“Non-compliance with Safeguarding Learning

It has come to our attention via several emails from a number of dioceses that there are some Church Officers and particularly PCC members who are refusing to engage in required safeguarding learning.

Ensuring that Safeguarding Learning is up to date helps embed a culture where people feel safe and abuse can be spotted and dealt with in an appropriate and timely fashion. People should be encouraged to engage with the required safeguarding learning for their roles. However, where this encouragement fails it is important to remind people that all current safeguarding policy and practice guidance has been approved by the House of Bishops and must, where relevant, be followed by all Church Bodies\* and Church Officers\*\*.

Please note under section 5 of the Safeguarding and Clergy Discipline Measure 2016\*\*\* all authorised clergy, bishops, archdeacons, licensed readers and lay workers, churchwardens and PCCs must have 'due regard' to safeguarding guidance issued by the House of Bishops (this will include both policy and practice guidance). A duty to have 'due regard' to guidance means that the person under the duty is not free to disregard it but is required to follow it unless there are cogent reasons for not doing so. ('Cogent' for this purpose means clear, logical and convincing.)

What is meant by ‘cogent reasons’?

‘Cogent reasons’ are reasons that are clear, logical and convincing. It will be very rare indeed for there to be cogent reasons for not following House of Bishops guidance on safeguarding. Cogent reasons are likely to arise only where the guidance does not contemplate a particular, unusual situation arising so that it becomes necessary to take a different approach from that set out in the guidance in order to meet the particular circumstances of the case.

When would ‘cogent reasons’ be applied?

A person who is required to have due regard to the guidance should not simply take it on him- or her-self to decide that there are cogent reasons for departing from the guidance. Such a decision should be taken – if at all – only after case-specific advice has been obtained from both the diocesan safeguarding adviser and the diocesan registrar.

What are the sanctions for clergy who do not follow ‘due regard’ guidance?

A failure by a member of the clergy to comply with the duty to have due regard to House of Bishops safeguarding guidance is misconduct under the Clergy Discipline Measure 2003 (‘CDM’). Were proceedings under the CDM to involve an allegation of failing to have due regard to the guidance, the onus would be on the member of clergy concerned to establish that he or she had cogent reasons for not following the guidance. A disciplinary tribunal would be likely to scrutinise the reasons given with great care to test whether they were in fact clear, logical and convincing.

What are the sanctions for readers and lay workers, churchwardens and parochial church councils who do not follow ‘due regard’ guidance?

A failure by a reader or lay worker to have due regard to House of Bishops safeguarding guidance would be grounds for the revocation of the reader’s or lay worker’s licence by the bishop. A failure by a churchwarden or parochial church council to have due regard to House of Bishops safeguarding could result in an investigation being carried out by the Charity Commission and the churchwarden or PCC members being disqualified as charity trustees.

What are the sanctions for volunteers who do not follow guidance relating to safeguarding learning?

If a volunteer is in a role that requires them to undertake safeguarding learning, they should not be allowed continue in that role if they refuse to complete the required learning.

\*Church Bodies includes PCCs, diocesan bodies, cathedrals, religious communities, theological training institutions and the National Church Institutions. This policy will apply to the whole of the provinces of Canterbury and York (including the Diocese in Europe subject to local variations/modifications). There is also an expectation that the policy will apply to the Channel Islands, Sodor, and Man unless there is specific local legislation in a jurisdiction that would prevent adoption.

\*\*A "Church Officer" is anyone appointed/elected by or on behalf of the Church to a post or role, whether they are ordained or lay, paid or unpaid.

\*\*\*The Safeguarding and Clergy Discipline Measure 2016 applies to the whole of the provinces of Canterbury and York (including the Diocese in Europe subject to local variations/modifications), with the exception of the Channel Islands and Sodor and Man. In order to extend the 2016 Measure to the Channel Islands or Sodor and Man legislation will need to be passed by the relevant island jurisdictions in accordance with section 12 of that Measure.

The Safeguarding Learning and Development Framework sets out the required attendees for each of the safeguarding learning pathways and the Safer Recruitment and People Management Guidance states that Safeguarding learning is mandatory for all posts that fall within the scope of that guidance. It also highlights that learning requirements will vary according to role and responsibility as set out in the Safeguarding Learning and Development Framework.”