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FAO HM Senior Coroner For Suffolk

Nigel Parsley

Dear Sir,

RE: Inquest Touching Upon the Death of Canon Frost

We write in relation to the report you made at Ipswich Coroner's Court under Rule 28 of The Coroners (Investigations) Regulations 2013 following the inquest into the death of Canon Brian Frost on 10th September 2018. We are sorry for any delay in providing this response and are grateful for the extensions that you have kindly provided.

May we say at the outset that this response to your Rule 28 report to prevent future deaths is being provided by and on behalf of the Northampton Diocese and not Cardinal Vincent Nichols, one of the parties to whom the report was directed.

While we are aware that you directed your regulation 28 report to Cardinal Vincent Nichols, we respectfully suggest that the appropriate party to respond is the Diocese of Northampton and not Cardinal Nichols. We say that for the following reasons.

The concerns you expressed relate to the way in which an individual diocese - here the Diocese of Northampton - conducted itself in relation to the well-being of retired priests occupying grace and favour properties. As was explained at the Inquest, these types of arrangements are made on a diocese by diocese basis and no overarching policy of wider applicability exists.

The fact that there is no such overarching policy is an inevitable consequence of the way in which the Catholic Church in England and Wales is constituted: each diocese has and maintains its own individual arrangements.

While the Archbishop of Westminster (Cardinal Nichols) is, as a matter of custom, elected President of the Catholic Bishops' Conference of England and Wales, and so is the de facto spokesman for the Catholic Church in England and Wales, he heads the Diocese of Westminster only. This is a distinct and separate diocese from the Diocese of Northampton. It has its own approach towards the provision of grace and favour

properties and welfare care for retired priests. There has been no suggestion that the way in which the Diocese of Westminster discharged its function was lacking.

The Bishop of Northampton is Bishop Peter Doyle, who was ordained as the twelfth Bishop of Northampton on Tuesday 28th June 2005 and is the spiritual head of the Diocese. The Diocese also operates by and through a number of separate departments that include:

Administrative and Consultative
Clergy and Vocations
Diocesan Tribunal
Ecumenism
Education and Schools
Finance and Property
Human Resources
Liturgy Commission
Pastoral Ministry Office
Pastoral Services

While individual dioceses inevitably operate in a similar manner, their manner of operation is not identical, and all have discretion in relation to the way in which they attend to (for example) the welfare of retired priests. Of course, all dioceses are subject to canon law, but canon law is not prescriptive about the way in which arrangements such as the provision of maintenance and residence are devised and implemented.

We hope this is satisfactory and explains why this response is provided by the Diocese of Northampton and not Cardinal Nichols.

Having said this, Cardinal Nichols is interested and concerned about these matters, and our response to you will be shared with him. We will also endeavour to share the concerns that have arisen from this case, and our response to them, across the other dioceses in England and Wales. By doing this, we hope that all necessary lessons may be learned by those to whom they are applicable.

As regards the circumstances of this sad case. As you know Canon Brian Frost was ordained in 1950, served at St Joseph's Bedford, the Cathedral, Leighton Buzzard, St Joseph's Luton for 14 years, Rushden for 11 years, then Kettering for three years before a brief spell at St Patrick's Corby, from where he retired in 1995.

As a retired clergyman he was provided with a grace and favour property at [REDACTED]. As you will appreciate, members of the clergy are not employees and therefore the Diocese did not owe a duty under section 2(1) of the Health and Safety at Work etc Act 1974 ('HSWA 1974'). Even if any such duty is considered to have been owed, it is highly unlikely that it would have extended to his personal residence, where no work activities took place.

Of course, the Diocese accepts that it also has wider duties under (principally) section 3(1) HSWA 1974, which is the duty to ensure that non-employees are not exposed to risks to their health and safety arising from the conduct of an undertaking.

The Diocese takes the view that the nature of its undertaking in connection with Canon Frost was limited - indeed, there is a strong argument for saying it was exercising no legal undertaking in relation to Canon Frost. Notwithstanding this, we will approach the matter on the basis that it was operating a limited undertaking, which we suggest was no more than that of private landlord or *de facto* landlord.

We say *de facto* landlord because no formal tenancy or licence was entered into as the property was provided on a grace and favour basis, but the Diocese accepts it was required to discharge the basic statutory functions of a private landlord. These were principally the safe installation and maintenance of gas and electrical equipment; it did this.

Consistent with canon law and convention, the Diocese provided Canon Frost with a grace and favour residence for his natural life. It was not acting or purporting to act as a Care Home, Retirement Home or other supported living provider. This was not its undertaking or function, nor did it have an obligation under canon law or other provision to exercise this undertaking or function.

As a landlord (or *de facto* landlord) it had few other legal obligations, whether through the English law of real property or canon law in relation to the interior condition of the property. In particular, the Diocese does not accept it was in breach of any repairing obligations it may have had, certainly in the absence of any specific indication that there was a problem with the floor tiles.

It also had no other legal obligations in relation to the welfare of Canon Frost merely because he was a retired priest of the Diocese. While it did ensure that a yearly pastoral visit was made to him, it was not thereby assuming a day to day responsibility to safeguard his welfare while resident at [REDACTED]. As you know certain other financial provision was made but this did not bring with it an obligation to ensure, for example, that nothing about the internal fabric of the house presented a day to day risk.

Its duties towards securing the welfare of Canon Frost were in fact no more extensive and probably less extensive than those of the social services. We are aware that you have included the Local Authority in your Rule 28 report.

As was noted at the inquest, the Local Authority was fully aware of Canon Frost's health issues following his admission into the James Paget Hospital for the cataract operation and undertook a home assessment, finding he was not yet in need of carers.

We are conscious of the fact that in asserting what the Diocese says were its legal obligations, it may appear harsh or in some way lacking in compassion. This is not the case: the Diocese always seeks to act with care and compassion to all acting or retired clergy and has regard for their pastoral care.

In assessing whether the Diocese did all it ought reasonably to have done in relation to Canon Frost's welfare, the Coroner is aware that the property at [REDACTED] was originally Canon Frost's sister's house and he was known to have strong family support in the area. While it is accepted that Canon Frost was becoming frailer and less capable of caring for himself, the Diocese was entitled to think that any issues affecting the safety of his accommodation would have been raised by Canon Frost's family, if not by Canon Frost himself.

If issues about his accommodation had been raised, there is no doubt the Diocese would have addressed them. This would have been done by the Property and Finance Department or Northampton Priest's fund, which is a separate fund. No such issue was ever raised, either by Canon Frost or by his family. The only request received from Canon Frost was in relation to payment for a cataract operation which was paid for from the Priest's fund.

Having said all of this, the Diocese acknowledges that a state of affairs arose in connection with the property at [REDACTED] that was unsatisfactory, and it will take all practicable steps to ensure that lessons are learned, and similar events do not occur in the future. The Diocese has already taken steps to ensure that these events do not reoccur, as follows:

- The Diocese has reviewed its procedures for supporting retired Priests living in Diocesan accommodation;
- All Priests will continue to receive at least annual visits from the Diocesan Clergy Welfare Officer, but the Welfare Officer will be joined on those visits by one of the Diocesan Surveyors;

- The Surveyor will carry out a full external and internal assessment of the property's fabric and condition, together with a Health and Safety Assessment informed by the advice of the Welfare Officer about the health and mobility of the Priest;
- At the end of the survey the Surveyor, the Welfare Officer and the Priest will discuss the findings of the survey. Any repair works noted as being needed or recommended from a property or health and safety perspective will be agreed with the Priest and organised by the Surveyor, who will agree with the Priest suitable times for access and will manage and approve the works. The costs will be borne by the Diocese;
- Should the survey identify works that might assist a Priest in his occupation of the property (handrails, grab rails etc), the Surveyor and Welfare Officer will strongly recommend to the Priest that these are carried out and, if he agrees, the Surveyor will organise these as detailed above;
- If the Priest does not agree to the recommended works then the Welfare Officer will escalate the issue to the Vicar General or Bishop to agree the next steps; and
- At the end of every visit the Priest will be left cards showing office hours and out of office hours for both the Welfare Officer and Surveyor in the event that property repairs become needed.

We hope that all of this is satisfactory and addresses the concerns that prompted you to issue a Rule 28 Report.

Yours faithfully



Director of Finance and Development

Diocese of Northampton