

A bit of explanation

We are very grateful to the many throughout the diocese who, in various roles, are working to make our churches safer places for everyone.

The framework that supports this work comprises legislation (for example, the Safeguarding and Clergy Discipline Measure 2016 (the Measure)) and guidance issued by the National Safeguarding Team (NST).

Some of this legislation and guidance may appear somewhat ponderous and is, perhaps, in some places not entirely clear. One such place has recently been highlighted by the Independent Inquiry into Child Sexual Abuse (IICSA) in its investigation report, Anglican Church Case Studies: Chichester/Peter Ball (May 2019).

It is considered that the requirement (in section 5 of the Measure) that relevant persons must “have due regard” to guidance issued by the House of Bishops on matters relating to safeguarding, while acceptable as a term of art, was misunderstood by many. For example, one might ask how much regard is due regard? IICSA has recommended that the Measure be amended to address that point and steps to that effect are being taken.

In the meantime, the Legal Office of the National Church Institutions, in consultation with the NST, has prepared an explanatory note that is available on the Church of England website. <<https://www.churchofengland.org/safeguarding/promoting-safer-church/policy-practice-guidance>> The requirement to ‘have due regard’ appears not only in the Measure but also at various places throughout the guidance issued by the NST.

Do please read the explanatory note. It runs to 2 pages but, in summary, explains that, where we must ‘have due regard’ to guidance, we must in fact follow that guidance unless there are ‘cogent reasons’ not to do so. ‘Cogent reasons’ are reasons that are clear, logical and convincing.

This explanation is not novel and is already set out in some of the NST’s guidance but the Chief Legal Adviser to the Archbishops’ Council and the General Synod has asked that we bring it to your attention once again. It will be very rare indeed for there to be cogent reasons for not following House of Bishops guidance on safeguarding.

The advice of this diocese is that, where there is a requirement to have due regard to guidance or advice, you must follow that guidance or advice unless you have first consulted the Registry and been advised that you have cogent reasons not to do so. The Registry is always very ready and willing to give advice in any particular case at no cost to you.

You may contact them on registry@salisbury.anglican.org or 01722 432390.