

LETTER to William Nye 28 June 2022

From

Mr. Martyn Sewell, GS Member 390, Rochester

28-06-22

Dear William

This letter is written in response to your letter sent on behalf of Archbishops' Council dated the 22nd June which answers some of the questions contained in a joint letter of GS members of the 13th June. However, in our view it leaves much of importance unanswered and we highlight those below. We repeat our original request for a full response to each and every question.

Some new areas of concern about the ISB have arisen, and it is convenient to bring those to the attention of Archbishops' Council and in due course to General Synod. We include them within this letter for ease of reference.

1. The Archbishops' Council as Trustees:

You say this is your reply on behalf of Archbishops' Council. Can we be clear here? Is this:

- a. your reply and /or others under delegated powers?
- b. or does it represent the views of the entire Council having met, discussed, and considered the various detailed matters of which we previously wrote?

Dr Percy's complaints are plainly, in part, about the way that Church House and Lambeth Palace operates, including its lawyers and PR Consultants. It is important to know if this is a reply from those of whom he partly complains, or the view of the entire Archbishops' Council after full considered debate?

We thank you for clarifying that the ISB originates with and remains a creature of the Archbishops' Council and as such remains capable of scrutiny by it and by General Synod. We note that despite asserting its independence, the ISB is funded by and accountable to the Archbishops' Council. Members may presumably be dismissed for misconduct by the Archbishops' Council and their contracts renewed or not under its discretion. It therefore risks being considered as compromised when asked to investigate its sponsor, and Ms. Atkinson's Terms of Reference specifically exclude any mention of or issues with the Archbishops' Council, despite the gravity and extent of Dr. Percy's complaint.

2. Information Sharing, GDPR and the ISB:

Whilst described as "Independent" the ISB remains ultimately under the aegis of Archbishops' Council. We have since learnt that an Information Sharing Agreement has "now" been signed enabling the ISB to share Data with Dioceses. This does not authorise sharing with complainants, who are not parties to that agreement. There is significant asymmetry of rights involved here which disturbs us. Can you please confirm:

- a. the precise date of the above for the ISB?
- b. the status of data secured in advance?
- c. Can such pre-received data lawfully be passported into any review or does it require the specific permission of the data owner?

If not, and if that consent is withheld, does the Review not become as adrift and as functionally unsatisfactory as the Devamanikkam Review which lost the early confidence of the complainant Matt Ineson and currently languishes to no good effect, even as we write?

It appears that both the Data Handling protocol and the Legal Status of the ISB have been primarily driven by expediency and not by best practice. We do not find this reassuring, especially in the light of the account given of the ISB to General Synod in February. It increasingly seems to have thrust into areas for which it was neither willing nor equipped by experience, case competence, or training.

3. Defining Independence:

What is, and what is not “Independent” is a matter of substance and not nomenclature. Not every nominal ‘Democratic Republic’ meets the objective criteria for its designated purpose. We specifically drew the attention of Archbishops’ Council to sound criteria for independence as set out by Kate Blackwell QC.

You seem to have deliberately avoided that question so we ask it again. Having drawn the expert opinion to the attention of Archbishops’ Council members, did they specifically consider whether their creature met the objective criteria she set out? Has that discussion occurred at Council before your reply was delivered to us? If not, where will it happen, and given its importance will there be a Synod debate – not presentation – to consider this crucial issue.

The ISB as a “new” body might meet the criteria for “fresh eyes” but that is far from the same as “independence “ and given the importance of the issues raised in Dr Percy’s specific complaint “fresh eyes” are not enough, especially if the ISB members have (as appears to have been conceded - at least by the Bishop of Oxford at his Diocesan Synod) no experience whatsoever of serving upon, let alone devising the Terms of Reference for, any review.

It is not simply the financial dependency point that troubles us. It is specifically that:

- a. prospective defendants to allegations of misconduct are those commissioning the review
- b. and that the separation is much less pronounced within this structure than had Archbishops’ Council adopted the more sensible approach of commissioning an experienced lawyer managing the inquiry at fully arms-length.
- c. You have still not explained why that alternative was thought inferior to this highly questionable set up.

Your analogy with the Independent Office of Police Conduct is not remotely apposite. The Police and the Courts can and do hold the Government and Executive to account. Prosecutions can and do ensue. Prime Ministers can be fined by fixed penalty notice issued by the police. There is a full separation of powers. A review of police conduct commissioned devised and paid for by the

Association of Chief Constables would not perhaps attract the same level of public confidence. The Police are accountable to Parliament, whose members the public vote for. Police Forces are put into special measures by an independent regulator. Your parallel is mistaken and not thought through. Independent regulation is statutory, and a matter of law, often with an Ombudsman accountable to Parliament and the people.

Regulation and self-regulation in industries and professions includes excellent examples such as the General Medical Council, Solicitors Regulation Authority, IPSO (press), ASA (advertising) and the Bar Council. There is nothing about the ISB that is remotely proximate to these bodies. The ISB lacks powers, remit, transparency, accountability, any appeals system – or indeed, any systems at all. It is arbitrary and currently operating on a hand to mouth basis. General Synod has been excluded from exercising effective oversight.

4. The ISB and the Percy Case:

The topical Percy case happens to be the prism through which the glaring problems within the ISB are viewed for the benefit of all clergy. It is the only one we can inquire about: there is apparently another case similarly under the ISB consideration, but that case remains anonymous, its Terms of Reference unpublished. Of particular concern is the fact that Dr Percy brought highly specific allegations against specific parts of the Church and their legal and PR advisors, yet somehow, these have been completely erased and left out of account in the Terms of Reference.

We ask plainly and simply:

- a. If the ISB does not touch these concerns How are these complaints to be addressed? Is it the intention of AC to sweep them under the carpet? Who decided that nobody would be named or blamed in the ISB review? Why was this decided? Please be clear, fully transparent and unambiguous.
- b. Can you explain in what sense the ISB can hold anybody meaningfully to account? Are they empowered to initiate a CDM against any member of clergy of their own motion? Can they require AC to secure and deliver for scrutiny the terms of engagement of the Church lawyers or the PR Firm and ask if the control of them has been managed ethically?
- c. Does none of this matter and if the ISB chose not to investigate, does that give Archbishops' Council plausible deniability for doing nothing with these concerns?

It is not lessons that need to be learned. It is accountability of miscreants that needs to be considered and we do not see any evidence of this happening within the review or currently elsewhere.

You indicate that Dr Percy declined to take matters forward within the currently available complaints procedures. We understand that the Archbishops wrote to him and said that if this was another car crash, then fair enough, lessons would be learned. Do you not realize that every single NST and CofE safeguarding process that Dr. Percy has been placed in or subjected to has been perceived by him (like many victims of poor process previously) as abusive, non-transparent, weaponized and corrupt? Why is he being asked to step into another one, which has already begun by entirely ignoring his complaints and refusing to engage with the gravity of issues within its Terms of Reference?

If one allows the possibility that everything preceding has been a car crash, please explain and set out your reasons as to why another CofE process is now being imposed, and preferred to a truly independent lawyer led alternative process, in which everyone can have confidence?

Is it not apparent and understandable that given the extraordinary circumstances of this case with the enmeshment of the Church lawyers, the College malcontents (including clergy) , the Diocese and the College Governing Body, only a completely arms-length Inquiry would properly meet the expectations of complete and uncompromised independence?

Patently we do not have this here.

5. The ISB's Remit:

We take your point about the need not to trespass into the affairs of the College. The reference to "the outstanding issues around Christ Church" was not intended to imply jurisdiction, but given the peculiar and 'Peculiar' character of the Institution, you cannot easily separate context and implication, as I am surely you will agree. "Reading" actions, decisions and available options within such a peculiar context is far from straightforward and certainly not something for the newcomer.

However, you will recall that you specifically wrote to Dr. Percy in mid-2020 to tell him that the NST and CofE **did** have powers to investigate him within the Christ Church context despite Dr. Percy not being employed by the CofE. You also stated that you could investigate Dr. Percy. You also wrote that in a similar context you could do nothing about Jonathan Fletcher, as Emmanuel Wimbledon was not subject to the CofE and NST, as it was not a parish church. The contrast is noted.

This puzzling discrepancy notwithstanding, thrusting complete novices into control of such a Review is extraordinary. The College has turned to a highly experienced Safeguarding organization (Ineqe) and a former Attorney General to help it extricate itself from this controversy. Archbishops' Council has not. The Church suffers considerably in the comparison.

We note that you remark upon Dr Percy contacting others as a result of his concern at Dr Atkinson's responses to his expressed concerns. We make two short points:

- a. There was never any such condemnation by Archbishops' Council when Dr Percy's reputation was being repeatedly attacked and destroyed by the widespread and repeated broadcasting of false allegation brought by clergy and which he said at the time was orchestrated by Church lawyers and PR consultants.
- b. Dr Percy is and remains a vulnerable person by reason of the mental stress induced by the institutional bullying of which he complains. Anyone with the slightest experience for Safeguarding law and practice will know that those accused of safeguarding impropriety are subjected to extraordinary emotional pressure. The 1989 Cleveland Report identified that anger frustration and enhanced emotional response is both normal and predictable. The risk of suicide was specifically identified in both guilty and innocent alike. Such heightened response can be expressed (sometimes entirely justifiably) towards others. In other cases, it is suppressed and internalized and that is what we saw in the tragedy of Fr Alan Griffin. One should be very slow to judge on such matters and true professionals take such known and predictable responses in their stride.

You say that the powers of the ISB were not watered down. On page 5 section 4 of the 2021 Proposed Interim Arrangements for the ISB, an executive function was described and the importance of quality assurance asserted. Maggie Atkinson resolutely resisted powers, telling Synod that they were simply not ready, when some of us urged them on the ISB.

Synod endorsed that approach by counted vote and thereby kicked the exercise of such powers down the road under Maggie Atkinson's advice. You cannot complain that we now question the preparedness and expertise having taken the ISB at its word.

This is especially germane as Dr Percy raises legitimate concerns which have not been answered.

6. Major Concerns:

There are other major concerns that need the Council's immediate consideration in the light of your letter, written on behalf of the Archbishops' Council.

- a. The ISB lawyer has just written that the ISB cannot accommodate Dr Percy's procedural concerns as to do so might give rise to a perception of undue influence. Yet the complete absence of Dr Percy's actual complaints in the record for the Terms of Reference – not least those concerning the Church's lawyers' conflicts of interests – are not to be considered as signaling conflict of interest? Given this, is there any reason for ignoring this that Archbishops' Council members can see?
- b. The other area of grave concern relates to the latest ISB report. The report asserts that complainants can expect to be believed. It is extraordinary to find it approvingly asserted by such a body. The ISB should be accessible and welcoming but it is not a counselling service neither is it a pastoral support agency. One might overlook the problem were it so.

The ISB aspires to be a robust respected fair Safeguarding agency where due process and justice can be assured for all.

There is not a Magistrate, Judge, lawyer, social worker, child's guardian or police officer in the safeguarding field who would assert what the ISB just did, as the proper approach in these important and complex matters.

The proper standard is this: **«Always listen to the complainant and take what they say seriously»**.

That approach is serious, balanced, respectful and fair to everyone. It was established as an important recommendation in the 1989 Cleveland Report and has been the applied approach in every court in the land ever since. We saw what happened when you depart from this standard in the Carl Beech story. It was considered in the Henriques report that followed, and the approach "The victim must be believed" was put back in its straitjacket. It did Carl Beech no favours. He languishes in prison for many years having been indulged by police officers who went down this heretical route.

How does Archbishops' Council respond to this extraordinary revelation that the ISB doesn't know the first thing about settled safeguarding law and culture?

How is it that nobody involved spotted this as remotely problematic? This is not a typo. It rejects a fundamental principle of legal approach and safe professional culture. It reveals a body that no

clergy could comfortably trust because it has just asserted that bias against them is built into system from the outset.

Please do not take my word for this. Ask some lawyers – preferably some who have actual real-life experience of casework before the Courts on a regular basis, Nobody, with the slightest experience of safeguarding law could make that error. We wish it were proper to refer you to the Designated Officer or the Tribunal Judges all of whom manifestly do approach matters in a fair and objective manner applying the Cleveland approach to which you are specifically referred.

That single statement is fundamentally destructive of trust and indicative of core incompetence. None of them noticed it, and nobody passing over that sentence without spotting its significance can be trusted with the task of shaping the legal culture of the ISB.

7. Consistency:

At the same time, we note – and stress – that Dr.Percy’s complains of abuse and the deliberate “weaponization of safeguarding” with intent to cause him personal, reputational and financial harm:

- a. Have not been acknowledged within the ISB Terms of Reference.
- b. Have never, once, been treated as a “disclosure” by the Archbishops’ Council, Bishop of Oxford, NST or the Archbishops.
- c. Despite that harm caused to Dr. Percy’s health, allegedly being caused in part by Winckworth Sherwood, Luther Pendragon and others participating in highly-defamatory gaslighting etc, there has been a total institutional refusal to acknowledge or address any of these matters as a disclosure to be actioned upon in any way.
- d. Has been met by a refusal at every level to even mention (still less address) the bogus ‘Risk Assessments’ weaponized against Dr. Percy. These were written by senior Oxford clergy, approved by the Oxford DSA, Head of HR for the Diocese, Winckworth Sherwood – and consistently defended by the Bishop of Oxford. The Bishop has never explained why authorized Diocesan Risk Assessors were never utilized. The doubtful provenance of these documents is yet another unexplained matter – amongst many – that the ISB Terms of Reference declines to mention at all. Can Archbishops’ Council offer any proper rational reasons for such wholesale redacting?

In the light of these concerns, please explain, clearly, why Ms. Atkinson’s proposed Review does not even nominate Dr. Percy as a principal complainant, but instead awards that status to an individual who has already enjoyed multiple unsuccessful attempts at prosecuting him, and also denies being a vulnerable adult (and therefore whose complaint was never, de facto, a “safeguarding) matter.

For ease of reference, I refer you to our earlier letter and would ask that you specifically revisit and comprehensively answer the specific paragraphs, and also fully address points 1-7 above, but only after a full discussion with the entire Archbishops’ Council.

Yours sincerely
Martin Sewell