

**IN THE MATTER OF A COMPLAINT UNDER THE CLERGY DISCIPLINE  
MEASURE 2003**

**BEFORE THE BISHOP'S DISCIPLINARY TRIBUNAL FOR THE DIOCESE OF  
WINCHESTER**

**Complainant: MARIE VAN DER ZYL**

**Respondent: THE REVEREND DR STEPHEN SIZER**

**Constitution of the Tribunal: The Worshipful David Pittaway KC (Chair)**

**The Reverend Geoffrey Eze**

**The Reverend Canon Liz Hughes**

**Canon Andrew Halstead**

**Ms Gabrielle Higgins**

**Appearances: Mr Nicholas Leviseur, Counsel for the Designated Officer**

**Mr Stephen Hofmeyr KC, Counsel for the Respondent**

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**DECISION OF THE TRIBUNAL**

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**Introduction**

1. The proceedings brought against the Reverend Stephen Sizer (“the Respondent”) under the Clergy Disciplinary Measure 2003 (“CDM”) arise out of a complaint made by Ms Marie van der Zyl, President of the Board of Deputies of British Jews (“the Board”) on 15 October 2018.
2. The nature of the complaint is that between 2005 and 2018 the Respondent’s conduct was unbecoming or inappropriate to the office and work of a clerk in Holy Orders within section 8(1)(d) of the Clergy Disciplinary Measure 2003 in that he provoked and offended the Jewish community and/or engaged in antisemitic activity. Twelve instances of the Respondent’s conduct were relied upon. Alternatively, the Respondent’s conduct was in breach of Canon C 26.2 contrary to the laws

ecclesiastical within section 8(1)(a) of the CDM. Details of the charge referred to the Tribunal are set out at Appendix A to this decision.

3. In accordance with the provisions of the CDM the Bishop of Winchester notified Ms van der Zyl in writing on 14 December 2018 that the complaint had been referred to the Designated Officer for formal investigation under sections 12(1)(e) and 17(1) of the CDM. In the meantime, he withdrew the Respondent's Permission to Officiate in the Diocese. The President of Tribunals directed on 28 June 2019 that a Disciplinary Tribunal should be asked to consider whether eleven of the twelve instances of conduct were in breach of section 8(1)(d) or alternatively 8(1)(a) of the CDM.
4. The procedural position is complicated by the fact that in 2012 there were previous proceedings against the Respondent, under the CDM, following a complaint made by Mr Jonathan Arkush, then President of the Board, which were compromised, following a conciliation agreement. The President of Tribunals excluded the single allegation amongst the twelve allegations, which had expressly formed part of that earlier complaint. She left to the Tribunal the question of whether the seven allegations which related to events alleged to have taken place before the earlier complaint were an abuse of process.
5. There has been a significant delay in arranging the hearing in this case, in part due to the complex nature of the allegations, and in part the availability of witnesses, counsel and the Tribunal. The hearing finally took place at The Court House, St Andrew's Church, Holborn between 23 and 27 May 2022. The Designated Officer was represented by Nicholas Levisieur and the Respondent by Stephen Hofmeyr KC. Factual evidence was given, in support of the complaint, by Ms van der Zyl and Mr Arkush. The Respondent gave oral evidence and called Bishop Langrish, Professor Unwin, Professor Pappé, Mrs Neslen, and a number of other witnesses to give evidence in support of his defence. Expert evidence was given by The Rt Revd Dr Michael Igrave, Bishop of Lichfield, on behalf of the Designated Officer, and Mr Lerman, on behalf of the Respondent.
6. The Respondent admits the factual basis of the outstanding eleven allegations but disputes that his conduct was unbecoming or inappropriate. He denies that he provoked and offended the Jewish community by his actions and/or that he engaged in antisemitic activity. Further he relies upon section 8(3) of the CDM that no proceedings in respect of unbecoming conduct shall be taken in respect of the lawful political opinions or activities of any priest.

### **Abuse of Process**

7. As part of the defence to the charge, Mr Hofmeyr submitted that it was an abuse of process to allow the charge to proceed. As he was entitled to do, he did not seek a determination of this issue on the first day of the proceedings, although he had made it clear both at the directions hearing and at the outset of the hearing that it was part of the Respondent's case; he took the point in his closing submissions. It is, however,

convenient, for the purposes of this decision, for the Tribunal to consider Mr Hofmeyr's submissions at this stage of the decision.

8. Mr Hofmeyr's principal submission is that this is the second occasion that the Respondent is facing proceedings under what he describes as the Church disciplinary process for the same allegations. He puts the abuse of process argument in several ways.
9. In respect of the first CDM, he submitted that it was resolved by conciliation in a recorded agreement. He identified seven allegations which took place before the first referral in 2012. He submitted that the Board should not have a second opportunity to pursue them. He relied upon the principle in *Henderson v Henderson* (1843) 3 Hare 100 that parties must bring the entire case before the court at once so that all aspects may be finally determined. Further he submitted that it is most unlikely that the seven allegations caused offence at the time of the events complained about; if they had caused offence, they would have been relied upon in the first CDM. He submitted that the overwhelming likelihood is that offence was caused by the republication of the matters by the Reverend Nick Howard and Mr Weissman.
10. In respect of the eighth allegation, he submits that after the Respondent posted the link to the 9/11 article in January 2015, he was contacted by the Rural Dean in accordance with the conciliation agreement, and immediately removed it. The Bishop of Guildford took immediate steps to put in place sanctions which were imposed by consent. He submits that the Designated Officer is estopped from relying upon the allegation because of that agreement. He also referred to Mr Arkush acknowledging that his complaint had been dealt with speedily and effectively by the Bishop. The sanctions were in place for three years until the Respondent retired from the parish in April 2017.
11. He recognizes that allegations 9, 10 and 11 are not as clearcut. Two of them relied upon were within the 12 month period for laying a complaint. He submits that they should have been dealt with in accordance with the mechanism in the conciliation agreement. Again he makes the same submissions that the Board should not be given a second opportunity to pursue the allegation.
12. Mr Levisaur submits that both the conciliation agreement in 2012 and the Respondent's undertaking in 2015 are unenforceable. He maintains that there is an unfettered right to bring proceedings under the CDM, where there is sufficient interest. He does not accept that the informal processes referred to in the conciliation agreement were not used. He points to attempts to resolve the matters informally, including a meeting between the Respondent and Mr Arkush, the posting of the link to the 9/11 article being brought to the attention of the Archdeacon, and the direct reference to the new Bishop of Guildford, who acted with extreme rapidity without the use of the CDM. Mr Levisaur referred to the Respondent's undertaking given in his letter of 4 February 2015, and to Bishop Watson's decision that if the Respondent repeated his conduct, he would be removed from his living. Mr Levisaur submits that

the principle in *Henderson v Henderson* has no application to ecclesiastical disciplinary proceedings. He also referred to the President of Tribunals acting as gatekeeper in determining whether the proceedings should go forward to a hearing.

13. In the textbook, **Treverton Jones and Foster, Disciplinary and Regulatory Proceedings** (10<sup>th</sup> Ed.), the editors state:

*“2.91 In the case of Johnson v Gore Wood [2002] AC 1, Lord Bingham said:*

*“it is, however, wrong to hold that because a matter could have been raised in earlier proceedings it should have been, so as to render the raising of it in later proceedings necessarily abusive. That is to adopt too dogmatic approach to what should in my opinion be a broad, merits-based judgment which takes account of the public and private interests involved and also takes account of all the facts of the case, focussing attention on the crucial question whether, in all the circumstances, a party is misusing or abusing the process of the court by seeking to raise before it the issue which could have been raised before.”*

*“2.92 Therefore, if the regulator brings a disciplinary case against a respondent and then seeks to bring a second disciplinary case which is not based on the same facts but which could have been brought in the first set of proceedings, the Tribunal has the power to strike out the second case as an abuse of process under the Henderson v Henderson principle if it thinks the allegations made in the second set of proceedings should have been brought as part of the first set of proceedings and that bringing the second set of proceedings is an abuse of process.”*

14. Mindful of the principles set out above, the Tribunal considers that there is scant evidence of the extent to which the Board was aware of the seven allegations that occurred before the first CDM or considered whether one or any of them should form part of that complaint. There is insufficient evidence available upon which the Tribunal could reach a decision as to whether, if the allegations had caused offence at the time, they would have formed part of the first CDM. It notes that the President of Tribunals did exclude from her consideration the specific allegation that had formed part of the first CDM. The Tribunal rejects Mr Levisieur’s submissions that the principle in *Henderson v Henderson* has no application in disciplinary proceedings. It has concluded, however, that, taking into account all the facts of the case, on the broad merits-based approach, outlined by Lord Bingham in *Johnson v Gore Wood* (supra), the Board, in making the complaint, were not misusing or abusing the process by relying upon the seven matters that pre-dated the first complaint. It follows that, following the ruling by the President of Tribunals, it is satisfied that it is not an abuse of process for the seven allegations which predate the first CDM to be pursued.

15. As to Mr Hofmeyr’s submission relating to posting the link on Facebook in January 2015 to the 9/11 article, the Tribunal rejects his submission that the Designated Officer is estopped from relying upon that allegation because of the agreement that the Respondent reached with the Bishop of Guildford in February 2015. The Tribunal

accepts Mr Levisieur's submission that the jurisdiction of the CDM cannot be ousted by that agreement, which was made without recourse to the CDM.

16. The Tribunal accepts Mr Levisieur's submissions that sufficient attempts were made by the Board to deal with these matters informally. In fact, there was no prescribed mechanism in the conciliation agreement. The conciliators also recognised that if it were not possible to deal with the matters informally, the normal channels would apply. The Tribunal interprets this observation as including reference to the CDM. It does not consider that the Board was precluded, in the event of future disputes, from initiating a complaint, which led to proceedings under the CDM. It also does not consider that there is any good reason why the allegations that postdate the first CDM should not be pursued.
17. As set out in the President of Tribunal's direction of 28 June 2019 the Tribunal concludes that it should examine the allegations individually and as a whole, including the posting of the link on Facebook to the article on 9/11 in January 2015.

### **Expert Evidence**

18. One of the principal issues in this case is the definition of antisemitism that should be applied at the time of the matters complained of. Provision was made for expert evidence on this issue. The direction for expert evidence was limited to assisting the Tribunal with that definition without an expression of opinion on the eleven allegations. Both Bishop Ipgrave and Mr Lerman provided written reports and a joint memorandum, as well as giving oral evidence at the hearing. It is convenient for the evidence on this important matter to be set out at this stage of the decision.
19. The directions order encouraged the experts to give their opinion as to the nature of antisemitism in relation to the incidents mentioned in the Appendix to the President's Decision dated 28 June 2019 (as set out at Appendix A of this decision), and with specific reference to political comment on the activities of the State of Israel.
20. In his written report, Bishop Ipgrave set out the history of the recent consideration of the Church of England on antisemitism. In 2001, the Inter Faith Consultative Group of the Archbishops' Council published a short report called **Sharing One Hope? The Church of England and Christian-Jewish Relations: A Contribution to a Continuing Debate** ["Sharing One Hope"]. One chapter of this was devoted to 'antisemitism', which it described as '*forms of prejudice against Jews or Jewish beliefs, practices or customs*'. Successive Archbishops of Canterbury have spoken about the need to confront antisemitism, including a short essay by Archbishop Justin Welby in September 2016 in a compilation called **Lessons Learned? Reflections on Antisemitism and the Holocaust**, assembled by the Holocaust Education Trust and the Community Security Trust.
21. In September 2018, the College of Bishops accepted the working definition of antisemitism by the International Holocaust Remembrance Alliance ["IHRA"], together with its full accompanying list of illustrative examples, 'without qualification

or exemption’. That definition was adopted by the International Holocaust Remembrance Alliance (IHRA) at a plenary meeting in Bucharest in May 2016.

22. The working definition stated: *‘Antisemitism is a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical and physical manifestations of antisemitism are directed towards Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.’* The IHRA added to this definition a series of eleven contemporary examples to guide its work, and it is the sentence above plus these examples which are usually referred to as the IHRA ‘full definition’, as adopted by the Church of England’s College of Bishops. Bishop Ipgrave pointed out that the full definition has been adopted by several national governments, including that of the UK, and other organisations, and also that it has been contentious on the grounds that some take it to conflate criticism of the State of Israel with antisemitism. A copy of the full IHRA definition is attached to this decision at Appendix B.
23. Bishop Ipgrave’s view is that the adoption of the IHRA definition by the Church of England represented the formalisation of a view of antisemitism which had already been in practical use at least as far back as **Sharing One Hope** in 2001. He considers that this understanding was further clarified in **God’s Unfailing Word** in November 2019, which quoted the eleven IHRA illustrative examples in full and explained that: *‘The examples highlight the way that antisemitism tends to weave together four interconnected claims, all of which should be vigorously resisted: (a) that there is something inherently wrong with Jews as a people; (b) that Jews always seek to control and influence others; (c) that because there is something inherently wrong with Jews, this influence is inevitably to the detriment of others; (d) that therefore those with authority have a duty to restrict as far as possible the scope for Jews to exercise any influence over others.’*
24. He also drew attention to the **Guidelines for the Professional Conduct of the Clergy** (“the Guidelines”) (2003) and (2015), in particular that they make clear that members of the clergy should aspire to the highest possible standards of conduct throughout a lifetime of ministry when expressing themselves on sensitive matters, so as not cause unnecessary offence.
25. In a section of his report on characteristics of antisemitism, Bishop Ipgrave referred to the Archbishop of Canterbury likening antisemitism to a *‘virus’*. He spoke of it as having *‘burrowed into’* or being *‘deeply entrenched in’* our culture. He included the following as pointers to antisemitic ways of thinking or acting; several of them are referred to in the examples listed in the IHRA definition:
  - a. The reappearance in contemporary discourse of classic anti-Judaic and antisemitic tropes, such as Jewish control of, or disproportionate influence within, a society, or indeed the world as a whole; Jewish hatred of and vindictiveness towards non-Jewish people; allegations of Jewish exclusiveness or lack of loyalty.

- b. The ascription to ‘the Jews’ as a whole of responsibility for the actions of a single Jewish person or group; or the creation of stereotypical images of the Jewish collective which fail to recognise the extraordinary diversity of Jewish communities and traditions.
- c. The creation of false linkages between Jewish people and significant world events (such as the attacks in the USA on 9/11), or the repetition without criticism of rumours of such linkages.
- d. The downplaying, or denial, of the reality of Jewish genocide and suffering in the Holocaust; or the relativization or instrumentalization of its significance through inappropriate and inaccurate comparisons with other episodes of suffering.
- e. A disproportionate or one-sided focus on allegations of Israeli or Jewish aggression or wrongdoing which fails to attend to other egregious instances of oppression; or requiring of Israelis or Jews a standard of behaviour not expected of others.
- f. Association with others who are recognised, and in some cases are proud to be recognised, as emphatically antisemitic in their views. One marker of antisemitism, for example, can be a readiness to appear in public with known Holocaust-deniers.

26. He recognised that none of the above *“infallibly demonstrate the presence of antisemitism; in some cases, they may be simply the product of lazy thinking, inadequate education, or genuine misunderstanding. However, a combination of such factors, and their repeated occurrence as a pattern of thought or expression, is likely to be symptomatic of what the Archbishop would call the antisemitic virus. In each case, its diagnosis will need to rely not only on arguments about the literal meaning of the words used, but also on the tracing of wider patterns of language, behaviour and association. In some situations, visual images can also play an important part alongside verbal messages.”*

27. Importantly, he said in his report that: *“bearing in mind the general principle that perceptions by victims themselves of hostility or prejudice directed against them is a criterion for the identification of racial or religious hatred, it is clear that the perceptions of Jewish people themselves need to be taken very seriously in judging whether or not a person or group is thinking, speaking or behaving in an antisemitic way.”*

28. In cross-examination, Bishop Ipgrave accepted that he had relied upon Anglican sources, in trying to set out how the Church of England viewed antisemitism. He agreed that he would not describe himself as an academic expert on antisemitism and accepted that Mr Lerman was an academic expert on the subject. He also accepted that there was no consensus of definition within the academic world or generally but he believed that antisemitism is a persisting phenomenon which reappears in different forms. He agreed that a fundamental redefinition in recent years had taken place but, in his view, it remained the same phenomenon. He accepted attitudes to the State of Israel have become central to the phenomenon in this century.

29. He considered that **Sharing One Hope** had been an explanatory and not an authoritative statement by the Church of England. It identified areas of continuing debate and consensus within the Church. He said that prior to the acceptance of the full IHRA definition by the College of Bishops in 2018, which was followed by **God's Unfailing Word**, there was not an expressly stated definition by the Church of antisemitism. He agreed that the purpose was to set out a theology of the relationship. He agreed that the IHRA definition was the first to single out references to Israel and was controversial. Although he accepted that it is a possibility that the new antisemitism can be weaponised, he did not consider that the IHRA was specifically designed to do so. He considered that the first paragraph is relatively uncontroversial followed by examples, which he accepted refer to Israel and the Holocaust. He agreed that the IHRA definition is not legally binding and that many of the countries have not adopted the definition. He considered that it operates as a diagnostic tool depending on context, providing a framework. He considered that there is a tight definition in the first paragraph and examples added to help detect antisemitism and characteristics which point in that direction. Whilst criticisms of the definition by a number of distinguished UK lawyers were put to him, he considered the definition is a helpful instrument to discern whether antisemitism is present, which he described as "a crib card" or pointer towards patterns of behaviour to see if manifestations of antisemitism are present, which depend on the whole range of things including context.
30. Mr Hofmeyr took Bishop Igrave through the IHRA definition. Bishop Igrave said that it is common ground that the essence of antisemitism is hatred of Jews and that there are constant patterns of new expression. He agreed that the spread of antisemitism is hugely significant but not fully understood. He agreed that social media has intensified and amplified the way in which antisemitism is spread. He agreed that members of the Jewish community disagree as to what constitutes antisemitism, however, he believed that the views of Jewish people should be given particular weight as they have a perspective not available to non-Jewish people. He also agreed that there are disagreements between Christians as to the definition and that anything to do with defining antisemitism is controversial. As to whether **God's Unfailing Word** sets out the limits of the definition, he repeated that he regarded the IHRA definition as a helpful tool.
31. Mr Antony Lerman is a distinguished academic. Amongst many academic appointments, he was founding Executive Director of the Institute for Jewish Policy Research, the leading Jewish body focusing exclusively on research into contemporary antisemitism in Europe.
32. In his report, Mr Lerman stated that questions of whether and when political comment on Israel can be described as antisemitic have been a key feature of public, political and academic discussions and arguments about the nature of contemporary antisemitism for the last two decades and before. The more recent additions to the argument are to the question of whether anti-Zionism is, or is a form of, antisemitism, and second the broader characterisation of antisemitism during this period as largely



what has come to be known as the ‘new antisemitism,’ to which equating anti-Zionism and antisemitism is germane.

33. He referred to an academic, who has spoken about where fair comment on Israel ends and antisemitism begins, Irwin Cotler, a Canadian Professor of Human Rights Law and subsequently Justice Minister in the Canadian Liberal Government from 2003 to 2006. One of its earliest appearances in print was in 1992 when Cotler wrote: *‘In a word, classical antisemitism is the discrimination against, or denial of, the right of individual Jews to live as equal members of a free society; the new antisemitism involves the discrimination against, or denial of, the right of the Jewish people to live as an equal member of the family of nations.’* He said in his report that this has since been encapsulated, and widely used, in a shortened form as: *‘Israel is the collective Jew among the nations.’* Like all definitions of ‘new antisemitism’ produced by those convinced that there is such a thing, Cotler’s version has always been contested. He set out in his report that reputable academics continue to question whether there is such a thing as ‘new antisemitism.’
34. Mr Lerman believed that what changed was the role of information technologies and the geo-global context in which they function. He referred to Judaken, who explained: *‘These technologies have both facilitated the global dissemination of antisemitism as well as furnishing new means of combatting it. At bottom, this electronic warfare is both a symptom and a cause of the global forces at work in antisemitism today.’* Traditional methodology of relying upon annual country reports on antisemitic incidents have now lost their validity, as has what constitutes acceptable comment. He recognised that *“separating ‘acceptable’ political comment on Israel from heat-of-the-moment insult, or potentially the expression of something antisemitic, is not easy”* The use of globalized media technologies, including by the State of Israel, to fight antisemitism in the international arena has altered the landscape and what constitutes political comment about the Jewish state. He believed that this changed in the late 1980s when severe criticism of Israel mounted and governments linked pro-Palestinian political and violent campaigns with the security concerns of diaspora Jewish communities.
35. Mr Lerman referred to the effort to protect Jewish people from antisemitism, one tendency being to extend the boundaries of what is understood to be the nature and scope of antisemitism, and doing that by putting faith in the power of definitions which provide examples of antisemitic hate speech against Israel. And this involves drawing into this net what many would regard as acceptable, if trenchantly expressed, political comment. The Law Commission’s **Hate Crime Laws: A Consultation Paper** 250, 23 September 2020, provided a definition of antisemitism in its opening pages: *“When we refer to antisemitism in this paper, we refer to hatred, prejudice or discrimination against Jews or Judaism. We do however acknowledge that there are other, more detailed, definitions of antisemitism.”* The other tendency has been to draw attention to the need to preserve freedom of speech when it comes to political comment and discussion of antisemitism, anti-Zionism, and anti-racism, and to ensure

that it covers unrestrained articulation and narration of the past and present experience of Palestinians.

36. He concluded, referring to an ECHR report, that definitions referred to in formal legal proceedings do not throw a great deal of light on the question of whether and when political comment on Israel was considered antisemitic during the period in question. It only further demonstrated that there was no common consensus during the period, even though there was increasing pressure from some establishment Jewish bodies and anti-antisemitism organizations to make the alleged treatment of *'Israel as the collective Jew among the nations'* an example of antisemitism.
37. In cross-examination, Mr Lerman was asked whether there is a new antisemitism or whether antisemitism has found a new expression. His opinion is that new antisemitism and antizionism are the same. He believes that it developed 20 years ago but dates back to the 1930s and entered discourse in the 1970s. It coalesced after the 1967 war with the isolation of Israel and rise in Palestinian nationalism. He considered that it is chilling of free speech as far as opponents of Israel and Palestinians are concerned. He accepted that to be against the State of Israel was not necessarily antisemitic. He agreed that putting into context what has been said is all important. As to the digital age, he was not so sure that it had affected definitions but it had affected our understanding. The manner in which it is manifested had changed greatly. Antisemitism has shifted to the internet. It had also had a significant effect on how it is monitored. It had moved from previous physical examples, such as the desecration of gravestones to millions of comments on social media. He considered that it is now difficult to assess the level of antisemitism. His view is that the new antisemitism is the hatred of Israel. His view is that the definition in the IHRA cannot be divided between the first part and the examples. The whole text including the examples form the definition. He considered that the Tribunal should not use the IHRA definition as the test because it is not fit for purpose.
38. In re-examination Mr Lerman said that until the 2000s the common understanding was of discrimination, prejudice, hatred, hostility about Jews as Jews, which manifested itself in physical forms, cemetery desecration being one example. There was then increased criticism of Israel after the 1967 war which was seen first as fundamentally political and not necessarily antisemitic. The form of prejudice or discrimination that developed against Israel, to ostracise from the world, was characterised by academics as new antisemitism. It singles out Israel for excess criticism, leading to matters being described as antisemitic which are not, leading to the codification of the IHRA. He considered that there is lots of evidence that the definition has had a chilling effect on the freedom of speech.
39. For the purposes of this decision, the Tribunal has not sought to summarise the content of all the expert evidence, or the lengthy joint memorandum, which sets out the matters referred to above. The respective positions adopted both by Bishop Igrave and Mr Lerman in the joint memorandum, in the Tribunal's view, were not

significantly altered by cross-examination. The Tribunal's conclusions on the definition of antisemitism are set out later in this decision.

### **Factual Evidence**

40. The factual evidence on behalf of the Board consisted of oral evidence from Ms Marie van der Zyl, current President of the Board of Deputies of British Jews ("the Board"), and Mr Jonathan Arkush, Past President.
41. Ms van der Zyl confirmed that the previous complaint in 2012 was made by Mr Arkush, which had been subject to a conciliation agreement. She became President of the Board in June 2018. The Board was established in 1760. The majority of Deputies represent synagogues, in addition there are Deputies from other Jewish organisations. She explained that the Board is a representative body in both its structure and its work. Each Deputy is elected by their own constituency, coming from all the major streams of the UK Jewish community from 182 synagogues and non-synagogal organisations.
42. In her statement, Ms van der Zyl explains that the Board represents the British Jewish Community on issues which affect British Jews, including antisemitism and interfaith relations. The Board is the only democratically elected, cross-communal, representative body in the Jewish community. It comprises nearly 300 deputies directly elected by synagogues and communal organisations, from youth movements to social welfare charities and regional councils. Her opinion is that the Board is *"uniquely placed to express the view of the Jewish community on crucial issues from climate change to antisemitism."*
43. Her view is that the Respondent, as a member of the clergy, should be mindful of not causing offence to other religious communities, and that he continues to provoke and offend the Jewish community, in circumstances where he has a history of doing so. She regarded it as particularly upsetting and offensive to the Jewish community that the Respondent has ignored warnings about the effects his behaviour and his outspoken views have on the Jewish community. She placed particular reliance on posting the link on Facebook in January 2015 to the article on Wikispooks which claimed to present evidence that Israel was responsible for 9/11. She stated that the Respondent had ignored the terms of the conciliation agreement he entered into with the Board of Deputies after the 2012 complaint was made, and he had flouted the terms of the agreement he entered into with the Bishop of Guildford in February 2015.
44. In her statement Ms van der Zyl set out the factual case in respect of some of the eleven allegations that form the heads of charge, which are referred to more fully later in this decision. Mr Arkush's statement dealt with the other allegations. The factual case is not in dispute.
45. In her statement, Ms van der Zyl stated that the Board does not claim that criticism of the State of Israel is antisemitic. She referred to the IHRA working definition of

antisemitism clearly stating that “*criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic.*” She made the point that there are many critics of Israeli government policy both inside and outside Israel who manage to criticise it without promoting antisemitic websites or meeting with Hezbollah officials.

46. Mr Hofmeyr cross-examined Ms van der Zyl about how representative the Board was of British Jews and its structure. She accepted that the Board does not represent all Jews in the UK but reiterated that other official bodies in the UK accept the Board as being a representative body. She also accepted that part of the constitution refers to promoting a sympathetic understanding of Israel, nevertheless she maintained that, on occasions, the Board does criticise the state of Israel. She did not accept that the Board sees itself as the mouthpiece for Israel. She did not accept that only 20% of British Jews are represented by the Board. She was unable to comment on whether 60% of synagogues did not send deputies to the Board. She likened it to a Parliament of Jews. She was cross-examined as to the Respondent’s views. Her view was that it was hard not to reach the conclusion that the Respondent had a history of antisemitism. She found the whole subject of antisemitism shocking and distressing, making her emotional, and she was upset by looking at the allegations.
47. She considered that the IHRA provided a good standard, adopted by thirty-four countries including the UK Government and the Labour Party. She did not accept that prominent Jews have criticised the definition which she said was accepted by the vast majority of the Jewish community. On some occasions she appeared to be reluctant to answer the questions Mr Hofmeyr put to her. Although she is a practising solicitor, when a number of names of distinguished legal critics were put to her, she said that she did not recognize their names. Mr Hofmeyr took her through specific allegations in the charge, and she accepted that she had no first-hand knowledge of the matters complained of.
48. Mr Arkush served as President of the Board from 2015 to 2018, when he was succeeded by Ms van der Zyl. In 2012 he made a complaint under the CDM on behalf of the Board against the Respondent on the grounds that he had made antisemitic statements and published links on his websites to antisemitic websites, thereby republishing the original antisemitism. His position throughout both complaints has been that the impact of antisemitism on Jewish people is as profound as racism based on colour prejudice is to black and other victims.
49. He said in his witness statement that: “*When Jewish people encounter antisemitism they feel offence, deep hurt, shock, vulnerability and a loss of confidence in those around them and society generally. For those who have experienced antisemitism before, such as refugees from Germany and Eastern Europe and Holocaust survivors, the effect can be more traumatic still.*”
50. His evidence is that: “*the Board of Deputies has never claimed that criticism of*

*Israel is antisemitic and we fully accept that it is legitimate to criticise Israeli government policies. But what we do object to is inflammatory and hurtful material aimed at denigrating and attacking Jewish people whilst those responsible attempt to disguise it by claiming it is fair political comment about Zionism or Israel.”*

51. Mr Arkush had made the complaint in 2012 when the Respondent was the Vicar of Christ Church, Virginia Water, to the Rt Revd Christopher Hill, who was then Bishop of Guildford. Bishop Hill referred the complaint to conciliation and two conciliators were appointed. One conciliator was Sir Gavin Lightman, a former High Court Judge and distinguished member of the Jewish Community, and the other conciliator was the Very Reverend Christopher Lewis who at that time was the Dean of Christ Church Oxford. In the course of the conciliation the Board and the Respondent reached an agreement which was put into writing by the conciliators and recorded in their report to Bishop Christopher dated 14 October 2013.
52. The agreement recorded that the Respondent regretted that on occasions his use of language had caused offence and he agreed that he should have reflected on his choice of words more carefully. He also accepted that he should have taken more care before linking to certain websites, although he denied that he had linked to them in order to introduce his readers to antisemitic material. The Respondent agreed that in future he would have three people to read his website and blog in order to check their content and, in particular, monitor any links to websites.
53. Mr Arkush explained that in January 2015 the Respondent posted a link on Facebook to an article on Wikispooks, entitled “9-11/Israel did it”. The article claimed to present evidence that Israel and American Jews had been responsible for the atrocity in September 2001 on the twin towers in New York, killing nearly 3,000 people. Attached to the post was the Respondent’s message, “*Is this antisemitic? If so, no doubt I’ll be asked to remove it. It raises so many questions.*” The post was brought to the attention of the Rt Revd Andrew Watson, who had succeeded Bishop Hill as Bishop of Guildford. He made a public statement at a press conference on Monday 9 February 2015.
54. In his statement, Mr Arkush set out that Bishop Watson’s statement records the Respondent had apologised, recognising the deep hurt his actions had caused, and acknowledging the insensitivity of the timing which was just prior to Holocaust Memorial Day. He had also retracted the “*ridiculous*” suggestion that Israel may have been complicit in the events of 9/11. Bishop Watson stated that the Respondent’s work in the area of the Palestinian cause was no longer compatible with his ministry as a parish priest, and so he had to refrain entirely from writing or speaking on any theme that related either directly or indirectly to the current situation in the Middle East or to its historical backdrop. The text of a letter of apology from the Respondent, dated 4 February 2015, was appended to Bishop Watson’s statement. Mr Arkush observed that the Respondent expressly recognised in that apology that as a minister of the gospel it was not his role to create controversy but to seek to maintain unity

between the faith communities, and he claimed that he very much regretted the distress he had caused the Jewish community.

55. Mr Arkush also relied upon a radio interview the Respondent gave on Good Friday, 30 March 2018, broadcast by the Australian Broadcasting Corporation, where when asked about his posting of the link about 9/11, the Respondent claimed it was a serious matter that needed to be considered, and argued that no one had come back to him and contradicted anything in the article.
56. The transcript of the relevant section of the interview, which remains available in full on the internet, states:

*“Hindsight is an amazing thing and I think with hindsight I probably wish I hadn’t put a hyperlink to an article about 9/11. The particular article was a list of Israelis who had benefited from 9/11 and I simply put it out there and said this is serious, it’s got to be considered. So far no one has come back to me and contradicted anything that was in the article, but I took it off when someone pointed out it wasn’t a helpful article, so yes, I don’t relish being accused of antisemitism, I repudiate that. The tragedy is in trying to justify what they are doing in Israel today they have diluted the definition of antisemitism to include criticism of Israel, and the danger of that is that it’s like the story of Chicken Little, the sky is falling in, the sky is falling in, and I think the danger is that if you dilute a term like antisemitism to include criticism of Israel, it will inoculate people from real racism and real antisemitism, and when it rears its head people will not respond to it in a way that they should. So I think we must be rigorous in refuting racism, islamophobia and antisemitism at every opportunity.”*

57. Mr Arkush also relied upon the Respondent’s blog in September 2010 drawing attention to an article written by Eric S Margolis, under the heading “9/11 The Mother of All Coincidences”, the Respondent attending a meeting in October 2016 hosted by Baroness Tonge organised by the Palestine Return Centre in breach of his agreement with the Bishop of Guildford, which was followed by a further statement from the Bishop of Guildford, on 2 November 2016, that he viewed the Respondent’s actions as a serious matter and warned him not to breach the agreement any more, and an entry on his Facebook in August 2018 that Jeremy Corbyn was a victim of the hidden hands of Zionists. It featured a picture of Jeremy Corbyn and a caption that read: “Is Israel’s hidden hand behind the attacks on Jeremy Corbyn.” Above it the Respondent had written “*You would have to be as blind as a bat not to see their hands. The repetitive articles casting the same aspersions appearing ad nauseum in the Daily Mail, Times, Evening Standard, Sun and Jewish Chronicle are either transcribed from the same press releases or were written for them.*” He stated that the Respondent’s comments will be understood by British Jews to mean that the Respondent is claiming British Jews in the media are being manipulated by Israel to denigrate Jeremy Corbyn because he is pro- Palestinian. The “hidden hand” that the Respondent referred to suggests a hidden and dark conspiracy to influence British politics using British Jews.

58. In cross examination, Mr Arkush denied that he had met the Reverend Nick Howard or Mr Weissman. A number of questions were put to him about the role of Mr Howard lobbying the Board, which Mr Arkush denied and said that the Board was careful to take its own decisions. He did not consider that the Board would lightly bring a complaint against a member of the clergy but would try to head it off. In his view the Board had very good relations with the Church of England and with Muslims too. His view was that the Respondent's actions caused a lot of pain in the Jewish community. He had no recollection of receiving a briefing paper from Mr Howard. He said that the Board prepared its own briefing paper for the Board's staff to check information. He considered that it was a momentous step to make a complaint, the first time since 1760 to make a complaint about an ordained minister. He was unable to recollect which matters in the first proceedings post-dated his meeting with the Bishop of Guildford. Bishop Hill proposed conciliation which Mr Arkush gratefully accepted. He accepted that in these proceedings there are four allegations after the conciliation and eight allegations before. He said that the Board had been receiving disquiet from the Jewish community and its essential mandate was to protect the Jewish community. In the conciliation agreement, the Respondent regretted his choice of language and should have taken more care before posting antisemitic articles.
59. Mr Arkush said that he had complained to the Archdeacon of Dorking about the Respondent's trip to Iran to attend a conference in November 2014. The complaint was politely rebuffed and it did not form part of these proceedings.
60. He had met the Respondent on one occasion where there was not a meeting of minds. The objective was to stop him associating with antisemitic websites. Mr Arkush considered that the Respondent was a Walter Mitty character who thought that he could bring peace to Syria and Lebanon. He took with a grain of salt what the Respondent had to say. He asked him to stop obsessing with Israel and antisemitic websites. The complaint to Bishop Watson was that the Respondent was acting in breach of the conciliation agreement and causing offence to the Jewish community. He accepted that the 9/11 Facebook link was removed. He accepted that he did not give an opportunity to the Respondent to take it down first. He was aware that the Respondent had given an undertaking to Bishop Watson. He said that the incident had caused deep upset to the Board, breaking the terms of the conciliation agreement.
61. He did not consider that personal contact was worthwhile. He was not optimistic that he could change the Respondent's mind because he did not think that he had done anything wrong. He reached the conclusion that it was a waste of time.
62. The present complaint included subsequent matters. His view is that the complaint in 2015 was resolved by the undertaking, which was broken in the radio interview in 2018, and again with the article on Jeremy Corbyn being the victim of the hidden hand of Zionists. It was one of a series of matters that deeply troubled the Jewish community. He considered that, as a Past President of the Board, it was his duty to act. He was aware that the Respondent had resigned from his living in 2017. He accepted that only four allegations post-dated the conciliation in 2012, the Facebook

post in 2015, attending the pro-Palestinian meeting at the House of Lords in 2016, the interview to the Australian Broadcasting Corporation in 2018, and the article on Jeremy Corbyn.

63. Mr Arkush regarded the IHRA definition as a yardstick, where the whole document should be read in its entirety. He said that if somebody calls you “*a bloody Jew*” in the street, it did not require a definition to know that it was antisemitic. He was cross examined about the individual allegations, his stance was that the Respondent talks about repudiating antisemitism and then repeats antisemitic views.
64. The Respondent gave oral evidence in addition to his witness statement. He was ordained in 1983 and served in a number of posts before he was appointed Vicar of Virginia Water in 1997 where he served for 20 years until his retirement in April 2017. He has a number of academic qualifications including a PhD on the historical roots, theological basis and political consequences of Christian Zionism in Britain and the USA since 1820. He has acted as trustee of various religious organisations, and is the founder and director of Peacemaker Trust, a registered charity dedicated to peace making, especially where minorities are persecuted. He has published widely on Christian Zionism and other topics.
65. The thrust of the Respondent’s statement is that he has been the target of a ten year campaign of intimidation and harassment. He maintained that the Board seeks to support the assertions made in the complaint by quoting directly from the work of individuals who have routinely misrepresented and distorted his views in the past. He claimed that other aspects of the complaint are based on assertions that are factually wrong and are similarly misconceived. In his statement, he referred to an analysis of the content of his website provided in the response to the CDM in 2012, which demonstrated that he cited overwhelmingly from mainstream news sources. The websites mentioned in the complaint form a tiny minority of the sites to which he has linked. He refuted that by linking to an article, he is in some way endorsing or seeking to publicise or promote that material. He also referred to the CDM specifically excluding from the definition of conduct unbecoming or inappropriate to the office and work of the clergy “lawful political opinions or activities.” He considered that by bringing the complaint the Board has the effect of threatening his right to freedom of speech.
66. Having considered and set out various definitions of antisemitism, the Respondent stated that he has repeatedly and unequivocally repudiated racism, antisemitism and Holocaust denial in his lectures, books and website articles. He set out a detailed rebuttal of the charge of Holocaust denial by reference to articles that he had written and observations made about him to the Bishop of Guildford about his views on antisemitism. He quoted from one of his books, *Zion's Christian Soldiers: The Bible Israel and the Church*: “*Antisemitism must be repudiated unequivocally. However, we must not confuse apples and oranges. Anti-Zionism is not the same thing as antisemitism despite attempts to broaden the definition. Criticising a political system as racist is not necessarily racist. Judaism is a religious system. Israel is a sovereign*



*nation. Zionism is a political system. These three are not synonymous. I respect Judaism, repudiate antisemitism, encourage interfaith dialogue and defend Israel's right to exist within borders recognised by the international community and agreed with her neighbours."*

67. In his statement and in oral evidence, the Respondent gave a detailed rebuttal of the eleven allegations of provoking or offending the Jewish community or being antisemitic, which the Tribunal considers later in this decision.
68. In cross examination the Respondent explained that he had taken early retirement five years ago to found a new charity, Peacemaker Trust, to assist persecuted Christian communities. He is also a trainer for the Anglican Church in East Africa through the Explore course. He has been unable to continue with these activities because of his wife's illness. He gave an account of other activities in which he has been involved, where he has been supported by senior figures in the Anglican community.
69. The Respondent refuted entirely that he was antisemitic. He did not dispute the factual matters behind the eleven allegations. He said that he had unintentionally provoked distress in the Jewish community. He believed that he had been misquoted and misunderstood.
70. He accepted that he had taken part in a conference run by Islamic HRC in 2005 entitled "Towards a New Liberation Theology". His thesis is that the return to the promised land becomes problematical if it becomes exclusionary and not inclusionary. He does not consider that Jewishness is the problem. He described IHRC as an organisation within the UK with UN status combatting Islamophobia in Britain. He had assisted a number of conferences from a Christian perspective. He said that Hezbollah was influential throughout Lebanon, bringing together various factions, working together for the good of Lebanon. He did not believe that it was its intention to destroy Israel. It was not his recollection that Hezbollah denies the existence of Israel. He saw Hezbollah as a force that seeks to defend Lebanon. He was aware of threats to his own safety and he was advised not to return to Iran, Lebanon and Israel. He said that he had not read Dr Fakhry's paper before the conference. When asked if it advocated that the resistance should be armed struggle, he said that he would not look at a single paragraph but to the introduction or conclusion. He did not recollect disassociating himself from those views at the conference. He attended the conference to present his opinion of the need for a peaceful solution. He repeated that there was nothing that he had written which was antisemitic.
71. He admitted that he had met Raed Salah on two occasions, under house arrest, and on release from detention. He accepted that it was his initiative to do so. He was aware that he had been in prison in Israel but did not recollect he had been convicted of racial incitement. He denied that the conviction was for blood libel, stating that the Hebrew translation had been doctored from the Arabic. Had he known the full extent of his views he might have reached a different conclusion. He accepted that Raed Salah did not speak English and was not a Christian.

72. He admitted that he met Sheikh Kaouk, a senior commander of Hezbollah in the summer of 2006. He was in Beirut and was invited to meet him in Tyre where he had gone to a Christian graveyard to visit graves after Israeli attacks. He did not remember the names of the individuals who invited him. He was wearing clerical dress which he believed gave him some protection in a war zone. He knew he was a commander of the military wing of Hezbollah in Southern Lebanon. He was surprised that he found himself in a position where he was advising Hezbollah. He advised him that Hezbollah should release captured Israeli soldiers. He said that he is a follower of Terry Waite. He did not recollect who paid for the trip but his parish had paid for the flight and his accommodation was paid for by the university or Hezbollah. He also referred to being approached in 2017 in London to visit Nazanin Zaghari-Ratcliffe in Iran. He said he had met two Iranian leaders but nothing happened after Boris Johnson made his infamous statement to Parliament.
73. He admitted speaking at a conference in Indonesia in May 2008 alongside Fred Tobin, who he knew was a Holocaust denier. He did not remember who paid for the trip. It was probably paid for by his parish. He said that he did not know that Fred Tobin was attending until after he had arrived. He accepted the invitation to speak from a Christian nonviolent perspective. When he did find out about Fred Tobin's presence, he did express his disapproval to the organisers and other speakers. He agreed that he did not withdraw and that he continued to contribute. He was not aware that two persons from Hezbollah were present. He assumed that they were from the political wing. He only had had contact with Hezbollah on one occasion.
74. He admitted that he had cited in his PhD thesis Halsall's book which cited Dale Crowley. At the time he did not knowingly cite a Holocaust denier. He described Crowley as a conservative Christian missionary, broadcaster and evangelist. He said that if he had he known he was a Holocaust denier he would not have cited him. He stated that he had a strong aversion to Holocaust denial.
75. He did not recollect whether he had read the afterword by Michael Hoffman appended to the article about Messianic Jews which he circulated in June 2008. He was involved in conferences with Messianic Jews, about whom he cared passionately. He was concerned about their treatment in Israel and the difficulties they face in their communities. He accepted that the Afterword had contained very unpleasant observations about Messianic Jews, which, if he had read it, he would not have shared.
76. He admitted that he posted a link on Facebook in January 2015 to the article promoting that Israel was behind the terrorist attack on 9/11. He remembered reading part of the article, however, the events afterwards had coloured his recollection. He had found the attack deeply distressing. When asked about it, he recollected that he learned that one of his parishioners should have been in the building but had been playing golf. He had comforted his parishioner's wife. He accepted that the photograph on the article on which the Israeli flag was superimposed suggested that

Israel was responsible for the attack. He said that it was the first article that he had read which made that suggestion. He found it shocking. He did not seek to justify posting it. He deeply regretted it. He felt the allegation was serious enough to encourage debate. He said that he only had read the full article in depth last week. He considered that it was anti-Jewish. If it had said Jews were responsible, he would not have posted it.

77. In answer to a question from the Tribunal, he agreed that the sentence about Larry Silverstein's children not being present in the building on 9/11 implied that Silverstein, an American Jew, had been involved in the conspiracy and benefited from it. He believed that conspiracy theories should be rebutted by facts. Within a few days of posting the article, he removed it. He was aware of a newspaper article that showed Israelis arrested for dancing after 9/11. On the post he said, "*it raises so many questions.*" He was referring to whether any of the facts were true. He said that he had an agreement with Bishop Hill for others to check posts. That is why he wrote "*is this antisemitic? If so no doubt, I'll be asked to remove it.*" He said he posted it because he was disturbed about what it said but he was not agreeing with it. He agreed that when he read it again, he realized it was antisemitic. He said that he was relying on others to check it for him. No one checked it before he posted it. He was presented with a statement by Bishop Hill which he signed. He said that it did not occur to him when he first posted it that it was grossly offensive to the Jewish community. He did not believe that he read the article in full before he posted it.
78. He admitted that he attended the event organised by Baroness Tonge at the House of Lords but left before any antisemitic remarks were made. He described the room as very hot.
79. He admitted that he took part in the broadcast on Australian radio on 30 March 2018 where it is alleged that he defended the link on Facebook that he had posted about the 9/11 attacks. He said, "*the particular article was a list of Israelis who had benefited from 9/11 and I simply put it out there and said this is serious; it's got to be considered.*" He said that he was explaining why he said that it was serious and there were unanswered questions. He said in the interview that "*so far no one has come back to me and contradicted anything that was in the article.*" He said that he was concerned with the facts in the article. His understanding was theories are challenged with facts. He did not believe that Bishop Watson or other bishops considered that he was antisemitic. He repeated that he had not read the article in full before posting the link on Facebook. He acknowledged that he had been accused of antisemitism and was seeking to explain why he was not.
80. He admitted that he posted the Facebook article in August 2018 that Jeremy Corbyn was the victim of hidden hands of Zionists. The post stated "*you would have to be blind as a bat not to see their hands.*" He said that the post was based on numerous reports of attempts to discredit Jeremy Corbyn by the Israeli government. He wished to challenge the perception that Jewish hands control the media. The articles by Peter Osborne and Al Jazeera showed how the Israeli government's influence is brought to

bear on the UK government. His objective was to seek to present a Christian perspective to fulfil the responsibilities of Christians to achieve reconciliation.

81. The Tribunal also heard from a number of witnesses called on behalf of the Respondent. Bishop Langrish confirmed that he had never heard the Respondent express an antisemitic statement. He found the IHRA statement succinct and helpful. He did not believe that the Respondent's disposition is hatred towards Jews. He said that throughout the time he had known him, the Respondent had shown a commitment to peace. When the 9/11 article was put to him, he said that those parts he had read were deeply abhorrent. He was surprised that somebody committed to peace would have associated himself with the article. He could not answer the question as to why the Respondent posted the article, in circumstances where the Respondent had been committed to engaging all communities in the Middle East to peace-making over the past 20 years. He agreed that the article was absurd. He agreed it was unwise of the Respondent to post the article.
82. The Tribunal also heard evidence from academics, clergymen, colleagues, members of the Jewish community and former parishioners of the Respondent, who all gave evidence that in their opinion he was not antisemitic. Additionally there were 15 statements in support who were not called to give oral evidence. The Tribunal has taken into account all their evidence, essentially character evidence, in reaching its decision.

### **Submissions**

83. The Tribunal had the advantage of detailed written submissions from both parties, which it has considered. Both Mr Levisur and Mr Hofmeyr made oral submissions before the close of the hearing, supplementing their detailed opening notes.
84. Mr Levisur submitted that the Board had sufficient standing to make the complaint. Mr Levisur submitted that the Respondent had made the case all about antisemitism which it was not. It is whether his conduct was unbecoming or inappropriate for a clergyman in the Church to provoke and offend the Jewish community or to engage in antisemitic activity. He submitted that it was necessary for the Tribunal to determine whether the allegations in the charge had been made out. There were no factual matters in dispute.
85. Mr Levisur submitted that the Respondent's attack on the Board failed in its assertion that it did not represent Jewish opinion, Professor Pappé was unable to give particulars. Professor Unwin was not an expert in the field and knew nothing about the Board. Ms Neslen did not know when the elections to the Board take place. He reminded the Tribunal that the Board represents the majority of the 400,000 Jews in the UK.
86. He also drew attention to the **Guidelines for the Professional Conduct of the Clergy** ("the Guidelines") (2003) and (2015) and the expectation that a member of the clergy should aspire to the highest possible standards of conduct.

87. Mr Levisieur referred to the considerable academic debate about new antisemitism, which he submitted is not new but the same antisemitism. He reminded the Tribunal that proper political activity should not be the subject of proceedings. The Tribunal is entitled to conclude that antisemitism can be recognised when it is seen. Reference to “*a bloody Jew*”, does not require a definition to know that it is antisemitic. He submitted that new antisemitism was irrelevant, it was merely a new expression. He made submissions as to the nature of antisemitism and the characterisation of Jews as being in control of the banks and media.
88. His principal submissions were in respect of the Respondent’s decision in January 2015 to post the link on Facebook to the article concerning 9/11, 14 years after the event had occurred. He submitted that the Respondent had read the article in full and understood what he was doing. In particular, he was aware of the content otherwise he would not have made the comment about antisemitism and added that the article raised questions. It was deeply antisemitic and offensive. He submitted that it was relevant that the issue had been raised again in the Australian radio interview in March 2018. He submitted that it was not a defence to say that no one had come back to him and contradicted the article, in circumstances where he had been told to remove it shortly after it was posted.
89. He submitted that it is very difficult to believe that the Respondent had not read Michael Hoffman’s Afterword to the article, which he described as violently antisemitic.
90. He submitted that the Respondent’s course of conduct, taken collectively, provoked and offended the Jewish community and was conduct unbecoming. He submitted that the Respondent wrote one thing and did another, even wearing clerical dress, when he visited Hezbollah. When judged objectively, he submitted that it is what he said and did that was conduct unbecoming. He reminded the Tribunal that the charge is framed as an alternative, namely that he provoked and offended the Jewish community, alternatively, engaged in antisemitic activity.
91. Mr Hofmeyr submitted that the IHRA definition has a chilling effect on freedom of speech. He reminded the Tribunal of Article 10 of the ECHR and that the Ecclesiastical Courts are not immune from the principles of fairness and justice. He referred to the distinguished legal critics of the IHRA definition, including Sir Stephen Sedley, a former Lord Justice of Appeal.
92. He submitted that there was no authoritative statement by the Church on antisemitism between 2005 and 2018. He said that, according to Bishop Ipgrave, **God’s Unfailing Word** had explanatory status only. His principal submission was that the IHRA was not fit for purpose as an adjudication tool. He said that in his evidence Bishop Ipgrave had difficulty with its circularity, which he had said was resolved by examples. He submitted that the Tribunal could only rely on the classic definition as discrimination about Jews as Jews in its varying forms. He submitted that it cannot be known

whether something is antisemitic without knowing the full context including all the facts. He submitted that new antisemitism focuses the attention away from the evil of antisemitism. He submitted that the Respondent's life, ministry and writings on antisemitism had not been challenged. He continues to have ongoing working relationships with senior figures in the Church of England and remains involved in clergy training.

93. Mr Hofmeyr's submission was that antisemitism is at the heart of this case and, if it cannot be made out, then conduct unbecoming cannot be found. He accepted that posting the link on Facebook to the 9/11 article in January 2015 is the Designated Officer's main allegation, which is why he submitted, it was relied upon so heavily. He observed that millions of people circulated material online with which they did not fully agree or have not fully read. Posting material raising matters for discussion did not mean that the person posting it subscribed to the content. He conceded that it may have been unwise to post the link but submitted that it did not constitute misconduct. He added that nothing was said in the interview with Australian Broadcasting Corporation which could be construed as antisemitic. He reminded the Tribunal that the final comment in the interview repudiated antisemitism.

## **Decision**

94. The Tribunal has reminded itself that there are two separate allegations in two separate sub-sections of section 8 (1) of the CDM.
95. The first allegation is brought under s 8 (1)(d) "conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders." The Designated Officer's case is that the Respondent's conduct was unbecoming or inappropriate to the office and work of a clerk in Holy Orders because he provoked and offended the Jewish community in this country. The case is put in the opening statement on the basis that the question is not whether the Respondent intended to offend or provoke anyone nor whether the Tribunal is offended by his behaviour but whether the Jewish community was offended and provoked by his conduct.
96. It is submitted that, if the Tribunal finds that the Respondent did provoke and offend the Jewish community, then, it must consider whether that conduct was unbecoming or inappropriate to the office and work of a clerk in Holy Orders. Only if the Tribunal concluded that the behaviour complained of was inappropriate or unbecoming to a clerk in Holy Orders could it find the allegation proved.
97. In addition, it is the Designated Officer's case that there is an additional allegation which is that the Respondent engaged in antisemitic activities. It is submitted that the Tribunal must determine whether or not the Respondent engaged in antisemitic activity. The question is not whether the Respondent thought that the behaviour should be described as such but whether the Tribunal finds the behaviour to be antisemitic.
98. If the behaviour is found to be antisemitic the Tribunal must, then, consider whether that was activity which was unbecoming or inappropriate to the office and work of a clerk in Holy Orders.

99. Alternatively it is alleged that the conduct set out in the first allegation was behaviour in breach of Canon C26.2 and, thus, contrary to the ecclesiastical laws of the land so that it constitutes an offence under section 8(1)(a) of the CDM.
100. In approaching this case, the Tribunal has applied the civil standard of proof, namely the balance of probabilities. The Tribunal has considered each of the eleven allegations, individually and taken as a whole, the evidence adduced by the Designated Officer and the Respondent, orally and in writing. The Tribunal has formed its own judgment about the witnesses who have given evidence, about which evidence is reliable and which is unreliable. It has only taken into account evidence that has been put before it, orally and in writing and the documents produced in the case.
101. Before the Tribunal determines the matters set out above, it is convenient to set out its views on conduct which is likely to provoke or offend the Jewish community and antisemitism. It is not the remit of this Tribunal to give a definition of antisemitism applicable for all purposes, however, in this case it is required to consider, in respect of antisemitism, a definition at the relevant time.
102. It has been fortunate to hear helpful and detailed expert evidence from two different perspectives, from Bishop Igrave, giving the Church of England viewpoint, and Mr Lerman, giving an academic viewpoint. No discourtesy is intended to either expert by not setting out detailed conclusions on all aspects of their evidence, however, the Tribunal has considered all their evidence, both oral and written, and reached the following conclusions.
103. The Tribunal accepts the evidence of Bishop Igrave that the adoption of the full IHRA definition by the College of Bishops in September 2018 was the culmination of an evolving process in the period between 2005 and 2018. Bishop Igrave's starting point was the explanatory description in **Sharing One Hope** in 2001, where antisemitism was described as *'forms of prejudice against Jews or Jewish beliefs, practices or customs'*.
104. The extent to which the examples given in the second part of the definition add to the first part, namely *'Antisemitism is a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical and physical manifestations of antisemitism are directed towards Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities'*, is highly contentious. The Tribunal's view is that Bishop Igrave agreed with Mr Hofmeyr in cross examination that there may be some circularity about the full definition.
105. Much has been made during the course of the hearing as to the existence of a new antisemitism and its relationship to antizionism. Mr Lerman has spoken about new antisemitism developing particularly after the Israeli Arab war in 1967.
106. The Tribunal takes a principled view, that the primary definition in the relevant period can be put in different ways as *'forms of prejudice against Jews or Jewish beliefs, practices or customs'*, in **Sharing One Hope**, a hatred of Jews as Jews, or indeed, the first part of the IHRA definition, as *'Antisemitism is a certain*

*perception of Jews, which may be expressed as hatred towards Jews*”, all of which represent widely accepted views held at the relevant time. The acceptance by the College of Bishops of the full IHRA definition came later in September 2018.

107. The question also arises as to the extent to which there is a distinction between the two limbs of the charge required to prove conduct unbecoming, namely engaging in activity that provokes and offends the Jewish community and antisemitic activity. The Tribunal’s view is that there is a distinction between the separate limbs of the charge. It could be said that the only reason for engaging in that type of activity is a hatred of Jews as Jews. It could also be said that in engaging in that activity can fall short of antisemitism where the proponent is actively involved in criticising the policies of the State of Israel, which may still provoke and offend members of the Jewish community. In the light of the evidence given about the new antisemitism, the Tribunal considers that it should be astute as to the difference between forms of prejudice against Jews and legitimate criticism of the policies of the State of Israel.
108. The Tribunal also has in mind Bishop Igrave’s opinion in his report that *“it is clear that the perceptions of Jewish people themselves need to be taken very seriously in judging whether or not a person or group is thinking, speaking or behaving in an antisemitic way.”*
109. Where Bishop Igrave and Mr Lerman recognise that there is no meeting of minds on this complex question, the Tribunal considers that it should apply a principled approach based upon the simple definition of *forms of prejudice against Jews or Jewish beliefs, practices or customs*, whilst accepting that this definition has now evolved to cope with the explosion of antisemitism, which has occurred with the development of social media. The simple definition may no longer be sufficient to encapsulate how antisemitism is transmitted across social media platforms. The examples in the second part of the full IHRA definition may be of assistance, remembering that their adoption postdates the matters that are subject of this complaint.
110. For the reasons set out below, the Tribunal accepts that most, although not all, of the events that form part of the allegations did provoke and offend the Jewish community. It is not satisfied that all of them amounted to conduct unbecoming, however, it finds that some of them did. In addition, it concludes that there was a pattern of behaviour on the part of the Respondent on the eleven occasions between 2005 to 2018 to push the boundaries of acceptable conduct by an ordained minister as far as he could do, and to breach both the conciliation agreement made in 2012 and the agreement with Bishop Watson in 2015.
111. The Tribunal heard evidence from Ms van der Zyl and Mr Arkush about all eleven allegations that form the charge. The Tribunal accepts that the Board is representative of opinion within the Jewish community in the UK. It also accepts that it is not representative of all their opinions, and that within the Jewish community there are differing strains of opinion on relevant matters, including the definition of antisemitism. Both witnesses impressed on the Tribunal the offence that has been caused by the Respondent’s activities, which they consider has gone further than legitimate criticism of the policies of the State of Israel towards Christian Palestinians



and been antisemitic. They saw the Respondent's actions, over a protracted period of time, tarnishing the reputation of the Church and damaging Christian Jewish relations.

112. It was of great concern to the Board that despite attempts to avoid a complaint under the CDM, first, by the conciliation agreement in 2012, and second the Respondent's apology and undertaking in 2015, they consider that he has continued to engage in antisemitic activities. Whilst the Tribunal accepts their evidence, ultimately the Tribunal has to decide whether the Respondent's actions have provoked or offended the Jewish community or that he has engaged in antisemitic activity and, if found proved, whether in either case his conduct has been unbecoming. In reaching that decision it has to be mindful of both the evidence of Bishop Ipgrave, in particular the perception of the Jewish community, and of Mr Lerman, on the effect of misusing the definition of antisemitism to inhibit free speech.

113. The Tribunal heard oral evidence from the Respondent and also had the advantage of reading his statement and the documents provided. The Tribunal has weighed his evidence in light of his career. He is an experienced member of the clergy, having been the Vicar of Virginia Water for 20 years. He clearly inspired his congregation with his Christian ministry and there are a large number of testimonials, including from senior members of the clergy, members of the Jewish community, academics and others submitted as part of his defence. His parish supported and paid for some of his trips. He has an impressive academic record, including a PhD. He has also occupied a number of senior positions in ecclesiastical charities and set up his own Peacemaker Trust. He gave his evidence confidently and articulately as might be expected of somebody with his background and experience.

114. Whilst the Tribunal accepts the undisputed factual evidence relating to each of the matters complained of, on crucial issues relating to events, it has found that on occasions on the face of the documents the Respondent's account is implausible and untrue, and has rejected his evidence. In the Tribunal's opinion, he is someone who believes passionately in the rights of Christian Palestinians, and other Palestinians, sometimes to the exclusion of values that he knows or should have known that he is required to uphold as an ordained minister. On occasions the Tribunal has concluded that he pushed the boundaries beyond what was acceptable conduct, and in January 2015, he engaged in antisemitic activity, when he knew, as the Tribunal finds, that the article he was posting was virulently antisemitic.

115. In the light of its findings, the Tribunal does not conclude that the Respondent is antisemitic by nature. That finding is consistent with the views expressed by Bishop Watson in his statement in February 2015 who concluded that he did not consider that the Respondent's motives were antisemitic. For the Tribunal to reach the conclusion that he was antisemitic, it would be contrary to all that the Respondent has said or written and what others have said on his behalf. It does conclude, however, that by posting the link to the Facebook page in January 2015, he was engaged in antisemitic activity. It does consider that there is regrettably a pattern of behaviour which falls short of the standard to which the Respondent should have aspired as an ordained minister.

116. The Tribunal was assisted by the evidence of the other witnesses called on behalf of the Respondent, particularly the evidence of Bishop Langrish which is referred to later in this decision.
117. To the extent that it was submitted on behalf of the Respondent that any of the matters complained of come within section 8(3) of the CDM, namely that they were the consequence of lawful political opinions or activities, the Tribunal rejects that submission. The Tribunal considers that the Respondent's actions, in so far as found proved, in relation to provoking or offending the Jewish community or engaging in antisemitic activity, fall outside the exception to bringing proceedings. In its view, by its content, it could not be described as lawful political activity.
118. The CDM does not define "*conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders.*" The Tribunal has given these words their ordinary and natural meaning. Mr Hofmeyr has already conceded that in the event that the Tribunal was to find that the Respondent was engaged in antisemitic activity then that would amount to conduct unbecoming.
119. Turning to each of the eleven allegations. For reasons that never became clear, the numbered allegations in the charge at Appendix A were not taken in chronological order. For ease of understanding, the Tribunal has lettered the allegations in chronological order, in the following paragraphs.
- (A) Participating in a conference run by the Islamic Human Rights Commission entitled "Towards a New Liberation Theology" in 2005
120. The Tribunal accepts the Respondent's evidence that the conference was organised by IHRC which has observer status with the United Nations. The conference was hosted by the School of Oriental and African Studies (SOAS), University of London. Other speakers included two Jewish rabbis, Rabbi Avri Cohen and Rabbi Yisroel Weiss, the Jewish academic, Dr Ilan Pappé of Haifa University, and Greek Orthodox Archbishop Hanna. The conference was held at a reputable university and attended by a wide range of people, including other rabbis.
121. The Respondent gave a paper on "The Right of Resistance: A Christian Palestinian Perspective" based on the Sabeel Palestinian Liberation Theology Centre booklet, "A Non-violent Approach to the Occupation: A call for morally responsible investment," which members of the Tribunal have read.
122. There is no evidence that the Respondent was aware of the content of Dr Fahkry's paper in advance. Dr Fahkry was granted permission to enter the UK. The UK government did not proscribe the political wing of Hezbollah as a terrorist organisation until 2019. The Respondent posted a photograph and link to the conference on his website.
123. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were provoked and offended by the posting on the Respondent's website of his participation at the conference, and its republication by the Daily Mail in 2015. It does not, however, consider that his attendance and participation at the conference was conduct unbecoming for an ordained minister. It

makes the further observation that the restriction placed on the Respondent's activities in support of Palestine by Bishop Watson were not put in place until February 2015. It has also concluded that the Respondent was not engaging in an antisemitic activity.

(B) Meeting Sheikh Nabil Kaouk, a senior commander of Hezbollah forces in about summer 2006

124. The photograph accompanying the Daily Mail article of 9 August 2015, showing the Respondent with Sheikh Kaouk was taken from the Respondent's website. The Respondent has explained that he was invited to attend the book launch at the Hagazion Christian University in Beirut. During the week he was invited to be interviewed by Al Manar TV and also to meet Sheikh Nabil Kaouk. Although the Tribunal has no reason to doubt the Respondent's assertion that during the meeting, he sought to intercede for the release of Israeli soldiers held captive after Israel had invaded and withdrawn from Southern Lebanon, it considers that it was unacceptable for an ordained minister to make an unauthorised visit to a senior commander of the military wing of Hezbollah, other than in some official capacity. The conduct was aggravated by permitting a photograph to be taken of the meeting and then posting it on his own website.
125. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were provoked and offended by the posting of the photograph on the Respondent's website, and its republication by the Daily Mail in 2015. The Tribunal considers that the Respondent's meeting with Sheikh Kaouk is an example of where he did not take into account his role as a public representative of the Church, and showed a lack of sensitivity to the Jewish community. It showed an extraordinary lack of sensitivity to be photographed in clerical dress meeting Sheikh Kaouk.
126. The Tribunal considers that the matter was conduct unbecoming and inappropriate for an ordained minister. It has also concluded that the Respondent was not engaging in an antisemitic activity.

(C) Speaking at a conference in Indonesia in May 2008 alongside Fred Tobin, a Holocaust Denier

127. The Respondent's evidence is that he accepted the invitation to speak at the Voice of Palestine conference in Jakarta in 2008 without knowing who else had been invited, and that he attended to present a Christian perspective on resolving the Arab Israeli conflict peacefully and diplomatically. The Tribunal accepts his evidence that, when he and other speakers, including Revd Alex Awad, of Bethlehem Bible College and Rabbi Yisroel Weiss of Natura Karta, became aware that Fred Tobin had also been invited, they expressed their disapproval to the organisers and disassociated themselves from him.
128. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by knowledge of the Respondent's participation at the conference, and his attendance being posted on his website. Once again it is an example of where he did not take into account his role as a public representative of the Church, and showed a lack of sensitivity to the Jewish

community. It does not, however, consider that his attendance and participation at the conference was conduct unbecoming for an ordained minister. It has also concluded that the Respondent was not engaging in an antisemitic activity.

(D) In June 2008, promoting Michael Hoffman, a Holocaust denier and anti-Semitic conspiracy theorist

129. The allegation arises out of the Respondent adding to an email circulation list an Associated Press article about police indifference to the treatment of Israel's Messianic Jews. The Respondent stated that he had shared the article to an email list which was "An informal network of friends of the Indigenous Christian community promoting justice, peace and reconciliation in the Middle East." He stated that the Associated Press article reflected his belief that Messianic Jews in Israel suffer harassment and persecution.

130. The Respondent said in evidence he did not recall having read the Afterword written by Michael Hoffman, and that he did not agree with the views contained in the Afterword. He maintained that nothing in the Afterword indicated his personal views. Having examined the material made available, the Tribunal is not satisfied that the allegation that the Afterword was contained in the document that the Respondent added to the list has been proved. The original has not been produced and the reference to Mr Hoffman's Afterword following the article has been added in brackets at the beginning of the article. It is not clear to the Tribunal whether the addition was made before the Respondent added it to the list and thus was included in it, or after he sent it, but before it was published on the Palestine Orthodox Christians group.

131. In light of the Tribunal's concerns as to the provenance of the Afterword, it does not consider that it should assume that the Afterword was shared by the Respondent. It does not consider that sharing the original article without the Afterword was conduct unbecoming or inappropriate for an ordained minister. It follows that it does not consider that the Respondent's conduct was unbecoming for an ordained minister or that he was engaging in an antisemitic activity.

(E) Citing Holocaust deniers and far-right figures, in particular Dale Crowley in about January 2009

132. The Respondent maintained that the allegation relied on an article from 2009 written by the anonymous blogger behind Seismic Shock, later exposed to be Mr Weissman. He stated that in his doctoral research, later published as Christian Zionism: Roadmap to Armageddon, (InterVarsity Press, 2004), he estimated the size of the Christian Zionist movement in the USA using numerous sources. The four-word quote of Dale Crowley was taken from Grace Halsell's book, Forcing God's Hand, (Washington, Crossroads International, 1999). He maintained that Dale Crowley was a conservative Christian missionary, broadcaster and evangelist, respected within Christian circles in the USA, who was also a vocal critic of Israel's policies toward the Palestinians which resulted in his vilification.

133. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by the Respondent's use of information obtained from Dale Crowley. The Tribunal has noted that the references

to Dale Crowley go beyond the use of statistics, and are numerous, in the Respondent's article on Christian Zionism, however, in the absence of evidence that the Respondent knew of Dale Crowley's antisemitic and far right views, it does not consider his reference was conduct unbecoming for an ordained minister. It has also concluded that the Respondent was not engaging in an antisemitic activity.

(F) In September 2010, he posted a link to an article entitled "The Mother of All Coincidences"

134. The Respondent provided a link on his website in September 2010 to an article written by Eric Margolis, under the heading "9/11 The Mother of All Coincidences" and reproduced part of the text as "a flavour" of it. Mr Arkush's statement said that the article clearly concluded that the "official" version of what happened on 11th September 2001 was not credible, and the article raised the idea that it was a plot by America's far right or by Israel or was a giant cover-up. In his statement the Respondent said that Eric Margolis is a respected international columnist and draws attention to the article's conclusion where he stated that "*but I've seen no hard evidence to date that 9/11 was a plot by America's far right or by Israel or a giant cover-up.*"

135. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by the Respondent posting this article on his website. Once again it considers that the posting of the link to this article demonstrated the Respondent's lack of awareness of his being a public representative of the Church and showed a lack of sensitivity to the Jewish community. The article raised the issue as to whether 9/11 was a plot by Israel and did not specifically refer to Jews. The final sentence, however, did not contain a clear rejection of Israel's involvement. Whilst the article did not go as far as the 9/11 article, and blame American Jews for 9/11, the Tribunal considers that the Respondent, as an ordained minister, should not have been giving the oxygen of publicity to such an article. The Tribunal has concluded, one member dissenting, that his conduct was unbecoming and inappropriate. It does not consider, however, that the Respondent was engaged in antisemitic activity.

(G) Accompanying and defending an Islamic Movement leader Raed Salah in June 2011

136. The Respondent admitted that he had posted an article on his website about the detention of Raed Salah, under the immigration legislation, and met him on two occasions, under house arrest, and on release from detention. He accepted that it was his initiative to visit him. He was aware that he had been in prison in Israel but whilst giving evidence he was unable to recollect whether he knew that Salah had been convicted of racial incitement. The article blamed his arrest on a libellous campaign by the right wing pro-Israeli media in the UK.

137. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by the Respondent's article and visits. Once again it considers that it demonstrated the Respondent's lack of awareness of being a public representative of the Church and a lack of sensitivity to the Jewish community. It has, however, noted that the trial for racial incitement post-

dated the visits by over two years and the conviction on appeal by over three years and, therefore, it appears that the Guardian was correct to say at the time that he had not been convicted of antisemitism in Israel. While it was suggested that he had been banned from leaving Israel in 2005, this does not appear to be supported by the 2005 judgment in evidence. The briefing exhibited in the evidence also post-dated the visits. It is, therefore, unclear why the Respondent should have known of Raed Salah's background at the time of his visits. In those circumstances, the Tribunal has concluded that his conduct was not unbecoming for an ordained minister. It does not consider that the Respondent was engaged in antisemitic activity.

(H) Promoting the idea that Israel was behind the terrorist attacks on 11 September 2001 by posting a link in January 2015 to the article entitled "9-11/Israel did it" that blamed Israel for the attacks

138. The most serious allegation against the Respondent relates to posting a link on Facebook in January 2015 to the article blaming Israel for 9/11. The Tribunal finds the article in its tone and content truly shocking. It has not set out extracts from a highly repellent article in this decision. After careful consideration, it finds the Respondent's evidence that he had not read the article in full before he posted the link to be implausible and untrue. The Respondent is an intelligent man, familiar with the conflict in the Middle East, and the sensitivities over criticism of the Jewish race. It is satisfied that the Respondent would not have posted the article without reading it in full first. In reaching this decision, it pays particular importance to his comment on the post, when he said: *"Is this antisemitic? If so, no doubt I'll be asked to remove it. It raises so many questions."* It does not consider that he would have made this comment unless he knew or thought that the article was antisemitic.

139. The Tribunal considers that the context in which the link was posted on Facebook is highly significant. The Respondent's actions were in clear breach of the conciliation agreement in 2012. When asked by Mr Levisieur in cross-examination, whether he had a strong suspicion the article was antisemitic, he replied that he felt it might be but he did not have a strong suspicion. Contrary to what the Respondent said in evidence, it was not the first time he had seen the suggestion that there was a conspiracy behind 9/11. In fact, he had posted the article written by Eric Margolis in 2010, which raised the question of Israel's involvement, albeit not specifically referring to Jews. Although the Tribunal did not place significant weight on the Respondent's demeanour, it formed the view that despite repeatedly saying that he was contrite, he showed scant evidence of being so.

140. The Tribunal is satisfied that the Respondent reposted the article in the knowledge that it would provoke and offend the Jewish community. The Tribunal considers that, notwithstanding the fact that neither the Respondent's writings and statements express antisemitic views, on this occasion the Respondent crossed the line, and in reposting the article, he was engaging in antisemitic activity. In the same way that the Tribunal has to consider context when distinguishing between antisemitism and criticism of the State of Israel, it also has to be astute to the context in which the Respondent reposted the article. It rejects the Respondent's assertion that the article raised serious issues that required public consideration. The article goes far

beyond the criticism of Israel and is virulently antisemitic in its content. It fulfils all the tropes of classic antisemitism. Only a comparatively small number of people referred to in the article are Israelis, the great majority are members of the American Jewish community. It showed what Bishop Watson had described in February 2015 as appallingly poor judgment. The content is deeply abhorrent, as Bishop Langrish accepted when he was shown the article in the course of cross examination.

141. The Tribunal has concluded that the Respondent's conduct was unbecoming on the grounds that he provoked and offended the Jewish community and that by posting the link on Facebook to the article, he was engaged in antisemitic activity.

(I) Attending an event in October 2016 chaired by Baroness Tonge in breach of an agreement with the Bishop of Guildford which required him to refrain from writing or speaking on any theme that related directly or indirectly, to the current situation in the Middle East or its historical backdrop

142. The Tribunal notes that Bishop Watson in the statement he issued on 2 November 2016 considered that by attending the event in the House of Lords in October 2016, concerning the Balfour Declaration, the Respondent was in breach of the agreement. The Respondent subsequently posted on his website that he had been there. His explanation was that as he had tendered his resignation as the incumbent at Virginia Water from Easter 2017, he did not consider that he was in breach of the agreement. It is evident that the Bishop took his attendance, and subsequent posting seriously. In his statement he said: *"The Respondent has been warned that any further breach of the agreement must result in his tenure of office ending with immediate effect."*

143. Following the ruling by the President of Tribunals at paragraph 8 of her decision of 28 June 2021 this allegation is not pursued to the extent that it relates to breach of an agreement between the Respondent and Bishop Watson to which the Board was not a party. Nevertheless the Tribunal has gone on to consider the Respondent's attendance.

144. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by the Respondent's presence at the event. Once again it demonstrated his lack of awareness of his being a public representative of the Church and showed a lack of sensitivity to the Jewish community. It has, however, concluded that his attendance alone was not conduct unbecoming for an ordained minister. It does not consider that the Respondent was engaged in antisemitic activity.

(J) In an interview on 30 March 2018 on Australian radio, by defending the link he posted to the article blaming Israel for the 11 September 2011 terrorist attacks

145. The source of this allegation was an article published by the Australian Jewish News which criticises the Australian Broadcasting Corporation. During an hour-long interview with the Radio National host, David Rutledge, the Respondent stated that he was *"closely questioned on his views throughout the interview, including a detailed exchange about the accusations of antisemitism made against him (which he denies)."* In regard to the specific issue complained of, he stated that he was not *"defending"*

his Facebook post but simply answering a question put to him. The Respondent stated it was never his intent to endorse the article's antisemitic tone, and in this sense his comments to ABC have been taken out of context and therefore misunderstood.

146. Members of the Tribunal have listened to the interview and acknowledge that the section concerned with the Facebook post on 9/11 is short, however, it finds that it is of great concern that the Respondent was not more contrite in his apology for posting the article, and was also disingenuous in his answers.

147. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by the Respondent's answers to the questions he was asked. Of particular concern is the Respondent's assertion that "*the particular article was a list of Israelis who had benefited from 9/11 and I simply put it out there and said this is serious; it's got to be considered.*" As previously pointed out above, the article did not refer to a list of Israelis but to members of the American Jewish community. It was also disingenuous of the Respondent to defend the article on the basis that "*so far no one has come back to me and contradicted anything that was in the article.*" In fact Bishop Watson had ordered him to take it down shortly after the Respondent posted the link on Facebook. There was only a short opportunity for anybody to come back to him and contradict the reprehensible allegations made in the article. The Tribunal has concluded, one member dissenting, that his conduct was unbecoming for an ordained minister. It does not consider, however, that the Respondent was engaged in antisemitic activity.

(K) Posting an item on his Facebook page in August 2018 in relation to Jeremy Corbyn being a victim of the hidden hands of Zionists

148. The article was published by Middle East Eye on 24 August 2018. The article contained the observation that attempts to undermine Jeremy Corbyn were "*part of a wider campaign by the Israeli government to harm Palestinian solidarity activists.*" The Respondent did not resile in his statement from his view that evidence of Israeli lobbying in British politics is overwhelming, setting out in detail the media organisations that he considered demonstrated lobbying, and criticising Mr Corbyn for his association with him. He rejected the notion that posting a comment and link to Mr Cook's article about the campaign to discredit Jeremy Corbyn was in any way antisemitic.

149. The Tribunal accepts Ms van der Zyl's and Mr Arkush's evidence that members of the Jewish community were offended by the Respondent's posting of the article and his comment. Although, it has concerns about the Respondent's judgment in posting the article, it does not, however, consider that it was conduct unbecoming or inappropriate for an ordained minister. It has also concluded that the Respondent was not engaging in an antisemitic activity.

**Conclusion**

150. The Tribunal is satisfied that in respect of allegations (B), (F), (H), and (J), one member dissenting as to allegations (F) and (J), the Respondent's conduct was unbecoming to the office and work of a clerk in Holy Orders, in that he provoked and offended the Jewish community, and, in the case of allegation (H), his conduct was



unbecoming, in that he engaged in antisemitic activity, all within section 8(1)(d) of the Clergy Discipline Measure. It finds allegations (A), (C), (D), (E), (G), (I) and (K) not proved.

151. It follows that the Tribunal considers that it is unnecessary to go on to consider the alternative charge, as to whether the Respondent's conduct set out above was in breach of Canon C 26.2 and, therefore, contrary to the laws ecclesiastical within section 8(1)(a) of the Clergy Discipline Measure.

**6 December 2022**

## APPENDIX A

1. The conduct of the respondent, THE REVD. DR STEPHEN SIZER, was unbecoming or inappropriate to the office and work of a clerk in Holy Orders within section 8(1)(d) of the Clergy Discipline Measure 2003 in that he provoked and offended the Jewish community and/or engaged in anti-Semitic activity by:

- Participating in a conference run by the Islamic Human Rights Commission entitled “Towards a New Liberation Theology” in 2005;
- Accompanying and defending an Islamic Movement leader Raed Salah in June 2011;
- Meeting Sheikh Nabil Kaouk, a senior commander of Hezbollah forces in about summer 2006;
- Speaking at a conference in Indonesia in May 2008 alongside Fred Tobin, a holocaust denier;
- Citing Holocaust deniers and far-right figures, in particular Dale Crowley in about January 2009;
- In June 2008, promoting Michael Hoffman, a Holocaust denier and anti-Semitic conspiracy theorist;
- Promoting the idea that Israel was behind the terrorist attacks on 11 September 2001 by posting a link in January 2015 to an article entitled “9-11/Israel did it” that blamed Israel for the attacks;
- Attending an event in October 2016 chaired by Baroness Tonge in breach of an agreement with the Bishop of Guildford which required him to refrain from writing or speaking on any theme that related, directly or indirectly, to the current situation in the Middle East or its historical backdrop;
- In an interview on 30 March 2018 on Australian radio, by defending the link he posted to the article blaming Israel for the 11 September 2011 terrorist attacks;
- Posting an item on his Facebook page in August 2018 in relation to Jeremy Corbyn being a victim of the hidden hands of Zionists;
- Posting a link in September 2010 to an article entitled “The Mother of All Coincidences” promoting the idea that Israel was behind the terrorist attacks of 11 September 2001.

2. Alternatively, the Respondent’s conduct set out above was in breach of Canon C26.2 and therefore contrary to the laws ecclesiastical within section 8(1)(a) of the Clergy Discipline Measure 2003.

## APPENDIX B

### THE IHRA WORKING DEFINITION OF ANTI-SEMITISM<sup>1</sup>

**Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.**

To guide IHRA in its work, the following examples may serve as illustrations:

Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

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<sup>1</sup> <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

**Antisemitic acts are criminal** when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

**Criminal acts are antisemitic** when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

**Antisemitic discrimination** is the denial to Jews of opportunities or services available to others and is illegal in many countries.