish or other parishes in the same benefice has or have not and a female has been appointed as the benefice's incumbent. In a telephone conversation with Archbishop³¹⁸ Worsley, however, which took place on 25th August 2020, Archbishop³¹⁹ Worsley had said that there was such a parish in Exeter, which was under +EF's oversight, and another such parish in Salisbury. SPM asked whether +EF was aware that this was the case. +EF said that he was not and that he could not imagine that there would be a parish under his oversight in such a situation of which he was not aware.' ³²⁰

MR M^cKIE'S ENQUIRIES

22.3.1 Nonetheless, Mr M^cKie contacted one of the Churchwardens of the Parish of St Petroc, Hollacombe in the Benefice of Holsworthy. The information he obtained was reflected in the 9th September M^cKie Email which was sent to Bishop Worsley:

'In our telephone conversation on 25th August you mentioned that there was a parish in Exeter under Bishop Goodall's oversight and another parish in Salisbury both of which were in the same situation as Lullington & Orchardleigh will be when Prebendary Crossman is inducted to the Benefice. In my email of 26th August 2020 sent at 10:08 (the "First 26th August Email") I said:-

"I forgot to ask in my e-mail of yesterday if you would send me the names of the two parishes in 'Mixed Benefices', that is parishes which have passed a resolution under the Declaration but are part of a benefice in which not all the parishes have done so and to which a female incumbent has been appointed, that you mentioned. Please would you let me know their names?"

You will have seen from the note of my telephone conversation with Bishop Goodall which took place on Wednesday 2nd September that he was, at that time, completely unaware of the existence of the two parishes to which you refer. You have now said:-

"Bishop Sarah Mullally of London had a similar Benefice in her care when Bishop of Crediton. This is the Benefice of Holsworthy."

*...
"A further example in Salisbury diocese is similarly a multi-parish "mixed benefice" however the Resolutions were passed under the Act of*

³¹⁷ The abbreviation for Bishop Goodall used in the telephone note

³¹⁸ Obviously a typographical error

³¹⁹ Obviously a typographical error

³²⁰ See Appendix II, Doc. 214. It can be seen that the note of this telephone conversation was emailed to Bishop Goodall on 7th September 2020 so that if Bishop Goodall thought it was inaccurate in any way he could say so

Synod. I understand the arrangements made then were that the Benefice remained under the oversight of the male Diocesan Bishop. In this case a traditional Catholic priest in a neighbouring Benefice gave spiritual care to the one parish within this “mixed” Benefice which could not receive the ministry of the female team vicar. Apparently, this worked well for a number of years until the time when the parish chose to rescind the Resolutions.”

The Parish of St Petroc, Hollacombe

I presume that the benefice to which you refer in the extract above is the benefice of Holsworthy, Hollacombe, Pyworthy, Pancrasweek and Bridgerule. At the expense of some time I have conducted research and made enquiries regarding this benefice. On the benefice’s website there is a copy of a notice under the Patronage (Benefices) Measure 1986 that a female priest was to be inducted to the benefice on 16th July 2020 but nothing to indicate whether or not the induction actually took place. It appears that either up to her induction, or if she has not been inducted, up to the present time, she was licensed as priest-in-charge of the Benefice but whether her licence is restricted in relation to the parish of St Petroc, Hollacombe similarly to the restriction of Prebendary Crossman’s licence in respect of the Benefice is not apparent.³²¹

There was some sort of misunderstanding in respect of the resolution under the Declaration made by the pcc of St Petrock, Hollacombe which in some way prevented, or at least the pcc thought that it prevented, Bishop Goodall from providing alternative episcopal oversight of the parish so that direct episcopal oversight is exercised by the Bishop of Exeter. I understand that no proper arrangements have been made to implement the parish’s resolution other than that an undertaking of some sort has been made by the priest-in-charge (or Rector) that only male priests, but priests chosen from time to time by her, will take Holy Communion. It appears that there is only one celebration of Holy Communion per month in the parish. Apart from this, the Incumbent has exercised her ministry in the parish as if the pcc of the parish had not passed a resolution under the Declaration.

It appears from my research that the pcc of this parish did not have access to the objective advice on the effect of the pcc’s resolution under the Declaration which it would need to challenge the inadequate provision which has been made for it.

Far from being a pattern for the successful implementation of a parish’s resolution under the Declaration, this unfortunate parish would appear to be an example of a failure to implement such a resolution.³²²

An unidentified parish in Salisbury Diocese

You also refer to another example of a Mixed Benefice in Salisbury Diocese but you have not given the name of the parish concerned as I had requested you to do. It is by your account not a benefice to which the Declaration is relevant so the question of the application of the provisions of the Declaration to the

³²¹ It is now clear that it was not (see Appendix II, Docs. 245, 246 & 247)

³²² Mr McKie obtained further information about this parish in a further telephone conversation with the churchwarden. That conversation confirmed the unsatisfactory nature of the arrangements made for the parish, the pcc’s lack of access to objective advice and the pcc’s dissatisfaction with the position in which it has been left (see Appendix II, Docs. 245, 246 & 247)

parish does not arise. Please will you give me the name of the parish to which you refer?³²³

The fundamental question

The fundamental question is, in any event, whether you are willing to make arrangements for Lullington & Orchardleigh in accordance with the Diocesan Bishop's duty to implement the Resolution in accordance with the Declaration. For the reasons which I have already set out at length, the arrangements which it appears that you now propose to make do not do so. Even if it were true, therefore, that there are other parishes in the country which have implemented arrangements similar to those which you propose, of which you have provided no evidence, the result would be only that the diocesan bishops responsible for those parishes would have similarly failed to fulfil their duty under the Declaration.'

³²³ Bishop Worsley has not done so

SECTION XXIII

THE RELEVANT FACTS FOLLOWING BISHOP HANCOCK'S WITHDRAWAL:

INTERIM RELIEF

THE ISSUE IS RAISED WITH BISHOP HANCOCK

- 23.1.1 In the 25th August McKie Email Mr McKie also raised the important issue of informal Interim Relief:

*'As you know Bishop Hancock indicated that he would not induct Prebendary Crossman to the Benefice until arrangements were made for the Parish under the Declaration and it would clearly be a breach of the Diocesan Bishop's duties under the Declaration³²⁴ to do so. Please would you confirm that, to the extent that you have the power to do so, you will also refrain from inducting Prebendary Crossman to the Benefice until arrangements are made? You will also know that Prebendary Crossman's licence does not permit her to exercise her ministry in the Parish. It would obviously be inappropriate and a breach of the Declaration to extend her licence to enable her to do so. Again I should be grateful if you would confirm that you will not exercise your powers, to the extent that you have them, to amend her licence to allow her to minister in any way in the Benefice.'*³²⁵

THE 22ND SEPTEMBER MCKIE EMAIL

- 23.2.1 In the 22nd September McKie Email,³²⁶ in view of the, by then, almost certainty that Bishop Worsley would not accept the PCC's offer under the Regulations, Reg. 9 of an opportunity to address its grievance, Mr McKie raised the question of informal Interim Relief for the period before the Independent Reviewer gives his decision under the Regulations, Reg. 22. He said:

'It appears, as I have said, that you are determined to prevent the implementation of arrangements which satisfy Bishop Hancock's duty under the Declaration. I expect, therefore, that you will not accept the offer made by the PCC, under the Regulations, para. 9, which provides an opportunity to address our grievance. You are aware that the PCC has resolved that, if that proves to

³²⁴ See para. 12.2.5 above

³²⁵ See Appendix II, Doc. 206

³²⁶ See Appendix I and Appendix II, Doc. 230

be the case, it will submit a grievance under the Regulations, para. 10 to the Independent Reviewer.

In his letter of 3rd July 2020 to Glyn Bridges, Bishop Hancock said that:-

“In conversation with others, including Ronnie and Bishop Jonathan, I believe that it would not be appropriate for Ronnie to be inducted as Rector of the benefice until we have a good working relationship which enables Lullington with Orchardleigh, the other parishes in the benefice and Ronnie, as incumbent of the whole benefice, to flourish.”

Bishop Hancock reiterated this undertaking in his email of 9th July 2020 sent at 11:20. You also said in your email of 26th August 2020 sent at 11:56 that:-

“I will not be making a date for the Institution of Ronnie as Rector until such time as we have arrangements clearly in place.”

It is quite clear that, as it is probable that we shall be forced to submit a grievance under the Regulations para. 10, the condition set by Bishop Hancock for the induction of Prebendary Crossman of having achieved “...a good working relationship which enables Lullington with Orchardleigh, the other parishes in the benefice and Ronnie, as incumbent of the whole benefice, to flourish” has not been satisfied. Indeed we are further away from its satisfaction than when Bishop Hancock stated that condition. Nor can arrangements be “clearly in place” when they are subject to review by the Independent Reviewer under a grievance submitted under the Regulations para. 10. I hope, therefore, that you will undertake, without equivocation, that you will not exercise any power which you may have to extend Prebendary Crossman’s licence so as to confer on her any power in respect of the parish of Lullington & Orchardleigh or to induct her to the benefice until the Independent Reviewer’s decision has been received.

I should be grateful to receive, as soon as possible, that unequivocal undertaking, or, if you will not give it, an unequivocal refusal to make that undertaking.’³²⁷

23.2.2 Bishop Worsley’s only response to this request was simply to revert to her previous equivocal undertaking, saying in the 25th September Bishop Worsley Email:

‘As you say, I have already stated that I will not be making a date for the institution of Ronnie as Rector until such time as we have arrangements clearly in place³²⁸ and I confirm that this remains the case.’³²⁹

³²⁷ See Appendix II, Doc. 230

³²⁸ This, of course, begs the question of when arrangements will be ‘clearly in place’. Bishop Worsley might consider this to be when the Memorandum of Understanding has been signed by herself and Prebendary Crossman

³²⁹ See Appendix II, Doc. 235

THE 25TH SEPTEMBER M^CKIE EMAIL

23.3.1 In response to this, in the 25th September M^CKie Email, Mr M^CKie said:

'The need for an unequivocal undertaking in respect of interim arrangements

In my email of 22nd September 2020 I asked:-

"...that you will undertake, without equivocation, that you will not exercise any power which you may have to extend Prebendary Crossman's licence so as to confer on her any power in respect of the parish of Lullington & Orchardleigh or to induct her to the benefice until the Independent Reviewer's decision has been received.

I should be grateful to receive, as soon as possible, that unequivocal undertaking, or, if you will not give it, an unequivocal refusal to make that undertaking."

Instead of giving the unequivocal undertaking or making an unequivocal refusal to do so for which I reasonably asked, you have said:-

"As you say, I have already stated that I will not be making a date for the institution of Ronnie as Rector until such time as we have arrangements clearly in place and I confirm that this remains the case."

This is not the straightforward and unequivocal response to the question for which I asked and which simple honesty demands.

*I should be grateful if you would give me that unequivocal undertaking or an unequivocal refusal to make that undertaking as I requested in my email of 22nd September 2020.'*³³⁰

BISHOP WORSLEY DOES NOT RESPOND

23.4.1 Bishop Worsley has made no response to this request for an honest and unequivocal response either in the affirmative or negative.

³³⁰ See Appendix II, Doc. 236

SECTION XXIV

THE RELEVANT FACTS FOLLOWING BISHOP HANCOCK'S WITHDRAWAL:

THE EXTENT OF BISHOP WORSLEY'S POWERS

THE REQUEST FOR THE INSTRUMENT

24.1.1 We have seen³³¹ that at a late stage in the discussion of the making of Declaration Arrangements³³² for the Parish it came to light that Bishop Hancock had delegated to Bishop Worsley powers over the Resolution Parishes of the Diocese including the Parish. Concerned that the PCC should know the exact extent of Bishop Worsley's powers over the Parish, Mr McKie emailed Canon Dodds saying:-

*'I should be grateful if Bishop Worsley, or you acting on her behalf, would send to me a copy of the instrument under which Bishop Hancock delegated powers to her so that I can determine their extent. It is of course, essential, that, in relation to the exercise of a public office, those who are subject to the exercise of the powers of that office should be able to determine their exact extent.'*³³³

24.1.2 Canon Dodds did so.³³⁴

A REVIEW OF THE INSTRUMENT REVEALS THE DOUBTFUL EXTENT OF BISHOP

WORSLEY'S POWERS

24.2.1 When Mr McKie read that instrument he realised that there was the greatest doubt as to whether Bishop Hancock had actually delegated powers to Bishop Worsley which were sufficient to allow her to make Declaration Arrangements. He set out the

³³¹ See paras. 15.2.1 – 15.3.2 above

³³² See Appendix I

³³³ See Appendix II, Doc. 196

³³⁴ See Appendix II, Doc. 197

grounds of those doubts in a considered and lengthy email, the 24th August McKie Email,³³⁵ to Bishop Worsley.

THE 24TH AUGUST MCKIE EMAIL

24.3.1 In the 24th August McKie Email to Bishop Worsley Mr McKie said:

'In response to my email to him of 15th August 2020 sent at 12:18, which was copied to you, Canon Dodds sent to me a copy of the instrument (the "Instrument") made by Bishop Hancock delegating powers to you under the Dioceses, Pastoral and Mission Measure 2007 s.13. As you know I had asked for a copy of the Instrument so that I should be clear what powers had been delegated to you by Bishop Hancock and in particular whether they would allow you to make arrangements under the Declaration in respect of Lullington & Orchardleigh Parish.

*It may be that everybody has proceeded in good faith on the basis that the Instrument does indeed confer that power but I have to say that, as a matter of law, it seems to me probable that it does not. I shall set out my reasons for saying so in this email. You will see that I have copied this email to the Registrar and he will, no doubt, come to an opinion on the matter. I should say, however, that the matters I set out below do not seem to me to permit an unqualified opinion to be given that the Instrument does delegate the necessary powers and, if the Registrar were to conclude otherwise, I should need to know the arguments and authorities on which he relied on reaching his conclusion in order to consider whether to revise my opinion. It is obviously important that there should be no uncertainty as to whether a purported exercise by you of powers to make arrangements under the Declaration would be valid or not. I should explain that in writing this e-mail I have had the advantage of receiving the opinion of my wife, Sharon McKie, who concurs with my conclusions. You will see that this e-mail is, inter alia, copied to her.'*³³⁶

24.3.2 Mr McKie then set out in detail his reasons for taking this view and then concluded:

'As I have said, the features of the Instrument to which I have drawn attention indicate that the construction of the Instrument which is likely to be correct is that the powers delegated to you by Bishop Hancock under it are limited and do not extend beyond carefully restricted powers in respect of ordination and confirmation. There is, therefore, to put the matter at its lowest, a material uncertainty as to the extent of your powers.

It may be that this wording has been adapted from a commonly used template. There is a tendency amongst many draftsmen of legal documents to assume that a wording which has been used several times before and has been included in a template must be effective. It is always necessary, however, when adopting

³³⁵ See Appendix I

³³⁶ See Appendix II, Doc. 203

*a legal template, to consider afresh the suitability of its wording to the purpose for which the particular document concerned is made.*³³⁷

THE PCC HAS NO INTEREST IN BISHOP WORSLEY NOT HAVING THE POWER TO FACILITATE DECLARATION ARRANGEMENTS

24.4.1 The PCC has no interest in challenging the validity of Bishop Worsley's powers. If there is uncertainty as to her powers there must be uncertainty as to whether arrangements can, in practice, be made for the Parish under the Declaration without substantial delay. The PCC has repeatedly warned Bishop Hancock and Bishop Worsley as to the deleterious effect on the Christian life of the Parish of the delay there has already been in making Declaration Arrangements for it and of future delay.³³⁸ It has, therefore, no interest in manufacturing illusory difficulties of construction in respect of the Instrument. It raised the question of the extent of Bishop Worsley's powers because there was clearly a real doubt as to their extent which has important implications in respect of the Arrangements as well as in respect of the affairs of the Diocese generally.

FURTHER CORRESPONDENCE ON THE ISSUE

24.5.1 On 25th August 2020, having been sent, by Mr McKie, a copy of the 24th August McKie Email, the Registrar sent an email in response which was copied to Bishop Worsley. That email was very brief and failed to engage with the detailed reasoning as to the construction of the Instrument set out in the 24th August McKie Email. The Registrar said:-

'I disagree with your restrictive interpretation. The words "I HEREBY COMMIT unto you full power and authority to perform within our said diocese all other

³³⁷ See Appendix II, Doc. 203

³³⁸ See paras. 9.1.1, 10.8.1, 12.3.2 & 16.2.1 above

*necessary functions peculiar and appropriate to the order of Bishops” is perfectly clear and is not qualified by the preceding references to ordinations and confirmations. The reference to “necessary” includes those functions that a bishop is required to perform because they are vested in the bishop by law or must necessarily be undertaken as part of the diocesan bishop’s functions.*³³⁹

24.5.2 Mr McKie said, in reply, in an email sent on the same day:-

‘Your email is mere assertion and does not respond to my detailed arguments as to the matter of construction in respect of which your assertion is made. As it is a mere assertion and not based on any expressed legal reasoning, it cannot change my considered view of the construction of the instrument. In the absence of any grounds to think otherwise, it is my considered opinion that Bishop Worsley has no current authority beyond the limited powers in respect of ordinations and confirmation to which I have referred in my email of 24th August 2020.

*That is, of course, a matter of much wider importance than simply in relation to the arrangements to be made for the parish of Lullington & Orchardleigh. It is a matter which Bishop Worsley, and you, will ignore at your peril. I cannot imagine that any responsible solicitor could ignore the possible consequences of Bishop Worsley purporting to exercise powers which she does not possess which will be the result if your asserted opinion, as I consider it to be, is wrong. It would have been far more responsible to engage with the legal reasoning I had set out.*³⁴⁰

24.5.3 The Registrar’s email of 25th August 2020 contained another error in respect of Ecclesiastical Law. In it the Registrar said:

*‘The House of Bishops’ Declaration does not involve the discharge of functions under statute, measure or canon. It is therefore capable of a purely informal delegation because no transfer of legal power is involved. Bishop Peter has entrusted the arrangements under the Declaration for Lullington and Orchardleigh to Bishop Ruth and even if a section 13 instrument of delegation had not been executed the delegation is valid.*³⁴¹

24.5.4 In respect of this statement Mr McKie said, in reply:

*‘As to your second paragraph, even under the inadequate proposals made in your Memorandum of Understanding the Diocesan Bishop will exercise a statutory power to license a non-stipendiary assistant curate under the Mission and Pastoral Measure 2011 s.99 so implementing the Declaration must involve “the discharge of functions under statute, measure or canon”.*³⁴²

³³⁹ All the matters to which the Registrar referred in this email had been fully considered in 24th August McKie Email

³⁴⁰ See Appendix II, Doc. 205

³⁴¹ See Appendix II, Doc. 204

³⁴² See Appendix II, Doc. 205

24.5.5 In respect of the question as to the extent of her powers, Bishop Worsley said in the 4th September Bishop Worsley Letter:

'I have had further conversations with both the Registrar and the Bishop of Lambeth to ascertain that your concerns with respect to my role as Acting Diocesan Bishop do indeed permit me to undertake arrangements for the care of the parishes under the House of Bishops' Declaration. The Registrar has already referred you to the Instrument of Delegation made in 2015. His view, shared by both the Chancellor and the chief legal officer for the Church of England is that the words, "I HEREBY COMMIT unto you full power and authority to perform within our said diocese all other necessary functions peculiar and appropriate to the order of Bishops" are clear and are not qualified by the preceding references to ordinations and confirmations. The reference to "necessary" includes those functions that a bishop is required to perform because they are vested in the bishop by statute. I believe you already have a copy of the instrument but I have copied the Registrar into this email and he can furnish you with a copy if you have not.

*I understand from Bishop Jonathan that he has already spoken with you and given his view that the above instrument or Deed is all that is necessary to confirm that I am lawfully entitled to act as Acting Diocesan Bishop in +Peter's absence and thus it is unnecessary for a further Instrument or Deed to be enacted by the Archbishop of Canterbury as Metropolitan. This was the practice whilst +Jonathan was Chaplain to ++Rowan as Archbishop and that practices continues today. I have copied in +Tim Thornton who as Bishop of Lambeth will be happy to confirm that. +Jonathan has also stated to me that he is happy to work with me to fully implement the Declaration, begun by +Peter.'*³⁴³

24.5.6 The fact that the Registrar had 'already referred ...[Mr M^cKie]... to the Instrument of Delegation made in 2015' was remarkably beside the point as Mr M^cKie's concerns were in relation to the construction of that very instrument. The assertion that the Registrar's view was shared by the Chancellor and the Chief Legal Officer seems to have been based on the fact that the Registrar had had some unspecified conversations with them. It was to determine the substance of those conversations and whether they could be said to amount to a considered legal view that Mr M^cKie had requested copies of any advice which they had given or a statement that no such written advice had been given.³⁴⁴

³⁴³ See Appendix II, Doc. 213

³⁴⁴ See Section XXI above. In view of the error as to Ecclesiastical Law that the email dated 25th August 2020 from the Registrar contained (see paras. 24.5.3 & 24.5.4 above) it is surely unlikely that these persons can have read that email in draft or approved its contents

THE 9TH SEPTEMBER M^CKIE EMAIL

24.6.1 Mr M^CKie made yet another considered response to Bishop Worsley's assertions in the 9th September M^CKie Email saying:

'I shall first consider the matter of your authority to act in respect of the arrangements under the Declaration. You say:-

"I believe you already have a copy of the Instrument but I have copied the Registrar into this email and he can furnish you with a copy if you have not."

A surprising ignorance of the relevant facts

I am surprised at your uncertainty as to whether I have a copy of the instrument (the "Instrument") under which Bishop Hancock delegated certain powers to you under the Dioceses, Pastoral and Mission Measure 2007 s.13 or not as I informed you in my e-mail of 24th August 2020 that I had such a copy (the "24th August Email").

Repetition of an unsupported assertion

The 24th August Email contained an extensive legal analysis of the construction of the Instrument setting out in detail why I considered that it was probable, as a matter of construction, that it conferred only limited powers on you in respect of ordination and confirmation. I also informed you in the 24th August Email that my analysis had been reviewed and confirmed by my wife who is a solicitor of many years' standing and of some distinction in her own particular field of practice.

The 24th August Email had been copied to the Registrar who responded in a short email which contained the assertion which you repeat in your letter. As I pointed out to the Registrar in my e-mail of 25th August 2020 sent at 9:51AM, he had entirely failed to engage with the detailed legal reasoning set out in the 24th August Email.

Your assertions as to the opinion of others

You say that the Registrar's view as to the construction of the Instrument is shared by the Chancellor and the Chief Legal Officer of the Church of England but you do not provide a copy of any opinion given by those persons. Any reliance to be placed on any such opinion must depend upon the adequacy of the instructions given and the form and degree of consideration given by the person providing advice in response to them. You have failed to provide any information in response to my request that you send to me a copy of any such instructions and of any such opinion given by these persons (see below) with the result that, as I said in my email of 26th August sent at 13:01 (they "Second 26th August Email") your assertion as to the Chancellor's and the Chief Legal Officer's opinions is not one on which any weight can be put.

You say that Bishop Goodall:-

"...has already spoken with you ... [that is me]... and given his view that the above Instrument or Deed is all that is necessary to confirm that I am legally entitled to act as Acting Diocesan Bishop in +Peter's absence

and thus it is unnecessary for a further Instrument or Deed to be enacted by the Archbishop of Canterbury as Metropolitan.”

I spoke to Bishop Goodall on 2nd September and my personal assistant has sent to you a copy of the contemporaneous note which I made of that conversation. You will see from that note that, far from giving the opinion which you have attributed to him, it was I who expressed an opinion in respect of the Instrument. The opinion I expressed was that it was improbable that the Instrument conferred a power on you to act in the matter. I expressed that opinion as a person who is legally qualified. Bishop Goodall, very properly, expressed no view on the question which is a legal matter on which I, and my wife, can speak with expertise and a person who is not legally qualified cannot.

You also say that:-

“I have copied in +Tim Thornton who as Bishop of Lambeth will be happy to confirm that.”

I presume that the word “that” in this sentence is a reference to the assertion which you attribute to Bishop Goodall which he did not, in fact, make. Whether it has been the practice to issue instruments with the same wording as the Instrument and to rely on the issue of those instruments as conferring on the person to whom the instrument was issued a power to act in a diocesan bishop’s absence can only be of peripheral relevance to the question as to whether such an instrument actually does confer that power. Whether it does or not is a matter of legal construction. As I explained in the 24th August Email, it is, unfortunately, not uncommon for some lawyers to use existing legal documents as templates for situations to which they are not suitable.

Why reliance cannot be placed on the unsupported assertion of the Registrar I can place no reliance on the Registrar’s assertion on this matter for the following reasons.

First, as my e-mail to him of 25th August 2020 sent at 9:51AM makes clear in its final paragraph, the Registrar’s comments in his email of 24th August contain an obvious error.

Secondly, his failure to engage with the detailed legal reasoning set out in my 24th August Email does not suggest that he has given the matter proper consideration.

Thirdly, as you should be aware, in a matter of the greatest importance to the life of the parishes of our Benefice concerning an important legal duty imposed under Charity Law on each of the Parishes and on the Diocese, the Registrar gave an incorrect opinion and maintained it even when my wife had set out in detail the correct position. The result was that there was a delay in establishing that the pccs of the Benefice and the Diocese itself, had each failed to comply with an important safeguarding obligation to make a return to the Charity Commission in respect of the acts leading to our previous incumbent’s, Mr Chalkely’s, suspension from, and subsequent resignation of, his cure.

My wife brought her concern at the provision of this incorrect advice and other aspects of the Registrar’s involvement in the Core Group convened in respect of the disciplinary proceedings against Mr Chalkely to the attention of Bishop

Hancock and they were to be discussed with Bishop Hancock in a meeting which, before his illness, was expected to take place later this year.

For good and weighty reasons, therefore, I am unable to rely on the Registrar's assertion, which is unsupported by legal reasoning or authority, in respect of your powers.

The Chief Legal Officer might give a formal opinion

If the Chief Legal Adviser were, however, to give, on the basis of properly drafted instructions containing an account of the relevant issues including the arguments set out in the 24th August Email, a formal written opinion, including his detailed reasoning leading to the opinion given, as to the extent of the powers delegated to you by Bishop Hancock, I should be happy to accept his opinion as to the extent of those powers except in the unlikely event that it contained an obvious error.

The probable construction of the Instrument

In the absence of any contrary indication, it is my view that it is probable that your powers do not extend beyond limited powers in respect of ordination and confirmation. It is, therefore, at the very least, doubtful that you have the power to act on behalf of the Diocesan Bishop in respect of the arrangements to be made for Lullington & Orchardleigh. For that reason, in spite of Bishop Hancock's illness, I must continue to send correspondence to him and to his Chaplain.

*I shall, however, respond to the other points in your letter in the expectation that you will continue to act as if you had the necessary powers in this matter. I should repeat, however, what I said in the 25th August Email that this "is, of course, a matter of much wider importance than simply in relation to the arrangements to be made for the parish of Lullington & Orchardleigh." If you do not engage a considered opinion on the matter there is a serious risk that you will act ultra vires in respect of many matters of relevance to the Diocese with consequences which could cause significant harm to the Diocese. I do not consider that your reliance on the Registrar's assertion will excuse you from the responsibility for any such harm in view of my having put you on notice of the reasons why that assertion is unlikely to be correct.'*³⁴⁵

24.6.2 Bishop Worsley has made no response to the points made in respect of this issue in the 9th September McKie Email.

³⁴⁵ See Appendix II, Doc. 215

SECTION XXV

THE RELEVANT EVENTS FOLLOWING BISHOP HANCOCK'S WITHDRAWAL: BISHOP WORSLEY'S REFUSAL TO FACILITATE THE MAKING OF DECLARATION ARRANGEMENTS FOR THE PARISH

IT BECOMES APPARENT THAT BISHOP WORSLEY WILL NOT FACILITATE THE MAKING OF DECLARATION ARRANGEMENTS FOR THE PARISH

25.1.1 By late August it had become apparent that Bishop Worsley had no intention of facilitating the making of arrangements for the Parish which would satisfy Bishop Hancock's duty under the Declaration.

THE 11TH SEPTEMBER RESOLUTIONS

25.2.1 A meeting of the PCC was therefore called for Friday 11th September. At that meeting, at which all but one of the PCC members were present, the 11th September Resolutions³⁴⁶ were, *inter alia*, passed unanimously. They were as follows:

'(6) Simon McKie presented his report on the progress on implementing the PCC's Resolution made on 23rd October 2018 under the House of Bishop's Declaration dated 19th May 2014.

(a) It was resolved that, in view of the failure of the Bishop of Bath & Wells (the "Diocesan Bishop"), and of any person exercising powers on his behalf, to make arrangements which would fulfil the Diocesan Bishop's duty to implement the PCC's resolution of 23rd October 2018 in accordance with the House of Bishop's Declaration on the Ministry of Bishops and Priests made on 19th May 2014 (the "Declaration"), the PCC will, subject to the below, submit a grievance (the "Submission") to the Independent Reviewer under the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014 (the "Regulations"), Regulation 10.

(b) It was further resolved that, before doing so, the PCC will send to the Diocesan Bishop, the Bishop's Chaplain, Bishop Worsley, the Bishop of Taunton and Prebendary Crossman (the Receiving Parties) a statement (the "Statement") of transactions (the "Transactions") legally binding upon the

³⁴⁶ See Appendix I

parties, based on Resolutions 5 & 6 passed by the PCC on 22nd June 2020 which, if implemented, would fulfil the Diocesan Bishop's duty under the Declaration. The Diocesan Bishop, or a person who has the requisite power to do so on his behalf, is to be given the opportunity (the "Offer") to undertake (the "Undertaking"), by 25th September 2020, to implement the Transactions to a timetable set out in the Statement. Doing so will provide the Diocesan Bishop the opportunity required to be provided by the Regulations, Regulation 9.

(c) It was further resolved that the Statement and the Offer are to be drafted by Simon McKie and be subject to the agreement of Glyn Bridges acting for the PCC and will be submitted to the Receiving Parties by Mr McKie on behalf of the PCC. If the Undertaking is not received by the PCC by 25th September 2020 the Submission is to be drafted by Mr McKie as soon as possible thereafter and, subject to the agreement of Mr Bridges acting for the PCC, to be submitted to the Independent Reviewer appointed under the Regulations, Regulation 2 by Mr McKie on behalf of the PCC.

(d) It was further resolved that in order to facilitate his dealings with the Diocesan Bishop and his representatives and the drafting and finalisation of the Submission, if it becomes necessary to make that Submission, Mr McKie should write to the persons who were the PCC's representatives appointed under the Patronage (Benefices) Measure 1986 s.11(1)(b) to invite them to meet him to give him such information in respect of the process by which the decision to appoint Prebendary Crossman to the Benefice was made as he considers would be helpful to him in drafting the Submission.

*All of the resolutions were approved unanimously by the meeting.'*³⁴⁷

THE EXPIRY OF THE PCC'S OFFER

25.3.1 The Statement³⁴⁸ and offer referred to in Resolution 6(c) of the 11th September Resolutions were drafted and approved in accordance with that resolution. Mr McKie, acting on behalf of the PCC, made the offer to Bishop Hancock in the 14th September McKie Email³⁴⁹ to which the Statement was attached.³⁵⁰ This email was sent to Bishop Hancock, in spite of his state of ill health, because it was probable that Bishop Worsley did not have the power to act in the matter but the offer contained provision for it to be accepted or rejected by Bishop Worsley acting on Bishop Hancock's behalf.³⁵¹

³⁴⁷ See Appendix II, Doc. 216

³⁴⁸ See Appendix I

³⁴⁹ See Appendix I

³⁵⁰ See Appendix II, Doc. 219

³⁵¹ See Section XXIV above and Appendix II, Doc. 219

Absent such acceptance or rejection the offer expired on the close of business on Friday 25th September 2020.

25.3.2 No response to this offer was received until 10:47 on 25th September 2020³⁵² but, attached to the 18th September Bishop Worsley Email,³⁵³ was what she referred to as a 'Final Memorandum of Understanding'.³⁵⁴ That email and its attachment were sent to the Benefice Churchwardens and to various other Diocesan Personnel concerned in the matter, Mr Clark, Mr M^cKie and, to Bishop Thornton, the Bishop at Lambeth.³⁵⁵ The email was highly misleading.

25.3.3 In the 22nd September M^cKie Email to Bishop Worsley Mr M^cKie said in respect of the 14th September M^cKie Email:

'On 14th September 2020 I wrote to you, also on the PCC's behalf, making an offer, under the Declaration on the Ministry of Bishops and Priests (Resolution of Dispute Procedure) Regulations 2014, para. 9, of an opportunity to address the PCC's grievance. I have not had even an acknowledgement of that email. Instead, you have chosen to send out the email ("Your Current Email"), a copy of which is given below, to various persons including the Churchwardens of all the parishes of the Benefice. That email gives a highly misleading view of the matters at issue in respect of the arrangements which should be made under the Declaration to implement our PCC's resolution under the Declaration.

The persons to whom you sent it include a number of persons whose only prior knowledge of the proposals which have been made was your letter of 21st August 2020 which was equally misleading.

You say in Your Current Email that you are aware that "...[your proposal only to make a legally ineffective Memorandum] ... may not meet with everyone's approval ...". That is a misleading way to describe a situation in which the PCC for which arrangements must be made under the Declaration has resolved unanimously that because of "the failure of the Bishop of Bath & Wells... and of any person exercising powers on his behalf, to make arrangements which would fulfil the Diocesan Bishop's duty to implement the PCC's resolution of 23rd October 2018" it will submit a grievance to the Independent Reviewer under the Regulations para. 10 subject to giving you the opportunity required by para. 9 ibid. No reader of Your Current Email, without independent

³⁵² See Appendix II, Doc. 235

³⁵³ See Appendix I

³⁵⁴ See Appendix I

³⁵⁵ See Appendix II, Doc. 227

knowledge, could know that “not ...everyone” is actually the entire PCC of the parish concerned.

It is also misleading, when purporting to exercise the Bishop’s powers on this matter, not to mention at all that two lawyers, highly respected in their field of practice, have said, on the basis of a considered legal analysis of the instrument on which you rely as conferring those powers, that it is probable that it confers no such powers. You do not have to agree with that analysis but to write to those with little other knowledge of the proposals as to these arrangements as if there were no controversy as to the extent of your powers is highly misleading.

You say in the final paragraph of your email, that you “hope that [the addressees] will want to seek to make this [presumably a reference to the Memorandum of Understanding] work....” Again it is misleading to say only this when you know that the PCC considers that the arrangements which you propose (if a memorandum which has no legal effect can properly be described as “arrangements”) are considered by the PCC to be in conflict with the Diocesan Bishop’s duty under the Declaration and by several members of the PCC, including all the Churchwardens and myself, to so outrage the theological conviction which it is the purpose of the Declaration to protect that we shall be unable to continue to worship in, or be involved in the affairs of, the parish in the event that these are the only “arrangements” that are made.

Distributing such misleading material clearly is not in accordance with the requirement of the Declaration that those who “are unable to receive the ministry of woman bishops or priests” are to be enabled “to flourish within... [the Church of England’s] ... life and structures. Nor is it consistent with the provision of para. 10 of the Declaration that there is a “need to be sensitive to the feelings of vulnerability that some will have that their position within the Church of England will gradually be eroded ...”. Indeed, it is simply not honest.’³⁵⁶

THE SUBMISSION OF THE GRIEVANCE UNDER THE REGULATIONS, REG. 10

25.4.1 The PCC’s offer having expired on 25th September 2020 without having been accepted³⁵⁷ this Paper is submitted to the Independent Reviewer under the Regulations, Reg. 10 in accordance with Resolution 6(a) of the 11th September Resolutions.

³⁵⁶ See Appendix II, Doc. 230

³⁵⁷ See Appendix II, Docs. 235 & 236

SECTION XXVI

THE DECLARATION: ITS IMPORTANCE AND FUNCTION

THE IMPORTANCE OF THE DECLARATION IN THE LIFE OF THE CHURCH

26.1.1 The Declaration says that:

*'The opening of all orders of ministry equally to women and men is a significant moment in the long history of this part of the Church Catholic.'*³⁵⁸

26.1.2 No rational person, whatever their view of the theological question at issue, could disagree with that. The Declaration was, and is, an attempt to provide arrangements which will allow people with contradictory views on an important matter of doctrine which is of the greatest significance to the practical, day-to-day life of the Church of England to continue to be part of the same church community and ecclesiastical organisational structure whilst allowing those parishes which are unable to receive the ministry of women bishops or priests to, as it puts it, *'flourish within ... [the Church of England's] ... life and structures ... in a way that maintains the highest possible degree of communion and contributes to mutual flourishing across the whole Church of England'*.³⁵⁹ The Declaration, and the arrangements made under it, therefore, have a function which is, and which the House of Bishops has acknowledged to be, of the greatest importance to the life of the Church.

³⁵⁸ Declaration para. 3

³⁵⁹ Declaration para. 5

PROTECTING THE THEOLOGICAL MINORITY

The Independent Reviewer's comments in the *Matter of the Nomination to the See of Sheffield and Related Concerns*

26.2.1 In the Independent Reviewer's decision in the *Matter of the Nomination to the See of Sheffield and Related Concerns*, the Independent Reviewer considered the history of the 2014 Settlement³⁶⁰ to which Canon 29, the Declaration and the Regulations give expression. He said:

*'The failure in 2012 of the initial attempts to pass legislation in the Synod enabling women to be consecrated as bishops in the Church of England led to a substantial rethink about how such provision was to be made. The wish of the majority (supported by many in Parliament) to see the necessary legislation passed was clear. The key issue for those in the minority was whether their position would continue to be recognised and honoured in the Church.'*³⁶¹

26.2.2 Later in the same report he said:

'The Five Guiding Principles, and the House of Bishops' Declaration of which they form part, focus on protecting the minority because that was their purpose. The majority in the Church achieved the passage of the 2014 Measure. The Five Guiding Principles and the Declaration were intended to answer the question, being asked by the minority, as to whether, if the Measure was passed, they could trust the majority to continue to accord them an honoured place in the Church of England.'

*The Five Guiding Principles and the Declaration were not hastily drafted and were not imposed on the Synod. However, it is fair to say that they were a solution to a political problem. To the minority, they offered the prospect of a continued place of honour in the Church. To the majority they were the price of getting the 2014 Measure through.'*³⁶²

26.2.3 As the first Independent Reviewer said in the same decision:

'The 2014 Settlement was the conclusion of a legal and political process. It was not the conclusion of a theological debate, as indeed the many differing

³⁶⁰ See Appendix I

³⁶¹ *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, para. 11

³⁶² *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, paras. 155 and 156. The final sentence of this quotation is perhaps, too cynical a view of the motivation of many who formed that majority. One hopes that they accepted the 2014 Settlement, at least in part, because, although they did not share the Theological Minority's conviction they valued its contribution to the life of the Church of England and genuinely wished it to be able to continue within the institutional Church of England

*theological and ecclesiological points raised in the course of my enquiry testify.*³⁶³

26.2.4 It is because the conviction of the Theological Majority³⁶⁴ has been given form in ecclesiastical law whilst the theological convictions of the Theological Minority³⁶⁵ remain, as the guiding principles say, *'within the spectrum of teaching and tradition of the Anglican Communion'* so that *'the Church of England remains committed to enabling them to flourish within its life and structure'* that arrangements were necessary to protect the Theological Minority from being forced *'to receive the ministry of women bishops or priests'*.

The Independent Reviewer's comments in his 2017 Report

26.2.5 This focus on the protection of the Theological Minority was reflected in Canon C29 and the Regulations. The Independent Reviewer reported in his Report for 2017 that he had declined to rule on a concern raised by a member of the Theological Majority that a male priest had been appointed to the complainant's parish, which was not a Resolution Parish. The Independent Reviewer had done so on the grounds that he did not have jurisdiction in the matter:

*'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.'*³⁶⁶

26.2.6 The Independent Reviewer's comments on this matter were based on advice which he had received. That advice explained that:

³⁶³ *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, para. 16

³⁶⁴ See Appendix I

³⁶⁵ See Appendix I

³⁶⁶ *Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations*, para. 6

'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.

*...
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"*

*...
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.*

Accordingly, my advice is that the matters raised by Mr X are not within the remit of the Independent Reviewer.

*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.'*³⁶⁷

26.2.7 As the Independent Reviewer said in his 2017 Report:

*'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.'*³⁶⁸

³⁶⁷ Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations, Appendix paras. 5 - 8

³⁶⁸ Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations, para. 10. The Independent Reviewer seemed to regret this limitation on his powers of review but it arises from the Declaration's concern to protect the Theological Minority from the abuse, by the Theological Majority, of its power (Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations, para. 11)

26.2.8 Of course the broader provisions of the Declaration provide the principles which govern the making of arrangements under it but the purposes of those arrangements are directed towards protecting the Theological Minority from the abuse of the power which the Theological Majority possesses. That protection must be all the more important where, as will usually be the case where inadequate provision is made for a Resolution Parish by its diocesan bishop, the inequality is not just one of numbers but also of position, knowledge and wealth.

SECTION XXVII

THE DECLARATION: ITS NATURE AND EFFECT

THE NATURE OF THE DECLARATION

- 27.1.1 The Declaration is not itself legislation of any kind³⁶⁹ and so cannot be said to have direct legal effect.

THE REGULATIONS

- 27.2.1 Yet the Canons, which are secondary legislation³⁷⁰, provide for disputes about arrangements under the Declaration to be the subject of a quasi-judicial procedure. They provide that:

*'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.'*³⁷¹

- 27.2.2 That the making of such regulations is a matter of great importance may be deduced from the fact that Canon C29 provides that any such Regulations must be '*approved by a majority of two-thirds of each House of the General Synod present and voting*'³⁷² and the fact that the Regulations made under that Canon provide an elaborate system for grievances to be brought by pccs in respect of actions taken and for matters of concern to be raised by others.³⁷³

³⁶⁹ Although it would seem to fall within the phrase 'soft law' as that term is used in Mark Hill's *Ecclesiastical Law* (Hill para. 1.34)

³⁷⁰ Hill para. 1.29

³⁷¹ Canons, Canon C29(1)

³⁷² Canons, Canon C29(4)

³⁷³ Regulations, Regs. 8-29

27.2.3 Strangely, however, that elaborate system contains no provision for the implementation of the Independent Reviewer's recommendations to be enforced. Can that mean that the actions required under the Declaration are voluntary for office holders of the Church of England and can be ignored by them with impunity?

THE CLERGY DISCIPLINE MEASURE 2003

27.3.1 As we have seen,³⁷⁴ the agreement amongst the House of Bishops which is recorded in the Declaration is in respect of a matter of the greatest importance to the life of the Church. It was reached after lengthy debate within the Church and in a solemn declaration by the House of Bishops acting as a body. It would be very surprising if a bishop or priest could properly and lawfully ignore such a declaration.

Misconduct

27.3.2 The Clergy Discipline Measure 2003 provides a system of clerical discipline under which an archbishop, bishop, priest or deacon who commits certain conduct defined in the Measure, to which we refer as 'Misconduct',³⁷⁵ may, after enquiry and decision, be subject to penalties for that Misconduct. Misconduct for this purpose is:-

'(a) doing any act in contravention of the laws ecclesiastical;

(aa) failing to comply with the duty under section 5 of the Safeguarding and Clergy Discipline Measure 2016 (duty to have due regard to House of Bishops' guidance on safeguarding children and vulnerable adults);

(b) failing to do any other act required by the laws ecclesiastical;

(c) neglect or inefficiency in the performance of the duties of his office;

³⁷⁴ See para. 26.1.2 above

³⁷⁵ Clergy Discipline Measure 2003 s.8(1) (see Appendix I)

*(d) conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders.*³⁷⁶

27.3.3 Although a contravention of the Declaration or a refusal to implement the recommendations made by the Independent Reviewer under the Regulations would not fall within (a) or (b) and, clearly, (aa) would not be relevant, taking account of the seriousness and importance of the Declaration, they would fall within both (c) and (d). A priest or deacon who refused to comply with arrangements specified by his diocesan bishop under the Declaration would also be in breach of his oath of canonical obedience under Canon C14 and would be likely, therefore, to have committed Misconduct under (a) and, or, (b).

Complaint under the Clergy Discipline Measure 2003 s.10 only a remedy for failure to comply with a recommendation of the Independent Reviewer

27.3.4 Although that is the case, however, proceedings under the Clergy Discipline Measure 2003 are a cumbersome mechanism for enforcing compliance with the Declaration. It would surely be an abuse of process to make a complaint under the Clergy Discipline Measure 2003 in respect of a failure to comply with a duty under the Declaration without first making a submission under the Regulations Regs. 10 and 27, when that procedure for submissions to be made is provided under the Regulations specifically in respect of failures to comply with the Declaration. Making a complaint under the Clergy Discipline Measure 2003 s10, therefore, would only be an appropriate method of proceeding where a grievance has been subject to review under the Regulations Reg. 10 and the subject of the complaint has failed to comply with a recommendation of the Independent Reviewer under the Regulations Reg. 24.

³⁷⁶ Clergy Discipline Measure 2003 s.8(1)

Indirect legal effect

27.3.5 So although the Declaration does not have direct legal effect it has indirect legal effect in that a failure to act in accordance with it and with a decision of the Independent Reviewer under the Regulations can incur an ecclesiastical penalty.

SECTION XXVIII

THE DECLARATION: PRINCIPLES OF CONSTRUCTION

DO THE NORMAL PRINCIPLES OF LEGAL CONSTRUCTION APPLY?

28.1.1 We have seen³⁷⁷ that the Declaration is not legislation of any kind although it may be described as 'soft law'.³⁷⁸ We have also seen that the Declaration has indirect legal effect in as much as compliance with its provisions is subject to review under the Regulations the authority of which derives from Canon Law³⁷⁹ and failure to comply with recommendations made in such a review can be the subject of proceedings under the Clergy Discipline Measure 2003.³⁸⁰ As such, in considering a grievance under the Regulations, Reg. 10, the Declaration must be construed in accordance with the normal conventions of legal construction.

28.1.2 In the Independent Reviewer's decision in the *Matter of the Nomination to the See of Sheffield and Related Concerns* he said:

*'One difficulty about the Five Guiding Principles is that they have begun to assume an almost totemic significance in the thinking of many in the Church, a significance I doubt they were intended to bear. The fact that, for perfectly understandable reasons, ordinands and clerical office holders are invited to sign up to them (without, so far as I have been able to establish, a great deal of explanation or understanding of the significance of what they are doing) means that their status has hardened. This process has been assisted by the quasi-legalistic way in which some in the Church (including, among others, Forward in Faith) have approached their interpretation.'*³⁸¹

28.1.3 If it is a mistake to interpret the Declaration in a 'quasi-legalistic way' is it the case that normal principles of legal construction are not, after all, to apply to it?

³⁷⁷ See para. 27.1.1 above

³⁷⁸ See para. 27.1.1 above

³⁷⁹ See paras. 27.2.1, 27.2.2 & 27.2.3 above

³⁸⁰ See paras. 27.3.3 & 27.3.5 above

³⁸¹ *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, para. 157

28.1.4 It is not. The Independent Reviewer referred to '*legalistic*' interpretation not to '*legal construction*'.

LEGAL CONSTRUCTION IS PURPOSIVE NOT NARROWLY LITERAL

28.2.1 The Independent Reviewer's description of the '*legalistic*' approach of '*some in the Church*' is, one presumes, meant to refer to a narrowly literal form of construction which is the very opposite of the normal principles of legal construction which require enactments to be construed in a way that is consistent with the legislative intention of the enactment concerned.³⁸² The primary determinant of legislative intention is the legislative text read in context.³⁸³ In determining that intention the legislative authority '*is assumed to be a rational, reasonable and informed legislature pursuing a clear purpose in a coherent and principled manner*'.³⁸⁴ In construing any enactment the aim should be to give effect to the legislative purpose.³⁸⁵

28.2.2 The Declaration's own provisions are entirely consistent with this approach. So for example the Declaration says in respect of the five guiding principles that:

*'... they need to be read one with the other and held together in tension, rather than being applied selectively.'*³⁸⁶

28.2.3 So it is clear that no special principles of construction apply to the Declaration but rather the normal principles of legal construction. That is the Declaration must be

³⁸² *Bennion on Statutory Interpretation* (7ed Lexis Nexis 2017) Section 8.8

³⁸³ *Bennion on Statutory Interpretation* (7ed Lexis Nexis 2017) Section 9.1

³⁸⁴ *Bennion on Statutory Interpretation* (7ed Lexis Nexis 2017) Section 9.1. Obviously in respect of 'soft law' (see paras. 27.1.1 & 28.1.1 above) these principles must be applied to the author or authors of the authority concerned

³⁸⁵ *Bennion on Statutory Interpretation* (7ed Lexis Nexis 2017) Section 11.1

³⁸⁶ The Declaration, para. 5

construed as a whole, by reference to its purpose and, in doing so, one must avoid adopting a construction which leads to an absurd result.³⁸⁷

THE PERSUASIVE AUTHORITY OF THE INDEPENDENT REVIEWER'S DECISIONS

28.3.1 All the published decisions of the Independent Reviewer are concerned with questions of construction of the Declaration.³⁸⁸ Those decisions are not judicial decisions and therefore do not have binding authority as case law precedent. Nonetheless, they represent the considered view of the person appointed, under Canon 29, both to consider whether a grievance in respect of any act, or omission to act, of an office holder in respect of paras. 16 – 29 and 33 of the Declaration is justified and to consider concerns in relation to any aspect of the operation of the House of Bishops' Declaration. That must properly include coming to conclusions on questions of construction and in doing so the Independent Reviewer will to some extent determine the arrangements which are made for parishes throughout the country.

28.3.2 The Declaration states that:

*'The House is committed to enabling parishes in one part of the country to receive broadly comparable and consistent arrangements for those provided in another.'*³⁸⁹

28.3.3 In order that that might be achieved, therefore, there must be consistency in the Independent Reviewer's decisions and those decisions must be based on a correct construction of the Declaration. Although not binding, therefore, the Independent Reviewer's published decisions on particular grievances and concerns and his Annual

³⁸⁷ *Bennion on Statutory Interpretation* (7ed Lexis Nexis 2017) Section 12.1

³⁸⁸ See, for example, the *Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham*, the *Decision of the Independent Reviewer in the Matter of Chrism Masses*, and the *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*

³⁸⁹ See the Declaration, para. 16

Reports to the General Synod, to the extent that they concern matters of construction and practice, are persuasive in the legal sense.

SECTION XXIX

THE DECLARATION: ITS KEY PROVISIONS

THE THEOLOGICAL CONVICTION WHICH IS PROTECTED BY THE DECLARATION

The protected conviction

29.1.1 The five guiding principles which the House reaffirmed in para. 5 of the Declaration include the following:

‘Since those within the Church of England who, on grounds of theological conviction, are unable to receive the ministry of women bishops or priests continue to be within the spectrum of teaching and tradition of the Anglican Communion, the Church of England remains committed to enabling them to flourish within its life and structures; and

Pastoral and sacramental provision for the minority within the Church of England will be made without specifying a limit of time and in a way that maintains the highest possible degree of communion and contributes to mutual flourishing across the whole Church of England.’ ³⁹⁰

29.1.2 It will be seen from the above that the theological conviction with which the Declaration is concerned is that the holder is *‘unable to receive the ministry of women bishops or priests’* and that the Declaration states unequivocally that those who hold that conviction are *‘within the spectrum of teaching and tradition of the Anglican Communion’*. It is implicit, that such a conviction can reasonably be held by members of the Church of England and should be treated with respect for without such

³⁹⁰ See the Declaration, para. 5

treatment how could those holding the conviction *'flourish within ... [the Church of England's] ... life and structures'*?

- 29.1.3 Plainly, no reasonable person could consider himself unable to receive the ministry of persons that have been ordained or consecrated in accordance with the law without weighty and considered reasons. It is difficult to imagine that there can be any grounds on which somebody might hold that conviction other than on the basis that the ordination and consecration of females is either impossible, a transgression of Divine Law or inexpedient to the advancement of Christianity. The normal reasons given by those who deprecate the making lawful of the ordination and consecration of females fall into one of these three categories.
- 29.1.4 We have seen that³⁹¹ the PCC's conviction is that it is both impossible for females to be ordained as priests and impossible for females to be consecrated as bishops as matters of theological reality.
- 29.1.5 In the remainder of this Section we shall consider the provisions of the Declaration as they apply where a resolution has been passed by a pcc on the grounds of a theological conviction that the ordination and consecration of females is, in theological reality rather than in law, impossible.

The protected convictions are in a negative form

- 29.1.6 It should be noted that the theological conviction which is expressed in a resolution under the Declaration is in a negative form; that the persons passing the resolution *'are unable to receive the ministry of women bishops and priests'*. That being the case implementing a resolution under the Declaration, although it must also involve positive

³⁹¹ See para. 3.1.1 above

provision for a parish as an alternative to its receiving the ministry of a Recently Lawful Priest or Bishop,³⁹² is primarily a matter of refraining, and restraining, from action; refraining from imposing a ministry on a parish which is contrary to the parish's expressed theological conviction and restraining the inappropriate exercise of such a ministry.

THE NATURE OF DECLARATION ARRANGEMENTS

Arrangements must be made

29.2.1 The Declaration paras. 18 – 20, and in particular para. 20, provide for a pcc to request:

on grounds of theological conviction, that arrangements be made for it in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests.'

29.2.2 There would be no point in including provision for a pcc to make such a request if it could be refused and the Declaration makes no provision for such refusal. The effect of such a resolution according to the Guidance³⁹³ is that the pcc concerned is able to take advantage of arrangements under the Declaration.³⁹⁴ Clearly, a pcc will take no advantage from arrangements which are not made. It is implicit, therefore, that where a pcc passes a resolution under para. 20 the Diocesan Bishop is under a duty to make arrangements for the parish concerned in accordance with the Declaration.

Arrangements to implement the resolution

29.2.3 The theological conviction for which arrangements must be made must be the conviction which is referred to in para. 5.³⁹⁵ That is the theological conviction that the pcc is '*unable to receive the ministry of women bishops or priests ...*'

³⁹² See the Declaration para. 5, the fifth principle

³⁹³ See Appendix I

³⁹⁴ The Guidance para. 3

³⁹⁵ As no other theological conviction is specified in the Declaration

29.2.4 Paragraph 22 provides for consultation between the diocesan bishop and the pcc, the purpose of which is so:

‘... that the resolution can be implemented effectively’.

29.2.5 This is reinforced by para. 23 which provides that:

‘anyone involved in making appointments to ordained parochial roles ... should do everything possible to achieve an outcome that does not conflict with the nature of the conviction on this issue underlying the PCC’s resolution.’

29.2.6 Again, interpreting the Declaration purposively, it is implicit that the arrangements must effectively implement the resolution for there would be little point in providing for consultation the purpose of which is that the resolution can be implemented effectively if the Declaration does not actually require the resolution to be implemented.

29.2.7 This is again supported by a consideration of the Guidance which says:

‘Where a PCC has passed the requisite resolution it is the responsibility of the diocesan bishop to put the arrangements in place after consultation with the PCC. The purpose of that consultation is to enable the diocesan bishop to ascertain the nature of the theological conviction underlying the resolution so that the resolution can be implemented effectively.’³⁹⁶

29.2.8 A resolution that arrangements should be made on the grounds of a theological conviction that a pcc cannot receive the ministry of a Recently Lawful Priest or Bishop because it regards that ministry as a theological impossibility cannot be implemented by imposing on the pcc the direct or indirect reception of the ministry of a female bishop or priest or any other Recently Lawful Priest or Bishop. It must be implemented by making arrangements under which a Resolution Parish does not receive the ministry of a Recently Lawful Priest or Bishop either directly or indirectly.

³⁹⁶ The Guidance, para. 4

29.2.9 It is obviously for this reason that the Declaration, para. 22 imposes on the diocesan bishop a duty of consultation at the time the resolution under para. 20 is made, and before any appointment is made, so that the nature of the appointment which is required may be considered in the light of the diocesan bishop's duty to provide arrangements which implement the resolution.

Benefices which are not mixed benefices

29.2.10 Where there is a benefice which is not a Mixed Benefice, therefore, a diocesan bishop who appointed a Recently Lawful Priest to the benefice would clearly not be acting in accordance with his duty under the Declaration for he would clearly not fulfil his duty to make arrangements for the Resolution Parish concerned which implemented its resolution.

Mixed Benefices

29.2.11 Where there is a Mixed Benefice para. 25 of the Declaration requires '*the needs of the parishes in the benefice that have not passed a resolution under ... [para. 20 of the Declaration] ... to be weighed alongside those of ... [the Resolution Parish or Parishes]*'.

29.2.12 It should be noted that the requirement to undertake this balancing exercise does not expressly exclude the bishop's duty to make arrangements to implement the parish's resolution under para. 22 or to '*do everything possible to achieve an outcome that does not conflict with the nature of the ... conviction on this issue underlying the PCC's resolution*'. It cannot override, therefore, that duty.

Two methods of fully implementing a resolution under the Declaration

29.2.13 In these circumstances the requirement of the Declaration that arrangements must be made '*so that the resolution can be implemented effectively*' could clearly be achieved in one of two ways, both of which allow the needs of the Resolution Parish or Parishes to be balanced against those of the other parishes in the Mixed Benefice.

29.2.14 First, a clergyman who is not a Recently Lawful Priest might be appointed to the cure of the benefice. In such circumstances, the pccs of which parishes had not passed a resolution under the Declaration could not have any theological objection to such an appointment. For there is no disagreement in the Church of England as to the validity of the ordination of priests who are not Recently Lawful Priests (or indeed as to the validity of the consecration of Bishops who are not Recently Lawful Bishops).³⁹⁷ It might be, however, that in some rare circumstances, after substantial efforts had been made to find such a clergyman, no such clergyman could be found to accept the appointment and there was no prospect of such a clergyman being found within a reasonable period.

29.2.15 In such circumstances, a pastoral reorganisation under the Mission and Pastoral Measure 2011 s.31 might be instituted which would result in the Resolution Parish or Parishes being placed in a separate benefice either on its or their own or with other parishes of a similar conviction. That is the second possible method by which the resolution could be 'implemented effectively.'

³⁹⁷ See Appendix I

Imposing a Recently Lawful Priest on a Mixed Benefice cannot fully implement a resolution under the Declaration

29.2.16 It is difficult to imagine any other arrangements which could fully implement a resolution under the Declaration. For reasons that we now explain the appointment of a Recently Lawful Priest as incumbent of a Mixed Benefice will always prevent a resolution passed by the pcc of the parish under para. 20 of the Declaration from being implemented fully as is required by the Declaration.

29.2.17 Two other of the five guiding principles which the House of Bishops reaffirmed in the Declaration are as follows:

'Now that legislation has been passed to enable women to become bishops the Church of England is fully and unequivocally committed to all orders of ministry being open equally to all, without reference to gender, and holds that those whom it has duly ordained and appointed to office are the true and lawful holders of the office which they occupy and thus deserve due respect and canonical obedience;

*Anyone who ministers within the Church of England must be prepared to acknowledge that the Church of England has reached a clear decision on the matter; ...'*³⁹⁸

29.2.18 How is the duty to acknowledge that the Church of England has reached a clear decision on the matter to be reconciled with the statement that the view that the ordination and consecration of women is impossible is '*within the spectrum of teaching and tradition of the "Anglican Communion"*'?

29.2.19 Neither the Declaration nor the Canons define what is '*the Church of England*' for this purpose. There is, in law and fact, no separate entity which constitutes the Church of England. There are, simply, various corporations, offices and other bodies and legal duties and rights which together may be loosely referred to as constituting the legal form of the Church of England. Theologically, the Church of England is just that part

³⁹⁸ Declaration para. 5, the first and second principles

of the membership of the universal Church which is situated in the Kingdom of England. Where the Declaration refers to 'the Church of England' it cannot possibly be referring to that amorphous group of corporations, bodies, offices and legal duties and rights nor to that arbitrary geographical division in the spiritual reality which is the Body of Christ neither of which could be said to be capable of a single, corporate decision.

29.2.20 The Declaration only makes sense if the phrase 'Church of England' in the Declaration means the members of the General Synod which passed, subject to the Royal Assent, the legislation which made the ordination and consecration of women lawful and the activities which are subject to the General Synod's authority.

29.2.21 The Church of England has, in this sense, become '*fully and unequivocally committed to all orders of ministry being open equally to all*'. The Declaration requires all who minister in the Church of England to acknowledge that when Prebendary Crossman is inducted to the Benefice she will acquire the full legal rights attaching to her incumbency and that the Diocesan Bishop will continue to have the full legal rights in respect of the Parish conferred by his possession of his See.

29.2.22 That acknowledgement, however, cannot undermine the legitimacy which the Declaration confers on the PCC's conviction that, as a matter of theological reality rather than of legal deeming, the ordination and consecration of women is impossible and that, therefore, a woman cannot exercise in reality, rather than in law, the ministry of a priest or bishop. Saying that, of course, does not impugn the legitimacy of the opposing conviction of the Theological Majority.

29.2.23 As the theological conviction that the holder cannot receive the ministry of women bishops or priests is recognised as continuing to be '*within the spectrum of teaching and tradition of the Anglican Communion*'³⁹⁹ and provision is to be made for those who hold it to '*flourish within [the Church of England's] life and structures*'⁴⁰⁰ these further principles⁴⁰¹ cannot create a requirement that those who hold the conviction that the ordination and consecration of Recently Lawful Priests and Bishops are theologically impossible must act as if they did not or must acknowledge the theological reality of the ordination or consecration of females. These passages must be concerned with the recognition of the existence in law of the rights and duties which appertain to lawfully ordained or consecrated females.

29.2.24 The very existence of those legal rights, however, must mean that, although it may be possible to achieve a set of legal relationships where the ministry of a Recently Lawful Priest who is an incumbent, or of a Recently Lawful Bishop who is the diocesan bishop, of a benefice is not received by the members of a Resolution Parish in the benefice concerned directly it is difficult to conceive of any method by which such ministry will not be received by such a parish indirectly.

29.2.25 For any arrangements for a Mixed Benefice to which a Recently Lawful Priest is appointed as incumbent or where a Recently Lawful Bishop is appointed as the diocesan bishop could not divest the incumbent of his or her possession of the incumbency or the diocesan bishop of his or her See and so must involve the incumbent exercising his or her incumbency through a clergyman who is not a Recently Lawful Priest and, or, the diocesan bishop exercising his or her episcopal powers through a male suffragan bishop who is not a Recently Lawful Bishop.

³⁹⁹ See para. 29.1.1 above

⁴⁰⁰ See para. 29.1.1 above

⁴⁰¹ See para. 29.2.17 above

29.2.26 So even if the Implementing Steps are taken they will only implement the Resolution imperfectly and that will generally be true of all comparable situations where a Recently Lawful Priest is appointed to a Mixed Benefice.

29.2.27 For that reason, it is clear that in almost all circumstances the arrangements which a diocesan bishop must put in place under the Declaration in respect of a Mixed Benefice will either be the appointment of a clergyman who is not a Recently Lawful Priest as the incumbent or the facilitation of a pastoral reorganisation permitting such an appointment to the parish concerned in a new configuration of benefices.

Do the anomalies in respect of a diocesan bishop indicate a different construction?

29.2.28 It might be objected to the foregoing argument⁴⁰² that a similar argument would lead to the conclusion that it would be extremely rare for it to be appropriate to appoint a female diocesan bishop. That is because that must involve all the Resolution Parishes in the diocese concerned receiving at least indirectly the ministry of that female diocesan bishop. Yet it is clear that the 2014 Settlement was made in order to provide for, *inter alia*, the appointment of female diocesan bishops and five such bishops have, in fact, already been appointed under the 2014 Settlement.

29.2.29 The Independent Reviewer said in his review of Chrism Masses which was published on 31st July 2015 that the hurts caused by the matters considered in that case:

‘... are an inevitable consequence of the division and consequent tension which the Church of England still exhibits over the ordination of women and which (some would say) it has bravely, and in consequence of its understanding of its obligation under the Gospel, decided to continue to hold within itself whilst this development is tested and received within the Church.’⁴⁰³

⁴⁰² In paras. 29.2.11 – 29.2.27 above

⁴⁰³ *Decision of the Independent Reviewer in the Matter of Chrism Masses*, para. 39

29.2.30 It is inevitable that in attempting to accommodate within one ecclesiastical structure what the Independent Reviewer called in his decision in the *Matter of the Nomination to the See of Sheffield and Related Concerns*⁴⁰⁴ ‘fundamental differences of theological understanding’ that there will be conceptual conflicts in making arrangements to implement the Resolutions made by the pccs of Resolution Parishes that they cannot receive the ministry of a female bishop and the clear intention of the 2014 Settlement that females are to be appointed as diocesan bishops.

29.2.31 There will normally be no such inevitability of conceptual conflict, however, in respect of the appointment of an incumbent or of a suffragan bishop. In the former case, in most circumstances it will be possible to appoint a male priest who is not a Recently Lawful Priest who will satisfy the theological convictions of all the parishes. In the latter case, the suffragan bishop’s powers which are delegated by the diocesan bishop can be easily restricted so that they are not exercisable over Resolution Parishes.

29.2.32 For that reason the undoubted conceptual difficulty in avoiding imposing the indirect ministry of a female bishop on a Resolution Parish which arises when a female is appointed as its diocesan bishop does not justify the imposition on Resolution Parishes of the indirect ministry of Recently Lawful Priests as its incumbents or of Recently Lawful Bishops as suffragan bishops with powers over Resolution Parishes.

⁴⁰⁴ *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, para. 16(c)

RECENTLY LAWFUL PRIESTS OR BISHOPS AND RESOLUTION PRIESTS OR

BISHOPS

Recently Lawful Bishops or Priests

29.3.1 As we have said,⁴⁰⁵ it is a logical consequence of a conviction that a female cannot be a bishop or priest in theological reality that a male whose consecration or ordination is dependent in any way on the legal validity of the ordination or consecration of a Recently Lawful Priest or Bishop will not be a priest or bishop in theological reality.

29.3.2 It is for this reason, that although the Declaration refers to those '*who, on grounds of theological conviction are unable to receive the ministry of women bishops or priests*' we have used in this Section the defined phrase 'Recently Lawful Bishops and Priests.' For the meaning of that phrase includes males whose ordination or consecration we consider to be theologically invalid in being dependent upon the ordination or consecration of a female. Using that phrase is the logical consequence of the conviction that the ordination or consecration of women is a theological impossibility.

Resolution Priests or Bishops

29.3.3 We consider, however, that the implications of the duty of a Diocesan Bishop to implement a resolution under para. 20 of the Declaration can impose a further requirement in respect of the persons to whom clerical or episcopal oversight may normally be given under Declaration Arrangements. The provision of the fourth guiding principle that the Church of England is '*committed to enabling ... [those who cannot receive the ministry of women bishops or priests] ... to flourish within its life and structures*' means that the persons whose ministry is received under Declaration

⁴⁰⁵ See para. 3.2.1 above

Arrangements should normally be persons who share the relevant theological conviction of the Resolution Parish concerned; that is they should normally be a Resolution Bishop or Priest.⁴⁰⁶

The Decision of the Independent Reviewer in the Matter of the grievance of the pcc of St George's, Headstone

29.3.4 In his Decision on the grievance submitted under the Regulations, Reg. 10 by the pcc of St George's, Headstone the Independent Reviewer rejected one part of the pcc's grievance on the basis that the:

'...resolution making procedure set out in the House of Bishops' Declaration concerns theological conviction in relation only to gender⁴⁰⁷ and ordained ministry. It does not extend to matters of marital status or indeed any other consideration. The PCC's grievance against the decision of the Bishop of London to invite the Bishop of Fulham to provide episcopal ministry to the parish is therefore unjustified.'⁴⁰⁸

29.3.5 The Independent Reviewer rejected another part of the pcc's grievance which he acknowledged was based on a theological conviction related to 'gender' and ordained ministry but a conviction which he considered was not within *'the spectrum of the teaching and tradition of the Anglican Communion'* and, therefore, not a conviction to which the Declaration applied.⁴⁰⁹

29.3.6 In contrast to these convictions on which a valid grievance under the Regulation Reg. 10 could not be based the requirement that a person whose ministry of a parish received under Declaration Arrangements must not be a Recently Lawful Bishop or Priest is clearly a logical consequence of the conviction that a female cannot in theological reality be a bishop or priest and is, therefore, a conviction which is clearly

⁴⁰⁶ See Appendix I

⁴⁰⁷ It seems that by this term the Independent Reviewer meant 'sex'

⁴⁰⁸ *Decision of the Independent Reviewer in the Matter of the grievance of the Parochial Church Council of St George's, Headstone*, para. 45

⁴⁰⁹ *Decision of the Independent Reviewer in the Matter of the grievance of the Parochial Church Council of St George's, Headstone*, para. 53

'within the spectrum of the teaching and tradition of the Anglican Communion'. In the same way, the requirement that the persons to whom clerical or episcopal oversight is given under the Declaration Arrangements will normally be Resolution Priests or Bishops is also a logical consequence of that conviction.

SECTION XXX

THE DECLARATION: THE CONSTRUCTION OF THE PHRASE THE ‘MINISTRY OF WOMEN BISHOPS AND PRIESTS’

THE ‘MINISTRY OF WOMEN BISHOPS AND PRIESTS’

30.1.1 We have seen,⁴¹⁰ that under the Declaration, the diocesan bishop concerned has a duty to make arrangements which implement the resolution made by a pcc under the Declaration para. 20 and that such arrangements must not have the result that the parish concerned is forced to receive the *‘ministry of women bishops and priests’* but of what does such ‘ministry’ consist?

A word of wide ambit

30.1.2 There is nothing to suggest that the word ‘ministry’ is used in a special or restricted sense in the Declaration. It must, therefore, bear its meaning under ordinary English usage. In ordinary English usage, ‘ministry’ is a word of wide ambit. The most apposite meaning of the word given by the Shorter Oxford English Dictionary is *‘the functions or a particular function of a minister, priest, etc.; the action or an act of religious ministration.’*

Function

30.1.3 The reference to ‘function’ indicates that the word’s meaning is directed towards the practical exercise of a role, office or post within an actual system or organisation. Clearly the functions of a priest and bishop differ as do the functions of priests according to the particular priestly position occupied. In referring to priestly ‘ministry’, therefore, the draftsman of the Declaration cannot have intended to refer

⁴¹⁰ See paras. 29.2.1 – 29.2.9 above

only to those functions common to every priest regardless of the various roles, offices and posts which priests occupy. That would be a wholly reductive view of priestly functions. The functions of a priest for this purpose must include every function which appertains to those roles, offices or posts which can only be filled by a priest.

'Pastoral and sacramental provision'

30.1.4 The later reference in the fifth principle in para. 5 of the Declaration to '*pastoral and sacramental provision*' does not restrict the ambit of the word 'ministry' in the fourth principle. As we have said,⁴¹¹ the nature of the arrangements which must be made under the Declaration are principally negative, ensuring that female ministry is not received by a parish in contradiction of its legitimate theological conviction, but, where an appointment has the result that the parish cannot accept the ministry of its incumbent or diocesan bishop, the provisions of the fifth principle in para. 5 in respect of pastoral and sacramental provision require positive alternative provision to be made for the parish.

30.1.5 Even if it were true that the ministry to which reference is made in the fourth principle in para. 5 of the Declaration is the 'sacramental and pastoral' ministry of a bishop or priest that phrase is of broad enough meaning to encompass all the activities of an incumbent of a cure in the exercise of that cure. The Declaration contains no special definition of the phrase and so it must bear its meaning in ordinary English usage. The most apposite definitions of 'pastoral' as an adjective given the SOED⁴¹² are:

'Of or pertaining to shepherds or their occupation;

...

of or pertaining to a pastor or the spiritual care of a congregation.'

⁴¹¹ See para. 29.1.6 above

⁴¹² See Appendix I

30.1.6 The first definition informs the second by reference to the scriptural description of Christ as the ‘Good Shepherd’. An incumbent is not a shepherd in only part of his duties and something else in the rest. His shepherding of his parishioners is expressed not only in giving specifically spiritual counsel but in his fulfilment of his entire role, in instruction, counselling, leadership in worship and affairs and the stewardship of parish properly.

An over-narrow alternative construction

30.1.7 That the ministry of a Recently Lawful Priest who is an incumbent must include every act undertaken in exercise of his or her incumbency is, for the reasons we have given above,⁴¹³ clear as a matter of construction. We have seen that in the 13th July Zoom Meeting it was suggested⁴¹⁴ that an incumbent’s ministry consists only of certain actions which can be characterised as sacramental provision and pastoral care in a narrow sense. This assertion seems to have been the result of focussing on the words ‘*pastoral and sacramental provision*,’⁴¹⁵ and, as we have said,⁴¹⁶ of taking a very restricted view of the scope of ‘*pastoral*’ as an adjective, and not on the theological conviction which is the reason why a pcc, passing a resolution under the Declaration, is unable ‘*to receive the ministry of women bishops and priests*.’⁴¹⁷ It seems to have been based on a distinction between actions which, although they are undertaken as an incumbent, do not form part of an incumbent’s ministry and actions which do form part of it and on the view that the latter consist only of those actions which could only be performed by a priest in any circumstances.⁴¹⁸

⁴¹³ See paras. 30.1.2 – 30.1.6 above

⁴¹⁴ See para. 16.3.1 above

⁴¹⁵ See para. 16.3.1 above

⁴¹⁶ See paras. 30.1.5 & 30.1.6 above

⁴¹⁷ See paras. 29.1.1 – 29.1.6 above

⁴¹⁸ See para. 16.3.1 above

30.1.8 So, we have seen⁴¹⁹ that it was said that there are activities such as taking Mattins or Evensong or chairing a PCC meeting which, although they were undertaken in pursuance of the individual's office as incumbent, did not form part of an incumbent's ministry as a priest but of some other category of the incumbent's activity. The result it was claimed, was that whereas arrangements under the Declaration must ensure that a parish which has passed a resolution under it must not be required to receive directly Holy Communion, Baptism or pastoral care from an incumbent who is a Recently Lawful Priest it could be required to receive the incumbent's leadership in his or her taking Mattins or Evensong, chairing or participating in pcc meetings or overseeing the work of Readers.

30.1.9 As pastoral care in the sense of visiting the sick, or the bereaved or providing comfort to those in spiritual or moral anxiety or perplexity, may be provided by a layman or laywoman the provision of such care would not itself seem to fall within priestly ministry under this narrow construction.

30.1.10 This view of the meaning of the word 'ministry' in the Declaration is clearly too narrow and does not do justice to the width of the term in ordinary English usage or to the manner in which parishioners interact with their incumbent. No parishioner would speak of his 'vicar' as acting as his priest when he baptises his child or counsels him on the break-up of his marriage but not when he takes Mattins, conducts the funeral of his father or leads the deliberations of the pcc in deciding what forms of service to use.

30.1.11 A cure of souls can only be held by somebody who has been ordained as a priest or consecrated as a bishop. He ministers, and therefore exercises his ministry, in

⁴¹⁹ See para. 16.3.1 above

conducting his cure. The role of a person holding such a cure includes the provision of leadership of the Christian community in the cure. Providing leadership to the pcc in the conduct of its responsibilities is something which an incumbent does because he is the incumbent priest. Making applications to the diocesan bishop for Readers to be licensed and reviewing their activities is also something which the incumbent does because he is that incumbent. They are part of the indivisible role of leadership which an incumbent has as a priest who has the cure of souls of a benefice. To suggest that such matters are not part of the incumbent's priestly ministry is simply untenable.

CONCLUSION AS TO THE CONSTRUCTION OF 'THE MINISTRY OF WOMEN ...

PRIESTS'

- 30.2.1 The correct construction of the phrase the '*ministry of women ... priests*' in the Declaration, therefore, is that, in respect of an incumbent, it includes all those acts which an incumbent priest undertakes in the execution of her incumbency.

SECTION XXXI

THE DECLARATION: DECLARATION ARRANGEMENTS AND ENFORCEABILITY

A FUNDAMENTAL DISAGREEMENT AS TO THE NEED FOR ENFORCEABILITY

31.1.1 We have seen,⁴²⁰ that the Registrar has asserted that it is *‘inappropriate for arrangements to be made for the Parish which are legally enforceable’* and that the Memorandum of Understanding, which he drafted, the execution of which is the only ‘arrangement’ which Bishop Worsley proposes should be made for the Parish,⁴²¹ specifically provides that it is not *‘intended to create any legal relationship between the parties whatsoever’*⁴²² with the result that no party would be able to enforce an undertaking made under it by another. The PCC, on the other hand, considers that any arrangements which are made for the Parish will not satisfy Bishop Hancock’s duty to make Declaration Arrangements for it unless they are legally enforceable by the PCC.

THE GROUNDS OF THE PCC’S OPINION

31.2.1 The grounds of the PCC’s opinion on this matter are set out in the following paragraphs.⁴²³

The focus of the Declaration on protection on the Theological Minority

31.2.2 We have seen,⁴²⁴ that the focus of the Declaration is on the provision of protection of the Theological Minority against the imposition of the ministry of women bishops and

⁴²⁰ See para. 20.1.1 above

⁴²¹ See Sections XX and XXV above

⁴²² See para. 20.3.2 above

⁴²³ See paras. 31.2.2 – 37.5.1 below

⁴²⁴ See para. 26.2.8 above

priests, contrary to the theological conviction of that minority and that its theological conviction that such ministry is a theological impossibility continues to be *‘within the spectrum of the teaching and tradition of the Anglican Communion’* so that *‘the Church of England remains committed to enabling ... [the members of the Theological Minority] ... to flourish within its life and structures’*.⁴²⁵

31.2.3 We have seen⁴²⁶ that this focus has the purpose of protecting the minority from the abuse of the power which the Theological Majority possesses. We have also seen⁴²⁷ that that protection is all the more important where, as will usually be the case between a diocesan bishop and the pcc of a parish, the inequality is not just one of numbers but also of position, knowledge and wealth.

Consistency with the need for mutual flourishing and the avoidance of giving offence

31.2.4 Now, here, we are, of course, talking of protecting a parish from the possibility that a bishop or incumbent either now or in the future might break with impunity arrangements which the bishop has specified if those arrangements are not legally enforceable by the pcc. How, it might be asked, is contemplating such errant behaviour from clergy, indeed from senior clergy, compatible with the respect which the Declaration says must be given to all, including female, holders in law of ordained and consecrated offices.⁴²⁸ How can such contemplation of clerical and episcopal misbehaviour contribute to *‘mutual flourishing’*?⁴²⁹ How is it consistent with rejoicing *‘in each other’s partnership in the Gospel’*?⁴³⁰ How, indeed, is it compatible with the requirement of the Declaration that *‘... those of differing conviction will do all within their power to avoid giving offence to each other’*?

⁴²⁵ Declaration para. 5 Fourth and Fifth Principles

⁴²⁶ See para. 26.2.8 above

⁴²⁷ See para. 26.2.8 above

⁴²⁸ Declaration para. 5 First Principle

⁴²⁹ Declaration para. 5 Fifth Principle

⁴³⁰ Declaration para. 9

The function of Ecclesiastical Law

- 31.2.5 Such questions misunderstand the nature of the Church and the function of ecclesiastical law in its life. The Church is both a sanctified body and a body consisting of fallen, imperfect humanity. Much Misconduct, indeed conduct of the vilest kind, has come to light in recent years as having been committed by clergy, senior clergy and even bishops. Ecclesiastical law must provide for a body which is at once the mystical body of Christ and a collection of human beings, all of whom are imperfect and some of whom, by the law of averages, are morally untrustworthy even to the extent of being a danger to their fellow man.
- 31.2.6 One does not expect such misbehaviour of any particular cleric or, indeed, of any particular lay member of the Church, but that some clergy will behave in such a manner is a matter of practical certainty. It is for this reason that the law of England provides an elaborate structure of legally enforceable rights and duties which govern every part of Church life and which is overseen by ecclesiastical and secular courts. There is no reason to think that the Declaration is an exception standing outside this structure in which one set of individuals is to be placed in a position of subjection to the unfettered power of others whom they must assume always to act with forbearance and disinterestedness.
- 31.2.7 Indeed it is clear from the 2014 Settlement itself that it is not the case for, if it were, the Declaration's purpose would be utterly defeated⁴³¹ and the Regulations would be unnecessary.⁴³²

⁴³¹ See para. 26.2.8 above

⁴³² The question as to whether that redress might be found in the Regulations alone is considered in paras. 31.3.1 – 31.3.4 below

Sensitivity as to feelings of vulnerability

31.2.8 In respect of the Theological Minority, the Declaration provides that:

*‘There will need to be sensitivity to the feelings of vulnerability which some will have that their position within the Church of England will gradually be eroded ...’*⁴³³

31.2.9 Even if one assumed, unrealistically, that such feelings were always irrational, one could not show sensitivity to such feelings of weakness by subjecting their holders to the power of those who have an opposing theological conviction on an important matter of doctrine without any redress if that power is abused.

31.2.10 Further, the provisions of Canon C29 and the Regulations specifically envisage that disputes may arise in which pccs have valid grievances in respect of the behaviour of those who have the responsibility to make Declaration Arrangements. A system which anticipates that bishops may not comply with their duty to make suitable arrangements or that they and others may not comply with the ‘arrangements’ made but insists that those arrangements themselves should be unenforceable can hardly achieve its purpose of protecting the Theological Minority or showing sensitivity to what must, in such a situation, be the well-founded fears of its members.

The conferring of powers is fundamental to appointment to a cure

31.2.11 This conclusion gains force when one considers that the very nature of the appointment of a bishop or incumbent is to confer on them powers which can be exercised over, or so as to affect the lives of, parishioners within their jurisdiction.

⁴³³ The Declaration, para. 10

The legally ineffective cannot properly be described as ‘arrangements’

31.2.12 Lastly, the Declaration requires that ‘arrangements’ are made for a parish.

‘Arrangements’ is undoubtedly a word of wide ambit but it is difficult to characterise a document which has no legal effect whatsoever as constituting ‘arrangements’ when the future actions which it describes will only occur by the virtue of the exercise, or the omission to exercise, of legal powers untrammelled by any external restraint.

Our construction is consistent with the *Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham*

31.2.13 The conclusion is consistent with the Independent Reviewer’s decision in the *Matter of All Saints, Cheltenham*.⁴³⁴ The parish of All Saints, Cheltenham, was a Resolution Parish and part of the benefice of North Cheltenham which was a Team Ministry. The Bishop of Tewkesbury licensed a female as an associate priest in the North Cheltenham Team Ministry but otherwise than as a member of the team. The result was that she had the power to exercise her ministry in the parish of All Saints, Cheltenham and, if she did so, the pcc would have had no legal remedy other than under the Regulations.

31.2.14 In making a submission to the Independent Reviewer, the Bishop of Tewkesbury said:

*‘Whilst the Registrar suggested that it might be possible to use an alternative form of words in the licence which would carve out the parish of All Saints, I felt that this would be undesirable because it would simply serve to highlight her [the assistant curate’s] exclusion from presiding at Holy Communion or pronouncing the Absolution at All Saints. Given that all of those involved were fully aware of the limitations on her ministry in respect of All Saints, the fact that all four parishes had supported the appointment and also everything we were (and are) trying to do to ensure the flourishing of All Saints and its particular tradition, I was firmly of the view that an express exclusion in these licences would not be helpful.’*⁴³⁵

⁴³⁴ *Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham*

⁴³⁵ *Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham*, para. 12(d)

31.2.15 The Independent Reviewer, however, concluded:-

‘... as we have seen, there was no ...legal limitation.[on the assistant curate’s right to minister]. The only way one could have been introduced was for the bishop to have expressly restricted the scope of ...[the assistant curate’s]... priestly ministry in the terms of the licence he issued. I do not doubt that, in deciding not to take that course, the bishop was acting from the best of motives and in what he perceived to be the best interests both of ...[the assistant curate]... and of the whole benefice. But in failing to spell out the precise scope of ...[the assistant curate’s]... intended ministry as an Associate Priest in the Benefice of North Cheltenham, Bishop Martyn failed to make the appropriate pastoral and sacramental provision for the Parish of All Saints, which it was entitled to expect under the House of Bishops’ Declaration (principle 5 and paragraphs 20 and 43 of the Declaration).

In reaching this conclusion, I have in mind a very important general principle. This is that both an assistant curate serving (otherwise than as a member of the team) in a multiparish benefice where one of the parishes has or is deemed to have passed the resolution under paragraph 20 of the Declaration and everyone else in that benefice is entitled to clarity about precisely what the assistant curate is being authorised to do and where within the benefice. It does not help the priest or anyone else concerned for there to be a lack of clarity on this matter. And unless the scope of their permitted ministry is spelt out in a legally binding instrument – their licence – there is room for doubt to emerge (if not at the time of their appointment, then later) about what was intended.’⁴³⁶

31.2.16 He therefore recommended that:-

‘the licence issued to the...[Assistant Curate]... was deficient and I invite the Bishop of Tewkesbury to reconsider the form in which the two licences were issued and, ... to issue fresh licences making clear that the authorisation they give does not extend to undertaking priestly ministry in the parish of All Saints.’⁴³⁷

DO THE REGULATIONS THEMSELVES CONFER SUFFICIENT ENFORCEABILITY?

31.3.1 It is clear, therefore, that Declaration Arrangements must be legally enforceable. Do the Regulations confer sufficient enforceability without the need for the Declaration Arrangements themselves to confer enforceable legal rights on the PCC of a Resolution Parish? They do not.

⁴³⁶ Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham, paras. 33 and 34

⁴³⁷ Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham, para. 35

- 31.3.2 The first point that might be made is that, if one accepts the principle that the arrangements need not confer enforceable legal rights on the pcc concerned, it becomes arguable that breaking arrangements deliberately designed to be legally ineffective is not actually a breach of the Declaration at all.
- 31.3.3 Even if that were not the case, the remedy provided by the Regulations is too indirect to provide an effective remedy for breach on its own.
- 31.3.4 If the Declaration Arrangements for a parish are not themselves enforceable, a pcc, faced with a diocesan bishop or an incumbent who is determined to ignore the arrangements made by, for example, a predecessor of the diocesan bishop, would need first to make a complaint under the Regulations and then to enforce the Independent Reviewer's recommendation through the highly uncertain and lengthy process of a complaint under the Clergy Discipline Measure 2003 s.10. Considering the inequality between the resources available to paid, full-time diocesan personnel and those available to the typical parish, such a procedure would not provide a practical remedy. It would defeat the purpose of the Declaration, providing no practical protection to the Theological Minority against abuse of its superior power by the Theological Majority.

REASONS SPECIFIC TO THE PARISH AS TO WHY THE DECLARATION

ARRANGEMENTS MADE FOR THE PARISH MUST BE LEGALLY ENFORCEABLE

- 31.4.1 Even if it were the case, which it is not,⁴³⁸ that in some circumstances Declaration Arrangements need not be enforceable there are reasons specific to the Parish why

⁴³⁸ See paras. 31.2.2 – 31.3.4 above

the purposes of the Declaration can only be achieved if the Declaration Arrangements made for the Parish are legally enforceable.

A long history of non-compliance with the Declaration

31.4.2 That is because there has been a long history of non-compliance with the requirements of the Declaration by Diocesan Personnel.⁴³⁹

Bishop Hancock

31.4.3 Bishop Hancock failed to consult on the 2016 Resolution when it was submitted to him.⁴⁴⁰ He failed to consult on the 2018 Resolution when it was submitted to him.⁴⁴¹ He failed to take into account the need to make suitable arrangements in arriving at his decision to appoint Prebendary Crossman to the Cure.⁴⁴² Even after that decision was announced he took no steps to implement the Declaration Resolutions so that the PCC had to remind him of his duty in the 26th April Letter.⁴⁴³ Even then he took little effective action until the 10th July Bishop Hancock Email signalled a belated change in his behaviour.⁴⁴⁴

Archdeacon Gell

31.4.4 In spite of being fully aware of the Declaration Resolutions Archdeacon Gell, in her conduct of the Benefice's discussions on filling the Vacancy, took no action to ensure that the requirement to make arrangements for the Parish was taken into account in considering whom to appoint to the Vacancy.⁴⁴⁵

⁴³⁹ Prebendary Crossman, too, has shown a disregard for the requirements of the Declaration (see paras. 10.2.1, 16.1.1 & 16.1.2 and 17.1.1 & 17.1.2 above)

⁴⁴⁰ See para. 4.4.1 above

⁴⁴¹ See para. 4.4.1 above

⁴⁴² See paras. 6.3.3 & 7.4.1 above

⁴⁴³ See Section IX above

⁴⁴⁴ See Sections X – XIV above

⁴⁴⁵ See paras. 4.4.1, 6.2.1, 6.3.2, 6.3.4 – 6.3.7, 16.1.1 & 16.1.3 above

Prebendary Crossman

31.4.5 In the period between the announcement and the licensing, Prebendary Crossman's behaviour suggested that she intended proceeding without taking account of the theological convictions of the Parish and of the 2018 Resolution.⁴⁴⁶ Once licensed, Prebendary Crossman purported to exceed the powers conferred on her under her licence in purporting to exercise powers in respect of the Parish.⁴⁴⁷

Bishop Worsley

31.4.6 Bishop Worsley, in dealing, or purporting to deal, with the matter after Bishop Hancock's withdrawal due to illness has distributed misleading information,⁴⁴⁸ failed to keep her undertaking to supply copies of the advice which she has received,⁴⁴⁹ failed to keep her undertaking to deal with the matter in an open manner,⁴⁵⁰ has refused to comply with, or has ignored, requests for information⁴⁵¹ and has treated considered submissions as to the nature of the duties arising under the Declaration and as to the extent of her own legal powers with an arrogant and irresponsible disregard⁴⁵² and has allowed the Registrar to do so also.⁴⁵³

An unreasonable expectation

31.4.7 Clearly, it would be entirely unreasonable to expect the PCC, having been subjected to such negligent behaviour over a period of four years, to rely on the Diocesan Personnel and Incumbent to conform to arrangements which are entirely unenforceable at law.

⁴⁴⁶ See para. 10.2.1 above

⁴⁴⁷ See Section XVII above

⁴⁴⁸ See paras. 20.4.1 and 25.3.2 & 25.3.3 above

⁴⁴⁹ See Section XXI above

⁴⁵⁰ See Section XXI above

⁴⁵¹ See Section XXI above

⁴⁵² See Sections XX & XXIV above

⁴⁵³ See Sections XX & XXIV above

**IT IS UNSURPRISING THAT THE REGISTRAR HAS ADVANCED NO LEGAL
ARGUMENT TO JUSTIFY HIS POSITION**

31.5.1 It is difficult to imagine what arguments might be made to support the view that the Declaration Arrangements to be made for the Parish might, indeed should, be legally unenforceable and should, therefore, create such an imbalance between the power of the Diocesan Bishop and Incumbent and the powerlessness of the Parishioners. It is, perhaps, unsurprising that the Registrar and Bishop Worsley have declined to advance any such argument preferring instead mere assertion that any arrangements which are required to be made should, and would, be legally unenforceable.⁴⁵⁴

⁴⁵⁴ See Section XX and para. 21.1.1 above

SECTION XXXII

A COMMENTARY ON THE IMPLEMENTING STEPS

METHODOLOGY

32.1.1 In this Section we produce below, in emboldened font, the text of the Implementing Steps and provide a commentary on them in unemboldened font showing that if the Implementing Steps were taken Bishop Hancock's duty under the Declaration to implement the 2018 Resolution would be fulfilled and the Arrangement Criteria would be satisfied.⁴⁵⁵

32.1.2 We have seen⁴⁵⁶ that the Arrangement Criteria are that the Implementing Arrangements:

'(1) should be capable of continuing for the foreseeable future and of surviving changes of the Diocesan Bishop, the Incumbent, the Appointed Bishop and the Appointed Clergyman;

(2) and their purpose, should be formally recorded in writing so as to provide a permanent record of them;

(3) should provide protection to Prebendary Crossman from complaints against her under the Clergy Discipline Measure 2003 being upheld in respect of any acts of commission or omission by the Appointed Clergyman;

(4) should provide protection to the PCC and the Parishioners from being forced or required to receive the ministry of a female priest or bishop and against any breach of the Implementing Arrangements; and

(5) should, in the event that persons resident in the Parish seek the pastoral care of Prebendary Crossman other than specifically in her capacity as the Incumbent, not prevent her from responding to such a request by giving the appropriate care.'

⁴⁵⁵ See paras. 32.6.1 - 32.13.2 below

⁴⁵⁶ See para. 18.5.1 above

INDIRECT BUT NOT DIRECT RECEIPT

32.2.1 As we have seen⁴⁵⁷, if Prebendary Crossman is inducted to the Benefice the Implementing Arrangements will implement the 2018 Resolution only incompletely because in that case the Parish would be forced to receive her ministry indirectly. It is all the more important, therefore, if Bishop Hancock is, at least partially, to fulfil his duty under the Declaration, that the arrangements made for the Parish should ensure that it is not forced to receive Prebendary Crossman's ministry directly.

THE KEY PROVISIONS

32.3.1 The key to making Implementing Arrangements which achieve that is to be found in a combination of the provisions of Canon C24(8) and of the Mission and Pastoral Measure 2011 s.99. Canon C24(8) provides a general power, within the circumstances provided for its operation, for a priest with a cure of souls to provide '*for his cure to be supplied by a priest licensed ... by the bishop of the diocese*'. Section 99 *ibid* provides a power under which such a priest may be licensed. We shall deal, therefore, first with Canon C24(8) and then with s.99.

Canon C24(8)

32.3.2 The precondition for the application of Canon C24(8) is that at the time concerned the priest concerned should '*be unable to discharge his duties whether from non-residence or some other cause ...*' This poses two questions. Is the phrase '*some other cause*' to be construed *ejusdem generis* with the phrase 'non-residence' and what is involved in a priest being '*unable to discharge his duties*'?

⁴⁵⁷ See paras. 29.2.25 – 29.2.27 above

Some other cause

32.3.3 It is clear that '*some other cause*' cannot be restricted to meanings which are *ejusdem generis* with '*non-residence*'. An incumbent who through the onset of a debilitating disease requires constant nursing would plainly fall within the provision and yet there is nothing in the cause of his being unable to discharge his duties which is of the same type as non-residence or something analogous to it. So it is clear that the phrase '*non-residence*' does not restrict the ambit of the phrase '*some other cause*'.

Unable to discharge his duties

32.3.4 Equally it is clear that '*unable to discharge his duties*' cannot mean that it must be absolutely impossible for the priest to do so. It would obviously be reasonable for a priest whose mother was dying in another part of the country to absent himself from his parish duties having made provision for another clergyman to fulfil them. The only comprehensive power which the Canons provide which would allow him to do so is Canon C24(8) and yet it could not be said that, in such circumstances, it would be absolutely impossible for that priest to remain in his parish in order to fulfil those duties himself.

32.3.5 The concept of being 'unable' in Canon C24(8) must therefore include a requirement of reasonableness in the circumstances. We have seen,⁴⁵⁸ that the Declaration fulfils a function in the life of the Church of England which is of fundamental importance in respect of a change of ecclesiastical law which has had, and will continue to have, far reaching practical effects on the life of the Church. The agreement of the entire House of Bishops to the Declaration has the result that every bishop is bound to fulfil his duty

⁴⁵⁸ See para. 26.1.2 above

under it and, as we have seen,⁴⁵⁹ can be subject to disciplinary procedures if he fails to do so.

32.3.6 A priest's duty of canonical obedience to his bishop must include a duty to comply with the Declaration and a duty of complying with arrangements which the bishop has made under the Declaration.⁴⁶⁰ In these circumstances, it is clear that an incumbent being '*unable to discharge his duties*', for the purposes of Canon C24(8) must include circumstances where to discharge his or her duties by the direct exercise of the incumbency in a Resolution Parish would prevent the implementation of the resolution of the parish concerned in accordance with the Declaration.

The Mission and Pastoral Measure 2011 s.99

32.3.7 The Mission and Pastoral Measure 2011 s.99 then provides the power for a bishop to license a priest as an assistant curate, but with another appropriate title, and to assign to that person '*a special cure of souls in a part of the area of the benefice*' and '*a special responsibility for a particular pastoral function*'. In the circumstances of a Mixed Benefice, such as the Benefice, to which a diocesan bishop intends to appoint a Recently Lawful Priest⁴⁶¹ as incumbent, that will allow the bishop to license a clergyman who is not a Recently Lawful Priest to exercise directly all the functions of the incumbent in respect of the benefice, the incumbent being unable to exercise those functions directly by virtue of the overriding requirement to allow compliance with the Declaration's provision that the resolution of a pcc under the Declaration should be implemented.

⁴⁵⁹ See paras. 27.3.1 – 27.3.5 above

⁴⁶⁰ See para. 27.3.3 above

⁴⁶¹ On the assumption, made only for the purposes of this Paper, that such an appointment is permitted under the Declaration at all (see paras. 29.2.25 – 29.2.27 above)

32.3.8 At one point in the 13th July Zoom Meeting it seemed to be suggested⁴⁶² that all that was required to allow Prebendary Crossman's *functions 'to be supplied by a person licensed ... by'* Bishop Hancock was that that priest should be licensed by Bishop Hancock, one presumes under the Mission and Pastoral Measure 2011, s.99. Such a licence, however, cannot alienate from the holder of a cure the powers which are attached to that cure and its effect on the extent of an incumbent's duty to exercise those powers in the performance of the duties of his or her office is unclear. It is for this reason that to allow Prebendary Crossman to exercise her office as Incumbent in respect of the Parish through the Appointed Clergyman⁴⁶³ it is necessary both that she should do so under Canon C24(8) and that the Appointed Clergyman should be licensed under the Mission and Pastoral Measure 2011, s.99.

Other provisions of the Canons allowing the appointment of another priest to exercise the incumbent's functions are additional to the general power under Canon C24(8)

32.3.9 Many other provisions of the Canons allow an incumbent to exercise his ministry through another. Canon C24(2), (3), (4) and (5) for example all use variations of the formula '*or cause to be*' celebrated, preached, instructed or prepared. In relation to the particular matters with which they deal they provide specific additional authority for an incumbent of a Mixed Benefice who is a Recently Lawful Priest to exercise the rights and duties of his or her incumbency through a clergyman licensed under the Mission and Pastoral Measure 2011 s.99 but they do not detract from the generality of the power provided by Canon C24(8). In the commentary which follows we note some of these other provisions which specifically allow the exercise of one or more functions of the Incumbent through the Appointed Clergyman.

⁴⁶² See Appendix II, Doc. 114 Item 73. The point was not made with precision so it is not possible to say that this was the point that the speaker intended to express

⁴⁶³ See Appendix I

GENERAL MATTERS

Deadlines in the Implementing Steps

32.4.1 In specifying the Implementing Steps as part of an offer of an opportunity to Bishop Hancock to address the PCC's grievance it was necessary to specify various dates by which the Implementing Steps or actions in respect of them had to be completed. If the Independent Reviewer accepts the PCC's request that he recommends under the Regulations Reg. 24 that the Implementing Steps be implemented it will be necessary for revised dates to be inserted into the Implementing Steps. What will be suitable dates will depend upon when the Reviewer's decision is published. In the text of the implementing Steps given below, therefore, the original specified dates have not been changed.

Original purpose for which the Implementing Steps were specified

32.4.2 We have seen that in the 14th September McKie Email⁴⁶⁴ Mr McKie made to Bishop Hancock, on behalf of the PCC, an offer of an opportunity under the Regulations, Reg. 9 to address the PCC's Grievance, which was copied, *inter alia*, to Bishop Worsley and to which was attached the Statement specifying the Implementing Steps. Mr McKie explained in that email that the Implementing Steps were Steps:

' ... which, if ... [Bishop Hancock] ... were to undertake them, would fulfil ...[his]... duty under the Declaration to implement the Resolution. These Implementing Steps are based on the resolutions made by our PCC on 22nd June and on the steps set out in the 6th August Paper but I have taken the opportunity to provide for some minor matters for which I had not specifically provided previously and, in places, to tidy up the wording. As there have been no other arrangements proposed which, if you undertook them, would fulfil your

⁴⁶⁴ See para. 25.3.3 above

duty under the Declaration to implement the Resolution, you should proceed to take these Implementing Steps in order to fulfil that duty.'

32.4.3 In that email, Mr M^cKie asked for an unequivocal undertaking that the Implementing Steps would be implemented in accordance with the deadlines set out in them and in doing so provided the opportunity required by the Regulations Reg. 9. We have seen, that this offer lapsed at close of business on 25th September 2020 without having been accepted.

The present purpose of specifying the Implementing Steps

32.4.4 In Section XXXVI we ask⁴⁶⁵ that the Reviewer should recommend under the Regulations Reg. 24, that Bishop Hancock, or those acting on his behalf, should now implement the Implementing Steps.

Acting on Bishop Hancock's behalf

32.4.5 The Implementing Steps are primarily in the form of steps to be taken by Bishop Hancock whose duty it is under the Declaration to make arrangements to implement the Declaration Resolutions. That is because it appears that because of the uncertainty as to the extent of Bishop Worsley's powers there is nobody presently authorised to act on Bishop Hancock's behalf in the matter.⁴⁶⁶ Unless Bishop Hancock quickly recovers from his illness there will clearly be a practical difficulty in implementing the Implementing Steps until powers have been conferred on somebody which are clearly sufficient to allow the Implementing Steps to be taken.

⁴⁶⁵ See para. 36.5.1 below

⁴⁶⁶ See Section XXIV above

THE IMPLEMENTING STEPS

32.5.1 We now turn to our commentary on the Implementing Steps.

32.5.2 In reproducing the Implementing Steps we have included, in addition to the paragraph numbers they bear in this Paper, the paragraph numbers they bore in the Statement in order to make clear the internal references given in the Implementing Steps themselves.

IMPLEMENTING STEP I: THE IMPLEMENTING DEED

The Implementing Deed

32.6.1 **2.2.1: A deed (the ‘Implementing Deed’)⁴⁶⁷ will be drafted by Mr M^cKie acting on behalf of the PCC and submitted by him to the Diocesan Bishop⁴⁶⁸ for the Diocesan Bishop’s approval on or before 15th November 2020. Such approval is not to be unreasonably withheld. The deed as drafted subject to any amendments agreed by Mr M^cKie and by the Diocesan Bishop, will be executed on or before 10th December 2020. The Implementing Deed will contain only provisions which are in accordance with the provisions set out in paras. 2.2.2 – 2.2.54 and such other provisions as Mr M^cKie and the Diocesan Bishop agree.**

32.6.2 As we have seen,⁴⁶⁹ to fulfil his duties to make arrangements to implement the Declaration Resolutions Bishop Hancock must make arrangements which are legally enforceable, *inter alia*, by the PCC. Undertakings made under deed are enforceable

⁴⁶⁷ See Appendix I

⁴⁶⁸ Where in the Implementing Steps we refer to any action by or in respect of the Diocesan Bishop we include a reference to any person acting, *intra vires*, on his behalf

⁴⁶⁹ See Section XXXI above. Making legally enforceable arrangements also satisfies the Arrangement Criteria, Criterion 4

by the parties and it is for that reason that a deed has been specified. The PCC has not drafted a suitable deed but the provisions which it should contain are specified in considerable detail in the Implementing Steps. Because a Deed has not been drafted the above provision provides for the text of the Deed to be agreed

The Parties⁴⁷⁰

32.6.3 2.2.2: The parties to the Implementing Deed (the ‘Parties’) will be:

- (1) The Diocesan Bishop acting as a Corporation Sole so as to bind his successors;**
- (2) Prebendary Crossman;**
- (3) Mr Bridges and Mr M^cKie signing pursuant to a resolution to the PCC and expressly on behalf of the PCC.**⁴⁷¹

32.6.4 In order that Arrangement Criterion (1) should be satisfied it is specified, for the avoidance of doubt, that in being party to the Implementing Deed the diocesan bishop acts as a corporation sole with the result that he binds his successors. A pcc is a corporate body with a legal personality separate from its members and, therefore, has perpetual succession and so the ascription of his signature by the PCC secretary exercising its authority binds the PCC regardless of changes in the persons who are, from time to time, members of it.⁴⁷²

Recitals

32.6.5 2.2.3: The Implementing Deed will include the recitals set out in the following paras. 2.2.4 – 2.2.31.

⁴⁷⁰ See Appendix I

⁴⁷¹ The text in italics is not the text of the Statement. That text has been expanded to reflect the requirements of the Parochial Church Councils (Powers) Measure 1956 s.3

⁴⁷² Parochial Church Councils (Powers) Measure 1956 s.3

32.6.6 We have provided for unusually detailed Recitals. The reason we have done so is to satisfy Arrangement Criterion (2), that the purpose of the Implementing Steps should be formally recorded in writing so as to provide a permanent record of them, and Arrangement Criterion (3), that the Implementing Steps should '*provide protection to Prebendary Crossman from complaints against her under the Clergy Discipline Measure 2003 being upheld in respect of any acts of commission or admission by the Appointed Clergyman*'. In respect of the latter, by recording what the Implementing Steps are to achieve and the understanding of the relevant law on which they are based, even if, in some unforeseen way, Prebendary Crossman were to breach her duty in acting in accordance with the Implementing Steps she would not have committed misconduct which would incur a penalty under the Clergy Discipline Measure 2003 because she would have satisfied her duty of canonical obedience under Canon C14 in acting in accordance with the considered wishes of her diocesan bishop formally expressed in a legally binding form in a matter which has been the subject of expert consideration.

As to the factual background

32.6.7 **2.2.4: That the Vacancy occurred on 1st October 2018.**⁴⁷³

32.6.8 **2.2.5: That the PCC passed the 2016 Resolution on 26th August 2016 and the 2018 Resolution on 23rd October 2018, being resolutions under the Declaration para. 20, and submitted them to the Bishop, the former directly and the latter by sending it to the Archdeacon of Wells shortly thereafter, and that in doing so the PCC complied with the provisions of the Declaration paras. 19 and 20.**⁴⁷⁴

⁴⁷³ See para. 4.2.3 above

⁴⁷⁴ See paras. 4.2.1 & 4.2.2 and 4.3.1 – 4.3.3 above

32.6.9 **2.2.6: That Bishop Hancock and Bishop Worsley are Non-Resolution Bishops.**

32.6.10 **2.2.7: That Prebendary Crossman is a Non-Resolution Priest.**⁴⁷⁵

32.6.11 **2.2.8: That Bishop Goodall is not a Recently Lawful Bishop.**⁴⁷⁶

32.6.12 **2.2.9: That Mr Clark is not a Recently Lawful Priest.**⁴⁷⁷

As to duties arising under the Declaration

32.6.13 **2.2.10: That Bishop Hancock had a duty under the Declaration to consult the Parish in respect of the 2016 Resolution and of the 2018 Resolution at the times when the fact that each had been made was communicated to him and he did not do so.**⁴⁷⁸

32.6.14 **2.2.11: That Bishop Hancock had a duty under the Declaration to make arrangements to implement the 2018 Resolution before deciding whom to appoint to the Incumbency and he did not do so.**⁴⁷⁹

32.6.15 **2.2.12: That to fulfil his duty under the Declaration to implement the 2018 Resolution, the arrangements which Bishop Hancock should have made should**

⁴⁷⁵ See Appendix I

⁴⁷⁶ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Bishop or Priest

⁴⁷⁷ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁷⁸ See para. 4.4.1 above

⁴⁷⁹ See para. 4.4.1 above

have had the result that the Parish did not receive the ministry of a Recently Lawful Priest or of a Recently Lawful Bishop either directly or indirectly.⁴⁸⁰

32.6.16 **2.2.13:** That, if a Recently Lawful Priest is appointed as the incumbent of a Resolution Parish, the parish will be forced to receive his or her ministry at least indirectly and, therefore, the duty of the diocesan bishop concerned to implement the Resolution Parish's resolution under the Declaration will not have been completely fulfilled.⁴⁸¹

As to the construction of the Declaration

32.6.17 **2.2.14:** That, for the purposes of the Declaration, the ministry of a priest who is an incumbent of a benefice includes everything that priest does as that incumbent, or in pursuance of his or her incumbency or in exercise of a power appertaining to that incumbency.⁴⁸²

32.6.18 **2.2.15:** That the ministry of a bishop who is a suffragan bishop includes everything that bishop does as a suffragan bishop or in pursuance of his or her office as suffragan bishop or in the exercise of any powers appertaining to his or her office as suffragan bishop.⁴⁸³

32.6.19 **2.2.16:** That, for the purposes of the Declaration, the ministry of a bishop who is a diocesan bishop includes everything that bishop does as the diocesan

⁴⁸⁰ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁸¹ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁸² See Section XXX above

⁴⁸³ See Section XXX above

bishop, or in pursuance of his or her office as bishop or in exercise of any powers appertaining to his or her See.⁴⁸⁴

As to the Diocesan Bishop's intentions

32.6.20 2.2.17: That in spite of paras. 2.2.12 & 2.2.13 above, the Diocesan Bishop has made a decision to appoint Prebendary Crossman to the Incumbency.⁴⁸⁵

32.6.21 2.2.18: That if the Diocesan Bishop inducts Prebendary Crossman to the Incumbency, he will have placed himself in the position of being unable to fulfil completely his duty under the Declaration to make arrangements under which the Parish is not forced to receive the ministry of a Recently Lawful Priest either directly or indirectly.⁴⁸⁶

32.6.22 2.2.19: That in spite of para. 2.2.18 above, the Diocesan Bishop intends to induct Prebendary Crossman to the Incumbency.⁴⁸⁷

As to the PCC's acquiescence

32.6.23 2.2.20: That, in spite of paras. 2.2.12 & 2.2.13 and 2.2.18 above, because of the damage to the Christian life of the Parish that further delay in implementing the 2018 Resolution will cause the PCC reluctantly acquiesces in Prebendary Crossman's induction to the Benefice on the basis that the arrangements set out in the Implementing Deed are made, and are adhered to, by Bishop Hancock

⁴⁸⁴ See Section XXX above

⁴⁸⁵ See para. 7.10.1 above

⁴⁸⁶ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁸⁷ See para. 25.3.3 above

and Prebendary Crossman and by all succeeding Diocesan Bishops and Incumbents.⁴⁸⁸

As to the intention of the Parties in respect of the arrangements

32.6.24 **2.2.21:** That the arrangements set out in the Implementing Deed are intended by the Parties to have the result that the Parish does not, at any time, receive directly the ministry of a Recently Lawful Bishop or of a Recently Lawful Priest, in particular, but without restricting the generality of the foregoing, the ministry of a Recently Lawful Bishop who is the Diocesan Bishop or a suffragan bishop of the Diocese or a Recently Lawful Priest who is the Incumbent.⁴⁸⁹

32.6.25 **2.2.22:** That the arrangements are intended by the Parties to continue indefinitely and not to terminate on the termination of Bishop Hancock's possession of the See of the Diocese or on Prebendary Crossman ceasing to be the Incumbent or on Bishop Goodall ceasing to be a suffragan bishop of the Diocese or a person who undertakes ministry in respect of parishes of the Diocese under the Declaration para. 26.⁴⁹⁰

32.6.26 **2.2.23:** That the arrangements are intended by the Parties to bind all succeeding Diocesan Bishops.⁴⁹¹

⁴⁸⁸ But see para. 36.3.1 below

⁴⁸⁹ See para. 32.3.1 above. The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁹⁰ See para. 18.5.1 above. See the Arrangement Criteria, Criterion (1)

⁴⁹¹ See para. 18.5.1 above. See the Arrangement Criteria, Criterion (1)

As to Oversight by a suitable Bishop

32.6.27 **2.2.24:** That the arrangements are intended by the parties to ensure the Diocesan Bishop will, at all times, have delegated such of his powers as are necessary to ensure that the Parish does not receive directly the ministry of any Non-Resolution Bishop.⁴⁹²

32.6.28 **2.2.25:** That the Diocesan Bishop intends to exercise his power under the Dioceses, Pastoral and Mission Measure 2007 s.13 to ensure that, at all times, a Bishop who is not a Recently Lawful Bishop has been appointed to exercise all the Diocesan Bishop's powers in respect of the Parish as may be lawfully delegated to him.⁴⁹³

32.6.29 **2.2.26:** That the Diocesan Bishop intends that Bishop Goodall should be the first bishop appointed in pursuance of para. 2.2.25 above and that he intends that, to the extent that powers have not already been delegated to Bishop Goodall in accordance with para. 2.2.25 above, they will be so delegated under para. 2.2.35 below.

As to the Mission and Pastoral Measure 2011 s.99

32.6.30 **2.2.27:** That, in order to ensure that the Parish does not receive directly the ministry of a Recently Lawful Priest, the Diocesan Bishop intends to exercise his power under the Mission and Pastoral Measure 2011 s.99 to appoint a priest

⁴⁹² See para. 32.3.1 above

⁴⁹³ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

who is not a Recently Lawful Priest to exercise all the Incumbent's functions and powers and to fulfil all her duties in respect of the Parish.⁴⁹⁴

32.6.31 2.2.28: That the first clergyman whom the Diocesan Bishop intends, with the consent of the Parties, to approve under para. 2.2.27 above is Mr Clark.

As to Canon C24(8)

32.6.32 2.2.29: That the requirement of the Declaration that the Diocesan Bishop must make arrangements to implement the 2018 Resolution has the result that any Incumbent who was a Non-Resolution Priest would be unable to discharge his or her duties in respect of the Parish within the terms of Canon C24(8) and so would be under a duty to provide for those duties to be discharged by a priest who is not a Recently Lawful Priest.⁴⁹⁵

As to the Clergy Discipline Measure 2003

32.6.33 2.2.30: That an Incumbent who was a Recently Lawful Priest who acted in accordance with the Implementing Deed and so refrained from exercising directly any of his or her powers, or fulfilling any of his or her duties, as Incumbent in respect of the Parish would not have committed Misconduct.⁴⁹⁶

⁴⁹⁴ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁹⁵ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁴⁹⁶ See para. 18.5.1 above. The Arrangement Criteria, Criterion (3). The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

32.6.34 **2.2.31: That any bishop or priest who was a party to the Implementing Deed that breached any of its provisions, or any of the undertakings made under it, would have committed Misconduct.**⁴⁹⁷

The Operative Provisions of the Implementing Deed

32.6.35 **2.2.32: The Deed shall provide that the matters set out in the following paras. 2.2.33 to 2.2.54, are agreed by the Parties and shall have effect.**⁴⁹⁸

32.6.36 Having set out in the Recitals the relevant facts, the Parties' understanding of the relevant law and the Parties' intentions as to what they intend to achieve under the Implementing Deed there would now follow the actual Operative Provisions of the Deed under which the Parties give undertakings as to their future actions

Restrictions on the Incumbent

32.6.37 **2.2.33: Subject to the agreement of the PCC otherwise, an Incumbent will refrain from exercising any powers and functions, and from fulfilling any of the duties, of his or her Incumbency directly in respect of the Parish but, instead will exercise those powers, and fulfil those duties, through a clergyman appointed in accordance with para. 2.2.37 below or, in exceptional circumstances, through arrangements made under para. 2.2.41 below.**⁴⁹⁹

32.6.38 This states the general principle that the Incumbent, being Prebendary Crossman and any future Incumbent, will not exercise his or her powers or functions directly in respect of the Parish but only through an Appointed Clergyman. It is of course possible that the PCC in the future, particularly when its membership changes, may

⁴⁹⁷ See para. 18.5.1 above. The Arrangement Criteria, Criterion (4)

⁴⁹⁸ See para. 32.6.24 above

⁴⁹⁹ See paras. 32.6.38 – 32.6.76 below

take a different view on these matters or that a future incumbent may be a Resolution Priest. If such proves to be the case it would be open for the PCC to agree that this provision would not apply.

32.6.39 2.2.34: Without restricting the generality of para. 2.2.33 above, the Incumbent will not, without the agreement of the PCC, otherwise than indirectly through a clergyman licensed in accordance with para. 2.2.37 below or under arrangements made under para. 2.2.41 below.

32.6.40 Having stated the general principle⁵⁰⁰ above the incumbent is then specifically prevented from taking certain actions which would involve the imposition of the direct receipt of her ministry so that there should be no doubt as to the application of the general principle the these matters.

(1) take any service in the Parish, including, but not limited to:

(a) Holy Communion;

Canon C24(2) imposes a personal duty on an incumbent to celebrate, or cause to be celebrated, Holy Communion but it does not require Holy Communion to be celebrated in any particular parish of his or her benefice.

(b) Mattins;

(c) Evensong;

Canon C24(1) requires Morning and Evening Prayer, and on appointed days, the Litany, to be said in one of the churches of the benefice. It does not require them to be said in every such church.

(d) Baptism;

⁵⁰⁰ See para. 32.6.37 above

In respect of Holy Baptism, Canon B21 says only that it is *'desirable that every minister having a cure of souls shall normally administer the sacrament of Holy Baptism.'* Clearly, however the situation of a Mixed Benefice to which a Recently Lawful Priest has been appointed as incumbent is an abnormal situation and requires other arrangements. Even if that were not the case, Canon C24(8) would provide the necessary authority for the Appointed Clergyman to perform baptisms in the Churches

(e) Solemnization of Matrimony;

The incumbent's duty to marry a couple who are qualified to be married in the parish church may be fulfilled by his doing so personally or by securing and permitting another cleric to officiate.⁵⁰¹

If a couple particularly wished to be married by the Incumbent it would be open to the PCC to agree a specific variation to this general rule.

(f) Burial;

Canon C24(8) provides the authority for the Incumbent to fulfil his duty under Canon B38(2) to bury any persons deceased within his cure through the Appointed Clergyman.

(g) The Churching of Women.

(2) preach any sermon in any Church of the Parish.

Under Canon C24(3) the incumbent must, except for some reasonable cause, *'preach, or cause to be preached, a sermon in the church or churches of which he is the minister at least once each Sunday'*

If the Bishop, in implementing the 2018 Resolution, licenses an Appointed Clergyman to exercise Prebendary Crossman's functions in the Parish

⁵⁰¹ Hill para. 5.2.9

and she has facilitated those arrangements and, if the sermon is actually preached in accordance with this Canon, she will have '*caused [it] to be preached*'. What, however, if the Appointed Clergyman neglects his duty so that a sermon is not preached in the churches of Lullington with Orchardleigh (or indeed, so that the parishioners are not instructed in the Christian faith or individuals seeking confirmation are not prepared for it?) Even in those circumstances Prebendary Crossman will not have failed in her duty because she will have complied with her duty under Canon C24(8) to '*provide for ... [her] ... cure to be supplied by a priest licensed ... by the bishop of the diocese.*' Even if that were not the case, however, she would have a good answer to any complaint under the Clergy Discipline Measure 2003 in that she would have fulfilled her duty of canonical obedience under Canon C14 by acting in compliance with arrangements made by the Bishop under the Declaration.

(3) instruct any of the Parishioners in the Christian Faith.

Under Canon C24(4) an incumbent must '*instruct the parishioners of the benefice, or cause them to be instructed, in the Christian faith*'. By facilitating arrangements under which an Appointed Clergyman who exercises a special cure in the Parish provides that instruction, Prebendary Crossman will have caused the Parishioners to be so.

(4) prepare any of the Parishioners for Confirmation.

Prebendary Crossman will have complied with her duty under Canon C24(5) to '*carefully prepare, or cause to be prepared, all such as desire to be confirmed and, if satisfied of their fitness, ... [to] ... present them to the bishop for confirmation*' if the Appointed Clergyman is

appointed and carefully prepares those who desire to be confirmed for confirmation.

(5) visit the Parishioners in pursuance of Canon C24(6).

Canon C24(6) (visiting parishioners and spiritual counsel and advice) does not provide for the duties under that provision to be discharged through another but in respect of those Canons the authority to do so will derive solely from the general provision of Canon C24(8).

(6) consult with the PCC under Canon C24(7).

C24(7) (consultation with the pcc on matters of concern) does not provide for the duties under that provision to be discharged through another but in respect of that Canon the authority to do so will derive solely from the general provision of Canon C24(8).

(7) exercise any right in respect of the Parish Church of the Parish or of any other Benefice Property or to designate burial plots or to approve memorials.

The Benefice Property will be vested in the Incumbent. The Incumbent will have a right of possession of the Parish Church but one which, in order to implement the 2018 Resolution in accordance with the Declaration, she will undertake to exercise, under the Implementing Steps, through the Appointed Clergyman. There is no impediment to an incumbent undertaking to exercise his or her right in respect of the Parish church or any other benefice property or to designate burial plots or to approve memorials through the Appointed Clergyman.

(8) provide leadership concerning safeguarding in accordance with any guidance issued by the House of Bishops.

The House of Bishops' Key Roles and Responsibilities of Church Office Holders and Bodies Practice Guidance states at page 19 that: *'The*

incumbent's role is to provide leadership concerning safeguarding, and to encourage everyone to promote a safer church. The PCC and the incumbent have a duty of care to ensure the protection of the vulnerable in their church community.' The incumbent cannot delegate his *duty 'to have due regard to the House of Bishops' guidance.'* There is no impediment, however, to his or her exercising the leadership role recommended by the guidance through a clergyman licensed by the incumbent's diocesan bishop under the Mission and Pastoral Measure 2011 s.99. Even if that were not the case, Canon C24(8) would allow the exercise of safeguarding duties to be undertaken through the Appointed Clergyman.

(9) chair the PCC or attend its meetings;

Rule M26(2) of the Church Representation Rules will allow arrangements to be made for the Appointed Clergyman to chair PCC meetings and to attend them instead of Prebendary Crossman.

(10) oversee in any way the Readers of the Benefice in respect of their activities in the Parish;

Readers are actually licensed by the diocesan bishop although it is normal for a diocesan bishop to receive applications for the licensing of Readers from the incumbent. That however is a matter of practice rather than law. It is common for a written agreement to be made between an incumbent and the Readers licensed in his cure and that function can be delegated to the Appointed Clergyman licensed under the Mission and Pastoral Measure 2011 s.99.

(11) exercise any function in respect of any organist, choirmaster or director of music under Canon B20.

Canon C24(8) provides the authority for the Incumbent to exercise his or her functions under Canon B20 through the Appointed Clergyman.

The Diocesan Bishop's undertakings for himself and his successors as to the Appointed Bishop

32.6.41 **2.2.35:** The Diocesan Bishop will, at all times, have delegated such of his powers as are necessary to ensure that the Parish does not receive directly the ministry of any Recently Lawful Bishop and to ensure that, at all times, a Bishop (the 'Appointed Bishop') who is not a Recently Lawful Bishop has been appointed to exercise all the Diocesan Bishop's powers in respect of the Parish as may be lawfully delegated to him.⁵⁰²

32.6.42 This fulfils Criterion (1) of the Arrangement Criteria.⁵⁰³

32.6.43 **2.2.36:** Bishop Goodall will be appointed as the First Appointed Bishop under para. 2.2.35 above and to the extent that Bishop Hancock has not already delegated all powers necessary for Bishop Goodall to exercise the Diocesan Bishop's powers in accordance with that paragraph, he will so delegate those powers.⁵⁰⁴

The Diocesan Bishop's undertakings for himself and his successors as to the first Appointed Clergyman

32.6.44 **2.2.37:** The Diocesan Bishop and his successors will ensure that, from a time before any person is inducted to the Benefice and at all times thereafter, he will

⁵⁰² The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁵⁰³ See para. 18.5.1 above

⁵⁰⁴ See para. 32.6.29 above

have licensed a clergyman who is not a Recently Lawful Priest⁵⁰⁵ under the Mission and Pastoral Measure 2011 s.99 or any successor thereto, to be known as the Appointed Clergyman, and to exercise directly all the powers and functions of the Incumbent, and to fulfil his or her duties, in respect of the Parish and that before doing so the Diocesan Bishop will have obtained the consent of the PCC to that appointment.

32.6.45 This fulfils Criterion (1) of the Arrangement Criteria.⁵⁰⁶

32.6.46 **2.2.38:** That in accordance with para. 2.2.37 above, the Diocesan Bishop will, before inducting Prebendary Crossman to the Benefice, license Mr Clark under the Mission and Pastoral Measure 2011 s.99, as the first Appointed Clergyman and, in order to do so, the Diocesan Bishop will exercise his power under the Terms of Service Regulations,⁵⁰⁷ reg. 29A(5).⁵⁰⁸

32.6.47 **2.2.39:** Except with the prior permission of the PCC, the Diocesan Bishop will ensure that arrangements to the same effect as those made by the Implementing Deed will remain in force regardless of any change of the person who is the Diocesan Bishop, the Appointed Bishop, the Appointed Clergyman or the Incumbent.

32.6.48 This fulfils Criterion (1) of the Arrangement Criteria.

⁵⁰⁵ See paras. 29.2.25 – 29.2.27 above. The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁵⁰⁶ See para. 18.5.1 above

⁵⁰⁷ See Appendix I

⁵⁰⁸ Mr Clark is over the age specified in the Ecclesiastical Offices (Age Limit) Measure 1975 (see para. 2.2.6 above) In order to license him as the Appointed Clergyman, therefore, Bishop Hancock will have to exercise his power under the Ecclesiastical Offices (Terms of Service) Regulations, Reg. 29A(5)

32.6.49 **2.2.40:** Except with the prior permission of the PCC, the Diocesan Bishop will ensure that at all future times, before any person who is a Non-Resolution Priest has accepted, or been inducted to, the Incumbency that person will have entered into a Deed undertaking to observe all the provisions of the Implementing Deed and, in particular, but without restricting the generality of the foregoing, will comply with all the undertakings given by, make all the acknowledgements to be made by, and fulfil all the duties imposed on, Prebendary Crossman under the Implementing Deed as if he or she were Prebendary Crossman.

32.6.50 This fulfils the Criterion (1) of the Arrangement Criteria.

32.6.51 **2.2.41:** That if, in spite of para. 2.2.37 above, there is any time when there is no person licensed as the Appointed Clergyman, the Diocesan Bishop and the Incumbent will ensure that the Incumbent continues to refrain from exercising any power or function, or from fulfilling any duty, in respect of his or her incumbency directly in respect of the Parish and will make emergency arrangements under which, as far as practically possible, the Incumbent's powers and functions will be exercised, or duties fulfilled, by another person, or other persons, who is, or are not, a Recently Lawful Priest.⁵⁰⁹

32.6.52 This provides for a situation where, for some unforeseen reason, it is impractical for some temporary period to have an Appointed Clergyman in post.

⁵⁰⁹ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

32.6.53 **2.2.42: The Diocesan Bishop will restrict the existing powers of any Recently Lawful Bishop who is, now or in the future, a suffragan bishop of the Diocese in a manner which ensures that that bishop cannot exercise any episcopal power in respect of a Resolution Parish and that such a parish is not forced or required to accept the ministry of such a bishop.**⁵¹⁰

32.6.54 This provision ensures that the Parish will not be forced to receive the ministry of any female bishop or any other Recently Lawful Bishop.

32.6.55 **2.2.43: In pursuance of para. 2.2.37 above, the Diocesan Bishop will exercise his power under the Dioceses, Pastoral and Mission Measure 2007 para. 13 as soon as possible, and in any event before 31st October 2020, to divest Bishop Worsley of any powers or duties in respect of any Resolution Parish.**

32.6.56 Bishop Worsley's powers include at least some powers over the Parish⁵¹¹ and, in order that Bishop Hancock might fulfil his duty to implement the Declaration Resolutions, those powers must be removed. As a tidying up measure all such of Bishop Worsley's powers over Resolution Parishes are to be removed under this provision.⁵¹²

⁵¹⁰ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁵¹¹ See para. 29.3.2 above

⁵¹² See para. 12.3.5, Section XV, para. 18.2.1 and Section XXIV above

32.6.57 **2.2.44: The Diocesan Bishop will not at any time confer any power, or impose any duty, on a suffragan bishop who is a Recently Lawful Bishop in respect of a Resolution Parish.**⁵¹³

32.6.58 The provision ensures that a mistake similar to that made in respect of the powers delegated to Bishop Worsley is not made in relation to suffragan bishops who are Recently Lawful Bishops in the future.

32.6.59 **2.2.45: Any Statement of Particulars given, under the Terms of Service Regulations reg. 3 or any successor thereto, by a Diocesan Bishop or on his or her behalf to Prebendary Crossman or to any future Incumbent who is a Non-Resolution Priest will include a statement that the Incumbent is required, under the Declaration and by reason of his or her duty of canonical obedience to the Diocesan Bishop, to exercise his or her ministry, including the exercise of all the powers and functions, and the fulfilment of all the duties, arising under the Incumbency, in accordance with the Implementing Deed and with any deed made under para. 2.2.40 above.**⁵¹⁴

32.6.60 The Terms of Service Regulations, Reg. 3 provide that a Statement of Particulars must be given to any office holder within its terms. Prebendary Crossman and any future Incumbent will be an office holder for this purpose. Reg. 3 specifies information which must be included in that Statement. That specified information does not include the information of the description in para. 32.6.59 above. Regulation 3, however, does

⁵¹³ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

⁵¹⁴ The text of the Implementing Steps has been changed from that of the steps specified in the Statement to state the requirement as to the persons who are to be the Appointed Bishop or the Appointed Priest as a requirement not to be a Recently Lawful Priest or Bishop rather than to be a Resolution Priest or Bishop

not proscribe the inclusion of additional information and so it is possible to include the additional information here specified. The purpose of doing so is that it should be clear that compliance with the Implementing Steps is required by the Incumbent's duty of canonical obedience under Canon C14 and thus to make it clear that doing so cannot constitute Misconduct and thus to fulfil Criterion (3) of the Arrangement Criteria.

32.6.61 2.2.46: The Diocesan Bishop will not induct Prebendary Crossman to the Benefice until Implementing Steps II, III and IV have been implemented.⁵¹⁵

32.6.62 This provision ensures that the position of the PCC will be protected before Prebendary Crossman is inducted to the Benefice. It thus fulfils Criterion (4) of the Arrangement Criteria.

Prebendary Crossman's consent, acknowledgements and undertakings

32.6.63 The following three paragraphs set out requirements as to consent, acknowledgement and the giving of an undertaking so that Prebendary Crossman is required to co-operate in the implementation of the Implementing Steps.

32.6.64 2.2.47: To the extent that her consent is required, Prebendary Crossman consents to the granting of any licence to an Appointed Clergyman in accordance with para. 2.2.37 above and in particular, but without restricting the generality of the foregoing, to the granting of a licence to David Clark under para. 2.2.38 above.⁵¹⁶

⁵¹⁵ See paras. 32.7.1 – 32.13.2 below

⁵¹⁶ See paras. 32.6.44 & 32.6.46 above

32.6.65 **2.2.48: Prebendary Crossman, acknowledges that the conferring of a licence on the Appointed Clergyman in accordance with para. 2.2.37 above will facilitate her fulfilment of her duty under Canon C24(8) in accordance with the Declaration.**

32.6.66 **2.2.49: Prebendary Crossman undertakes to take or to omit from taking, and to co-operate with any other person in taking, any action necessary to give effect to any provisions of the Implementing Deed.**

Requirements as to the PCC's giving of permission and as to the review of implementing instruments

32.6.67 The final provisions of the Deed are administrative and procedural. They do not include powers for the Deed to be terminated. Such provisions are unnecessary because the provisions of any Deed may be terminated by agreement of the Parties. It would not be appropriate to include unilateral termination provisions within the Deed under which the arrangements could be brought to an end without the PCC's consent because that would undermine the purpose of the arrangements of providing protection to the PCC and thus be in conflict with Arrangement Criterion (4) and, more importantly, with the purpose of the Declaration and with paras. 5 and 10 of the Declaration.

32.6.68 **2.2.50: Any permission, agreement or consent which the PCC may give or make under the Implementing Deed will only be treated as having been given or made if the PCC has resolved at a meeting complying with the Church Representation Rules to give that permission or make that agreement and a copy of the signed Minutes of the meeting has been submitted by the Secretary of the PCC to, and has been received by, the Diocesan Bishop.**

32.6.69 **2.2.51: Any instruments or other documents created for the purpose of giving effect to any of the Implementing Steps will be submitted in draft to Mr M^cKie (or any person authorised to act on its behalf in succession to Mr McKie)⁵¹⁷ acting on behalf of the PCC for his agreement before they are executed. Without restricting the generality of the foregoing such instruments and other documents shall include:-**

- a) any instrument made under Implementing Step II;⁵¹⁸**
- b) any instrument made under Implementing Step III;⁵¹⁹**
- c) the licence to be granted to David Clark under Implementing Step IV;⁵²⁰**
- d) the Statement of Particulars to be given to Prebendary Crossman under Implementing Step V.⁵²¹**

32.6.70 This paragraph makes provision for the agreement of any instrument or document which are necessary to give effect to the Implementing Steps.

32.6.71 **2.2.52: A copy of any instrument under which the Diocesan Bishop has exercised his powers under the Dioceses, Mission and Pastoral Measure 2007 s.13 to confer or delegate any function or power to Bishop Goodall in respect of the Parish will be supplied to Mr M^cKie on the execution of the Implementing Deed.**

⁵¹⁷ The text of these Implementing Steps has been changed from that contained in the Statement to allow for successors to Mr M^cKie

⁵¹⁸ See Appendix I

⁵¹⁹ See Appendix I

⁵²⁰ See Appendix I

⁵²¹ See Appendix I. The text of the Implementing Steps has here been changed from that contained in the Statement to correct a typographical error

32.6.72 2.2.53: A copy of any other instrument conferring on Bishop Goodall any function or power in respect of the Parish will be supplied to Mr M^cKie on the execution of the Implementing Deed.

32.6.73 Paragraphs 32.6.71 and 32.6.72 are concerned with the nature of Bishop Goodall's powers in respect of the Parish and how those powers have been, or are to be, conferred. Bishop Goodall, very understandably as he is not a lawyer, was unable to describe how whatever powers Bishop Hancock has conferred on him in respect of the Parish to date have been conferred.⁵²²

32.6.74 Canon Dodds has provided to Mr McKie a copy of an Instrument made by Bishop Hancock and conferring powers on Bishop Goodall. It does not appear that those powers are in themselves sufficient to allow Bishop Goodall to exercise the role of the Appointed Bishop.⁵²³

A joint undertaking by the Diocesan Bishop and the PCC

32.6.75 2.2.54: The PCC and the Diocesan Bishop will make a joint submission to the Independent Reviewer under the Regulations reg. 27 in respect of the Arrangements by 31st December 2020. That submission will be drafted by Mr M^cKie on behalf of the PCC by 20th November 2020, and reviewed, before its submission, by the Diocesan Bishop by 10th December 2020. It will then be finalised by Mr M^cKie on behalf of the PCC, and submitted to the Independent Reviewer under the Regulations by the secretary of the PCC on the joint behalf of the PCC and of the Diocesan Bishop.

⁵²² See Appendix II, Doc. 214 (page 2 of the telephone note)

⁵²³ See Appendix II, Doc. 248

32.6.76 Paragraph 32.6.75 above was included in the Implementing Steps to give effect to a wish expressed by Bishop Hancock during the 23rd July Zoom Meeting⁵²⁴ that the PCC and Bishop Hancock should make a joint submission to the Independent Reviewer under the Regulations Reg. 27 so as to make the arrangements for the Parish available to the wider church as an example of arrangements which are suitable for a Resolution Parish in a Mixed Benefice such as the Parish. As Bishop Worsley's subsequent behaviour has made it necessary for the PCC to submit this grievance under Regulations Reg. 10 it may be that this provision is now redundant but the PCC still hopes that the Declaration Arrangements for the Parish can be made in a spirit of co-operation rather than conflict and hopes that Bishop Worsley will be persuaded to adopt that approach.

IMPLEMENTING STEP II: EXCLUDING BISHOP WORSLEY'S POWERS IN RESPECT OF RESOLUTION PARISHES

32.7.1 Implementing Step II and all of the following Implementing Steps merely give effect to the undertakings which are made in the Implementing Deed under Implementing Step I.⁵²⁵

32.7.2 **2.3.1: On or before 20th December 2020 the Diocesan Bishop will exercise his power under the Dioceses, Pastoral and Mission Measure 2007 s.13(10) to vary the delegation of his functions to Bishop Worsley made under s.13(1), in accordance with the Implementing Deed, so as to exclude her exercising any powers or any function in respect of a Resolution Parish.**⁵²⁶

⁵²⁴ See Appendix II, Doc. 150 Item 18

⁵²⁵ See Appendix I

⁵²⁶ See para. 32.6.55 above

IMPLEMENTING STEP III: DELEGATION TO BISHOP GOODALL

- 32.8.1 **2.4.1: On or before 20th December 2020, to the extent that he has not already done so, the Diocesan Bishop will exercise his powers under the Dioceses, Pastoral and Mission Measure 2007 s.13(1), or other provision in accordance with the Implementing Deed, to delegate to Bishop Goodall all the Diocesan Bishop's powers and functions in respect of the Parish except powers and functions under any Canon made under the Clergy (Ordination and Miscellaneous Provisions) Measure 1964 s.9(2).⁵²⁷**

IMPLEMENTING STEP IV: LICENSING OF DAVID CLARK

- 32.9.1 **2.5.1: On or before 20th December 2020, the Diocesan Bishop will exercise his power under the Mission and Pastoral Measure 2011 s.99 to license Mr Clark in accordance with the Implementing Deed.⁵²⁸**

IMPLEMENTING STEP V: PREBENDARY CROSSMAN'S STATEMENT OF PARTICULARS

- 32.10.1 **2.6.1: On Prebendary Crossman's induction to the Incumbency, the Diocesan Bishop will, in accordance with the Implementing Deed, give to her a Statement of Particulars under the Terms of Service Regulations reg. 3.⁵²⁹**

⁵²⁷ See para. 32.6.43 above

⁵²⁸ See para. 32.6.46 above

⁵²⁹ See para. 32.6.59 above

IMPLEMENTING STEP VI: PREBENDARY CROSSMAN AND THE PCC

32.11.1 **2.7.1:** Within one week of her induction to the Incumbency, Prebendary Crossman and the PCC will, in accordance with the Implementing Deed, make an arrangement under the Church Representation Rules rule M26(2) to appoint the Appointed Clergyman as the Chairman of the PCC.⁵³⁰

IMPLEMENTING STEP VII: THE CONDUCT OF PREBENDARY CROSSMAN'S MINISTRY

32.12.1 **2.8.1:** Prebendary Crossman will conduct her ministry in accordance with the Implementing Deed.

FURTHER IMPLEMENTING STEPS

32.13.1 **2.9.1:** The Parties will take any further steps necessary to give effect to the provisions of the Implementing Deed.

32.13.2 This is a catch all provisions designed to take account of the unforeseen.

⁵³⁰ See para. 32.6.40 above

SECTION XXXIII

A COMMENTARY ON THE MEMORANDUM OF UNDERSTANDING

THE ONLY SIGNIFICANT FURTHER STEP BISHOP WORSLEY INTENDS TO TAKE

33.1.1 We have seen⁵³¹ that the Registrar has drafted a Memorandum of Understanding. The signing of this Memorandum of Understanding, subject to the matters set out in para. 33.1.2 below, appears to be the only further step which Bishop Worsley intends to take purporting to exercise powers on behalf of Bishop Hancock to fulfil Bishop Hancock's duty under the Declaration to make arrangements which implement the Declaration Resolutions.⁵³²

33.1.2 The matters referred to in para. 33.1.1 above are the licensing of David Clark and the exchange of letters with Bishop Goodall, copies of which were attached to Bishop Worsley's email of 18th September 2020 sent at 17:08.⁵³³ This exchange was, in essence, a request for various meetings to be held to further the 'arrangements' made under the Memorandum of Understanding.

METHODOLOGY

33.2.1 In this Section we give,⁵³⁴ in emboldened font, the text of the Memorandum of Understanding and a commentary on that text in unemboldened font which sets out why we consider that the signing of the Memorandum of Understanding and the other matters referred to para. 33.1.2 above will not satisfy Bishop Hancock's duty under

⁵³¹ See paras. 20.3.1 & 20.4.1 above

⁵³² See Appendix II, Doc. 235

⁵³³ See Appendix II, Doc. 227

⁵³⁴ See paras. 33.5.1 – 33.5.43 below

the Declaration to make arrangements for the Parish which implement the Declaration Resolutions.

GENERAL POINTS

A peculiar document

33.3.1 The Memorandum of Understanding⁵³⁵ is, from a lawyer's point of view, a peculiar document. MOU para. 10⁵³⁶ specifically provides that it is '*not intended to create any legal relationship between the parties whatsoever*'. And yet in form it has many of the features of a legal agreement.⁵³⁷

33.3.2 So, for example, it names the Parties at its beginning in formal terms. It has a series of paragraphs marked 'Background'⁵³⁸ which are in the normal form of Recitals. It has various paragraphs in which the Parties make 'agreements', including an agreement '*to rejoice*', but agreements that apparently they do not appear to intend to be bound to keep. It uses legal terminology such as '*best endeavours*',⁵³⁹ '*powers vested in*',⁵⁴⁰ '*instrument of delegation*',⁵⁴¹ '*right of attendance*',⁵⁴² '*restrict the entitlement*',⁵⁴³ it refers to various primary and secondary legislation, it carves out provisos from apparent undertakings,⁵⁴⁴ it includes provisions as to the termination of

⁵³⁵ See paras. 33.5.2 – 33.5.5 below

⁵³⁶ See Appendix I

⁵³⁷ In commercial contexts, a 'Memorandum of Understanding' is a term sometimes used for a document made before the making of a full contract. Sometimes such documents are not legally binding in which case the drafting is usually in an informal style avoiding legal terminology. Sometimes they are legally binding but cease to have effect when the full agreement is made in which case they are expressed in formal legal language. The Memorandum of Understanding seems to be a document of the first type clothed in the form of the second

⁵³⁸ See paras. 33.5.6 – 33.5.12 below

⁵³⁹ See paras. 33.5.23 – 33.5.25 below

⁵⁴⁰ See para. 33.5.2 below

⁵⁴¹ See paras. 33.5.14 – 33.5.39 below

⁵⁴² See para. 33.5.27 below

⁵⁴³ See para. 33.5.29 below

⁵⁴⁴ See paras. 33.5.16, 33.5.19, 33.5.20 & 33.5.22 below

the agreement⁵⁴⁵ even though the agreement is apparently to be legally ineffective and it provides for the Memorandum to be *signed 'for and on behalf of the PCC'*⁵⁴⁶ even though it is intended that the ascription of a signature by the PCC's representative should have no legal effect.

33.3.3 It seems to be an attempt to give the impression of being a legal document when it is nothing of the sort.

Lack of legal enforceability

33.3.4 We have seen⁵⁴⁷ that Bishop Hancock's duty under the Declaration to make arrangements to implement the Declaration Resolutions will not be satisfied by making arrangements which cannot be legally enforced. So the making of the Memorandum of Understanding will not satisfy that duty. Even if it had been legally enforceable, however, as the commentary below demonstrates it would still fail to fulfil Bishop Hancock's duty under the Declaration to implement the Declaration Resolutions.

IMPORTANT MATTERS FOR WHICH THE MEMORANDUM OF UNDERSTANDING MAKES NO PROVISION

No general prohibition of the exercise of Prebendary Crossman's ministry in the Parish

33.4.1 There is no general prohibition on Prebendary Crossman exercising any power or function, or fulfilling any of the duties of her incumbency in respect of the Parish. There is a significant difference between exercising a power or fulfilling a duty of an incumbency and exercising a ministry which is '*reserved to those with the cure of*

⁵⁴⁵ See paras. 33.5.36 – 33.5.39 below

⁵⁴⁶ See para. 33.5.43 below

⁵⁴⁷ See Section XXXI above

souls'.⁵⁴⁸ For example, taking Mattins or providing spiritual comfort to the bereaved are undoubtedly parts of the duties of an incumbent⁵⁴⁹ but they are not '*reserved to those with a cure of souls*'.

The parish could be forced to receive Prebendary Crossman's ministry to a substantial extent

33.4.2 That distinction would mean that, in respect of the Parish, Prebendary Crossman could, under the Memorandum of Understanding, read Mattins and Evensong, baptise, preach a sermon, instruct the Parishioners in the Christian faith and prepare and present them for confirmation, consult with the PCC under Canon C24(7), exercise rights in respect of the Parish Church and other Benefice property including designating burial plots and approving memorials, provide leadership concerning safeguarding, oversee the Readers and Curates ministering in the Parish in respect of their ministry and exercise the functions of the Incumbent in respect of any organist, choirmaster or director of music under Canon B20. Even if the Memorandum of Understanding were legally enforceable, therefore, taken together this would allow Prebendary Crossman to exercise her rights in these various areas to substantially impose the direct receipt of her ministry on the PCC and the Parish.

No provision in respect of Recently Lawful Bishops exercising powers as suffragans over the Parish

33.4.3 What is more the Memorandum of Understanding makes no provision in respect of the exercise of the powers of a suffragan bishop over the Parish by a Recently Lawful Bishop.⁵⁵⁰

⁵⁴⁸ See paras. 32.5.16 and 32.6.37 above

⁵⁴⁹ See para. 32.6.37 above

⁵⁵⁰ Contrast paras. 32.6.53, 32.6.55 & 32.6.57 above

No provision for temporary interruptions

33.4.4 The Memorandum of Understanding also makes no provision for ensuring that the receipt of the ministry of women bishops or priests is not imposed on the Parish where there is an interruption of the ministry of a male priest licensed under the Mission and Pastoral Measure 2011 s.99.⁵⁵¹

No provision for period before the Memorandum of Understanding is executed

33.4.5 The Memorandum of Understanding contains no provisions to ensure that Prebendary Crossman is not inducted to the Benefice before the provisions of the Memorandum of Understanding had been implemented which would have the result that, in that period, the Parish would be forced to receive her ministry, directly and indirectly.

THE SPECIFIC PROVISIONS OF THE MEMORANDUM OF UNDERSTANDING

33.5.1 **‘1 THIS MEMORANDUM OF UNDERSTANDING (Memorandum) is made on []
2020**

33.5.2 PARTIES

(1) The Right Reverend Ruth Elizabeth Worsley Bishop of Taunton acting in the place of the Lord Bishop of Bath and Wells under and by virtue of the powers vested in her by an Instrument of Delegation made under the provisions of the Dioceses Pastoral and Mission Measure 2007 and dated the 21st day of October 2015 (the Bishop of Taunton).

⁵⁵¹ Contrast para. 32.6.51 above

33.5.3 We have seen that it is probable that Bishop Worsley does not have the power to act on behalf of Bishop Hancock in the matter.

33.5.4 **(2) The Reverend Prebendary Sharon Margaret Joan Crossman Clerk in Holy Orders and Priest in Charge of the Benefice of Beckington with Standerwick Berkley Rodden and Lullington with Orchardleigh within the Diocese of Bath and Wells (Prebendary Crossman).**

33.5.5 **(3) The Parochial Church Council of Lullington and Orchardleigh (the PCC).**

33.5.6 **BACKGROUND**

(A) Prebendary Crossman is the Priest in Charge of the Benefice of Beckington with Standerwick Berkley Rodden and Lullington with Orchardleigh (the Benefice) and has accepted an offer to be appointed Rector of the Benefice.

33.5.7 This suggests that Prebendary Crossman's licence extends, which it does not, to the exercise of powers and functions in respect of Lullington with Orchardleigh.⁵⁵²

33.5.8 **(B) The Benefice includes the parish of Lullington with Orchardleigh (the Parish).**

33.5.9 **(C) On 26 October 2016 the PCC made a resolution (the Resolution) under the House of Bishops' Declaration on the Ministry of Bishops**

⁵⁵² See para. 13.2.1 above

and Priests (the Declaration) requesting on grounds of theological conviction that arrangements be made for the Parish in accordance with the Declaration.

33.5.10 **(D) The Resolution was re-affirmed by the PCC by further resolution on 23rd October 2018.**

33.5.11 **(E) The other parishes in the Benefice have not made a resolution under the Declaration.**

33.5.12 **(F) By this Memorandum the parties intend to give effect to the five guiding principles set out in the Declaration through their outworking by simplicity, reciprocity and mutuality as reflected by the practical arrangements set out below in order to facilitate the Resolution.**

33.5.13 It would be impossible for the Parties to intend to give effect to the five guiding principles by executing the Memorandum of Understanding because it is clear that the Memorandum of Understanding does not do so.⁵⁵³

33.5.14 **THE PARTIES AGREE ON THE FOLLOWING PROVISIONS:**

1. **Following his consideration of the PCC's resolution the Lord Bishop of Bath and Wells (the Diocesan Bishop) chose The Right Reverend Jonathan Goodall (the Bishop of Ebbsfleet, a Provincial Episcopal Visitor and already an assistant bishop in the Diocese of Bath and Wells) who accepted the Diocesan Bishop's request to provide oversight for the Parish on terms to be determined by the Diocesan Bishop or the Bishop of Taunton or other authorised commissary and agreed with the Bishop of Ebbsfleet to ensure that pastoral and sacramental ministry is provided in the Parish in a way that**

⁵⁵³ See para. 33.3.4 above and para. 33.6.1 below

maintains the highest possible degree of communion and contributes to the welfare, resourcing and mission of the Parish and the Benefice, and in its relationship with the Diocese.

33.5.15 We have not been given any information as to the forms in which this request and this acceptance were made or whether they were legally effective in any way. The exchange does not seem to have conferred any additional powers on Bishop Goodall.⁵⁵⁴

33.5.16 **2. Prebendary Crossman will not preside or celebrate at the Sacraments of Baptism or the Holy Communion, nor the other sacraments, nor at morning and evening prayer say the absolution or the blessing, nor at weddings the nuptial blessing, or exercise any other ministry in the Parish that is reserved to those with the cure of souls except:**

33.5.17 It is not clear what are the '*other sacraments*' to which the proviso in MOU para. 2 refers. The 25th Article of Religion provides that: '*There are two sacraments ordained of Christ our Lord in the Gospel, that is to say, baptism, and the Supper of the Lord*'.

33.5.18 The exceptions which follow seems to be based on a mistake as to ecclesiastical law. Exceptions (a) – (c) state three supposed exceptions to the prohibition under MOU para. 2 of Prebendary Crossman exercising '*any other ministry in the Parish that is reserved to those with the cure of souls*'. The reading of morning and evening prayer is not, of course, reserved to those with the cure of souls although it is subject to the permission of the Incumbent⁵⁵⁵ and nor is the burial of the dead.⁵⁵⁶

⁵⁵⁴ See Appendix II, Doc. 248

⁵⁵⁵ See Canon E4(2)(b)

⁵⁵⁶ See Canon E4(2A)

33.5.19 **(a) officiating at a wedding or funeral at the express request of the bride and groom or the next of kin of the deceased;**

33.5.20 **(b) the reading of morning and evening prayer on a Sunday on an occasional basis after giving reasonable notice to the PCC;**

33.5.21 Sub-paragraph MOU (b) of the proviso will enable Prebendary Crossman to force the PCC to receive her ministry directly by giving her the right⁵⁵⁷ to read Morning and Evening Prayer in the Churches.

33.5.22 **(c) preparing and presenting Candidates from elsewhere in the Benefice for Confirmation in the Parish by the Bishop of Ebbsfleet.**

33.5.23 **3. Prebendary Crossman will use all best endeavours by the exercise of her power of delegation under Canon C24.8 to ensure that a male priest whose ministry does not conflict with the nature of the theological conviction underlying the Resolution is available to exercise priestly ministry in the Parish and will welcome the exercise of episcopal ministry by the Bishop of Ebbsfleet.**

33.5.24 This paragraph provides only that '*a male priest*' who satisfies the description within its terms it *is available to exercise priestly ministry*'. It does not provide that he will do so.

⁵⁵⁷ That is it would do so were it not for the fact that, the Memorandum of Understanding not being legally enforceable, the Incumbent would have that right in any event

33.5.25 **4. Should the PCC so request the Diocesan Bishop will use all best endeavours to licence a non-stipendiary assistant curate under section 99 (5) of the Mission and Pastoral Measure 2011 having a special cure of souls for the Parish provided that such appointment does not conflict with the nature of the theological conviction underlying the Resolution.**

33.5.26 It is not clear in this provision what the proviso achieves. If the Diocesan Bishop proposes to license a curate whose appointment does '*conflict with the nature of the theological conviction*' concerned is he then relieved of his duty to use his best endeavours to license a suitable curate? The provision should, one presumes, have specified that the Diocesan Bishop will license '*a non-stipendiary assistant curate whose appointment does not conflict with the nature of the theological conviction underlying the Resolution*'.

33.5.27 **5. Prebendary Crossman's right of attendance at all meetings of the PCC and annual parish meetings and annual parochial church council meetings is recognised by the parties but if requested by the PCC to do so Prebendary Crossman will refrain from chairing the annual parish meeting or the annual parochial church council meeting of the Parish and further agrees that if requested by the PCC the Diocesan Bishop may under Rule M26 (2) of the Church Representation Rules authorise a clerk in Holy Orders licensed or having Permission to Officiate in the Parish to chair meetings of the PCC.**

33.5.28 This will allow Prebendary Crossman to impose the direct receipt of her ministry on the PCC by allowing her to attend PCC meetings at will.

33.5.29 **6. Nothing in paragraph 5 shall restrict the entitlement of Prebendary Crossman as an ex-officio member of the PCC to be given notice of and the agenda for all meetings of the PCC and the minutes of any such meetings and the PCC will welcome her attendance if the business of a meeting has a bearing on Benefice wide matters or the making of a Benefice response within Deanery or Diocese and Prebendary Crossman shall countersign the minutes of any meeting attended by her.**

33.5.30 It is not clear why Prebendary Crossman should countersign the minutes of any meeting attended by her. If this is intended to indicate the exercise of her function as an Incumbent it imposes her direct ministry on the PCC.

33.5.31 **7. The PCC and Prebendary Crossman rejoice in each other's partnership in the Gospel and will co-operate to the maximum possible extent in mission and ministry and the PCC will do all within its power to respect encourage and support Prebendary Crossman in her role in the Benefice and Prebendary Crossman will do all within her power to enable the Parish to flourish within the life of the Benefice.**

33.5.32 **8. Hilary Daniel, Glyn Bridges, Simon McKie, Edmund Phillimore and John Bevan all being admitted to the office of Reader shall be licensed to exercise their office in the Parish should they so apply**

and the appointment of any other Reader licensed to the Parish should not conflict with the nature of the theological conviction underlying the Resolution.

- 33.5.33 **9. Reference shall be made to this Memorandum in any Statement of Particulars issued to Prebendary Crossman under Regulation 4 (2) of the Ecclesiastical Offices (Terms of Service) Regulations 2009, as amended.**

33.5.34 **TERMS OF MEMORANDUM**

- 10. This Memorandum is governed by grace and the parties intend it to be an expression of co-operation and collaboration to give effect to the five guiding principles of the Declaration and the mutual flourishing of the Parish and Benefice. It does not and is not intended to create any legal relationship between the parties whatsoever.**

33.5.35 We have commented on this provision above.⁵⁵⁸

- 33.5.36 **11. This Memorandum will terminate upon:**
- (a) the appointment of a male priest in charge or incumbent of the Benefice whose ministry does not conflict with the theological conviction underlying the Resolution or**

33.5.37 As the Memorandum of Understanding is legally unenforceable its termination is not a matter of any legal effect. If it had been legally enforceable (a) would enable a

⁵⁵⁸ See Section XXXI and para. 33.3.4 above

Diocesan Bishop to terminate it by the simple expedient of a short-term appointment of a priest-in-charge who is not a Recently Lawful Priest.

33.5.38 (b) the revocation of the Resolution or

33.5.39 (c) the expiry of twelve months after the giving of written notice by the Diocesan Bishop or the PCC to the other terminating the agreement save that the Diocesan Bishop shall not give notice of termination unless equivalent provision is to be made for episcopal oversight and ministry.

33.5.40 It is not clear why the Diocesan Bishop should have a unilateral power to bring the Memorandum of Understanding to an end if he can only do so by making ‘*equivalent provision*’ for episcopal oversight and ministry.

33.5.41 The Right Reverend Ruth Elizabeth Worsley)

Bishop of Taunton)

33.5.42 The Reverend Prebendary Sharon Margaret Joan Crossman)

33.5.43 **Signed by**)
 (Authorised Signatory) for and on behalf of the)
 Lullington and Orchardleigh Parochial Church)
 Council)'

EVEN IF THE MEMORANDUM OF UNDERSTANDING WERE LEGALLY ENFORCEABLE

IT WOULD NOT FULFIL BISHOP HANCOCK'S DUTY

33.6.1 It is clear, therefore, that even if the Memorandum of Understanding were legally enforceable, it would not prevent the ministry of a Recently Lawful Priest and of a Recently Lawful Bishop being imposed on the Parish and, therefore, would not satisfy Bishop Hancock's duty under the Declaration to make arrangements which implement the Declaration Resolutions.

SECTION XXXIV
THE GRIEVANCE PROCEDURE

REGULATION 8: CONDITIONS FOR BRINGING A GRIEVANCE

34.1.1 The Regulations Reg. 8 provide:

*‘A grievance may be brought in relation to any office holder in respect of:
(a) any action taken by the office holder under paragraphs 16 to 29 inclusive or 33 of the House of Bishops’ Declaration; and
(b) any failure on the part of the office holder to act in accordance with paragraphs 16 to 29 inclusive or 33 of the House of Bishops’ Declaration.’*

34.1.2 The PCC’s grievance compliance with the Regulations Reg. 8 is set out in Section XXXV.

REGULATION 9: AN OPPORTUNITY TO ADDRESS THE GRIEVANCE

34.2.1 Regulation 9 of the Regulations provides that:

‘Before bringing a grievance a PCC must give the office holder in respect of whom it wishes to bring a grievance a reasonable opportunity to address the grievance.’

34.2.2 Bishop Hancock had numerous opportunities to repair his derelictions of his duty under the Declaration⁵⁵⁹ culminating in the formal offer of such an opportunity which was made by the PCC to Bishop Hancock on 14th September 2020.⁵⁶⁰ As we have seen,⁵⁶¹ that offer was not accepted by Bishop Hancock or by Bishop Worsley acting on his behalf.

⁵⁵⁹ See Sections IX – XXIV above

⁵⁶⁰ See Appendix II, Doc. 219 and section XXV above

⁵⁶¹ See para. 25.4.1 above

REGULATION 10: WRITTEN NOTICE

34.3.1 The Regulations Reg. 10 provides that:

‘A PCC may bring a grievance by giving written notice of its desire to do so to the Independent Reviewer.’

34.3.2 This Paper is addressed, and is being submitted, to the Independent Reviewer and satisfies the condition in Reg. 10.

REGULATIONS 11 – 15: FURTHER CONDITIONS

34.4.1 Further conditions as to grievance are set out in Regulations, Reg. 11 – 15.

Regulation 11: authorisation by the PCC

34.4.2 Regulation 11 provides:

‘The bringing of a grievance must be authorised by a resolution of the PCC passed either:

- (a) by a majority of those present at a meeting at which at least two-thirds of the members of the PCC who are entitled to attend are present; or*
- (b) by a majority of all the members of the PCC.’*

34.4.3 The decision to submit the grievance was made at the meeting of the PCC which took place on Friday 11th September 2020.⁵⁶² The PCC decided at that meeting that a grievance should be submitted if the PCC’s offer of an opportunity to address the grievance was not accepted by Bishop Hancock by close of business on 25th September 2020. That offer was not accepted by that time and so the decision of the PCC to submit a grievance became final at close of business on that day.⁵⁶³ Six of the seven members of the PCC attended that meeting and the resolutions at the

⁵⁶² See para. 25.2.1 above

⁵⁶³ See para. 25.4.1 above

meeting were all passed unanimously. The conditions of both Reg. 11(a) and of Reg. 11(b) of the Regulations were, therefore, satisfied.

Regulations 12 and 13: Time limits

34.4.4 Regulations 12 and 13 provide that:

'A PCC may normally bring a grievance only if it does so within three months of the action or omission in question.

In exceptional circumstances, and if he or she is satisfied that there is good reason to do so, the Independent Reviewer may allow a PCC to bring a grievance where the action or omission in question took place more than three months previously.'

34.4.5 The omissions of Bishop Hancock in respect of which the PCC's grievance is submitted began in late 2016⁵⁶⁴ and continue at the present time.⁵⁶⁵ The action complained of is, therefore, a course of conduct which has not yet been completed. Where that is the case, it is clear from considering the purpose of the Regulations that the time limit in Reg. 12 has not begun to run.

34.4.6 That is because Canon C29 states that the Regulations are to prescribe '*a procedure for the resolution of disputes arising from the arrangements from which the ... [Declaration] ... makes provision*'. If the time limit in Reg. 12 were to run from the beginning of a course of conduct the effect would be deter the resolution of such disputes. For a pcc which had been the victim of a continued dereliction of duty by a diocesan bishop would have to submit a grievance quickly in order to avoid the expiry of the time limit. Indeed, it may well be that the pcc would not be aware that the dereliction of duty had occurred until after the time limit had expired. Pccs, such as the PCC, which make repeated and vigorous efforts to persuade an errant diocesan bishop to fulfil his duty would then be penalised for their forbearance. Constructing

⁵⁶⁴ See para. 4.4.1 above

⁵⁶⁵ See Section XXV

the Regulations purposively,⁵⁶⁶ therefore, requires that the time limit in Reg. 12 should be construed as running from the end of the course of conduct and not from its beginning.

34.4.7 If that were not the case it is clear that, where a pcc misses the deadline in Reg. 12 only because it makes efforts to resolve the dispute by persuading the diocesan bishop concerned to fulfil his duty under the Declaration, there are exceptional circumstances within the meaning of that phrase in Reg. 13 and the Independent Reviewer would have good reason to allow the pcc concerned to bring a grievance even though the normal deadline for doing so had expired.

34.4.8 The Grievance is, therefore, submitted within the deadline set in Reg. 12 but, in the alternative if that is not the case, there are exceptional circumstances within Reg. 13 so that there are good reasons for the Independent Reviewer to allow the PCC to bring the Grievance in any event.

Regulation 14: Matters which the Grievance must specify

34.4.9 Regulation 14 provides that:

*‘The notice given by the PCC of its desire to bring a grievance must specify:
(a) the office holder in respect of whom the grievance is brought;
(b) the nature of the act or omission in question; and
(c) the nature of the PCC’s grievance in relation to that act or omission.’*

34.4.10 This information is specified in Section XXXV.

Regulation 15: Copies

34.4.11 Regulation 15 provides that:

*‘The PCC must send a copy of its notice to:
(a) the diocesan bishop; and*

⁵⁶⁶ See para. 28.2.1 above

(b) (if different) the office holder in respect of whom the grievance is brought.'

34.4.12 An email will be sent to Bishop Hancock and to Bishop Worsley on the day that this Paper is sent by post to the Independent Reviewer providing a link to a 'Dropbox' account in which will be placed a copy of this Paper and its appendices.

REGULATION 16: GROUNDS FOR THE INDEPENDENT REVIEWER TO DECLINE TO DEAL WITH A GRIEVANCE

34.5.1 Regulation 16 provides that:

'The Independent Reviewer may decline to deal with a grievance if, in his or her opinion:

- (a) it does not fall within Regulation 8;*
- (b) it is vexatious or malicious; or*
- (c) there has been undue delay in bringing it.'*

34.5.2 Section XXXV sets out clearly why the PCC's grievance falls within the provisions of Reg. 8.

34.5.3 This Paper demonstrates that the Grievance, far from being vexatious or malicious, is the last resort of the PCC which has taken the greatest possible efforts to persuade Bishop Hancock, and Bishop Worsley to the extent that she has the power to act on his behalf, to fulfil his duty under the Declaration to implement the Declaration Resolutions.

34.5.4 Our comments above⁵⁶⁷ in relation to Regs. 12 & 13 of the Regulations demonstrate that there has been no undue delay in bringing the Grievance.

⁵⁶⁷ See paras. 34.4.4 – 34.4.8 above

OTHER MATTERS

34.6.1 The Independent Reviewer's Notes on the Operation of the Resolution of Disputes

Procedure (December 2015) states that:

'... it will ... be helpful if the PCC supplies:

- (a) The resolution expressing the grievance passed by the PCC, along with confirmation that it was passed at an appropriately constituted meeting of the PCC, in accordance with the requirements of the House of Bishops' Declaration and the Regulations.*
- (b) Where they are relevant to the Independent Reviewer's understanding of the grievance, a clear statement, within the context of the tradition of the parish, of the grounds of theological conviction which underlay the PCC's earlier request for arrangements to be made for the parish under the House of Bishops' Declaration, as this request was conveyed to the diocesan bishop or other office-holder involved.*
- (c) A full account of the steps taken, prior to and following the passing of the resolution by the PCC authorising the bringing of the grievance, to communicate with and to reach a mutually satisfactory understanding with the diocesan bishop – or in the case of a dispute with another office-holder, the office-holder concerned – as to the arrangements for ministry and oversight to be made for the parish.'*

34.6.2 This information has been supplied in this Paper including the copy documents given in Appendix II.

34.6.3 In particular, we have supplied the PCC's original Statement of its theological grounds which was submitted to the Archdeacon of Wells in late 2018.⁵⁶⁸ These theological grounds are set out in more detail in Section III but they have remained fundamentally unchanged since the 2016 Declaration.

⁵⁶⁸ See Appendix II, Doc. 15

THE NEED FOR LEGAL ADVICE TO THE INDEPENDENT REVIEWER TO BE
INDEPENDENT

The Independent Reviewer may properly, indeed should, take legal advice

34.7.1 We have seen that the Declaration is ‘soft law’ within the use of that term in Mark Hill’s *Ecclesiastical Law*⁵⁶⁹ and is to be construed in accordance with the normal principles of legal construction.⁵⁷⁰ We have also seen that although the Declaration does not have direct legal effect it has indirect legal effect.⁵⁷¹ The Independent Reviewer’s review is made under the provisions of Canon Law. Reaching a decision on a grievance submitted under the Regulations, Reg. 10 or on a concern submitted under Reg. 27 therefore involve matters of legal construction. Neither the current nor the original Independent Reviewer are themselves lawyers. It is quite proper, therefore, that in respect of his decisions the Independent Reviewer has taken legal advice as he did in respect of the matters considered in his *Decision in the Matter of All Saint’s Cheltenham*⁵⁷² and as he noted in his Report for 2017 to the Archbishops of Canterbury and York under the Regulations,⁵⁷³ in respect of whether a concern raised by a PCC member was one which the Independent Reviewer could consider under the Regulations, Reg. 27.

34.7.2 The PCC’s complaint involves a number of issues as to the construction of the Declaration. Must the arrangements which are to be made under the Declaration be legally enforceable by the pcc which has made the relevant resolution under Reg. 20 of the Regulations. What is the meaning of the phrase ‘*the ministry of women bishops and priests*’? From when does the time limit stated in the Regulations, Reg. 12 run?

⁵⁶⁹ See para. 27.1.1 above

⁵⁷⁰ See Section XXVII above

⁵⁷¹ See para. 27.3.5 above

⁵⁷² *Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham*, para. 4

⁵⁷³ *Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations*, para. 6

The Independent Reviewer may well feel that he should take legal advice on all these questions and on other questions of relevance to the Grievance.

A difficulty in respect of particular individuals

34.7.3 A difficulty, however, is this. Bishop Worsley says that she made her decision as to what arrangements by Bishop Hancock she should facilitate on the basis of advice from the Registrar. It is not clear that the Registrar has given any such advice but he has certainly drafted the Memorandum of Understanding which is not legally enforceable and his decision to do so is presumably based on his opinion that arrangements made under the Declaration may be entirely unenforceable.⁵⁷⁴ The Registrar has said that in drafting the Memorandum of Understanding he has had some, unspecified, discussions with the Chancellor of the Diocese, Mr Timothy Briden. Bishop Worsley also refers to the Registrar as having consulted Alex McGregor, the Church of England's Chief Legal Adviser.⁵⁷⁵

34.7.4 The PCC impugns the Memorandum of Understanding and the view of the correct construction of the Declaration on which it is, one presumes, grounded. That is the essence of the PCC's grievance in respect of current and future events.⁵⁷⁶ The whole purpose of the arrangements made under Canon C29 is that they should provide an independent and, it is implied, unbiased review of the matters in dispute. The Independent Reviewer's consideration of the matter could not be independent and unbiased if it was made in reliance on advice provided by individuals who have been consulted by the drafter of the very document in respect of which the Grievance is submitted.

⁵⁷⁴ See paras. 20.1.1 – 20.1.3 above

⁵⁷⁵ See para. 21.3.1 above

⁵⁷⁶ The Grievance also concerns, of course, previous derelictions of duty

34.7.5 It is clear, therefore, that the Independent Reviewer could not properly take legal advice from any person who has been involved in the process leading to the drafting of the Memorandum of Understanding consistently with his duties under Canon C29 and the Regulations.

Independent advisers

34.7.6 It would be quite proper, indeed necessary, for him to take legal advice in respect of matters of construction and other matters of law, but he is under a duty to do so from a person who is not involved, and is not connected to those involved, in the creation of the Memorandum of Understanding or in the decision to impose it on the PCC and who, therefore, may have the requisite quality of independence.

SECTION XXXV

THE GRIEVANCE

THE STRUCTURE OF THIS SECTION

35.1.1 In this Section we specify our grievance, first in respect of the acts and omissions to act of Bishop Hancock and secondly in respect of the acts and omissions to act of Bishop Worsley.

THE ACTS, AND OMISSIONS TO ACT, OF BISHOP HANCOCK CONSTITUTING FAILURES TO FULFIL HIS DUTY UNDER THE DECLARATION

Why it is necessary to raise the Grievance in respect of Bishop Hancock

35.2.1 In setting out Bishop Hancock's failures to fulfil his duty under the Declaration we are conscious of, and grateful for, the change in his approach to determining Declaration Arrangements for the Parish which occurred on 10th July 2020⁵⁷⁷ and the very positive attitude to the matter which he then adopted until he was forced by his illness to withdraw from his duties.⁵⁷⁸ We are also very conscious of the grave illness from which Bishop Hancock is suffering. We have no wish to add to the stress to which he is subject.

35.2.2 Raising the Grievance, however, is the only remedy available to the PCC to ensure that Declaration Arrangements are made for the Parish and our duty to our parishioners requires us to ensure that such arrangements are made. Nor would it be possible to raise such a grievance in respect of the acts and omissions of Bishop

⁵⁷⁷ See Section XIV above

⁵⁷⁸ See Section XIX above

Worsley alone because the failure to consult the PCC and the failure to consider the Declaration Resolutions in making the decision to appoint Prebendary Crossman to the Cure, which were the key failures which were the fundamental cause of the failure to make Declaration Arrangements for the Parish, were failures of Bishop Hancock and not of Bishop Worsley. Bishop Worsley's failures to fulfil her duty under the Declaration have merely compounded the original failures of Bishop Hancock.

Failure to consult under para. 22

35.2.3 The Declaration, para. 22 provides that:

'Where a resolution has been passed, and before clergy are appointed to the parish or a bishop chosen by the diocesan bishop to provide oversight, there will, therefore, need to be consultation between bishop and parish to ascertain the nature of that conviction so that the resolution can be implemented effectively.'

35.2.4 What is meant here by the phrase '*before clergy are appointed to the parish*'? Read literally, and without reference to the Declaration's purpose, that condition might be satisfied if on the day before an incumbent were inducted the diocesan bishop made a consultation of the parish. Clearly, however, that would not fulfil the purpose of the Declaration to protect the position of the Theological Minority within the Church of England allowing its members to flourish within the Church of England's life and structures⁵⁷⁹ and so contributing to mutual flourishing across the whole Church of England⁵⁸⁰ because it would not allow the results of the bishop's consultation to inform the effective implementation of a resolution under the Declaration. Clearly the consultation must take place as part of the early planning for the filling of a vacancy at a point, for example, when it is still practical to facilitate a pastoral reorganisation under the Mission and Pastoral Measure 2011 s.31.⁵⁸¹

⁵⁷⁹ The Declaration, para. 5, the fourth principle

⁵⁸⁰ The Declaration, para. 5, the fifth principle

⁵⁸¹ See para. 4.4.1 above

35.2.5 Clearly Bishop Hancock failed in his duty to make that consultation both in respect of the 2016 Resolution and in respect of the 2018 Resolution.

Failure of duty and paras. 22 and 23

35.2.6 Bishop Hancock failed in his duty under para. 23 of the Declaration to take account of the Declaration Resolutions in making his decision to appoint Prebendary Crossman.⁵⁸²

35.2.7 As we have seen, for the reasons which we have explained,⁵⁸³ Bishop Hancock was under a duty under paras. 20, 22 and 23 of the Declaration to make arrangements which implemented the Declaration Resolutions. In order to do so, he must have made arrangements under which the PCC, representing the Parish, could not be forced to receive the ministry of women bishops or priests.⁵⁸⁴ He has not done so.

An anticipatory breach of paras. 22 and 23

35.2.8 To the extent that Bishop Hancock acts by having delegated powers to Bishop Worsley he has made an anticipatory breach⁵⁸⁵ of the Declaration by reason of Bishop Worsley's refusal to make Declaration Arrangements⁵⁸⁶ and her insistence that the only arrangements she will make for the Parish are the execution of the Memorandum of Understanding, which is legally ineffective,⁵⁸⁷ and the matters referred to in para. 33.1.2 above.

⁵⁸² See para. 7.4.1 above

⁵⁸³ See paras. 29.2.1 – 29.2.9 above

⁵⁸⁴ See para. 29.2.8 above

⁵⁸⁵ An anticipatory breach is the giving of an indication that the giver intends to breach a legal duty or undertaking

⁵⁸⁶ See paras. 25.1.1 and 25.3.2 – 25.4.1 above

⁵⁸⁷ See Appendix II, Doc. 227 and paras. 25.3.2 & 25.3.3 above

35.2.9 As we have seen,⁵⁸⁸ doing so will not fulfil Bishop Hancock's duty to make arrangements which implement the Declaration Resolutions because the Memorandum of Understanding is not legally enforceable⁵⁸⁹ and because, even if it were legally enforceable, it would not prevent the PCC being forced to receive the ministry of a female priest nor would it prevent it being forced to receive the ministry of a female bishop.

Failure to act in accordance with para. 17

35.2.10 The Declaration provides that:

*'The practical outworking of the arrangements may vary according to local circumstances but the approach commended in the following paragraphs will, in the view of the House, enable all dioceses and parishes to act consistently with the guiding principles set out above and the requirements of the law, including the Equality Act 2010.'*⁵⁹⁰

35.2.11 It is implicit in this paragraph that in making arrangements under the Declaration a diocesan bishop must act in accordance with the Five Guiding Principles. The outworking of those principles must be *'accompanied by simplicity, reciprocity and mutuality.'*

35.2.12 The Declaration para. 10 provides that:

*'In particular reciprocity will mean that those of differing conviction will do all within their power to avoid giving offence to each other. There will need to be sensitivity to the feelings of vulnerability that some will have that their position within the Church of England will gradually be eroded and that others will have because not everyone will receive their ministry.'*⁵⁹¹

35.2.13 Until 10th July 2020 Bishop Hancock's conduct in respect of his duty to make arrangements to implement the Declaration Resolutions and in response, to the

⁵⁸⁸ See para. 33.3.4 above

⁵⁸⁹ See paras. 33.4.1 – 33.4.5 & 33.6.1 above

⁵⁹⁰ The Declaration, para. 17

⁵⁹¹ The Declaration, para. 10

correspondence on behalf of the PCC attempting to recall him to that duty was marked by negligence and by a failure to respond substantively to the points made to him and, often, to respond at all.⁵⁹² Such conduct impeded, and did not enable, the parishioners' ability to flourish within the life and structures of the Church of England. It risked, as the Bishop was warned many times, alienating key members of the congregation and so risked the life of the parish becoming unviable.⁵⁹³ It prevented the PCC communicating with the Parishioners to tell them what arrangements the Bishop would make for them so that they were left in a state of uncertainty.

THE ACTS, AND OMISSIONS TO ACT, OF BISHOP WORSLEY CONSTITUTING FAILURES TO FULFIL HER DUTY UNDER THE DECLARATION

Dependent upon whether Bishop Worsley has power to act on Bishop Hancock's behalf

35.3.1 The nature and extent of Bishop Worsley's failures to fulfil her duty under the Declaration depend upon whether or not she has the power to act on Bishop Hancock's behalf in making Declaration Arrangements for the Parish.⁵⁹⁴

35.3.2 In order to determine, therefore, the extent of Bishop Worsley's dereliction of duty, the Independent Reviewer must come to a conclusion on the construction of the Instrument. That is, of course, a matter of legal construction.

Bishop Worsley's failure if she has power to act on Bishop Hancock's behalf

35.3.3 If Bishop Worsley has the power to exercise Bishop Hancock's powers in the matter she must also be under a duty to do so in a manner which is consistent with Bishop Hancock's duties. By failing to make Declaration Arrangements for the Parish she

⁵⁹² See Sections IX – XIII above

⁵⁹³ See Appendix II, Docs. 46, 54, 71, 78 & 126 and paras. 9.2.1, 10.6.1, 11.3.1, 11.4.5, 12.3.3 & 16.1.1 above

⁵⁹⁴ See Section XXIV above

has been, and continues to be, in breach of her duty⁵⁹⁵ under the Declaration paras. 20, 22 and 23 of the Declaration

35.3.4 In acquiescing in the Registrar's refusal to discuss the M^cKie Paper and, in particular, the draft Implementing Steps set out therein with Mr M^cKie which was the purpose of the 11th August Zoom Meeting and in the Registrar's refusal to discuss the legal grounds of his view that it was inappropriate for the arrangements which were to be made for the Parish to be legally enforceable and in failing to instruct him to engage in that discussion she breached the duty imposed implicitly by the Declaration para. 17 by acting in such a way in respect of the formulation of arrangements for the Parish under the Declaration as to prevent the parishioners from flourishing within the life and structures of the Church of England and preventing them from contributing to mutual flourishing across the whole of the Church of England.⁵⁹⁶

35.3.5 In announcing her intention not to make Declaration Arrangements but rather only to procure the execution of the Memorandum of Understanding, she has committed an anticipatory breach of her duty under paragraphs 20, 22 and 23 of the Declaration.⁵⁹⁷

Bishop Worsley's failure if she does not have powers to act on Bishop Hancock's behalf

35.3.6 If Bishop Worsley does not have the power to exercise Bishop Hancock's powers to make Declaration Arrangements for the Parish she will have breached the duty imposed implicitly by the Declaration para. 17 by acting in such a way in respect of the arrangements to be made for the Parish as to prevent the parishioners from flourishing within the life and structures of the Church of England and so contributing to mutual flourishing across the whole of the Church of England by reason of her *ultra*

⁵⁹⁵ See para. 25.4.1 above

⁵⁹⁶ See Sections XX and XXV above

⁵⁹⁷ See paras. 25.3.2 – 25.4.1 above

vires interference in the matter in such a way as to hinder the making of Declaration Arrangements for the Parish.⁵⁹⁸

Bishop Worsley's failures whether or not she has power to act on Bishop Hancock's behalf

35.3.7 Whether or not she has the power to act for Bishop Hancock in the matter she has also breached the duty arising implicitly under para. 17 to act in respect of the arrangements to be made for the Parish in a way which enables the parishioners to flourish within the Church of England's life and structures and therefore to contribute to mutual flourishing by her conduct in the matter consisting of:

- (a) purporting, in communications to the parishioners of the Benefice, to inform them as to the process of making arrangements for the Parish under the Declaration but giving a partial and misleading view of the matter;⁵⁹⁹
- (b) refusing to give copies of any written legal advice which Bishop Worsley may have been given on matters relevant to the arrangements to be made for the Parish and of the instructions relating to that advice, or, if those instructions were made, or that advice was given, orally a note of those oral instructions or that oral advice or, if no such advice was received or instructions given, to state that she had not received any such advice. This failure was particularly culpable in view of the undertakings Bishop Worsley gave in the 25th August Telephone Conversation to provide copies of that legal advice and to act in an open manner and in view of the imbalance of resources available to Diocesan Personnel on the one hand and the unpaid volunteers acting on behalf of the PCC on the other;⁶⁰⁰

⁵⁹⁸ See Section XXIV above

⁵⁹⁹ See paras. 20.4.1 & 25.3.3 above

⁶⁰⁰ See Section XXI above

- (c) making the apparently misleading claim to have taken advice from the Registrar in respect of the arrangements to be made for the Parish when it appears that Bishop Worsley had merely received a draft document without any accompanying legal advice;⁶⁰¹
- (d) making misleading claims as to the existence of comparable parishes and failing to provide information in relation to a putative such parish in Salisbury Diocese to which she had referred even though that information was requested;⁶⁰²
- (e) making equivocal replies to straightforward enquiries and requests for confirmation;⁶⁰³
- (f) failing to treat with due seriousness the concerns as to important matters of law of the two senior professionals dealing with the matter of the arrangements on behalf of the PCC;⁶⁰⁴
- (g) risking acting *ultra vires* on matters concerning the arrangements to be made for the Parish under the Declaration in circumstances where Bishop Worsley was aware, or ought to have been aware, that there was a significant possibility that she would do so;⁶⁰⁵ and
- (h) failing to provide evidence, when requested to do so by representatives of the PCC, that the requisite consent under the Patronage (Benefices) Measure 1986 s.13(1)(b)(i) had been given to the appointment of Prebendary Crossman.⁶⁰⁶

⁶⁰¹ See paras. 21.1.1, 21.3.1, 21.3.2 & 21.3.5 above

⁶⁰² See Section XXII above

⁶⁰³ See paras. 21.3.5, 23.2.1, 23.2.2 & 23.3.1 above

⁶⁰⁴ See Sections XX, XXI and XXIV above

⁶⁰⁵ See Section XXIV above

⁶⁰⁶ See paras. 21.2.2, 21.3.5 & 21.3.7 above

SECTION XXXVI

ADDRESSING THE GRIEVANCE

RECOMMENDATIONS UNDER REGULATION 24

36.1.1 Regulation 24 of the Regulations provides that:

'If the Independent Reviewer considers that the grievance is justified or partly justified, he or she may include in the decision recommendations for addressing the grievance.'

THE RESULT IF BISHOP HANCOCK HAD PROPERLY COMPLIED WITH HIS DUTIES

36.2.1 We have seen⁶⁰⁷ that Bishop Hancock should have consulted the PCC in response to the 2016 Resolution and again in response to the 2018 Resolution but did not do so. He should have taken the Declaration Resolutions and the need to make arrangements to implement them into account in deciding upon the person who would be suitable to appoint to the Cure but did not do so.⁶⁰⁸ We have also seen that in respect of a Mixed Benefice it will be very rare that a diocesan bishop will fulfil his duty under the Declaration if he appoints a Recently Lawful Priest as the incumbent, or priest in charge, of the Benefice. That is because doing so will inevitably mean imposing, at least indirectly, on the Resolution Parish concerned the ministry of that priest.⁶⁰⁹

36.2.2 In the circumstances of the Parish, as we have seen,⁶¹⁰ it would normally be appropriate, so as to fulfil the diocesan bishop's duty under the Declaration, either to appoint a male priest who is not a Recently Lawful Priest to the cure or, alternatively,

⁶⁰⁷ See para. 35.2.5 above

⁶⁰⁸ See para. 35.2.6 above

⁶⁰⁹ See para. 29.2.26 above

⁶¹⁰ See para. 29.2.8 above

to institute a pastoral reorganisation under the Mission and Pastoral Measure 2011 s.31 so as to place the Resolution Parish concerned into a separate benefice either on its own or with other parishes of a similar conviction.

36.2.3 Had Bishop Hancock fulfilled his duty under the Declaration at the proper time he must, almost inevitably, have adopted one of these two courses of action.

36.2.4 There is a strong argument, therefore, that the only recommendation which the Independent Reviewer could properly make to address that part of the PCC's Grievance which relates to these failures of Bishop Hancock would be that Bishop Hancock should refrain from inducting Prebendary Crossman to the Benefice whilst either seeking another, more suitable incumbent or, alternatively, facilitating a pastoral reorganisation.

THE PCC WILL ACCEPT A LESS THAN COMPLETE FULFILMENT OF BISHOP HANCOCK'S DUTY

36.3.1 The PCC is conscious, however, that undertaking such a course of action at this stage would involve a very considerable delay in filling the Vacancy and, therefore, continuing, for an indefinite period, the long period of instability with which the Benefice has had to cope since the Suspension in 2015.

TEMPORARY ARRANGEMENTS SUBJECT TO A FUTURE REORGANISATION

36.4.1 It is willing, therefore, as a matter of practicality to accept a less than complete fulfilment of Bishop Hancock's duty under the Declaration under which it accepts that it will have imposed on it temporarily the indirect receipt of Prebendary Crossman's

ministry but not its direct receipt whilst proposals for a reorganisation of the Benefice which allow the Parish to have an incumbent who is not a Recently Lawful Priest are formulated and implemented.

THE IMPLEMENTING STEPS AS A TEMPORARY EXPEDIENT

36.5.1 In the Implementing Steps, the PCC has specified in detail in carefully considered proposals actions to be taken by Bishop Hancock, or by persons acting *intra vires* on his behalf, and by others to make arrangements which will protect the Parish from being forced to receive the direct ministry of Prebendary Crossman. We respectfully suggest that the Independent Reviewer should recommend that the Implementing Steps be implemented as a temporary measure and that, in the longer term, a pastoral reorganisation should be instituted under which the Parish is placed in a separate benefice either on its own or with other parishes of a similar conviction so that a Resolution Priest may be appointed as its incumbent.

An additional undertaking in the Implementing Deed

36.5.2 In order to achieve this in a legally enforceable manner, it will be necessary to include in the Implementing Deed under Implementing Step I, in addition to the provisions specified in Section XXXII above, an undertaking by the Diocesan Bishop that he will facilitate such a pastoral reorganisation.

A reasonably satisfactory situation for the future

36.5.3 Such recommendations, whilst only imperfectly fulfilling Bishop Hancock's duty under the Declaration and only partially repairing the damage which his derelictions of duty have done to the Parish, would at least create a situation for the future which was

reasonably satisfactory in implementing, as is required by the Declaration, the Declaration Resolutions.

DRAWING WIDER CONCLUSIONS

An example?

36.6.1 In previous decisions of the Independent Reviewer, the Independent Reviewer has drawn lessons emerging from the matters which he has considered which are of wider concern than simply to the parish or diocese involved in the matter. In the *Matter of All Saints, Cheltenham*, for example, the Independent Reviewer formulated a general rule in respect of appointments of a woman to minister otherwise than as a member of the team in a multi-parish benefice of which one of the parishes is a Resolution Parish.⁶¹¹ In his decision on the *Matter of Chrism Masses*, the Independent Reviewer referred to the wider Church the question of how the Church understood the nature of mutual flourishing referred to in the fifth of the Five Guiding Principles. In the *Matter of the Nomination to the See of Sheffield and Related Concerns*, the Independent Reviewer drew general lessons for the behaviour both of the Theological Majority and the Theological Minority in the future⁶¹² as well as making four general recommendations which emerged from his consideration of the particular matters but were not confined to it.⁶¹³

36.6.2 We have seen that Bishop Hancock hoped that the arrangements made for the Parish might provide an example of good practice to which other dioceses could refer in making arrangements for parishes in a similar situation to that of the Parish. As we

⁶¹¹ *Decision of the Independent Reviewer in the Matter of All Saints, Cheltenham*, para. 37

⁶¹² *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, para. 206

⁶¹³ *Decision of the Independent Reviewer in the Matter of the Nomination to the See of Sheffield and Related Concerns*, paras. 191 - 202

have seen,⁶¹⁴ however, the behaviour of Bishop Worsley after Bishop Hancock's withdrawal from his duty due to illness, provides an example of how such matters ought not to be conducted.⁶¹⁵

The misbehaviour of Diocesan Personnel

36.6.3 We have seen that the behaviour in this matter of Diocesan Personnel has been characterised by negligence,⁶¹⁶ inordinate delay,⁶¹⁷ a failure to make substantive responses to the points made to them in correspondence⁶¹⁸ and sometimes to make any response at all,⁶¹⁹ a refusal to consider the nature of the duties imposed by the Declaration,⁶²⁰ an arrogant and irresponsible disregard of carefully considered legal analyses,⁶²¹ the provision of incorrect legal advice,⁶²² the inappropriate refusal to share documents and information⁶²³ and the making of equivocating and evasive responses to correspondence.⁶²⁴

36.6.4 Such behaviour must be seen in the light of the imbalance in the resources available to the paid Diocesan Personnel on the one hand and to the volunteers struggling to maintain Parish life on the other. Behaviour of this sort enormously increases the burden placed on pccs and, by doing so, acts as an effective bar on access to justice in respect of the matters subject to the Declaration

⁶¹⁴ See para. 32.6.75 above

⁶¹⁵ See para. 19.3.2 above

⁶¹⁶ See paras. 4.3.1, 6.3.2, 6.3.6, 6.3.7, 16.1.3 above and Sections IX – XII and XIX – XXIV above

⁶¹⁷ See Sections IX – XII above

⁶¹⁸ See Sections IX – XII above

⁶¹⁹ See Sections IX – XII above

⁶²⁰ See Sections IX – XII above

⁶²¹ See Sections XX & XXIV above

⁶²² See paras. 5.3.1 – 5.3.14, 6.3.8 – 6.3.23, 20.3.1 & 24.5.3 above

⁶²³ See Section XXI above

⁶²⁴ See paras. 21.3.5, 23.2.1, 23.2.2, 23.3.1 & 35.3.7 above

36.6.5 We request, therefore, that the Independent Reviewer's recommendations should include a clear statement that such behaviour is unacceptable in Diocesan Personnel and needs to be addressed.

The real possibility that the Declaration is not providing protection to Resolution Parishes in accordance with its purpose

36.6.6 In his report of 2017 the Independent Reviewer referred to a paper prepared by the Archdeacon of Berkshire to a colloquium on the Five Guiding Principles which concluded in relation to the Declaration 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.

...

*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.'*⁶²⁵

36.6.7 It appears from the Independent Reviewer's report that this paper was based on information supplied by senior Diocesan Personnel rather than by the parishioners of the parishes concerned.⁶²⁶

36.6.8 Our experience, and the experience we have had reported to us by the parish which Bishop Worsley held up as an example, St Petroc, Hollacombe,⁶²⁷ suggests a rather less rosy picture; that the advice available to parishes of a diocese from diocesan personnel might be inadequate, inaccurate and biased. Our experience at least

⁶²⁵ Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations, para. 13

⁶²⁶ Report of the Independent Reviewer for 2017 to the Archbishops of Canterbury and York under the Regulations, para. 13

⁶²⁷ See para. 22.3.1 above

suggests the possibility that many parishes which might otherwise pass a resolution under the Declaration are likely to be deterred from doing so by this lack of unbiased advice and that those who do pass such a resolution are likely to be deterred from ensuring that their diocesan bishops comply with their duties under the Declaration by the inaction and negligence of diocesan personnel.

36.6.9 Of course, it may be that our experience is unrepresentative and that generally in the Church of England the system is, as the paper referred to by the Independent Reviewer in his 2017 Report claimed, working well.

36.6.10 We request, however, that the Independent Reviewer should at least consider the possibility that our experience is representative and that, therefore, the Church of England needs to consider how to address the imbalance between the resources which are available to parishes in our situation and to diocesan bishops and whether the culture of negligence, ineptitude, secrecy and indifference to the provisions of the Declaration which we have experienced is common in other dioceses of the Church of England.

SECTION XXXVII

INTERIM RELIEF

THE NATURE OF INTERIM RELIEF

37.1.1 It is common in legal proceedings for provision to be made for Interim Relief, that is for temporary orders either requiring or prohibiting actions so as to prevent parties taking, or omitting to take, such action as would wholly or partly rob a final decision in the matter of effect. There is no express provision for Interim Relief in the Regulations.

THE POWER TO PRE-EMPT THE INDEPENDENT REVIEWER'S DECISION

37.2.1 Subject to the question of whether such action would constitute misconduct under the Clergy Discipline Measure 2003, therefore, it would appear to be lawful for Bishop Hancock, or those acting *inter vires* on his behalf, to extend Prebendary Crossman's licence or to induct her to the Benefice without having made Declaration Arrangements for the Parish so as to impose on the PCC, representing the Parish, the receipt, both directly and indirectly, of the ministry of a female priest. Similarly, Bishop Worsley could exercise the powers that have been delegated to her so as to impose her ministry both directly and indirectly on the Parish.

MR M^CKIE'S REQUEST FOR INTERIM RELIEF AND THE EQUIVOCATING REPLY

37.3.1 We have seen⁶²⁸ that in the 22nd September M^CKie Email Mr M^CKie, on behalf of the PCC, asked Bishop Worsley to:

'... undertake, without equivocation, that you will not exercise any power which you may have to extend Prebendary Crossman's licence so as to confer on her any power in respect of the parish of Lullington &

⁶²⁸ See para. 23.2.1 above

Orchardleigh or to induct her to the benefice until the Independent Reviewer's decision has been received.

37.3.2 In response to that request Mr M^cKie received an equivocating reply from Bishop Worsley.⁶²⁹ Mr M^cKie has received no reply to his further request for an unequivocal undertaking.⁶³⁰

THE RELEVANT PROVISIONS OF THE REGULATIONS

37.4.1 Although the Regulations do not confer on the Independent Reviewer a power to make orders for Interim Relief, the Independent Reviewer has the power under the Regulations, Reg. 21 to:

‘ ... at any time seek to achieve a settlement of the grievance which is acceptable to the parties, by some means other than the completion of the review (whether through a process of mediation conducted by some other person or persons or otherwise).’

37.4.2 Plainly, a unilateral imposition of the direct receipt of the ministry of a female bishop or priest on the Parish is likely to militate against achieving such a settlement. It is, therefore, within the Independent Reviewer's powers to recommend to Bishop Worsley that she should take no steps before the publication of the Independent Reviewer's decision under the Regulations, Reg. 22 which would impose the receipt of Prebendary Crossman's ministry directly on the PCC or which would unnecessarily impose the receipt of Bishop Worsley's ministry directly on the PCC.

⁶²⁹ See para. 23.2.2 above

⁶³⁰ See para. 23.3.1 above

**TO MAKE DECLARATION ARRANGEMENTS MAY NOW REQUIRE THE TEMPORARY
IMPOSITION OF THE MINISTRY OF A FEMALE BISHOP**

37.5.1 The PCC accepts, however, that, in the confused situation created by Bishop Hancock's illness, the purpose of the Declaration would be advanced if it were possible for Declaration Arrangements to be made sooner rather than later for the Parish. The PCC will accept, therefore, that making Declaration Arrangements for the Parish may require the temporary imposition of the direct receipt of the ministry of a female bishop so that, if it is possible to determine that Bishop Worsley does have the necessary powers to do so or such powers could be conferred on her or on another person, Bishop Worsley, or that other person, may exercise the powers necessary to make such arrangements.

APPENDIX I

DEFINED WORDS & PHRASES

App 1.1.1 As we have explained,⁶³¹ in this Paper we use various words and phrases in special senses which we define in this Appendix. In the main, such words and phrases are given initial capitals. Other words and phrases which are conventionally given initial capitals are also given them in this Paper. Some words and phrases given special definitions do not have initial capitals in order to distinguish their use in their defined sense from definitions given to the same word or phrase with initial capitals.⁶³²

DEFINED TERMS AND PHRASES	DEFINITION
2004 Resolution	The resolution passed by the PCC on 5 th February 2004 under the Priests (Ordination of Women) Measure 1993 s.3 (see Appendix II, Doc. 1)
2014 Settlement	The settlement made in respect of the legalising of the consecration of women as bishops which is represented by the amendments made in 2014 to the Canons in respect of consecration and ordination and by the Declaration and the Regulations
2016 Resolution	The resolution passed by the PCC under the Declaration on 26 th October 2016 (see Appendix II, Docs. 4 & 5)
2018 Resolution	The resolution passed by the PCC under the Declaration on 23 rd October 2018 (see Appendix II, Doc. 13)
5 th February Service	The evening service which took place at St George's, Beckington on 5 th February 2020

⁶³¹ See para. 1.2.1 of the Paper

⁶³² For example the defined phrases Diocesan Bishop and diocesan bishop (see Appendix I)

26 th April Letter	The letter from Mr and Mrs Bridges to Bishop Hancock dated 26 th April 2020 (see Appendix II, Doc. 46)
8 th June Zoom Meeting	The meeting held by <i>Zoom</i> on 8 th June 2020 in which the participants were Canon Dodds, Mrs Ladd, Mr King and Mr M ^c Kie
22 nd June Resolutions	The resolutions of the PCC made at its meeting on 22 nd June 2020 setting out in outline arrangements which it was willing to accept although they would not entirely satisfy Bishop Hancock's duty under the Declaration to make arrangements to implement the Declaration Resolutions (see Appendix II, Doc. 68)
26 th June Bishop Hancock Letter	The letter from Bishop Hancock to Mr Bridges dated 26 th June 2020 (see Appendix II, Doc. 74)
30 th June Letter	The letter from Mr Bridges to Bishop Hancock dated 30 th June 2020 (see Appendix II, Doc. 78)
1 st July Zoom Meeting	The meeting held by <i>Zoom</i> on 1 st July 2020 between Canon Dodds and Mr M ^c Kie
1 st July M ^c Kie Email	The email sent by Mr M ^c Kie to Canon Dodds on 1 st July 2020 at 15:58 (see Appendix II, Doc. 80)
3 rd July Bishop Hancock Letter	The letter from Bishop Hancock to Mr Bridges dated 3 rd July 2020 (see Appendix II, Doc. 87)
6 th July M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Hancock on 6 th July 2020 at 14:24 (see Appendix II, Doc. 91)
10 th July Bishop Hancock Email	Bishop Hancock's email of 10 th July 2020 to Mr M ^c Kie sent at 19:48 (see Appendix II, Doc. 110)
11 th July M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Hancock on 11 th July 2020 at 13:12 (see Appendix II, Doc. 112)

13 th July Zoom Meeting	The meeting held by <i>Zoom</i> on 13 th July 2020 at which the arrangements to be made by Bishop Hancock under the Declaration were discussed (see Appendix II, Doc. 114)
16 th July M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Hancock on 16 th July 2020 at 18:33 (see Appendix II, Doc. 126)
22 nd July M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Hancock on 22 nd July 2020 at 10:58 (see Appendix II, Doc. 144)
23 rd July Zoom Meeting	The meeting held by <i>Zoom</i> on 23 rd July 2020 at which the arrangements to be made by Bishop Hancock under the Declaration Arrangements were discussed (see Appendix II, Doc. 150)
11 th August Zoom Meeting	The meeting held by Zoom on 11 th August 2020 between Mr M ^c Kie and the Registrar
12 th August M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 12 th August 2020 at 08:30 (see Appendix II, Doc. 194)
21 st August Bishop Worsley Letter	The letter from Bishop Worsley to the Benefice Churchwardens and copied to various other persons dated 21 st August 2020 (see Appendix II, Doc. 201)
24 th August M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 24 th August 2020 at 15:33 (see Appendix II, Doc. 203)
25 th August Telephone Conversation	The telephone conversation which took place on 25 th August 2020 between Mr M ^c Kie and Bishop Worsley
25 th August M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 25 th August 2020 at 16:01 (see Appendix II, Doc. 206)
26 th August Bishop Worsley Email	The email sent by Bishop Worsley to Mr M ^c Kie on 26 th August 2020 at 11:56 (see Appendix II, Doc. 208)
2 nd September (First) M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 2 nd September 2020 at 11:45 (see Appendix II, Doc. 211)

2 nd September (Second) M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 2 nd September 2020 at 17:03 (see Appendix II, Doc. 212)
4 th September Bishop Worsley Letter	The letter from Bishop Worsley to Mr M ^c Kie dated 4 th September 2020 (see Appendix II, Doc. 213)
9 th September M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 9 th September 2020 at 15:49 (see Appendix II, Doc. 215)
11 th September Resolutions	The Resolutions passed by the PCC at its meeting which took place on 11 th September 2020 (see Appendix II, Doc. 216)
14 th September M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Hancock on 14 th September 2020 at 18:37 (see Appendix II, Doc. 219)
18 th September Bishop Worsley Email	The email sent to various parties by Bishop Worsley on 18 th September 2020 at 17:08 to which the Memorandum of Understanding was attached (see Appendix II, Doc. 227)
22 nd September M ^c Kie Email	The email sent by Mr M ^c Kie to Bishop Worsley on 22 nd September 2020 at 14:35 (see Appendix II, Doc. 230)
25 th September Bishop Worsley Email	The email sent by Bishop Worsley to Mr M ^c Kie on 25 th September 2020 at 10:47 (see Appendix II, Doc. 235)
25 th September M ^c Kie Email	The email from Mr M ^c Kie to Bishop Worsley sent on 25 th September 2020 at 14:22 (see Appendix II, Doc. 236)
Ad-Hoc Sub-Committee	An ad-hoc sub-committee of the Core Group formed in respect of the complaints against the Previous Rector under the Clergy Discipline Measure 2003 s.10
Alternative Oversight Resolutions	The 2004 Resolution, the 2016 Resolution and the 2018 Resolution together
Announcement	The announcement in the churches of the Benefice made on 1 st March 2020 of Bishop Hancock's decision to appoint Prebendary Crossman

Appointed Bishop	A suffragan bishop of the Diocese appointed by the Diocesan Bishop under the Implementing Steps to provide oversight of the Parish under paras. 20, 22, 23 and 26 of the Declaration
Appointed Clergyman	A clergyman appointed under the Implementing Steps to exercise all the powers and functions, and to fulfil the duties, of the Incumbent in respect of the Parish
Archdeacon Gell	Archdeacon Anne Elizabeth Gell, the Archdeacon of Wells
Arrangement Criteria	<p>Criteria identified in the discussion which took place in the 23rd July Zoom Meeting as being criteria which any Declaration Arrangements made for the Parish must satisfy. They were:-</p> <ul style="list-style-type: none"> (1) should be capable of continuing for the foreseeable future and of surviving changes of the Diocesan Bishop, the Incumbent, the Appointed Bishop and the Appointed Clergyman; (2) and their purpose, should be formally recorded in writing so as to provide a permanent record of them; (3) should provide protection to Prebendary Crossman from complaints against her under the Clergy Discipline Measure 2003 being upheld in respect of any acts of commission or omission by the Appointed Clergyman; (4) should provide protection to the PCC and the Parishioners from being forced or required to receive the ministry of a female priest or bishop and against any breach of the Declaration Arrangements made for the Parish; and (5) should, in the event that persons resident in the Parish seek the pastoral care of Prebendary Crossman other than specifically in her

	capacity as the Incumbent, not prevent her from responding to such a request by giving the appropriate care.
Benefice	The benefice of Beckington with Standerwick, Berkley, Rodden and Lullington with Orchardleigh
Benefice Churchwardens	The churchwardens of the parishes of the Benefice
Benefice PCC	A parochial church council of a parish comprised in the Benefice
Benefice PCCs	The parochial church councils of the parishes comprised in the Benefice
Benefice Representatives	The representatives chosen by the pccs of the Benefice under the Patronage (Benefices) Measure 1986 s.11(1)(b)
Bishop Goodall	Bishop Jonathan Goodall, Bishop of Ebbsfleet
Bishop Hancock	Bishop Peter Hancock, Bishop of Bath & Wells
Bishop Worsley	Bishop Ruth Elizabeth Worsley, Bishop of Taunton
Canon	A Canon of the Canons of the Church of England promulgated with the Royal Licence and Assent
Canon Dodds	Graham Dodds, the Diocesan Bishop's Chaplain from 3 rd March 2018
Churches	The churches of the Parish being St Mary's, Orchardleigh and All Saints, Lullington
Churchwardens	The churchwardens of the Parish from time to time
Cure	The cure of souls of the Benefice
Declaration	The House of Bishops' <i>Declaration on the Ministry of Bishops and Priests</i> made by the House of Bishops on 19 th May 2014
Declaration Arrangements	Arrangements which satisfy a diocesan bishop's duty under the Declaration to make arrangements for a Resolution Parish which implement the resolution made by the pcc of that parish under the Declaration para. 20.
Declaration Resolutions	The 2016 Resolution and the 2018 Resolution together

diocese	A diocese in the abstract or a diocese which is not the Diocese
Diocese	The Diocese of Bath and Wells, its Bishop, senior clergy, officers and staff together
diocesan bishop	A diocesan bishop in the abstract or a diocesan bishop of a diocese other than the Diocese
Diocesan Bishop	The diocesan bishop of the Diocese from time to time
diocesan personnel	The diocesan bishop and senior clergy, officers and staff of a diocese other than the Diocese or in the abstract
Diocesan Personnel	The Diocesan Bishop and the senior clergy, officers and staff of the Diocese
Doc [number]	A document, a copy of which is given in Appendix II, identified by the number of the divider in which it is there placed
Grievance	The grievance of the PCC submitted under the Regulations, Reg 10
Guidance	<i>House of Bishops' Declaration on the Ministry of Bishops and Priests – Guidance Note</i> published on 12 th June 2014
Hill para	A reference to a paragraph in <i>Ecclesiastical Law</i> by Mark Hill (4 th Ed. 2018 – OUP)
Implementing Deed	The deed, the execution of which forms Implementing Step I
Implementing Step I	The first of the Implementing Steps which is specified in para. 32.6.1
Implementing Step II	The second of the Implementing Steps which is specified in para. 32.7.2
Implementing Step III	The third of the Implementing Steps which is specified in para. 32.8.1
Implementing Step IV	The fourth of the Implementing Steps which is specified in para. 32.9.1
Implementing Step V	The fifth of the Implementing Steps which is specified in para. 32.10.1
Implementing Step VI	The sixth of the Implementing Steps which is specified in para. 32.11.1
Implementing Step VII	The seventh of the Implementing Steps which is specified in para. 32.12.1

Implementing Steps	The steps specified in Section XXXII of the Paper
incumbent	The incumbent of a benefice other than the Benefice or the possessor of an incumbency in the abstract
Incumbent	The incumbent of the Benefice from time to time
Incumbency	The incumbency of the Benefice
Independent Reviewer	The Independent Reviewer from time to time appointed under the Regulations, Reg. 2
Interim Relief	Temporary orders made in legal proceedings either requiring or prohibiting specified actions by one or other of the parties so as to prevent a party from taking or omitting to take such action as would wholly or partly rob a final decision in the matter of effect
Licensing	The Licensing of Prebendary Crossman as priest-in-charge of the Benefice excluding the Parish which took place on 9 th July 2020
M ^c Kie Paper	The paper written by Mr and Mrs M ^c Kie dated, and sent to the Registrar on, 6 th August 2020 (see Appendix II, Doc. 188)
Memorandum of Understanding	The document of this name attached to the 18 th September Bishop Worsley Email
Misconduct	Behaviour falling within one of the descriptions in the Clergy Discipline Measure 2003 s.8(1)
Mixed Benefice	A benefice in which one or more of the parishes of the benefice is, or are, a Resolution Parish or Parishes and one or more is, or are, not
MOU para. [number]	A reference to a paragraph of the Memorandum of Understanding
Mr Bridges	Glyn Bridges, the Vice Chairman and Secretary of the PCC and a Churchwarden
Mrs Bridges	Ruth Bridges, Churchwarden and Safeguarding Officer of the PCC and wife of Mr Bridges

Mr Clark	The Reverend David Clark, a retired clergyman, who has taken Holy Communion, weddings and baptisms in the Churches for many years
Mr Daniel	Hilary Daniel, a Reader licensed in the Benefice
Mr King	The Parish's Director of Music and a former Churchwarden
Mr M ^c Kie	Simon M ^c Kie, a Reader licensed in the Benefice and a member of the PCC
Mrs Ladd	Jenny Ladd, Churchwarden of the Parish and the administrator of weddings taking place in the Churches
Mrs M ^c Kie	Sharon M ^c Kie, the wife of Mr M ^c Kie who has jointly advised Mr Bridges and the PCC
Non-Resolution Bishop	A Bishop who is not a Resolution Bishop
Non-Resolution Priest	A Priest who is not a Resolution Priest
Paper	This paper
Parish	The parish of Lullington with Orchardleigh
Parishioners	The parishioners of the Parish
Parties	The parties to the Implementing Deed being:- a) the Diocesan Bishop acting as a Corporation Sole so as to bind his successors; b) Prebendary Crossman; and c) Mr Bridges and Mr M ^c Kie acting on behalf of the PCC
pcc	A reference to a parochial church council in the abstract or to a parochial church council which is not the PCC
PCC	The parochial church council of the Parish
PCC Representatives	Mr Daniel and Mr King in their capacity as the PCC's representatives in respect of the Vacancy appointed under the Patronage (Benefices) Measure 1986 s.11(1)(b)

Prebendary Crossman	Prebendary Sharon Margaret Joan Crossman
Previous Rector	Andrew Chalkely priest-in-charge and subsequently Rector of the Benefice from 8 th September 2007 until 30 th September 2018
Proposed Arrangements	The arrangements which the PCC set out in the 22nd June Resolutions which it was then willing to accept would sufficiently satisfy Bishop Hancock's duty under the Declaration to make arrangements to implement the Resolution
Recently Lawful Bishop	A bishop lawfully consecrated as such who is a male, the legal validity of whose ordination or consecration depends upon the legal validity of the ordination or the consecration of one or more persons who was or were, at the time concerned, a Recently Lawful Bishop or a Recently Lawful Priest, or who is a female
Recently Lawful Priest or Bishop	An individual who is either a Recently Lawful Priest or a Recently Lawful Bishop
Recently Lawful Priest	A priest lawfully ordained as such who is a male, the legal validity of whose ordination depends upon the legal validity of the ordination or the consecration of one or more persons who was or were, at the time concerned, a Recently Lawful Bishop or a Recently Lawful Priest, or who is a female
Registrar	The registrar of the Diocese, Roland Callaby
Registrar's Paper	The paper prepared by the Registrar for Bishop Hancock headed 'Responsibilities of an incumbent' a copy of which was sent to those expected to participate in the 23 rd July Zoom Meeting by Bishop Hancock's personal assistant on 22 nd July 2020 (see Appendix II, Doc. 145)
Regulations	<i>The Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014</i>

Resignation	The Previous Rector's resignation of the Cure which had effect after 30 th September 2018
Resolution Bishop	A Bishop who is not a Recently Lawful Bishop and who does not accept the theological validity of the consecration of Recently Lawful Bishops or of the ordination of Recently Lawful Priests
Resolution Priest or Bishop	An individual who is either a Resolution Priest or a Resolution Bishop
Resolution Parish	A parish which has passed a resolution in accordance with para. 20 of the Declaration
Resolution Priest	A Priest who is not a Recently Lawful Priest and who does not accept the theological validity of the consecration of Recently Lawful Bishops or of the ordination of Recently Lawful Priests
Section 11 Meeting	A meeting of the Benefice PCCs under the Patronage (Benefices) Measure 1986 s.11 held on 5 th June 2019
Serious Incident Report	A report required to be made to the Charity Commission in respect of a Serious Safeguarding Situation
Serious Safeguarding Situations	A situation which falls within the ambit of the phrase a 'serious safeguarding situation' as that phrase is used in the 2015 Serious Safeguarding Situations Guidance and of the phrase a 'safeguarding allegation' as that phrase is used in the current Safeguarding concerns or allegations Guidance
Statement	The Statement attached to the 14 th September McKie Email
SOED	Shorter Oxford English Dictionary (6 th Ed 2007 OUP)
Suspension	The Previous Rector's suspension from the Cure during the period from April 2015 until the Resignation
Terms of Service Regulations	The Ecclesiastical Offices (Terms of Service) Regulations 2009

Theological Majority	That group of the members of the Church of England who, by reason of theological conviction, can receive the ministry of women bishops or priests
Theological Minority	That group of the members of the Church of England who, by reasons of theological conviction, cannot receive the ministry of women bishops or priests
Vacancy	The vacancy in the Incumbency which commenced on 1 st October 2018