

INTERIM REPORT OF THE COMMISSARIES APPOINTED BY THE ARCHBISHOP OF
CANTERBURY IN RELATION TO A VISITATION UPON THE DIOCESE OF
CHICHESTER

Your Grace,

FOREWORD:

St Luke tells us that the people brought infants to Jesus that he might touch them. (*St Luke* 18:15ff). When his disciples tried to stop this practice Jesus called for the children saying,

‘Let the little children come to me, and do not stop them; for it is to such as these the Kingdom of God belongs.’

Not only did Jesus encourage children to come to him, not only did he offer love through touching them, but they were manifestly safe in his company.

All contemporary safeguarding policies and procedures in the Church should be a response to what we learn and see in Jesus himself. Children are meant to be safe in the care and company of the Christian Church. In witness to this faith and to our sense of obligation to children who are brought to Jesus through the life of the Christian community, the Church should set for itself the highest standards of care available to our society today. If that is true especially in relation to children, it ought also to be true for the care we offer to some of the most vulnerable adults in the modern world (see *St James* 1:27).

It has been particularly distressing to us to have met people whose lives have been deeply wounded by the abuse they have suffered at the hands of clergy and of lay people holding positions of responsibility in the Church. Sadly, these wounds often refuse to heal. Even when they do heal scars remains as evidence of the awfulness of what happened to them. However deep and sincere the apologies are for such abuse by the ministers of the Church they cannot take away from the wickedness and shamefulness of what has happened to those who were abused.

Our Report is dedicated to them. In fulfilling our duty to the Archbishop of Canterbury to try and help the diocese of Chichester move away from an appalling history in these matters to a future in which it can with good conscience bear witness to its obedience to Jesus' example and teaching we are seeking to ensure that children and all vulnerable adults are both safe and secure when in the company of the Church.

It is clear to us that many lives have been blighted. Some have sought justice through the courts of law. Clergy have gone to prison for their abuse of children. We are clear that those who have sought justice through the courts are but the tip of the iceberg. We have also encountered, and heard, of the many whose stories are entirely believable but who (for whatever reason) have not been able to find justice through such public means.

All of this is made worse by the reality that the authorities in the diocese were very slow to recognise what was happening and did not act with the rigour and expedition vital to all safeguarding work. A whole series of investigations and reports across nearly two decades bears witness to a profoundly unhelpful and negative culture in parts of the diocese that led to its failure to take the action needed. Although some of this is 'historic' _ a term which is unacceptable to some victims (or "survivors") for whom the reality of the wounds of abuse are always present _ clergy engaged in behaviours that ought to have raised concerns, and their files contained histories, that should have raised alarm bells in the minds of the senior leadership of the diocese.

Since our appointment and engagement with this story fresh and disturbing aspects of the diocese's safeguarding failures keep rising to the surface. Insufficient action has taken place following the Historic Cases Review. Fresh allegations have been made and are being pursued by the relevant authorities and new people are coming forward to tell the sad story of their own abuse at the hands of clergy and other people in positions of authority in the Church. It is clear that the Church in this diocese has lost the respect of many of those in the public services who carry duties in law to ensure proper safeguarding of children and vulnerable adults.

Our appointment by the Archbishop of Canterbury _ the first such appointment of Commissaries for over 100 years _ is evidence of the deep concern held in the Church of England for this diocese and its failure properly to protect children in its care.

In calling for a radical change of culture in the diocese _ one in which the sanctity, dignity and well being of children and vulnerable adults is openly and transparently at its heart _ a fresh commitment of obedience to the call of Christ is necessary to enable children to come to him. If the culture is Christian the policy of the diocese needs to be highly professional in setting standards of excellence to which the whole diocese is 100% committed. That commitment will lead to practice within the leadership of the diocese, as well as its parishes and networks, which will encourage people to believe that children brought to the Church will find the care and safety evidenced in Jesus' own ministry to children and their families.

VISITATION:

We were appointed on the 21st December 2011 as commissaries for a visitation of the Diocese of Chichester. Our mandate, however, is limited in scope to:

- (i) examining progress made in implementation of and actions taken upon the Diocesan Safeguarding Guidelines (*The Care and Protection of Children, 2009*), the current House of Bishops' Guidelines (*Protecting All God's Children, 2010*) and the recommendations made by Dame Elizabeth Butler-Sloss in her report dated 19th May 2011; and
- (ii) making such further recommendations as may appear necessary and expedient¹.

It follows from this mandate that it has not been part of our duty to form any judgment upon any matter (including the previous history of safeguarding within the diocese) save in so far as:

- a) that matter or history gives a context to, or sheds light upon, the matters that are within our mandate; and
- b) new matters of a historical nature which have arisen since our appointment and which may impinge upon the present state of safeguarding within the diocese.

In particular, it is not part of our remit to enquire into, or pass judgment upon, any matters that are the subject of a complaint under the Clergy Discipline Measure 2003.

¹ For a summary of our recommendations see Appendix IV.

Nonetheless, we have also considered the diocesan guidelines on the safeguarding of vulnerable adults entitled *Safeguarding and Promoting the Welfare of Vulnerable Adults* (2011) as these are clearly relevant to the whole picture of safeguarding within the diocese. In addition, it has become clear that it is not possible to fulfil our remit without seeing the diocese within the wider picture of the national Church.

We regret that this is only an interim report as further allegations have recently come to light and it is in our view impossible fully to respond to our remit until those have been further investigated. We nonetheless believe that it is equally important to report as soon as possible on those matters upon which we have so far been able to reach a conclusion.

We are extremely grateful to all those who have assisted us in our enquiries. We have, however, purposefully omitted the majority of the names of those concerned so as to facilitate the publication of this report.

PREFACE:

In approaching our duty we have borne in mind the following principles:

1. The safeguarding of children, young people and vulnerable adults is fundamental for the Church as an institution called to bear witness to the Good News given to all humanity in Jesus Christ. Members of the Church belong to a body whose accountability is not only to the human community within which it is set but ultimately to the One it exists to serve.

2. The House of Bishops Protocol introducing the Review of Past Child Protection Cases begins with the statement:

‘We believe in the rights of children to be protected as they grow. Children deserve the very best care, nurture and teaching the Church is able to provide whatever the context of their contact with the Church.’

3. The Church, however, is a fallible institution made up of fallible human beings. In the light of the truth that it confesses the Church has a particular responsibility to be vigilant both about its institutional provisions and about the individual conduct of its ministers and members.

4. We all need to recognise that those actually known to be a risk to children and young people represent only a fraction of the people who present a threat in society to these young people.

5. We also know that churches are places that attract vulnerable people and potential abusers. Vigilance is therefore doubly important for the Church in these matters. This requires the highest professional standards of practice to be evident in Church provisions in this field.

6. It is, therefore, particularly distressing and inexcusable when a diocese falls short of the basic standards required of both Church and society as a whole.

7. Problems can and do occur across the whole of the Church. However, reports that we have seen, together with the evidence we have heard, indicates that the history of safeguarding in the diocese of Chichester has in the past fallen woefully short of what should be expected of any institution with a ministry and care for children and young people.

8. Even if some details within the Meekings Report (2009) and the Baroness Butler-Sloss Report (2011) may be open to dispute it is clear that the general picture painted by both of these reports is an accurate one. More particularly, we have heard no criticism of the various recommendations that they have made on safeguarding within the diocese. As part of the context of the matters we have to address we also draw attention to what was said by a safeguarding expert, Ian Sandbrook, in a report commissioned by the Chichester diocesan secretary and dated May 2011:

“Anecdotal evidence would suggest that there are significant cultural variations across the diocese in relation to how seriously safeguarding is taken. There are recent and current examples where parish priests have been reluctant to investigate allegations against, say, youth workers, preferring to give the benefit of the doubt to the alleged perpetrator. There are attitudes still prevalent where the pastoral concerns for the alleged abuser take precedence over the perspective of the abused. It needs to be more clearly understood across the diocese that child abuse cannot be treated simply as a pastoral matter. It cannot be absolved without restitution, nor healed just by prayer. It is illegal and sometimes a symptom of medical illness.”

Most regrettably, the evidence that has been presented to us has shown that, although the diocese has moved forward, such cultural variations still occur across the diocese.

9. Our task is to follow these up and advise the Archbishop of Canterbury what needs now to be done to ensure that the diocese has both learnt the lessons and set its face towards a different and acceptable future. We accept that real and encouraging progress has been made. However, the challenge of this work and the history it brings to the fore require a radical change of culture, a fresh commitment to policy and a determination to ensure that the practice of the diocese both reflects that change of culture and embodies the principles and the detail of its agreed policy for safeguarding.

DIOCESE:

The diocese of Chichester is, of course, but one of many dioceses within the English Church. Unfortunately, some of the problems relating to safeguarding in Chichester flow from the safeguarding position in that wider Church (as identified in this report and our recommendations²). We have therefore found it necessary to place our recommendations within that wider framework.

A general investigation into the state of the Chichester diocese is not part of our remit but the state of the diocese clearly impinges upon the reliability, or otherwise, of safeguarding within the diocese. Rightly or wrongly the outgoing bishop told us that he felt that he is leaving the diocese with less authority in the east of the diocese than when he first came in whereas, rightly or wrongly, the bishop of Lewes feels that the outgoing bishop had a lack of engagement with the East Sussex area and an unwillingness to talk to him about issues. Another senior member of the clergy team described the diocese as having no drive or direction from the top. We repeat that it has not been within our remit to investigate the accuracy of these statements nor, if they are indeed accurate, to consider who, if anyone, may be at fault. We therefore wish to stress that our report should not be read as pointing the finger at any particular person or persons. However, the mere fact that they have been made at all is clear evidence that there have been, and as a consequence still are, deep problems within the diocese.

² We recognise, however, that there may be other ways of dealing with some of the issues we identify.

Indeed, we were deeply concerned to be told by the outgoing diocesan bishop, speaking of the year 2010, that the diocese was “dysfunctional”, a description with which others within the senior team have agreed either expressly or by implication. Moreover, we have no doubt that this dysfunctionality continues to impinge upon the adequacy of safeguarding within the diocese. We will consider the position in relation to permissions to officiate (PTOs) within the diocese later but, if safeguarding is to have any integrity, it is essential that both those who are licensed and those who have permission to officiate have up-to-date CRB checks. It is therefore of the greatest concern that _

- (i) at least in some parts of the diocese some incumbents permit those without permission to officiate in fact to do so; and
- (ii) there are some without such permission who nonetheless have continued to officiate³.

In our view these matters are examples of the dysfunctionality within the Chichester diocese as well as demonstrating a failure to appreciate the connection between safeguarding and the proper structures of the Church. In this regard it is irrelevant why the officiating cleric may not have a current permission in place.

In addition, this dysfunctionality is underlined by the facts that a decision was made (rightly or wrongly) by some or all of the diocesan safeguarding advisory group to commence the procedure to lay a complaint under the Clergy Discipline Measure 2003⁴ against the

³ We also note that in the *Church Times* diary section dated the 15th June 2012 one retired priest within the diocese of Chichester stated: “Clearly, bishops who refuse to ordain women, as ours do, thereby forfeit the right either to grant or withhold PTO.” We do not know to what extent, if at all, this may represent the views of others within the diocese but the fact that the view has been expressed (especially in such a public forum) must be a matter for concern.

⁴ We have been careful not to trespass into the area of any CDM complaint but a member of the laity commented to us that there is confusion over the question to whom a suffragan or area bishop is ultimately *responsible*. (Indeed a suffragan bishop from another diocese has in the past expressed a similar confusion with regards to his own role.) Canon C 14, paragraph 1, states that a suffragan bishop (and therefore also an area bishop) owes *canonical obedience* to the archbishop and, by reason of Canon C 1, paragraph 4, this continues after the area or suffragan bishop retires. (Strangely, Canon C 1, paragraph 3, does not address the position of the area or suffragan bishop at all.) Similarly any complaint under the Clergy Discipline Measure 2003 is directed to the archbishop: see the Clergy Discipline Measure 2003, s 10(2); Clergy Discipline Rules 2005, r 82; *Clergy Discipline Measure Code of Practice* at paragraphs 240-243. Nevertheless, Canon C 20, paragraph 1, states that the suffragan bishop “shall endeavour himself faithfully to execute” the matters delegated to him and under clause 3 of the Area Scheme for the Diocese of Chichester the area bishops receive delegated *authority* from the diocesan bishop. We believe that there is, indeed, room for confusion and that this ought to be addressed nationally.

Bishop of Lewes and that the latter has felt not only that he has been consistently kept out of the loop but that he has been made the scapegoat for systemic problems within the diocese.

LEADERSHIP WITHIN THE DIOCESE:

It is fundamental to safeguarding in any organisation that the leadership team works as a united body focusing entirely on the welfare of those who are to be protected by safeguarding policies. It is essential that the diocese is able to place trust in the professional judgment of the safeguarding group and safeguarding officer and the whole diocesan team is held together in a common commitment to the task.

Unfortunately, subsequent to the period following the historic cases review in the diocese a mutual lack of trust and confidence occurred between the safeguarding advisory group (including the safeguarding officer) and the bishop's senior team. This in its turn brought about weaknesses within diocesan safeguarding. Moreover, although the view is not shared throughout the diocese, at least in the eyes of the diocesan bishop the diocesan area scheme had been allowed to work as if the areas were mini dioceses: that was especially true of the Lewes area on the eastern end of Sussex and at the greatest distance from Chichester. Indeed, the diocesan bishop felt his authority over the clergy, all of whom held his licence, was undermined by the scheme. However, although a review of the area scheme was mooted, this suggestion was never taken forward,

In our view the combination of the change of person and approach of the last bishop from his predecessor (whose long episcopate had profoundly shaped the diocesan culture), the dysfunctionality that subsequently arose within the diocese as a whole, and the breakdown of relationships with the safeguarding group have together proved to be disastrous. Indeed, the diocesan bishop told us that he felt "paralysed"; in our view, once this feeling manifested itself, an impossible situation had transpired as it affected the person who had the overarching responsibility for safeguarding of the diocese. If final responsibility for safeguarding rests finally on the diocesan bishop – involving as it does appointments, the conduct of clergy and the policies in the parishes – it is essential that the bishop's authority is both recognised and effective throughout the whole of the diocese.

In these circumstances we have no doubt that the area scheme should now be reconsidered; indeed, we believe that this is essential for the well-being of safeguarding throughout the diocese. In the context of the history and culture of the diocese we believe the

new diocesan bishop should in any event resist taking on an area of his own; it must be recognised that the whole diocese is his own episcopal area. Although delegation is essential in practice for the exercise of episcopal ministry, this should never be allowed to undermine the overarching position of the diocesan. It needs to be remembered that the archdeacons, for example, are accountable to the diocesan bishop for their ministry although they may work on a day to day basis with area/suffragan bishops. We were encouraged that the archdeacons and area bishops are themselves clear about this. This helps to build an effective and coherent team under the leadership of the diocesan bishop.

Confidence can only be restored to the diocese in relation to its safeguarding work if its leadership can complete the transformation needed into a united and trusting group of people focused on their duty to ensure the Church is safe for children and vulnerable adults. All this being so we welcome the present changes of leadership at the head of the diocese.

POLICY

A safeguarding policy is the formal and visible commitment the Church makes to the protection of children and vulnerable adults. If the Church is to be faithful to its calling it must always be a community within whose company children and, indeed, all people flourish.

We are not qualified to comment in detail upon the House of Bishops' guidelines *Protecting All God's Children (2010)* save to emphasise that it is important that its contents should be kept constantly under review in the light of current experience. In its turn the diocese of Chichester has made considerable progress in agreeing and establishing its own suitable safeguarding policy, namely, *The Care and Protection of Children (2009)*; however, we recommend that this policy is brought fully into line with the latest House of Bishops Policy⁵. Indeed, we believe that the House of Bishops' guidelines should be a template for the safeguarding policies of all dioceses.

We are nonetheless very much aware that a policy is of little use in practice unless it is both clear and brought into effect on the ground. We therefore recommend that care is taken to ensure that such material is easy to digest, clear and as short as possible. In this regard we have been impressed by the material produced both by the Church in Wales and by

⁵ We make some recommendations of our own in Appendix I.

the Catholic Church in Australia. In particular the policy and all accompanying material needs to be very clear about the actions needed both when there are concerns that a child or vulnerable adult may be being abused and when an allegation of abuse is made. In this regard it is essential to bear in mind that local authority children's services departments have responsibilities for ensuring that appropriate arrangements are in place for safeguarding all children resident in their areas and diocesan protocols should have regard to these arrangements and inter-face fully with them. There should also be protocols that set out a clear procedure, proper record keeping and timescales for each step to be taken within the diocesan policy.

In this regard we have been concerned about the amount of time and energy the diocesan safeguarding officer has had to put into producing both protocols and training material. A lot of time could be saved if these were produced nationally leaving diocesan safeguarding teams to respond to all safeguarding cases and to all the people involved⁶.

The Church has a special responsibility to ensure that the protection of the children and vulnerable adults is not put at risk by scarcity of resources and our enquiries have led us to be concerned about the level of resources provided in the diocese of Chichester. We commend the amount of monies already provided within the diocese of Chichester and the immense amount of work currently being put into its safeguarding processes. Nevertheless, the crisis within the diocese still requires extra resources as it seeks to complete the journey from the past into an acceptable future in these matters. The single safeguarding officer is being severely stretched.

We emphasise that policies are only as good as the practice that they promote. There must, therefore, be a one hundred per cent compliance throughout the diocese with its safeguarding policy. Such compliance requires both leadership and training.

⁶ These protocols should cover such matters as:-

- Procedure upon receiving an allegation
- Pastoral care of both alleged victims and abusers
- Record keeping and timescales
- Procedure around appointments
- Procedures for ensuring information is passed to receiving dioceses

Before turning to the question of training we wish to highlight the matter of the confessional. In our view far greater guidance should be given in relation to the hearing of confessions relating to the abuse of children and vulnerable adults. In this regard the Chichester diocesan policy⁷ should be extended so as to include all the provisions of the relevant paragraph⁸ of *Protecting All God's Children*; the matter should also be emphasised in diocesan training of the clergy. Although we recognise the importance of confession for the sinner it is essential that the confessional is not used as a way of enabling abusers to escape public accountability.

TRAINING:

The diocese has made a good start in introducing suitable programmes of training both for clergy and for parishes. We believe this is a key issue in changing the present culture and that therefore it is important that it embraces all clergy exercising ministry within the diocese. In this regard the arrival of a new diocesan bishop provides a moment of opportunity. We recommend that the new bishop, together with his senior team, the diocesan safeguarding officer and the members of the diocesan safeguarding group, re-commit themselves to a programme of training led by independent and professionally trained people in the safeguarding field⁹. This will lay the required foundation and give the leadership needed for ensuring full compliance across the diocese with the programme of training. It should also be made clear that a failure by a member of the clergy to attend such training is a matter of ecclesiastical discipline.

We emphasise that, although the diocesan bishop carries the ultimate responsibility for ensuring excellence in safeguarding in the diocese, each parish priest carries the responsibility for ensuring full compliance within in the parish. To this there can be no exceptions. Again, we wish to emphasise that a failure to comply with diocesan requirements in relation to safeguarding is a disciplinary matter.

SURVIVORS/VICTIMS:

⁷ See paragraph B(3)2.

⁸ Paragraph 6.11. However, we note that the law is too widely stated (cp) *Legal Opinions of the Church of England* (8th ed., 2007) at 29-42.

⁹ We suggest that consideration should be given to a survivor speaking of his or her abuse at the hands of the clergy in order to add immediacy to the training being imparted.

We have had the privilege of hearing first hand from five persons (both male and female) who have suffered abuse at the hands of clergy in the diocese of Chichester; we have also read a statement written by another abused person. We wish to pay tribute to the bravery of each of these persons in talking or writing to strangers about such traumatic events and consequences which clearly remain extremely raw.

Some of those from whom we heard made the point that the term ‘historic abuse’ is a misnomer as it ignores the fact that the damage caused by the abuse, however long ago, remains with them and their families daily: it is ever present and certainly not just in the past. Two of those to whom we listened also spoke of their struggles with suicide and self harming. It is, therefore, unsurprising that they prefer the term ‘survivor’ to the term ‘victim’. Although all those who are abused _ whether as children or as adults _ are indeed victims we nonetheless readily adopt the description ‘survivors’ in this report. However, in so doing we do not ignore the fact that for those who are survivors it is often a day-to-day struggle to continue to survive. We also bear in mind that there may well be those who have been unable to cope with the traumas thrust upon them and from whom we can no longer hear.

At least two of those from whom we heard were unknown to Lady Butler-Sloss. The abuse to one of these was by Roy Cotton and continued for a period of about eleven years and far beyond the final date identified in Lady Butler-Sloss’ report, namely, until the 23rd December 1997.

We bear in mind, too, that the damage caused to each survivor is unique and intensely personal: frequently, if not always, the abused person has to grapple in addition with his or her own perceived guilt in ‘allowing’ the abuse to take place or to continue. It is therefore not surprising that research demonstrates that it may take very many years before the abuse is reported, often prompted by some other traumatic episode in his or her life. Nor is it surprising that the vulnerable adult may continue to suffer from post traumatic stress disorder; indeed, in the last case to which we have referred the diocese stopped their funding of her counselling as it was perceived by the diocese to go on too long although in the event the counsellor nonetheless felt it important to continue the counselling.

Although the abuse of which we have heard predated the report of Dame Butler-Sloss, we feel that it is essential that we report specifically on one aspect of the abuse to the vulnerable adult as well as to some of the details of the diocese’s failures in relation to all those from whom we heard.

The adult vulnerable person was seduced by a married clergyman of the Chichester diocese when she sought spiritual help from him. In the course of their relationship she suffered repeated physical and emotional abuse from the clergyman as part of his method of control.

We have seen two of the letters of apology sent by the diocese to two of the survivors of the abuse by Roy Cotton. These we regard as insufficient in their actual content and crass in their presentation: they were sent through the legal firm representing those involved rather than to their individual homes; Christian names were not used although this meant that there could be confusion (other than through the address) between the two persons to whom the apologies were addressed; they were impersonal in that their terms were all but identical other than in the addition of the name of one other abuser. Worst of all the letters were not signed by the diocesan bishop by whom they purported to be sent but were signed in his absence abroad by another bishop; it is true that the letters were sent out with a covering letter explaining the reason for this latter fact but we regard this as entirely insufficient. In the result these letters read (and were taken by their recipients) as being entirely impersonal. If for any reason the diocesan bishop felt that the letters should be typed rather than being entirely handwritten we believe he should not only have begun the letter in handwritten form but also ensured that he himself could sign them. Nonetheless, to his credit the diocesan bishop did write personally to the vulnerable adult and also, perhaps more importantly, visited her personally to listen to her account of what had occurred. We believe that such personal visits should always occur unless the survivor prefers not to have such a visit.

We believe that the overall response of the diocese to the abuse that was disclosed was inadequate. However, we believe that there is a short window of opportunity for the diocese further to improve the position. We therefore recommend that the new diocesan bishop as a matter of priority early in his episcopacy offers to have such visits with the known survivors. We also suggest _ although this was not in any way suggested to us _ that the diocese should offer to help fund the survivors' group run by Philip Johnson as an acknowledgment of the diocese's continuing responsibility for the harm done to those survivors.

It was stressed to us that the contents of clergy files may in any given case be the only way by which in due course an abused person may be traced. Although we appreciate that some 'weeding' of files may be necessary in some circumstances, we are nevertheless of the view that this should be kept to a minimum. Indeed, we were concerned at one description

(attributed to a senior member of the diocese) of the “filleting” of clergy files rather than of their being “edited”, another word with decidedly unfortunate connotations. Indeed, we understand it to be national policy that anything within the files touching upon safeguarding should remain; however, it is not always clear what may be relevant in the future¹⁰.

One vulnerable adult forcibly stressed the need for the proper supervision of the clergy as would occur in other professional modes of life¹¹. This should include the keeping of a work record that can be perused by the archdeacon or other higher authority; the record should contain a record of who has been seen pastorally¹². Although we acknowledge that, if a cleric is intent upon abuse, this may be very difficult to prevent in practice; we nonetheless question whether sufficient emphasis is placed upon the necessity never to contact or work with children, or to counsel vulnerable adults, when no other responsible adult is in the immediate vicinity and thus able to act as ‘chaperone’.

Additionally we were told how difficult it was for the survivors to receive any acknowledgment of their initial complaints and of the difficulty in receiving a meaningful apology even when the abuse is recognised by those in authority. (Indeed, we were told that the only way in which some survivors felt they could receive any meaningful diocesan response was by starting civil proceedings.) We hope that the former will never occur again, especially in the light of the duty on the bishop himself to institute enquiries in the face of any allegation not amounting to a formal complaint under the Clergy Discipline Measure 2003. Nonetheless, the diocese is still seen in some quarters as being “arrogantly in denial” or like a parent defending his child, right or wrong. The diocese should bear in mind that an apology, offer of treatment or other address does not of itself amount to an admission of negligence¹³. We therefore also recommend that discussions are held with the diocesan insurers as to how best the diocese may react sensitively in the light of allegations of abuse whether or not they can be legally substantiated. Ideally a method should be found by which survivors can obtain an apology and other redress without resorting to an adversarial dispute,

¹⁰ It is essential that the diocese has regard to the perspectives of the Information Commissioner and relevant data protection legislation.

¹¹ We believe that the training of any cleric (stipendiary or otherwise) must include a sound foundation in proper professional values and standards in pastoral work.

¹² It should also include a brief statement of the general purpose of the encounter, the date, time and place. Such a practice is also an important protection for the clergy who are engaged pastorally with individuals.

¹³ Compensation Act 2006, section 2.

perhaps by mediation¹⁴. In particular we believe that it is never appropriate for a confidentiality clause to be included in any agreement reached with a survivor as occurred in one case of which we are aware. If the diocese it to move forward it is essential that there is complete transparency about any abuse that has occurred. We were also deeply concerned to be told that when the vulnerable adult sought advice from another clergyman she was sent back to the abusing cleric and told that the Church is not “a spiritual greengrocer”.

The survivors from whom we heard also emphasised the harm and damage caused to those around them: to their parents who unwittingly permitted the contact during which abuse was perpetrated and who still carry that guilt with them; to her spouse (in the case of the vulnerable adult) who rarely now goes to church and who cannot face receiving the sacrament from any priest; to their children who also have to cope with the emotional traumas being suffered by their abused parent; and to those with whom they might subsequently try to form a relationship. Far too often is the damage caused by clerical abuse perceived as being limited to the abused persons themselves. These persons who have been damaged indirectly receive no support or assistance with the financial burdens of counselling from the diocese.

In particular we were privileged to meet with representatives of MACSAS (Ministers and Clergy Survivors of Sexual Abuse) who have been campaigning for changes in Church culture, policy and practice. Whilst some of their recommendations fall outside our terms of reference, we have considerable sympathy with their concerns¹⁵. To quote from the Summary of their Report:-

“Three areas of concern arose from the Survey findings:

1. The effectiveness of the Child Protection/Safeguarding procedures and the implementation of the procedures within Church Communities
2. The lack of any or any effective procedures within churches to recognise and respond to allegations of the sexual abuse/exploitation of adults by clergy, religious and other church officials.

¹⁴ A similar problem has been addressed in the sphere of insurance and apologies where there have been complaints of medical negligence and we suggest that lessons may be learned that might be applied in the context of alleged abuse by members of the clergy.

¹⁵ See Appendix II.

3. The lack of procedures that recognise and respond to the needs of victims of sexual abuse perpetrated by clergy and religious, and the failure to provide redress, support and assistance to victims who report abuse.”

Our remit is concerned with the diocese of Chichester but we are conscious that what we say has pertinence across the whole of the Church of England. We believe that if the recommendations we make in regard to our terms of reference are rigorously carried forward some progress will have been made to meet the legitimate concerns of MACSAS. In particular we are delighted that there is now an ongoing dialogue between MACSAS and the diocese of Chichester.

COMPLAINTS:

It is important to appreciate that those who have been abused by a cleric may find it difficult to complain to another cleric or to someone who is closely connected with the Church. It is therefore essential for the Church to be open to such difficulties and to make the reception of complaints of abuse as easy as possible. The Church is clearly not responding to Christ’s commandment to love its neighbour if the redress of wrongs is not treated sympathetically and with understanding. We feel it should be stressed that any safeguarding complaint, however apparently minor, should be reported immediately to the diocesan safeguarding officer who should in turn notify the diocesan bishop as soon as possible.

Anonymous and informal complaints: A further problem arises at the stage when an allegation of abuse first comes to light. This may be through a formal complaint made under the Clergy Discipline Measure 2003 or through reports or informal complaints involving members of the clergy. A question has arisen, for example, as to the proper response to anonymous allegations against named members of the clergy. In a specific case the diocesan response in the first instance was for the relevant archdeacon to visit the named clergy and put the allegations to them; when the allegations were met by denials, this seems to be where the investigations ended. We recognise that in some cases this may, indeed, be the only possible response¹⁶ but it is hardly surprising if such allegations (especially if ultimately

¹⁶ If the anonymous complaint refers to a named child (or vulnerable adult) the archdeacon should always refer the matter first to the police and local authority’s children’ department before s/he discusses the matter with the person against whom the complaint is made. (In practice the children's department is likely itself to consult the police.) This is essential as the police may already be conducting investigations and the intervention of the archdeacon might otherwise impede police enquiries by alerting the party involved. (Such an approach may put a person, if guilty, on unnecessary notice and permit destruction of evidence.) Where the

found to be true in a given case) should be met by immediate denials. Nonetheless, even if an allegation is made anonymously it is our view that the diocesan authorities must be vigilant to make (or instigate) such investigations as are still both proper and possible. In this regard it should be borne in mind that, although anonymity may be prompted by malice, it may also be due to the understandable hurt of those who have been abused. Each case must, of course, depend upon its own peculiar facts and be treated on its merits but in the instant case it was only after the repetition of the anonymous allegations and additional prompting that the facts were placed before the police for possible criminal activities to be investigated. In our view it is essential that the diocesan authorities remain both vigilant and open to the wider implications of such allegations (whether anonymous or not) as well as to all possible means of investigation.

We appreciate that no anonymous complaints will be considered under the Clergy Discipline Measure 2003¹⁷ but that does not preclude, or militate against, an investigation into anonymous complaints in appropriate circumstances. The same applies to informal complaints. In this regard we bear in mind paragraphs 10-13 of the Clergy Discipline Measure 2003 Code of Practice which state:

“10. There may be occasions when no formal complaint under the Measure has yet been made but the bishop receives information about a priest or deacon which, if true, would amount to serious misconduct. The bishop will obviously wish to find out more about it. However, the bishop should be cautious about the extent of any direct involvement. The bishop should not do anything that could prejudice, or appear to prejudice, the fair handling of any formal complaint under the Measure that could be made subsequently. Instead, the bishop should consider asking an appropriate person, such as the archdeacon, to look into it.

11. The archdeacon or other person looking into the matter will need to form his or her own view about the appropriate action to take. The priest or deacon should normally be told why his or her conduct is in question, and that a colleague or friend may be present during any discussions about it.

matter is *prime facie* a safeguarding issue but no child or vulnerable adult is named, we nonetheless recommend that the archdeacon should seek informal advice from the local statutory authorities before approaching the named cleric.

¹⁷ See the Clergy Discipline Rules 2005, r 4(2)(a)(ii); Clergy Discipline Measure 2003 Code of Practice, para 41.

12. If the archdeacon considers that it should be dealt with on a disciplinary level, but no formal complaint is likely to be made by any one else, then the archdeacon should consider acting as complainant and making a complaint under the Measure; to avoid compromising the bishop's position in any subsequent disciplinary proceedings, he or she should not discuss it with the bishop, except to notify the bishop what action has been taken.

13. Where no formal complaint under the Measure has yet been made but the bishop receives information about the conduct of a priest or deacon which, if true, would involve the welfare of any child or vulnerable adult, the bishop should ask the diocesan child protection or safeguarding officer to investigate it; these investigations would usually be in co-operation with other relevant bodies¹⁸, and may need to take place initially without informing the priest or deacon.”

In our view this obligation set out in the Code of Practice has not always been borne in mind within the diocese of Chichester.

Precipitate notification of investigation: The next problem arises when there is sufficient evidence to support a reference to the police or a complaint under the Clergy Discipline Measure 2003. The situation has already arisen within the diocese where the police requested that a cleric should not be informed of the fact of an investigation in case a precipitate notification should jeopardise that investigation. In such cases it is clearly difficult to put in place any safeguarding without also jeopardising the ongoing investigation. However, even when such secrecy is no longer necessary, problems of safeguarding still remain.

Consideration of suspension: The Chichester diocesan safeguarding policy entitled *The Care and Protection of Children* (2009)¹⁹ states *inter alia* at paragraph G 19:

“In all circumstances where an allegation is made relating to beneficed or licensed clergy²⁰, licensed or accredited lay-workers, paid lay staff or volunteers, consideration must be given to whether a person should be

¹⁸ See footnote 16 above.

¹⁹ See, too, *Safeguarding and Promoting the Welfare of Vulnerable Adults* (2011) at paragraph G 12.

²⁰ We note that at present those holding PTOs are not specifically included. This is clearly an oversight but needs to be addressed.

suspended from their duties whilst the statutory agencies undertake any investigation. Suspension should be seen as a neutral act.

Suspension allows for an individual to stand down or stand aside while matters of concern are considered. The suspension is primarily for the protection of children but the needs of the person themselves and their family should also be considered particularly in the light of media attention. In order to decide whether or not to suspend the person, the Bishop (or employee or manager) should seek legal advice from the statutory agencies involved in the multi-agency strategy meeting. This advice will assist in determining whether it is possible and appropriated to suspend the person temporarily or ask them to take leave of absence or have their duties curtailed to prevent contact with children. ... A person should always be suspended if he or she is charged with a criminal offence against a child or young person.”

We in no way disagree with this advice save that it skates over the problems of imposing a suspension in the case of the beneficed clergy or those holding common tenure. Indeed, although we are aware of beneficed clergy voluntarily accepting suspension, investigations may take a long time and we are also aware that such consensual suspension may become very strained over time.

We understand that in the Church in Wales a cleric may be suspended in appropriate cases even before a formal complaint has been made under its disciplinary procedures but this is not at present possible in the Church of England. Indeed, a suspension cannot be imposed in the Church of England until either an actual arrest has occurred²¹ or a formal complaint has actually been laid and, having received the diocesan registrar’s report, the bishop has decided not to dismiss that complaint²². This position may be exacerbated by the fact that any criminal matters should be investigated and resolved by the relevant civil authorities²³ before

²¹ “Where ... a priest or deacon holding any preferment in a diocese is arrested on suspicion of committing a criminal offence, the bishop of the diocese may, by notice in writing served on him, suspend him from exercising or performing without the leave of the bishop any right or duty of or incidental to his office ...”: Clergy Discipline Measure 2003, s 36(1)(b). A similar provision applies to bishops and archbishops: *ibid*, section 37(1)(b). These provisions, of course, only come into effect when the cleric has been arrested and a number of victims of abuse would prefer the police not to be involved so as to preserve their privacy and the trauma of a public trial.

²² See the Clergy Discipline Measure 2003, ss 12(1), 36(1); Clergy Discipline Rules 2005, rr 60-66; Code of Practice, paras 113, 216-230. See, too, the draft Clergy Discipline (Amendment) Measure, ss 6 & 7. This lacuna is magnified if the Church procedures are held up by an appeal against the original barring order.

²³ For example, the police or child protection agencies.

any related disciplinary proceedings under the Measure are resolved²⁴. Indeed, such investigations may mean that no formal complaint may be lodged (or at least proceeded with) until after the relevant civil authorities have finished their investigations. In addition, if the civil authorities decide that there is insufficient evidence on which to institute criminal proceedings, further time may necessarily elapse before a complaint under the 2003 Measure can be laid²⁵. All this is likely to take a considerable time. Indeed, in historic abuse cases a further delay may occur even after the complaint has been laid during which the permission of the President of Tribunals is sought in order to institute proceedings outside the twelve month limitation period²⁶.

Once a danger, or possible danger, is identified all persons (children, young persons and vulnerable adults) are entitled from that moment on to the Church's steadfast protection even before any proceedings, whether criminal or ecclesiastical, are actually brought. Any delay in imposing a suspension or the putting in place of other safeguarding measures may permit further abuse to take place. We bear in mind the principles of natural justice but we also bear in mind that suspension does not mean that any view has been formed as to whether the complaint or allegation of criminal conduct is true, or likely to be true, and that no cleric will be prejudiced in the investigation of the complaint as a result of being suspended²⁷. We re-iterate the words of paragraph G19 of *The Care and Protection of Children*, namely: "Suspension should be seen as a neutral act." We believe that it is essential that, save in the most unusual circumstances and then only with the concurrence of the relevant safeguarding officer, any cleric (of whatever seniority) who is the subject of a credible allegation relating to a safeguarding issue should immediately be suspended until the investigations and proceedings have run their course.

Complaints or allegations may, of course, be made against a cleric holding a freehold office, common tenure or a permission to officiate although it is only in relation to the first two that the above statutory restrictions apply²⁸. Although we acknowledge the problems

²⁴ See the Code of Practice, para. 58.

²⁵ Presumably, once the prosecution has decided not to prosecute, the provisions of sections 36(1)(b) and s37(1)(b) can no longer be relied upon to found a suspension. The complainant in any proceedings under the Clergy Discipline Measure should therefore be ready to act speedily in the furtherance of the complaint.

²⁶ See the Clergy Discipline Measure 2003, s 9. We believe that such a limitation period is entirely inappropriate in allegations of sexual abuse and in any event may prolong the time before a compulsory suspension may presently be imposed. During that period more children and/or vulnerable adults may continue to be at risk.

²⁷ See the Code of Practice, para. 218.

²⁸ In relation to those clergy who hold a permission to officiate different considerations apply but as a matter of natural justice we do not see why this should be so.

involved, we feel that consideration should be given to amending the present legislation so as to permit a suspension being put in place in the two former cases even before a complaint has been laid under the Measure, as we understand to be the case in the Church in Wales, immediately a real safeguarding danger arises. We believe that the protection of the vulnerable must remain at the forefront of the Church's mission. In this regard we draw attention to the fact that this delay in imposing an enforceable suspension runs entirely contrary to good safeguarding practice outside the Church and brings the Church into disrepute. We quote from a letter we have seen written by highly qualified senior lay persons involved with the safeguarding of children in the diocese of Chichester:

“Simply saying ‘the Church is not like other organisations in terms of employment arrangements’²⁹ is insufficient justification for potentially putting children at risk You might as well say ‘The Church is not like other organisations in terms of needing to safeguard children’.”

We agree with this harsh statement and believe the situation must be rectified as a matter of urgency. It is entirely unacceptable that the Church should not follow as strict safeguarding procedures as are followed elsewhere. In this regard the diocese of Chichester is in exactly the same position as all other dioceses in England.

Permission to officiate: We have seen an undated, internal document for the diocese of Chichester in relation to clergy who have a permission to officiate. This states that there were at the time “some 324 clergy in the diocese as a whole who have been granted PTO”. This document goes on to state:

“The majority ... will only be involved in conducting services and if children are present they are likely to be accompanied by parents or other adults. There is likely to be little or no opportunity for any such clergy person to interact with a child or young person other than saying goodbye at the church door. There may be greater possibilities for interaction amongst older parishioners some of whom might be termed vulnerable adults, but even then visiting PTO clergy are limited as to time and opportunity.

Whilst the sheer number of PTO clergy is significant, we take the view that there is minimal risk of direct abuse of children or vulnerable adults as far as such PTO clergy

²⁹ This is not a direct quotation from the preceding letter to which this was a reply, although it may be seen as a fair comment upon it.

are concerned, although it is of course accepted that there may always be an element of risk.”

While we recognise the partial force of these arguments we regret that we regard the conclusion that “there is minimal risk of direct abuse” as far too complacent; indeed, in our view it fails sufficiently to take into account the plausibility and manipulative ability (including grooming of both parents and children) which are well-recognised traits of many paedophiles. It also fails to take into account that there have been members of the diocesan clergy holding PTOs who were undoubtedly paedophiles. Nonetheless we welcome the proposals for safeguards that the document goes on to recommend although we also add some further recommendations of our own.

As we have just indicated we are aware that permissions to officiate have been granted to some members of the clergy who have in the past been found guilty of child abuse. We entirely accept that any person may be truly repentant and that forgiveness may in particular circumstances be entirely appropriate. Nonetheless we are strongly of the view that in at least one case of which we are aware insufficient or no consideration was given to what perception the grant of a permission to officiate might have (and has) created in the minds of the victims of that abuse and of the wider public. This is true however historic the abuse may be. In our view only in the most exceptional cases should any person guilty of abuse of children or vulnerable adults (however historic) be granted permission to officiate³⁰ and then only by the diocesan bishop with the concurrence of the diocesan safeguarding officer. Repentance and forgiveness are private matters; the exercise of a clerical ministry, even in a restricted form, is a public matter affecting the ministry of the whole Church. Indeed, the exercise of clerical ministry holds out to the public (and especially to children) the expectation that the cleric concerned is trustworthy and to be relied upon³¹. In the past this has not been sufficiently appreciated by the senior clergy in the Chichester diocese.

³⁰ We note that in the *Clergy Discipline Commission Guidance on Penalties* (revised in January 2009) it is stated at paragraph 5: “Clergy who commit sexual misconduct should be dealt with firmly, and in a way which will protect those who could be harmed if the respondent were otherwise to be allowed to remain in ministry. Indecent assault on children is a gross violation, and can cause insecurity and lasting trauma to the victims. Removal from office and prohibition for life are normally called for. ... Anyone convicted of possessing child pornography should be regarded as complicit with the original abuse involved in the making of the images. There can be no realistic expectation that a convicted cleric could be safely restored into ministry. Removal from office and prohibition for life should normally be imposed.” (emphasis supplied)

³¹ This observation equally applies to those who are invited to preach or to give public testimony; if such a person is a regular attender at a church (either as a member of the congregation or as a preacher) that aura of authority may be used by an abuser to assist in the abuse of children or vulnerable adults. We believe that all

We are also aware of at least two clerics in the Chichester diocese who have permitted other clerics to officiate in their parishes without a proper licence or permission to officiate³². It should be made abundantly clear that (i) to officiate without a proper licence or a permission to officiate or (ii) knowingly to permit another cleric so to do is an ecclesiastical offence³³ and that any breach should lead to the immediate consideration of a complaint being laid under the Clergy Discipline Measure 2003. On one of the occasions of which we are aware no such complaint was brought nor, as far as we are aware, even considered but such a failure undermines the integrity of safeguarding within the diocese.

It is clear that both within and outside the Chichester diocese there is an expectation³⁴ that a permission to officiate will automatically be granted to a cleric (whether retired or not) residing within the diocese. Although such an expectation is understandable it should be made clear that a permission to officiate should never be granted as of right and will only be granted after due consideration and after the necessary safeguarding checks have been completed. In our view this should apply to any cleric however senior.

In one case the cleric's permission to officiate was apparently at a given point made subject to geographical limitations. This, however, seems only to have been conveyed to the relevant cleric orally and was not reduced to writing. Of even more concern is that we have seen no evidence that either the priest of the parish in which the cleric resided or those of

bishops should therefore make it clear that no-one should be permitted to preach or give public testimony who is not the subject of a clean CRB check. In this regard Canon B 18, paragraph 2, may be utilised in relation to Anglicans (although as presently drafted it only applies to preaching in parish churches). Canon B 43, paragraphs 1(c) & 2, applies to preachers from other Churches and the same approach should clearly be taken in relation to such persons who regularly preach in a particular Anglican church. In this regard it would seem that a clean CRB check made by that other Church and communicated to the Anglican bishop should be sufficient although we are aware, for example, that the Methodist Church does not obtain CRB checks for its local preachers. See, too Canon B 43, paragraph 9. Consideration also needs to be given to the application of safeguarding procedures in relation to Canon B 44.

³² We do not ignore the provisions of Canon C 8, paragraph 2(a) which allow a minister having the cure of souls or sequestrator, etc. "to allow a minister, concerning whom they are satisfied either by actual personal knowledge or by good and sufficient evidence that he is of good life and standing and otherwise qualified under this Canon" (emphasis supplied) to minister for a limited period of time. However, this does not mean (as one retired Chichester cleric has maintained) that he can minister under the provisions of that Canon although he has no current licence or permission to officiate from any diocese at all: see the words underlined above. In addition we are aware of a related and equally worrying situation that has arisen in another diocese, namely, an incumbent permitting a cleric who had no licence or permission to officiate to sit robed in the chancel although not physically taking part in the actual service. (Such robing is, of course, not a requirement of Canon C 27.) In law such passive presence was not regarded as 'officiating' but what occurred was nevertheless sending clear messages to those present in Church, namely, the person was one held in high regard and to be trusted. Although we are aware of only one similar case (where the cleric was at the time prohibited from officiating), we believe that urgent consideration should be made as to the amendment of the law, either by Canon or by the redrafting of the *Guidelines for the Professional Conduct of the Clergy* (Church House Publishing, 2003).

³³ See Canon C 8.

³⁴ This applies both to senior and junior clergy.

neighbouring parishes were informed of the limitation. In addition, it seems that insufficient or no checks were thereafter made to ensure that those limitations were abided by. We therefore seriously question the effectiveness of any such limitation. In any event in practice it seems to us very difficult for any limitations on a permission to officiate to be adequately policed by the senior clergy, the local parish clergy or the relevant churchwardens; this is particularly so when there is a vacancy in the parish. We recommend, therefore, that in the future conditional or limited permissions to officiate ought not to be granted. In any event all neighbouring parish safeguarding officers ought to be kept informed of the current situation.

In addition, all those (whether clerical or lay) with a proved history of abusing should be subject to a 'behaviour contract' in relation to attendance at church. However, we are aware of one case where a cleric guilty of child abuse, who has agreed to such a 'contract' in one parish, has nonetheless regularly (though infrequently) worshipped in a different parish outside the diocese without any such 'contract' being in place. We appreciate that not every eventuality can be catered for but this situation underlines the dangers that may arise.

Similarly it is our view that, if an allegation of abuse of children or vulnerable adults is made against a cleric holding a permission to officiate and the allegation is not obviously malicious, the cleric's permission should immediately be suspended save where the police request that no notice should be given of any ongoing investigation³⁵. To do so would not be contrary to natural justice as suspension does not imply guilt and any delay leaves open the possibility of further abuse.

Ongoing investigations: We now turn to the position where investigations by the relevant civil authorities are ongoing, or where they have decided that there is insufficient evidence to found a prosecution, or where the stage in a complaint has not yet been reached at which a suspension may be imposed. In so far as we are aware within the Chichester diocese a cleric under suspicion has in all such cases agreed to a voluntary suspension when so asked.

However, such suspensions may be over a period of a large number of months and this necessarily creates great strain on the cleric, the cleric's family and the parish as a whole. It is not surprising, therefore, that in one such case of which we are aware pressure has been brought on the diocese by the cleric to end diocesan consideration of his case. However, in our view it is only a matter of time before a cleric in similar circumstances either refuses to be voluntarily suspended or withdraws that consent before a complaint has been sufficiently progressed for the bishop to consider mandatory suspension. If this were to occur a

³⁵ We acknowledge the tension here between safeguarding the vulnerable in the short term and the requirement for a full investigation so that there may be fuller safeguarding in the future,

safeguarding danger would in some cases necessarily arise without the diocesan authorities being able in law to impose a mandatory suspension³⁶ or to impose conditions on the cleric's exercise of his functions³⁷. We therefore believe that this situation should be urgently considered by the national Church.

Insufficient evidence: A similar problem may arise when the police have decided that there is insufficient evidence to support a criminal prosecution or a prosecution has failed³⁸. Indeed, even applying the lesser civil burden of proof a complaint under the Clergy Discipline Measure 2003 may still fail³⁹. Nevertheless, a very real safeguarding concern may remain and it is therefore necessary both for the protection of children and vulnerable adults, as well as for the cleric concerned, that a professional assessment of future risk should always be undertaken; this would also provide professional evidence upon which diocesan authorities can determine what, if any, restrictions should be placed upon the cleric's future ministry. Although natural justice and fairness must always be borne in mind, it is our view that the dangers to young children and vulnerable adults cannot be ignored⁴⁰. Indeed, we understand that the same concern is currently being considered by the Church in Wales⁴¹.

³⁶ See above.

³⁷ *Calvert v Gardiner* [2002] EWHC 1394, [2002] All ER (D) 168 (May). See, too, *Hutchins v Denziloe and Loveland* (1792) Hag Con 170.

³⁸ A criminal prosecution is on the basis of proof of guilt beyond reasonable doubt but a complaint under the Measure must only be proved on a balance of probabilities: see the Code of Practice, paras 168 & 200. However, the more serious the allegation (for example, rape) the less likely it is that the crime has been committed. " ... [I]t is not so much that a different standard of proof is required in different circumstances varying according to the gravity of the issue, but that the gravity of the issue becomes part of the circumstances which the court has to take into consideration in deciding whether or not the burden of proof has been discharged: the more serious the allegation, the more cogent is the evidence required to overcome the unlikelihood of what is alleged and thus to prove it": see 20 Halsbury's Laws of England (5th ed.) at 775, referring to *Re H and R (minors) (sexual abuse: standard of proof)* [1996] AC 563, [1996] 1 All ER 1, HL (considered in *A Local Authority v H* [2005] EWHC 2885 (Fam), [2005] All ER (D) 185 (Dec)); and see *Re Dellow's Will Trusts, Lloyds Bank Ltd v Institute of Cancer Research* [1964] 1 All ER 771, [1964] 1 WLR 451; *Hornal v Neuberger Products Ltd* [1957] 1 QB 247, [1956] 3 All ER 970, CA; *R (on the application of D) v Life Sentence Review Comrs (Northern Ireland)* [2008] UKHL 33, [2008] 4 All ER 992, [2008] 1 WLR 1499. See, too, *Re B (children) (sexual abuse: standard of proof)* [2008] UKHL 35, [2008] 4 All ER 1.

³⁹ The Code of Practice, para. 168, states that, if alleged matters are the same in each set of proceedings, a complaint should not normally be brought against a cleric alleging exactly the same matters after an acquittal by a criminal court. We note the word "normally" but in our view, if safeguarding issues arise, the presumption should be that the matter should (dependent, of course, on the state of the evidence) be permitted to proceed as a complaint; if this were not so, the situation of the cleric might be to give precedence over the safeguarding of children or vulnerable adults, as the case may be. In any event, if the criminal allegation were one of rape, it would not preclude a complaint of conduct unbecoming against the cleric. We suggest that this question should be explored further with the President of Tribunals with a view to further guidance being given in the Code of Practice.

⁴⁰ In this regard we draw attention to the fact that in criminal prosecutions where there is an allegation of historic abuse the effect of the effluxion of time on the prosecution is considered as part of the overall question whether the burden of proof has been met: *R v LPB* [1990] 91 Cr App R 359. Save in rare cases is effluxion of time regarded as sufficient reason for the dismissal of the prosecution by itself. Although in

A similar problem arises if a cleric declines to undergo a safeguarding assessment by, for example, the Lucy Faithful Foundation⁴². Although it is strictly outside our remit to consider what may be done by the national Church we nevertheless suggest that the President of Tribunals should be asked whether tribunals in circumstances such as those referred to in the previous paragraph might be encouraged to direct the obtaining of evidence as to future risk either under rule 30(1) of the Clergy Discipline Rules 2005⁴³ or that the Rules might be amended to provide for such an eventuality. A respondent to a complaint is under a duty to co-operate with the tribunal and a failure to do so may lead to an adverse inference being drawn against the cleric concerned⁴⁴. An alternative is that the *Guidelines for the Professional Conduct of the Clergy*⁴⁵ should be amended to spell out⁴⁶, or newly to incorporate, a requirement of the clergy to undergo a safeguarding assessment at the direction of the bishop in appropriate circumstances⁴⁷. Nevertheless, the problem would still remain of enforcing a restriction on ministry if the cleric has a freehold or an equivalent parish appointment⁴⁸. To alter this situation would require a change in the law by means of a Measure.

Co-operation in safeguarding matters: It is essential to stress that a failure to follow diocesan safeguarding policies (at whatever level of seniority) may amount to neglect or inefficiency

complaints under the Clergy Discipline Measure 2003 the burden of proof is on a balance of probabilities and there is also a limitation period of twelve months, we believe (bearing in mind that sexual abuse is often not reported for many years) that consideration should be given to adopting a similar approach in complaints under the 2003 Measure of historic sexual abuse against the clergy. Due to the undoubted fact that sexual abuse may be difficult for the victim to face for many years, we believe that this aspect in relation to safeguarding must necessarily be dealt with separately in Church legislation.

⁴¹ One of the considerations is apparently whether a report on safeguarding aspects should always be before a disciplinary tribunal in appropriate cases.

⁴² We are aware of a case in which a cleric only agreed to undergo such an assessment after considerable persuasion.

⁴³ "Where a complaint is referred to a tribunal for adjudication, the Registrar of Tribunals (a) may hold one or more preliminary hearings to identify the issues and give directions, and shall give notice to the parties of such hearings, and (b) shall give directions for the just disposal of the proceedings in accordance with the overriding objective": rule 30(1).

⁴⁴ The Clergy Discipline Rules 2005, rule 2, states: "(1) All parties shall co-operate with any person, tribunal or court exercising any function under the Measure in order to further the overriding objective. (2) Any failure to co-operate by a party may result in adverse inferences being made against that party at any stage of the proceedings." The overriding objective is "... to enable formal disciplinary proceedings brought under the Measure to be dealt with justly, in a way that is both fair to all relevant interested persons and proportionate to the nature and seriousness of the issues raised": rule 1.

⁴⁵ Church House Publishing, 2003.

⁴⁶ See, particularly, paragraphs 2.5 (appropriate training), 2.11 (awareness), 3.3 (sensitivity to position). We also refer to the Ecclesiastical Offices (Terms of Service) Measure 2009, s 2(2)(d) and to the Ecclesiastical Offices (Terms of Service) Regulations 2009, reg. 19(1).

⁴⁷ A failure to do so would then amount to a breach of the cleric's oath of canonical obedience

⁴⁸ See above.

in the performance of a cleric's duties: see the clergy discipline case of *Re Robinson*⁴⁹. Yet in spite of this we understand that a number of incumbents and priests-in-charge in the Chichester diocese failed to respond to the diocesan survey as to safeguarding training in their parishes until pressed to do so. In addition, although the national policy is that every cleric should have a CRB check at least every five years, we understand that on the 14th June 2012 there were 138 clergy in the diocese without current CRB checks. The current safeguarding officer is endeavouring urgently to address the problem but it is also the duty of a cleric to ensure that he or she has a current CRB check. We regard a failure to do so a very serious disciplinary matter and we recommend that this is made more widely known in the Chichester diocese.

APPOINTMENT OF CLERGY TO AND FROM OTHER DIOCESES

We have received complaints from two diocesan bishops that the Chichester diocese failed adequately to disclose relevant safeguarding matters to them when considering the appointment of Chichester clergy to posts within their dioceses. It should therefore be clearly understood that such a failure may be the basis for disciplinary action against whoever may be involved.

We also understand that in the past it has not always been the case that the clergy files ("blue files") from other dioceses have been seen within the Chichester diocese before new appointments have been made. This is clearly a dangerous practice which we believe no longer appertains. However, in addition we have been informed by a number of bishops (both within and without the Chichester diocese) that the present 'safe-to-receive' (or clergy current status) letters are entirely inadequate and that in some circumstances the present wording has apparently been used to obscure unwelcome facts about the cleric concerned; we are aware that a number of bishops therefore endeavour to make the situation clearer by private phone calls to a bishop in the diocese which the cleric is leaving. However, attempts to speak in such circumstances have not always been successful and in any event the practice lacks transparency; indeed, we believe any such conversation should as a matter of course always be reduced to writing. We are, therefore, pleased to learn that this issue is currently being addressed by the Legal Office of the Church of England.

Clearly it is not practicable to consult the blue files of all those who may apply for a particular vacancy but the safeguarding dangers are obvious if the file of the chosen cleric is

⁴⁹ www.ecllaw.co.uk/clergydiscipline/robinson1.pff.

not seen prior to the finalisation of the appointment. This necessity to consider the contents of blue files may, of course, cause delay in the finalisation of an appointment but this cannot be a reason to ignore the obvious safeguarding dangers if the files were not to be consulted. Problems have also arisen in Chichester when another diocese has declined to release the relevant blue file prior to an appointment actually being made. This, too, is entirely unsatisfactory but we suggest can easily be obviated in future by the chosen cleric giving his or her written consent to the relevant diocese releasing the blue file for perusal⁵⁰ prior to any appointment being made.

RECOMMENDATIONS OF DAME ELIZABETH BUTLER-SLOSS:

1. *Allegations of historic abuse should be responded to in the same way as current allegations of child abuse.* We have no doubt that this is correct and we are sure that it is well understood by the safeguarding officer and safeguarding group. However, we are presently unconvinced that this basic tenet of safeguarding is sufficiently understood throughout the diocese and this needs to be addressed in training (supported by easily understood training material). We believe that, if the complainant agrees, all interviews with the diocesan safeguarding officer should be tape recorded or, at the least, contemporaneous notes should be made and later shared with the complainant.
2. *It must be clearly understood that the decision of the police not to pursue an investigation or not to investigate at all or of the CPS not to prosecute does not relieve the Diocese of its duty to assess, on the civil standard of proof, any potential risk to children in the Diocese and to act appropriately.* This was still not entirely understood when our visitation began. We therefore underline that this should continue to be borne in mind whenever an allegation comes to light. We also stress the problems noted in the body of this report in relation to the twelve month limitation period imposed in the Clergy Discipline procedures; we believe that such a limitation period is entirely inappropriate where complaints of sexual abuse are concerned.
3. *The alleged abuser, if a priest or retired priest with a PTO, should, almost always, be suspended temporarily from his or her ministry pending both the police and/or the Diocesan investigation. A similar response should be put in place for lay employees*

⁵⁰ It is clearly impractical for a member of the receiving diocese in every case to travel to the releasing diocese. However, we believe blue files should never be sent by post but should instead be couriered between dioceses.

or people in voluntary roles within the church. We have already addressed this within the main body of our report although a period may elapse where there are ongoing police investigations. However, we again stress that the law of the Church of England is presently not in line with the rest of the civil law of employment and needs urgently to be addressed.

4. It should be made clear to all priests and retired priests with PTOs in the Diocese that, if an allegation of abuse including historic abuse, is made, he/she will have to be suspended temporarily as part of the diocesan safeguarding policy, even if the allegations turn out eventually to be groundless. In those rare cases where suspension may not be necessary this decision should only be made by senior clergy in consultation with the DSA/Safeguarding Group. We address this in the main body of our report. We, however, believe that a decision not to suspend should only be made by the diocesan bishop.
5. The senior clergy and diocesan secretary should evidence leadership in their commitment to the principles of safeguarding, should recognise the importance of the roles of the DSA and the Safeguarding Group and support them financially, through inclusion in appropriate diocesan communications, and through attendance at the group. We have no doubt that the senior clergy are far more aware of their responsibilities but we stress that the senior clergy should attend (and continue to attend) safeguarding training for the diocesan clergy so that its importance is emphasised by their presence. We should add, however, that we were concerned to be told that not all the senior clergy have met all the members of the diocesan safeguarding group; this should take place at least once every year. The minutes of every meeting should be sent to the diocesan bishop who should meet, or speak regularly to, the chair of the safeguarding group. We suggest that the new diocesan bishop should consider the membership of the safeguarding group and should keep it always under review; the group should always be chaired by a lay person with recognised safeguarding qualifications. All clerical nominees should be appointed by the diocesan bishop.
6. The senior clergy should consult the DSA and the Safeguarding Group and agree the best way to implement the management of historic allegations of abuse both in general policy and in individual cases. We are satisfied that there is a far greater commitment to this principle although there can never be room for any complacency.

7. The advice of the Safeguarding Group , supported by the DSA, should be treated seriously and, generally, be accepted by senior clergy. We believe that this is far better understood. The diocesan safeguarding officer should always be informed of any complaint, historic or otherwise and whether under investigation or not. All safeguarding policies should be agreed with the diocesan safeguarding advisory group. We also suggest that a day-away should be considered between the senior clergy, the safeguarding officer and the diocesan secretary.
8. If the advice of the Safeguarding Group is not accepted by the senior clergy in relation to allegations made against a priest in the Diocese, written reasons should be given and recorded in the Blue File. We entirely agree with this recommendation although we stress that such non-acceptance should always be backed up with properly qualified advice a copy of which should be included in the file.
9. The clergy throughout the Diocese at every level and lay leaders (sic) should have regular training in the recognition and understanding of the management of historic abuse allegations and in understanding the effect of historic abuse on the victims as well as current child protection issues. The term ‘lay leaders’ must be understood to include parish safeguarding representatives. It must also be recognised that a failure to undergo regular training may be the basis for a complaint under the Clergy Discipline Measure 2003; however, we are not satisfied that this is clearly understood throughout the diocese. All training must be supported by easily understood literature; in this regard we believe that *The Care and Protection of Children* is too unwieldy a document for general consumption. We are therefore disappointed that recommendation 20 (below) has not yet been implemented.
10. The clergy at every level and lay leaders (sic) should communicate directly with the DSA where issues of historic abuse and/or child protection arise in relation to any member of the church community including clergy. We have no doubt that this is being stressed in the training being given in the diocese but we are not convinced that all clergy fully appreciate the need for such training. It should be a priority for the archdeacons to monitor the attendance of clergy at such training.
11. If information is received by a priest or lay leader (sic) about abuse which might affect safeguarding of children, the Sussex Police as well as the DSA should be immediately informed. Again, we are sure that this is being stressed in the diocesan training. However, we again draw attention to the need for a proper understanding of the seal of the confessional in this regard.

12. In cases which might affect the safeguarding of children or other cases which are being investigated by the statutory agencies the priest or lay leader (sic) should not wait for a request before disclosing any relevant information. This should be stressed throughout the diocesan training.
13. There should be careful and meticulous record keeping both of issues of safeguarding and general personnel matters, All relevant information should be kept in two files, the Blue File held at the Palace and the Safeguarding File held by the DSA with cross-referencing of important information held in one of the two files. For the sake of clarity we should make it clear that we believe that the safeguarding part of any blue file should always be kept in the same location as the rest of the blue file as a multiplicity of files may lead to the omission of a relevant piece of information from one or other of the files. However, we are satisfied that far greater care is being taken in regard to this aspect of safeguarding and that blue files are being kept in a central location open to the diocesan safeguarding officer. We are concerned, however, that it is easy for telephone conversations not to be adequately minuted and for those minutes not to be forwarded immediately in every case. This is a matter of good practice that needs continually to be borne in mind.
14. Every grant of a PTO or recommendation within the Diocese should be preceded by a careful check of the Blue File and the Safeguarding File and all other information available from senior clergy in the Diocese. We have already stressed that the grant of a PTO should not be regarded as an automatic consequence of retirement. As much care should be taken in the grant of a PTO as in any other appointment within the diocese.
15. Every giving of a 'safe to receive' (otherwise 'Clergy Current Status letter') to another Diocese or a recommendation should be preceded by a careful check of the Blue File and the Safeguarding File and all other information available from senior clergy in the Diocese. We in no way disagree with this recommendation but, as we make plain in the body of this report, we believe that the whole mechanism of safe-to-receive letters should be re-visited by the Church as a whole.
16. Adult victims disclosing abuse as a child should be treated with respect and compassion; their allegations treated seriously; they should not be seen as accusers or as problems and they should be kept informed of the progress of any investigation. We believe that this is far better understood within the diocese. In particular we welcome the present dialogue between the senior clergy and MACSAS.

17. Victims should be offered counselling and support and, where appropriate, funding the therapy. There should be no automatic time limit on engagement with any individual victim, since the impact of childhood abuse can be lifelong. We would also stress that the diocese should be slow to cut off funding for counselling if the counsellor believes counselling still to be of value.
18. Letters to individual victims should be addressed and signed personally and, where appropriate apologies should be made to the victims. We deal with this aspect in the body of our report. Any apology should be by the diocesan bishop and made face to face as well as in writing if at all possible.
19. All risk assessments of clergy should be undertaken by an authoritative and skilled professional body, mirroring the arrangements put in place by the Independent Safeguarding Agency. We fully endorse this recommendation.
20. It would be helpful to clergy and lay workers in the parishes if a two sided laminated note of the main points of the Diocesan procedures could be provided to them for easy reference. This should include what to do when an allegation is made, reference to standards of proof, and how to ensure an audit trail. We believe that a small laminated aide-memoire should also be provided that can easily be carried in a wallet or handbag.
21. In a situation where the assessment of allegations against a priest reveals a serious risk to children in a Diocese, even though the priest has not been prosecuted or even where he/she has been acquitted, urgent consideration should be given of referral to ISA and whether it would be possible to follow the CDM to achieve permanent removal of that priest from the ministry. Again, we fully endorse this recommendation.

Appendix I

In our view the guidance given in The Care and Protection of Children (2009) and Safeguarding and Promoting the Welfare of Vulnerable Adults (2011) is both well thought out and useful, although we also recommend that they are amended to take into account the matters referred below. However, we also feel that the guidance is too detailed and dense for many parish representatives to take and keep on board (although we commend the excellent Pocket Guide entitled *Keeping Children & Young People Safe in Church.*). We therefore recommend consideration of the adoption of shorter guides such as those provided by the Church in Wales or the excellent principles and procedures produced by the Catholic Church in Australia under the title *Towards Healing* (January 2010)⁵¹ to be used in addition to the present longer policy documents. In particular we support the recommendation of Dame Elizabeth Butler-Sloss that a laminated guide should be provided.

The Care and Protection of Children (2009)

Policy

1. Although the first (pink) page refers to the House of Bishops' policy on 'child protection', there is no definition of 'child'. P3 refers to concerns about 'children and young people' but, again, there is no definition. This is unsatisfactory as many people will not appreciate that the policy covers children and young persons up to the age of 18. This is the more important as the thrust of the rest of the document is in relation to 'children'. It is important that the terms are defined at the commencement of the document.
2. G 2 refers to concerns regarding clergy to be passed to 'the relevant archdeacon' but this ignores the fact that the concern may centre on an archdeacon. It is a mistake to assume that senior clergy may not be involved.
3. G4 refers to the necessity for all clergy joining the diocese to attend refresher training every three years. It should be made clear that all clergy of whatever seniority and however long in the diocese must attend.
4. Although G 5 refers to guidance on safe recruiting being held in the Bishop's and Diocesan Offices, we are told that there is in fact no additional advice available other

⁵¹ Both of these, of course, would require amendment to reflect the law applicable in the Church of England.

than the national document ‘Safe Recruiting’ to be found on the national C of E website. G5 is therefore inaccurate.

5. G 7, footnote 2, speaks of ‘more detailed advice’ about applying for CRB disclosures being available from Diocesan Church House. In fact we are informed that the only additional information available is the application form itself and the CRB *An applicant’s guide to completing the CRB application* which accompanies that form. The footnote is therefore somewhat misleading.
6. In G 10 the advice is given to avoid ‘leading’ a child or young person when listening to a child. The expression ‘leading question’ is legal jargon and misunderstood by the laity. We recommend that the guidance should be reworded along the lines: “Care must be taken not to put words into a child or young person’s mouth either by a direct suggestion or in the form of a loaded question.”
7. A cross-reference should be made in G 13 to section B 3(2).
8. G 19 only speaks of the suspension of beneficed and licensed clergy. We deal with this more fully in our main report but stress that it important to state that G 19 also applies to clergy holding a permission to officiate. Indeed, we recommend that it is made clear from the outset that the whole policy applies to those holding a permission to officiate as well as to beneficed and licensed clergy.
9. It should be made clear that G 22 applies to all insurance companies and not just to the EIG.
10. G 33 should make it clear that disciplinary action will be instituted against anyone making malicious allegations whether or not they are in employment.

General Information

1. B 1(3) suggests that training will only be given to those who hold the Bishop’s licence. Training should be given to all practising clergy whether beneficed, licensed or holding the bishop’s permission to officiate.
2. Far greater guidance should be given in relation to the hearing of confessions. In this regard paragraph 6.19⁵² of *Protecting All God’s Children* (4th edition, 2010) produced by the House of Bishops should be included in the Chichester diocesan policy, as should paragraphs 6.21 *et seq.* on the Ministry of Deliverance.

⁵² However, we note that the law is too widely stated (cp) *Legal Opinions of the Church of England* (8th ed., 2007) at 29-42.

Forms

1. Form 3 should make it clear that the introductory recruitment information applies to beneficed clergy and those with the bishop's permission to officiate as well as to those holding the bishop's licence (cp) Form 5.

Safeguarding and Promoting the Welfare of Vulnerable Adults (2011)

Definitions

We note that *Safeguarding and Promoting the Welfare of Vulnerable Adults* adopts (at page 16) the Law Commission's definition of "vulnerable adult" and lists five classes of persons who may be included within that definition. We suggests that consideration ought also to be given to including the definition contained in *Towards Healing* (at page 5), namely: "a person who has recently suffered bereavement, marriage breakdown or other such adversity making them in particular need of pastoral support, or a person with an intellectual disability, mental illness or other impairment that makes it difficult for that person to protect themselves from abuse or exploitation."

Procedures

1. At G 6 (page 19) the advice is given to avoid 'leading' a child or young person when listening to a child. The expression 'leading question' is legal jargon and misunderstood by the laity. We recommend that the guidance should be reworded along the lines: "Care must be taken not to put words into a child or young person's mouth either by a direct suggestion or in the form of a loaded question."
2. Bearing in mind the wording of The Care and Protection of Children G 21 should make it clear that it applies to beneficed clergy and those holding a permission to officiate as well as to those holding the Bishop's licence. The paragraph is ambiguous: (cp) Appendix 3 (page 49).
3. In G 25 (page 30) reference is made to 'retired clergy with a licence'. It is believed that this should in fact refer to those clergy with a permission to officiate.

Best Practice

1. In Y 2 (page 34) or Y 4 (page 36) guidance should be given in relation to the hearing of confessions. In this regard paragraph 6.19 of *Protecting All God's Children* (4th edition, 2010) produced by the House of Bishops should be included in the Chichester diocesan policy. Similarly, paragraphs 6.21 *et seq.* on the Ministry of Deliverance should be included.

Appendix II

We have considered the various recommendations put forward by the Minister & Clergy Sexual Abuse Survivors (MACSAS) placed before Dame Butler-Sloss and address them below.

- 1. All Safeguarding officers/advisers should be independent of the Church of England; they should neither be members of the clergy nor related to members of the clergy.** Although we in no way criticise the independence of any diocesan safeguarding officers we nonetheless agree that there is a very real danger that safeguarding officers who are either themselves members of the clergy or related to members of the clergy will not be recognised as independent by the survivors of clerical abuse. This lack of confidence may undermine the ability of survivors to disclose that abuse. However, we do not think this applies with the same force to members of Safeguarding Committees as long as the clerical members, or members related to the clergy, are not in the majority and do not chair the Committee; indeed, we see a real benefit from clerical input at this level.
- 2. Diocesan Authorities and Safeguarding officers should take actions in response to allegations of child sexual abuse to ensure that the alleged abusers do not pose a risk to children.** We entirely agree with this recommendation and deeply regret that such action has not always been taken in the past within the diocese of Chichester. Although we believe that far better safeguards have now been put in place, it is however essential that the clergy and lay parish representatives continue to undergo rigorous training in relation to the abuse of children and vulnerable adults. A failure without proper excuse by any individual cleric to undergo such training or to implement the diocesan safeguarding policy should immediately lead to a complaint under the Clergy Discipline Measure 2003: see *Re Robinson* reported at www.ecclaw.co.uk/clergydiscipline/robinson1.pff.
- 3. Diocesan Authorities and Safeguarding officers should not rely upon the procedures and outcome of criminal investigations to determine the nature and extent of the actions to be taken against alleged child abusers.** We entirely agree and address this further elsewhere in our Report.

4. **Those accused of child sexual abuse should be suspended from ministry immediately an allegation is made and should remain suspended until all processes and risk assessments are concluded and a decision has been made about what actions should be taken.** Again, we address this question elsewhere in our Report.
5. **Diocesan Authorities and Safeguarding officers should ensure that the risk assessment process is at the centre of all decision making, and that risk assessments are undertaken by professionals trained and experienced in the assessment of child sexual offenders. The risk assessment process should not be seen as a secondary or as a less important process for those not convicted of any criminal offence.** We stress that adequate and continuing training is essential for all clergy including the senior clergy. See further in our Report.
6. **Diocesan Authorities should disclose all information held on an alleged abuser to the Safeguarding officer when an allegation is reported. The safeguarding officer should present the whole information held on any alleged offender to statutory authorities including to the police. Diocesan Authorities should not wait for a request to be made disclosing any relevant information held.** We entirely agree that the diocesan authorities should immediately disclose all such information to the Safeguarding Officer and, in order to facilitate this, all such information should be kept in one central repository to which the Safeguarding Officer has access. It is essential that the Diocesan Authorities and Safeguarding Officer are pro-active in the disclosure of such information to the police and other relevant statutory bodies.
7. **Where a vicar, minister or other church leader has been convicted of a sexual offence against children, or has otherwise been deemed to have committed such offences, he/she should not be allowed to continue in ministry, nor should be allowed to continue in ministry, nor should that person be granted permission to officiate (PTOs). Diocesan Authorities should consider in every case whether the vicar/minister should be unfrocked.** We entirely accept this recommendation save that we emphasise that such actions must be the result of proper legal process.

8. **Diocesan authorities and safeguarding officers should keep a record of all allegations of child abuse made against a member of the clergy or other church workers, and record all actions taken, assessment made and decisions taken following each allegation reported.** We agree that record keeping is essential to proper safeguarding. Such records should be kept in one place and open to the Safeguarding officer. No exceptions should be made in any circumstances.
9. **A named person on all parish councils should be informed of all clergy and church workers who have recorded allegations of child abuse on file and the outcome of any investigations and risk assessment.** We accept that in so far as it is within the knowledge of the Diocesan Authorities such a named person should be kept informed of any minister or church worker (whether or not still employed by the church) who has been found guilty of abuse and who is within that parish community. We do not accept that such a named person should determine what risk is posed as that should in all circumstances be left to trained professionals.
10. **Diocesan Authorities should have in place procedures for responding to those who report allegations of child sexual abuse by clergy when they are adults. Embedded within those procedures should be an understanding that these adults are victims who were sexually abused when they were children. These procedures should include assistance and support offered to all who report allegations.** We accept that such procedures are essential and believe that they are now in place in the diocese of Chichester. We also accept that assistance and support must be offered to all those who have suffered abuse at the hands of the clergy. However, we do not accept that a report of such abuse without more should entitle a victim/survivor to assistance and support. We believe that such an approach might lead to unfounded allegations and thus detract from the essential assistance and support for those who are indeed victims/survivors.
11. **The Church of England should have in place national procedures for determining the credibility of child sexual abuse allegations when there are no criminal convictions. Those tasked with determining the credibility of allegations should be professionals trained and experienced in assessing allegations and determining credibility. A panel of assessors drawn from a range**

of professional disciplines including psychiatry, social work, psychology, child protection, and the assessment and treatment of sex offenders, should be commissioned for this purpose. The members of the panel should be independent of the Church of England and the assessor/s in any given case should not be from or associated with the Diocese/s where the alleged abuser was in ministry. This recommendation is outside the remit of our Commission.

12. **Once the credibility of an allegation is determined the victim/s of the alleged abuser should receive an acknowledgement of the harm caused and an apology from the Diocesan Bishop and should be offered a process for determining what redress should be provided by the Diocese or the Church of England.** We have no doubt that it is essential that once the credibility of an allegation is determined that victim/survivor must receive a proper acknowledgement of the harm caused. If at all possible such a determination should not depend upon a civil action brought by the victim/survivor. Such a person must receive an unreserved, credible and unconditional apology from the diocesan bishop.

APPENDIX III

Recommendations in respect of the diocese of Chichester

1. A fresh commitment of obedience is necessary to the call of Christ to enable children to come to Him.
2. A change in culture must be created in which the sanctity, dignity and well being of children and vulnerable adults is openly and transparently at the heart of the diocese.
3. The dysfunctionality within the senior diocesan team must be urgently addressed.
4. It is essential that the diocese is able to place trust in the professional judgment of the safeguarding group and safeguarding officer and the whole diocesan team is held together in a common commitment to the task. A day-away should be considered between the safeguarding officer and the senior clergy and diocesan secretary.
5. All clergy (whether licensed or having a permission to officiate) must have up-to-date CRB checks. Such a check should also be made in relation to any person who is a regular attender at any particular church and who is permitted on any occasion to preach or to give public testimony in that church. This should apply to any person of whatever Church who is permitted to officiate or preach under Canon B 43.
6. The area scheme should be reconsidered and the senior team must function as a team throughout the diocese. The diocesan bishop should not have a discrete area of his own.
7. The diocesan guidelines *The Care and Protection of Children* (2009) should be brought fully into line with the House of Bishops' guidelines *Protecting All God's Children* (2010). Specific recommendations in relation to this (and in particular to confessions) as well as in relation to the diocesan guidelines *Safeguarding and Promoting the Welfare of Vulnerable Adults* (2011) are set out in Appendix II.
8. All safeguarding policies should be agreed with the safeguarding group. All protocols should have regard to the safeguarding arrangements put in place by the children's services department and should fully inter-face with those arrangements.
9. The safeguarding material produced both by the Church in Wales and by the Catholic Church in Australia should be consulted. In particular the diocesan safeguarding policy, as well as all accompanying material, needs to be very clear about the actions needed when an allegation of abuse is made. There should be protocols that set out a clear procedure, proper record keeping and timescales for each step to be taken. Care

must be taken to ensure that all safeguarding material is easy to digest, clear and as short as possible.

10. All training must be supported by easily understood literature. A small laminated aide-memoire should also be provided that can easily be carried in a wallet or handbag.
11. More resources (both in personnel and monies) must be provided for safeguarding.
12. There must be one hundred per cent compliance throughout the diocese with its safeguarding policies. In particular:
 - All clergy (of whatever seniority and whether licensed, non-stipendiary or having permission to officiate) should undergo regular training in safeguarding. (Consideration should be given to a survivor of clerical abuse speaking at such training sessions.)
 - Training should stress that no priest or lay person should wait for a request before disclosing any relevant safeguarding information.
 - The archdeacons should ensure that all such clergy comply with training requirements.
 - All incumbents and priests-in-charge should ensure that the appropriate laity within their parishes undergo the requisite safeguarding training.
 - Save in exceptional cases any failure to comply with parish training requirements, or to respond expeditiously to enquiries by relevant diocesan authorities as to the current state of parish safeguarding training, should be the basis of a complaint under the Clergy Discipline Measure 2003.
13. Any safeguarding complaint, however apparently minor, should be reported immediately to the diocesan safeguarding officer who should in turn notify the diocesan bishop as soon as possible.
14. On the receipt of an anonymous complaint the diocesan authorities must be vigilant to make (or instigate) such investigations as are still both proper and possible.
15. The diocesan authorities must remain both vigilant and open to the wider implications of all allegations of abuse (whether anonymous or not) as well as to all possible means of investigation.
16. Any complaint against a member of the clergy must immediately be acknowledged and thereafter vigorously followed up. The diocesan bishop is under a duty himself to

institute enquiries in the face of any allegation not amounting to a formal complaint under the Clergy Discipline Measure 2003.

17. If a criminal prosecution fails or the police decide there is insufficient evidence upon which to bring a criminal prosecution, the bishop must nevertheless give serious consideration as to whether a complaint should be pursued under the Clergy Discipline Measure 2003.
18. If a complaint of abuse which is not obviously malicious is made against a member of the clergy the cleric should immediately be suspended whether mandatorily or voluntarily unless the police request otherwise.
19. Discussions should be held with the diocesan insurers as how best the diocese may react in the light of allegations of abuse whether or not the abuse can be legally substantiated react. Ideally a method should be found by which survivors can obtain an apology and other redress without resorting to an adversarial dispute, perhaps through mediation.
20. A confidentiality clause should never be included in any agreement reached with a survivor. It is essential that there is complete transparency about any abuse that has occurred.
21. The diocesan bishop should offer an apology on behalf of the diocese to a survivor face to face. Letters of apology should be personal in both form and content. They should be signed by the diocesan bishop and sent directly to the survivor concerned.
22. The new diocesan bishop should as a matter of priority and early in his episcopacy offer to visit personally all known survivors who have not yet been visited.
23. We recommend that the diocese should offer to help fund the survivors' group run by Philip Johnson as an acknowledgment of the diocese's continuing responsibility for the harm done to those survivors.
24. The funding of counselling for a survivor should only cease if the relevant counsellor believes that it has ceased to be effective.
25. Any necessary weeding of files should be kept to a minimum. Care must be taken that all blue files and safeguarding files continue to contain any material that may in future impinge upon safeguarding matters.
26. All clergy involved in pastoral work should keep a record that can be perused by the archdeacon or other higher authority; the record should contain a record of who has been seen pastorally and include a brief statement of the general purpose of the encounter, the date, time and place. Training should emphasise the necessity never to

- contact or work with children, or to counsel vulnerable adults, when no other responsible adult is in the immediate vicinity and thus able to act as ‘chaperone’.
27. It should be made clear that no permission to officiate is granted as of right, however senior or experienced the cleric concerned may be.
 28. Save in the most exceptional cases no permission to officiate should be granted to any cleric who has been found guilty (or has admitted) committing sexual abuse. In those exceptional cases the permission should only be granted by the diocesan bishop and with the concurrence of the safeguarding officer; in any such case the churchwardens and parish safeguarding officers of the relevant and neighbouring parishes should immediately be notified of the situation.
 29. A permission to officiate should never be conditional or subject to limitation.
 30. It should be stressed to the diocesan clergy that it is an ecclesiastical offence to officiate without a licence, or to preach without the bishop’s permission, and that it is also an ecclesiastical offence to permit a cleric so to act. Save in the most exceptional cases any breach should lead to the laying of a complaint under the Clergy Discipline Measure 2003.
 31. Relevant clergy files should always be consulted before a cleric is appointed to a post within the diocese of Chichester either from within the diocese or from another diocese.
 32. The membership of the diocesan safeguarding group should be kept under constant review. The diocesan bishop should meet, or speak to, the chair of the safeguarding group regularly. The group should always be chaired by a lay person with recognised safeguarding qualifications and all clerical nominees should be appointed by the diocesan bishop.

Recommendations in relation to the National Church

1. The answerability of an area or suffragan bishop to his diocesan should be clarified.
2. The excellent House of Bishops' guidelines *Protecting All God's Children* (2010) should be a template for the safeguarding policies of all dioceses.
3. The contents of the House of Bishops' guidelines *Protecting All God's Children* (2010) should be kept constantly under review so as to incorporate any new safeguarding practices and insights. In this regard the safeguarding material produced both by the Church in Wales and by the Catholic Church in Australia should be considered. Care must be taken to ensure that all safeguarding material is easy to digest, clear and as short as possible. In particular the policy, as well as all accompanying material, needs to be very clear about the actions needed when an allegation of abuse is made.
4. It would be helpful if protocols and training material were to be provided nationally. Protocols should set out a clear procedure, proper record keeping and timescales for each step to be taken. All protocols should have regard to the safeguarding arrangements put in place by the government (as well as local authorities) and should fully inter-face with those arrangements.
5. The training of any cleric (stipendiary or otherwise) must include a sound foundation in proper professional values and standards in pastoral work. We recommend that all clergy involved in pastoral work should be encouraged to keep a record that can be perused by the archdeacon or other higher authority; such a record should contain a note of who has been seen pastorally and include a brief statement of the general purpose of the encounter, the date, time and place. Training should emphasise the necessity never to contact or work with children, or to counsel vulnerable adults, when no other responsible adult is in the immediate vicinity and thus able to act as 'chaperone'.
6. Urgent consideration should be made to amending the Clergy Discipline Measure 2003 to permit the compulsory suspension of any cleric immediately a complaint of abuse which is not obviously malicious is received.
7. Urgent consideration should be given to the exclusion of any limitation period under the Clergy Discipline Measure 2003 applying to a complaint relating to sexual abuse.

8. Urgent consideration should be given to the application of necessary safeguarding matters to those from other Churches who are permitted to officiate or preach in Anglican churches under the provisions of Canons B 43 and 44.
9. Urgent consideration should be given to the amendment of the law (either by Canon or by the redrafting of the *Guidelines for the Professional Conduct of the Clergy*) to require any cleric credibly suspected of sexual abuse to undergo appropriate psychiatric assessment as to future risk at the direction of the diocesan bishop. Similar consideration should be given to appropriate psychiatric evidence being required in any proceedings under the Clergy Discipline Measure 2003 relating to sexual abuse.
10. Consideration should be given to the position of a cleric holding a freehold or having common tenure who has received a negative psychiatric assessment in relation to safeguarding.
11. Consideration should be given to the amendment of the guidance given in paragraph 168 of the Clergy Discipline Measure Code of Practice.
12. Urgent consideration should be given to the amendment of the law (either by Canon or by the redrafting of the *Guidelines for the Professional Conduct of the Clergy*) to prevent any cleric who either has no licence or permission to officiate, or who has been suspended or prohibited, from robing or wearing clerical vestments in church. It should be a clerical offence to permit a cleric to act in contravention of such a provision. Those who are suspended or prohibited should not be permitted to wear any clerical dress on any occasion.