



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr David Green

**First Respondent:** The Lichfield Diocesan Board of Finance (Incorporated)

**Second Respondent:** The Bishop of Lichfield (In his corporate capacity)

**Heard at:** Manchester **On:** 9–13 and 16–19 June 2025

**Before:** A panel comprising Judge Callum Cowx, Ms Judith Williamson and Mr Brian McCaughey

## REPRESENTATION:

**Claimant:** In person representing himself  
**Respondent:** Ms Martina Murphy of Counsel

# RESERVED JUDGMENT AND REASONS

1. Both the First Respondent and the Second Respondent are the correct Respondents to all of the claims brought by the Claimant.
2. All of the Claimant's claims of whistleblowing detriment contrary to Section 47B of the of the Employment Rights Act 1996 fail and are dismissed.
3. Had any of the alleged whistleblowing detriments succeeded they would have been found to be a series of similar acts or failures to act and all of the whistleblowing claims would have been brought in time

4. The Claimant's claims of direct discrimination contrary to the Equality Act 2010 relate to alleged acts which formed a course of conduct, but all of these claims were presented out of time on the 3 December 2023 (Direct Discrimination 1 and 2) or on 4 July 2023 (Direct Discrimination 3). They were also not presented within such other period as the Tribunal thought was just and equitable. Pursuant to Section 123(1) of the Equality Act 2010 the Tribunal has no jurisdiction to hear the Claimant's claims and they are dismissed on this basis.

5. In the event the Tribunal does have jurisdiction to hear them, the Claimant's first and third claims of direct discrimination on grounds of perceived disability contrary to Section 13 of the Equality Act 2010 (Direct Discrimination 1 and 3) fail and are dismissed.

6. The Claimant's second claim of direct discrimination on grounds of perceived disability contrary to Section 13 of the Equality Act 2010 (Direct Discrimination 2) was dismissed upon withdrawal by the Claimant at the final hearing.

## REASONS

### INTRODUCTION

1.1 By a claim form presented on 3 December 2022 the claimant, Mr David Green (DG), brought claims of whistleblowing detriments and claims of perceived disability direct discrimination in relation to his position as assistant curate for the benefice of Longnor, Quarnford, Sheen and Warslow with Elsktone, within the Church of England Diocese of Lichfield. At a Case Management hearing before Employment Judge Slater on 22 July 2023 an additional claim of perceived disability direct discrimination was added to the Claimant's case, but this was subject to the determination of a time limit issue at the final hearing.

1.2 Direct Discrimination because of perceived disability. The First Respondent in its response form of 17 January 2023 did not admit that it perceived DG to be disabled and denied treating him less favourably because of perceived disability or at all. This position was subsequently adopted by the Second Respondent.

1.3 Whistleblowing Detriments. Both Respondents asserted that if any detriments were established then none of them were caused by any prior disclosure.

1.4 In order to clearly identify the claims and responses, and the issues to be determined in the case, a case management hearing took place on 13 March 2023 before Employment Judge Warren. It was decided at that hearing that a further case management hearing was needed to decide DG's employment status which

would determine if he was entitled to bring his claims before the Employment Tribunal.

1.5 A public preliminary hearing took place before Employment Judge Slater on 4-6 July 2023. After hearing evidence and submissions, Employment Judge Slater decided that for the purposes of bringing a complaint of protected disclosure detriment, DG was a “worker”. Employment Judge Slater also decided that DG was not an “employee” for the purposes of bringing a complaint of disability discrimination under Section 39 of the Equality Act 2010, but that he could pursue complaints under Section 49 of the same Act as the holder of a personal office.

1.6 A third case management hearing took place before Employment Judge Howard on 21-22 November 2023. At that hearing Employment Judge Howard added the Second Respondent to the proceedings. A considerable amount of time was then spent in identifying and settling the final list of the issues to be determined by the Tribunal at the final hearing. The list of issues can be found at paragraph 3.1 below.

1.7 The Tribunal had to decide the following claims against the respondent:

- a. Whistleblowing detriments.
- b. Direct discrimination because of perceived disability.

## **PRELIMINARY ISSUES**

2.1 Anonymity. A number of individuals were referred to in oral and written evidence by cipher upon the initiative of the Respondents and without objection from DG. A discussion took place led by Judge Cowx about the need for an application for anonymity for those individuals. However, it was agreed that no such application or order was needed as it was decided that only those individuals referred to in the case by necessity need be anonymised by cipher. Such anonymity was necessary for those individuals on the basis that their Article 8 rights outweighed the Article 10 right of freedom of expression, which includes reporting the names of persons involved in court or tribunal proceedings. In this instance, the anonymised individuals were not parties to the proceedings, and they were not witnesses in the case. They were referred to in the evidence on matters which were personal, potentially embarrassing and potentially distressing.

## **COMPLAINTS AND ISSUES**

3.1 The list of issues to be determined by the Tribunal in this hearing, as agreed at the case management hearing on 21-22 November 2023, is as follows:

**Correct Respondent**

**ERA 1996 claim**

1. Was either the first Respondent (R1) or the second Respondent (R2), the s.230(3)(b) ERA 1996 “employer” (applying the ‘Gilham extension’) in relation to the Claimant (C)?

**EqA claim**

2. Was the R1 or, was R2 a ‘relevant person’ in relation to a personal office (C’s) for the relevant ‘matter’ (for the purposes of ss.49 and 52(6) EqA)?

**Jurisdiction (time)**

**I. Whistleblowing Detriments**

3. Which complaints have been presented ‘before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them,’ (s.48(3) ERA) considering the provisions of ACAS Early conciliation (EC notification on 11/10/22 and certificate issued on 18/10/22)?

C’s position: all part of a continuing act. R’s position: any alleged detriment prior to 28/08/22 (that is Detriments 1-15 inclusive) are on the face of it out of time (subject to being part of a continuing act).

4. Are any complaints which occurred more than three months before the expiry of the primary time period (including ACAS extension) part of a series of similar acts or failures ending with those brought in time if any?

C’s position: continuing act. R’s position: First detriment potentially in time is detriment 17 (6/9/22). R will rely on gaps/breaks including an approximate 7-month gap between Detriment 4 (c.Mar 2020) and Detriment 5 (c.Nov 2020).

5. If not part of a continuing act, the burden being on the C to show it was “not reasonably practicable” for the complaint to be presented before the end of the three- month period (including any ACAS extension), whether the ET is so satisfied?

C’s position; C relies- on an argument that it was not reasonably practicable including the fact that he did not have access to relevant information until in or around November 2022.

R’s position: it was reasonably practicable to bring the complaints within time.

6. If so, was it brought within a further period that the ET considers reasonable?

## II. Equality Act

7. Were the complaints brought before the period of 3 months starting with the date of the act to which the complaint relates? C's position: part of a continuing act. R's position: any alleged act prior to 28/08/22 is on its face out of time.

8. If not, within such other period as the ET thinks just and equitable (within the meaning of s.123(1)(b)). C's position: just and equitable. R's position: not just and equitable.

### Protected disclosure Detriment ('Whistleblowing detriment', s47B EqA)

#### Protected disclosures

9. The C's case is that he made the following protected disclosures.

10. R does not accept that all disclosures were made to the C's employer (under s.43ERA). C to show any qualifying disclosure was made by him in accordance with any of the sections 43C to 43H.

11. Disclosure 1: An email on or after 14/11/2019 from C to Sophie Harney (caseworker for Oxford Diocese Safeguarding Team ("Oxford DST") about safeguarding concerns (previously reported to Oxford Diocesan Safeguarding Adviser ("DSA")) (ET1, 'TL', para 3)

a. Whether the C made the alleged disclosure

b. Was this a disclosure of information to his employer? C relies on provision s.43F  
R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter falling within any one of the above had been or was likely to be deliberately concealed?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

12. Disclosure 2: An email on 22/11/2019 to Oxford DSA, copying in Neil Spiring (DSA Lichfield), about a "potential information leak" (ET1, TL, para 5).

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer?  
R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (iii) the health or safety of any individual had been, was being or was likely to be

endangered, or (iv) any matter failing within any one of the above had been or was likely to be deliberately concealed?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

13. Disclosure 3: An email on 15/1/2020 from C to Neil Spiring “to express unease” that person A (student at the Theological Education Institution (“TEI”), Ripon College, Cuddesdon in Autumn 2018) might have committed an offence of malicious communication against him (ET1 TL, para 8)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

14. Disclosure 4: An email on 16/3/2020 from C to Neil Spiring about “stalking type behaviour” he said he had witnessed at the TEI in Autumn 2018 (ET1, TL, para 11)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

15. Disclosure 5: Email on 23/11/2020 from C to Neil Spiring about his email to Sophie Harney (see PD1) had been ‘whistleblowing’ (ET1, TL, para 16)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter failing within any one of the above had been or was likely to be deliberately concealed?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest

16. Disclosure 6: An email on 31/7/2021 from C to Bishop of Lichfield, R2, the Bishop of Stafford and Neil Spiring about lack of adherence to British Psychological Society Standards by a Counselling Psychologist instructed to carry out an OH assessment on C (ET1, TL, para 32)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

17. Disclosure 7: By C via the Health and Care Professional's Council ("HCPC's") 'fitness to practice query route' on 3/8/2021, about Dr Donegan's conduct and competence in C's meetings with him and alleged misuse of the title "clinical psychologist" on his LinkedIn profile (ET1, TL, paragraph 33)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.

c. Did the C believe that the disclosure tended to show that (i) a criminal offence had been committed, was being committed or was likely to be committed, (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter failing within any one of the above had been or was likely to be deliberately concealed?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

18. Disclosure 8: A Fitness to Practice query on 2/9/2021 by C to Social Work England about Neil Spiring.

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.

c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter failing within any one of the above had been or was likely to be deliberately concealed?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

19. Disclosure 9: 12/9/2021 from C to Bishop of Stafford, a formal complaint about the Occupational Health Assessment (OHA) [TL36]

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R's position: not a s.43C disclosure.

c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

20. Disclosure 10: 29/9/2021 a formal complaint from C to Julie Jones about Neil Spiring [TL49]

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R's position: not a s.43C disclosure.

c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

21. Disclosure 11: A written disclosure made using the Information Commissioner's Office's ("ICO's") online "Make a Complaint" portal on 14/10/21 by C to the ICO about Dr Donegan, that Dr Donegan had shared C's special category data with persons at R without his permission and that the data was inaccurate (ET1, TL, paragraph 42)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.

c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

22. Disclosure 12: An oral disclosure during a zoom conversation on 9/11/2021, from C to Julie Jones (R's CEO) about his concern about the use of Neil Spiring's and Linda Clifford Hayes' email addresses as primary points of contact for safeguarding issues (ET1, TL, para 16)

a. Whether the C made the alleged disclosure?

b. Was this a disclosure of information to his employer? R: not disclosure to employer (s.43C).

c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

23. Disclosure 13: A disclosure via email to General Medical Council's ("GMC's") general email address on 24/4/2022 to the GMC about Dr Rajendran (psychiatrist) to whom C had been referred (ET1, Timeline ("TL") at para 49)

a. Whether the C made the alleged disclosure

- b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.
- c. Did the C believe that the disclosure tended to show that (iii) the health or safety of any individual had been, was being or was likely to be endangered?
- d. If so, was that belief reasonable?
- e. Did the C believe that he was making the disclosure in the public interest?

24. Disclosure 14: On 17/8/2022 from C to the Health and Safety Executive ("HSE") via HSE's online portal regarding Dr Donegan's and Dr Rajendran's competence (ET1 TL, para 55).

R's position: no need to determine whether a PD as no alleged subsequent detriment.

- a. Whether the C made the alleged disclosure?
- b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.
- c. Did the C believe that the disclosure tended to show that (iii) the health or safety of any individual had been, was being or was likely to be endangered?
- d. If so, was that belief reasonable?
- e. Did the C believe that he was making the disclosure in the public interest?

25. Disclosure 15: On 19/8/2022 to the Care Quality Commission ("CQC") via their online portal (re PD14 above) (ET1, TL, para 56)

R's position: no need to determine whether a PD as no alleged subsequent detriment.

- a. Whether the C made the alleged disclosure?
- b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.
- c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered?
- d. If so, was that belief reasonable?
- e. Did the C believe that he was making the disclosure in the public interest?

26. Disclosure 16: on or about 1/9/2022 by email by C to Julie Jones and Angela Bruno about the note of the telephone conversation dated 12 February 2021 alleging falsification of the referral record.

- a. Whether the C made the alleged disclosure?
- b. Was this a disclosure of information to his employer? R: not disclosure to employer (s.43C).
- c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter failing within any one of the above had been or was likely to be deliberately concealed?
- d. If so, was that belief reasonable?
- e. Did the C believe that he was making the disclosure in the public interest?

27. Disclosure 17: On 2/9/2022 by C to the ICO via its complaints portal about an alleged breach of his personal data by R (ET1. TL, para 57)  
R's position: no need to determine if a PD as there is no alleged subsequent detriment.

- a. Whether the C made the alleged disclosure?
- b. Was this a disclosure of information to his employer? C says disclosure made in accordance with s.43F ERA. R's position: not a s.43C disclosure.
- c. Did the C believe that the disclosure tended to show that (ii) a person had failed, was failing or was likely to fail to comply with any legal obligation to which they were subject; (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter failing within any one of the above had been or was likely to be deliberately concealed?
- d. If so, was that belief reasonable?
- e. Did the C believe that he was making the disclosure in the public interest

28. Disclosure 18: On 4/9/2022 C's comments on the report attached to an email to Julie Jones (ET1, TL para 51)

- a. Whether the C made the alleged disclosure?
- b. Was this a disclosure of information to his employer? R's position: not a s.43C disclosure.
- c. Did the C believe that the disclosure tended to show that (iii) the health or safety of any individual had been, was being or was likely to be endangered, or (iv) any matter failing within any one of the above had been or was likely to be

deliberately concealed?

d. If so, was that belief reasonable?

e. Did the C believe that he was making the disclosure in the public interest?

Whistleblowing detriments 2020 Detriments

### **Detriments**

29. Detriment 1: On or before 20/3/2020, the decision by the Bishop of Lichfield, having been wilfully misled by Neil Spiring, communicated by Jeanette Hartwell (the Bishop of Lichfield's Director of Ministry), to delay his ordination as Priest (TL (13)). That decision was influenced by significant omissions in Neil Spiring's briefing to the core group on 19 March 2020 and him giving the impression that the Claimant had been disciplined.

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1, PD 2, PD3 and PD 4 are potentially relevant (as other the PDs occurred after the alleged detriment).

30. Detriment 2: On 20/3/20 by letter Jeannette Hartwell, advising C to seek counselling and comparing his coursework to the late Jean Vanier (TL (13))

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1, PD 2, PD3 and PD 4 are potentially relevant (as other PDs occurred after alleged detriment).

31. Detriment 3: Within a few weeks of 20/3/2020, Jeanette Hartwell's comments in a Zoom meeting; don't want to hear any more about cover-ups, not your job to police the Church of England, expressed disapproval that C had not disclosed his most recent contact with person B to his wife (TL (13)):

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures?) Only PD1, PD 2, PD3 and PD 4 are potentially relevant (as the other PDs occurred after alleged detriment).

32. Detriment 4: Within a few weeks of 20/03/2023 in the course of the two zoom meetings, Jeanette Hartwell placed inappropriate pressure on C not to raise his concerns as a formal complaint or with the police. That Jeanette Hartwell and Neil Spiring rendered it impossible for a full and transparent discussion of C's concerns (TL (14)):

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1, PD 2, PD3 and PD 4 are potentially relevant (as other the PDs occurred after the alleged detriment).

33. Detriment 5: On 26/11/20, during a zoom meeting, the avoidant manner in which Neil Spiring conducted himself during that meeting including the comment that he thought C might benefit from an OH referral (TL, para 15)

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1, PD 2, PD3 and PD 4 are potentially relevant (as other the PDs occurred after the alleged detriments).

34. Detriment 6: On 26/11/2020, during a zoom meeting, Jeanette Hartwell inappropriately pressured C by implying that he should have dropped the issue he had previously raised about Person J (TL, 15)

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1, PD 2, PD3 and PD 4 are potentially relevant (as other the PDs occurred after the alleged detriment).

*2021 Detriments*

35. Detriment 7: On or around 12/2/21, Neil Spiring sharing 'misleading' information with Dr Donegan (TL20) as set out in (TL28) including a telephone conversation.

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2?
- c. Was the C subjected to a detriment by the act or failure to act?
- d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1, PD 2, PD3, PD 4 and PD5 are potentially relevant (as other the PDs occurred after the alleged detriment).

36. Detriment 8: On date(s) following 3/7/21, Neil Spiring's failure to correct alleged errors in Dr Donegan's report (TL, para 28p). The report was deleted.

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2?
- c. Was the C subjected to a detriment by the act or failure to act?
- d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD 1-5 potentially relevant.

37. Detriment 9: On 30/7/21, in a meeting at the Bishop of Stafford's house, the Bishop of Stafford's request that C have an autism assessment despite C having raised concerns about Dr Donegan's report and having withdrawn consent to it (TL para 30, 32)

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2? R's position: the commissioning of an OH report was for and behalf of the Bishop of Lichfield, R2,(see the Bishop of Lichfield's letter to C seeking his consent to an OH report on 19/2/21).
- c. Was the C subjected to a detriment by the act or failure to act?
- d. Was it on the ground that the C had made one or more of the protected disclosures? Potentially relevant PDs, PD1-PD5

38. Detriment 10: On 7/10/21, the Bishop of Stafford's letter:

- (i) lack of response to C's complaints/allegations (2/9/21 Fitness to Practise to SW England) of victimisation
- (ii) about the Bishop's understanding of events (TL, para 41)

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2?
- c. Was the C subjected to a detriment by the act or failure to act?
- d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD1-PD10 potentially relevant.

*2022 Detriments*

39. Detriment 11: On 21/1/22, the Bishop of Stafford (TL, (46)):

(i) said that C needed to show “increased understanding” before being ordained a priest.

(ii) Asked C to attend monthly meetings with Jeanette Hartwell

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2?
- c. Was the C subjected to a detriment by the act or failure to act?
- d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD 1-12 potentially relevant.

40. Detriment 12: On or after 10/02/2022 Mr Spiring not placing a letter (17/11/21) from the TEI Bursar on file despite C’s request to do so (TL, 43)

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2?
- c. Was the C subjected to a detriment by the act or failure to act?
- d. Was it on the ground that the C had made one or more of the protected disclosures? Only PD 1-12 potentially relevant.

41. Detriment 13: On a date after 11/3/22 email by NS, refusing to share information about the allegations against C by former TEI students ‘with another DSA’ so that they could be considered as potential false allegations was “a detrimental act”. (TL, para 28n)

- a. Whether the C was subject to the treatment alleged
- b. Was this an act or a deliberate failure to act by the R or, R2?
- c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the grounds that C had made disclosures PDs PD1-PD12.

42. Detriment 14: On 30/05/2022 the Bishop of Lichfield stated to C that “we in the Diocese” regarded C’s complaints to the GMC and regulatory bodies as not the responsibility of the R.

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made disclosure 13 (PD13) (C’s report Dr Rajendran to the GMC)

43. Detriment 15: On 21/7/22 Dr Donegan and/or Neil Spiring, by email, threatened to go the police (TL 53).

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2? The R’s position is that any act/omission by Dr Donegan was not an act by R or R2 in the meaning of the statute

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made disclosure 6 (PD6) (C raising concerns on 31/7/21)

44. Detriment 16: Shortly after 21/7/22, the Bishop of Lichfield indicated in writing he would not nominate another safeguarding professional and Bishop of Lichfield’s refusal to criticise Neil Spiring or Dr Donegan for allegedly threatening to go to the police (TL (54))

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made disclosure 11 (PD11) (14/10/21 Complaint to the ICO)?

45. Detriment 17: On 6/09/22, at Zoom meeting, with C, Jeanette Hartwell and his Training Incumbent, Jeanette Hartwell asked C an alleged targeted and inappropriate question (TL, (58))

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Potentially relevant PDs 1-18.

46. Detriment 18: After 8/9/22, the Bishop of Lichfield and/or the Bishop of Stafford and Jeanette Hartwell omitted to change their “course of action” ( treated C’s concerns he had reported as illegitimate) , after C told them that the GMC considered that the assessments by Dr Donegan and Dr Rajendran were psychological assessments (rather than Occupational Health assessments) (TL (60)).

a. Whether the C was subject to the treatment alleged?

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made PDs 1-18, in particular disclosure 13 (PD13) (C’s report Dr Rajendran to the GMC)?

47. Detriment 19: On or about 7/10/22 Julie Jones writing to C asking him to desist from contacting Bishops, clergy and DBF staff and stated that the matter had been looked into by the Diocese and outside bodies (TL (62))

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Potentially relevant PDs 1-18.

48. Detriment 20: On 17/11/22, a letter from the Bishop of Stafford informing C that he would not be recommended at Incumbent Status under Common Tenure (TL (64))

a. Whether the C was subject to the treatment alleged

b. Was this an act or a deliberate failure to act by the R or, R2?

c. Was the C subjected to a detriment by the act or failure to act?

d. Was it on the ground that the C had made one or more of the protected disclosures? Potentially all PDs 1-18.

**Equality Act claims (perceived disability)**

**Disability**

C's case is that he is not disabled, that he was discriminated against because of the (inaccurate) perception that he was disabled by reason of autism spectrum condition (ASC)

49. At the material times:

(1) Did the R or R2 perceive that the Claimant had a physical or mental impairment?

(2) If so, did the R or R2 perceive that impairment to have an adverse effect on his ability to carry out normal day-to-day activities?

(3) If so, did the R or R2 perceive any such adverse effect to be substantial?

(4) If so, did the R or R2 perceive any such adverse effect to long-term, in that it had lasted for at least 12 months, was likely to last for at least 12 months or was likely to last for the rest of the Claimant's life (within the meaning of paragraph 2, Part 1 Schedule 1, EqA)?

**Direct discrimination (relying on s.49(6)(d) and s.13 EqA (personal office)).**

C complains of the following treatment (act / omission):

50. Direct (1): On or around spring 2021 to December 2021 a delay in the Bishop of Stafford allowing C to go forward to ordination while reasonable adjustments were looked into (TL (15))

a. Did the alleged treatment occur as alleged?

b. If so, was it less favourable than how the alleged discriminator treats or would treat a hypothetical comparator (person who was not perceived to be disabled)?

c. If yes, was that treatment because of a protected characteristic (i.e. the perceived disability (ASC))

d. If yes, whether R or R2 was the 'relevant person'. C's case is that the relevant matter was either in relation to the opportunity or detriment.

51. Direct (2): On 16/9/22, by email. Jeanette Hartwell asking C to rewrite a reflective statement for IME2 (relevant date for time limits - presentation of complaint 3/12/22)

a. Did the alleged treatment occur as alleged?

b. If so, was it less favourable than how the alleged discriminator treats or would treat a hypothetical comparator (person who was not perceived to be

disabled)?<sup>1</sup>

c. If yes, was that treatment because of a protected characteristic (i.e. the perceived disability (ASC))

d. If yes, whether R or R2 was the 'relevant person' in relation to the detriment (the person who has the power in relation to the matter to which the conduct relates (or if there is no such person, the person with the power to make the appointment, s.52(6)).

52. Direct (3): On 16/09/22, an email from Jeanette Hartwell saying that the claimant did not show evidence of understanding how "that" was affecting his colleagues (relevant date for time limit – 4/7/23 (subject to continuing act))

a. Did the alleged treatment occur as alleged?

b. If so, was it less favourable than how the alleged discriminator treats or would treat a hypothetical comparator (person who was not perceived to be disabled)?

c. If yes, was that treatment because of a protected characteristic (i.e. the perceived disability (ASC))

d. If yes, whether R or R2 was the 'relevant person' in relation to the detriment<sup>2</sup>).

### **Remedy**

53. Is C entitled to compensation for injured feelings including aggravated damages arising out of any detriments to which he was subjected, and if so in what amount?

54. Has C suffered any financial loss as a result of the detriments to which he was subjected, and if so in what amount?

55. Where it appears to the tribunal that the protected disclosures were not made in good faith, is it just and equitable to reduce the award of compensation?

56. Should the Tribunal make a recommendation as sought in the ET1 or at all?

57. Should the Tribunal make an award of compensation for (past and/or future) financial loss and/or injury to feelings and, if so, how much?

58. Should the Tribunal make an award of interest and, if so, how much?

### **EVIDENCE**

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<sup>1</sup> (where A is not a disabled person, B does not discriminate against A only because they treat or would treat disabled persons more favourably than A treats B, s.13(3) EqA))176)).

<sup>2</sup> (The person who has the power in relation to the matter to which the conduct relates (or if there is no such person, the person with the power to make the appointment, s.52(6)).

4.1 The first day of the hearing was used by the Tribunal to read the witness statements and selected documents in the bundles, having been supplied with reading lists by the parties.

4.2 The Claimant produced a lengthy (169-page) and detailed witness statement for the hearing. The claimant alone gave evidence for his own case.

4.3 The Respondents called the following witnesses to give evidence:

- The Reverend Canon Dr Rebecca Lloyd (RL)
- Mr Neil Spiring (NS)
- The Right Reverend Michael Ipgrave, Bishop of Lichfield (BoL)
- The Reverend Prebendary Dr Jeanette Hartwell (JH)
- Mrs Julie Jones (JJ)
- The Right Reverend Matthew Parker, Bishop of Lichfield (BoS)

4.4 The parties had agreed a bundle of documents in eight volumes which ran to 3,426 pages. Before the start of the hearing the claimant supplied two further bundles which ran to 78 and 55 pages respectively. There was no objection to the late service of these two additional bundles, and the Tribunal allowed them to be introduced into evidence.

4.5 The Claimant elected to pursue twenty separate allegations of whistleblowing detriment linked multifariously to eighteen alleged public interest disclosures. In her Respondents' skeleton submissions Ms Murphy referred to the guidance of HHJ Tayler in Vaughan v Modality [2021] ICR 535 [at 41]. HHJ Tayler advised claimants to focus, if possible, on the principal disclosures that may have resulted in detriment, rather than pleading the maximum number possible.

4.6 HHJ Tayler's guidance is apposite in this case. The Tribunal makes no criticism of the Claimant, taking into account he was not assisted in the proceedings by legal representation, and he is entitled to bring his case in his own way. However, the number of alleged detriments and disclosures averred, together with the sheer volume of documentary evidence relied upon for a case of this kind, made the Tribunal's task a particularly demanding one. In its essence, the factual matrix of this case was relatively straightforward, but the manner in which the claims were presented for determination resulted in a case which was not always easy to follow. This is borne out by the two days taken by Employment Judge Howard, on 21-22 November 2023, to identify the issues in the case.

## THE LAW

5.1 The relevant law is to be found in the Employment Rights Act 1996 ("*the ERA*") and the Equality Act 2010 ("*the EqA*"). The following provisions are those salient to the case at:

The ERA

Jurisdiction

Section 48:

- (3) An employment tribunal shall not consider a complaint under this section unless it is presented -
- (a) before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them, or
  - (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.
- (4) For the purposes of subsection (3) -
- (a) where an act extends over a period, the “date of the act” means the last day of that period, and
  - (b) a deliberate failure to act shall be treated as done when it was decided on; and, in the absence of evidence establishing the contrary, an employer, a temporary work agency or a hirer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

Whistleblowing Detriment

Section 47B:

- (1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.

Section 43A Meaning of “protected disclosure”

In this Act a “protected disclosure” means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H.

Section 43B Disclosures qualifying for protection

- (1) In this Part a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

Section 43C Disclosure to employer or other responsible person

- (1) A qualifying disclosure is made in accordance with this section if the worker makes the disclosure -
  - (a) to his employer, or
  - (b) where the worker reasonably believes that the relevant failure relates solely or mainly to -
    - (i) the conduct of a person other than his employer, or
    - (ii) any other matter for which a person other than his employer has legal responsibility, to that other person.
- (2) A worker who, in accordance with a procedure whose use by him is authorised by his employer, makes a qualifying disclosure to a person other than his employer, is to be treated for the purposes of this Part as making the qualifying disclosure to his employer.

Section 43F Disclosure to prescribed person

- (1) A qualifying disclosure is made in accordance with this section if the worker -
  - (a) makes the disclosure to a person prescribed by an order made by the Secretary of State for the purposes of this section, and
  - (b) reasonably believes -
    - (i) that the relevant failure falls within any description of matters in respect of which that person is so prescribed, and

- (ii) that the information disclosed, and any allegation contained in it, are substantially true.
- (2) An order prescribing persons for the purposes of this section may specify persons or descriptions of persons and shall specify the descriptions of matters in respect of which each person, or persons of each description, is or are prescribed.

### The EqA

### Jurisdiction

#### Section 123 Time limits

- (1) Subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of—
  - (a) the period of 3 months starting with the date of the act to which the complaint relates, or
  - (b) such other period as the employment tribunal thinks just and equitable.
- (2) ...
- (3) For the purposes of this section—
  - (a) conduct extending over a period is to be treated as done at the end of the period;
  - (b) failure to do something is to be treated as occurring when the person in question decided on it.
- (4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—
  - (a) when P does an act inconsistent with doing it, or
  - (b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

### Disability

#### Section 6

- (1) A person (P) has a disability if—
  - (a) P has a physical or mental impairment, and
  - (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.

## Direct Discrimination

### Section 13

(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others. Underhill LJ explained the approach this Tribunal must take when determining cases of alleged direct discrimination because of perceived disability in the case of Chief Constable of Norfolk v Coffey CA [2020] 2 All ER 490 [at 35].

*The starting-point for the issues raised by these grounds is that it was common ground before us that in a claim of perceived disability discrimination the putative discriminator must believe that all the elements in the statutory definition of disability are present – though it is not necessary that he or she should attach the label "disability" to them. As Judge Richardson put it succinctly, at para. 51 of his judgment:*

*"The answer will not depend on whether the putative discriminator A perceives B to be disabled as a matter of law; in other words, it will not depend on A's knowledge of disability law. It will depend on whether A perceived B to have an impairment with the features which are set out in the legislation."*

*That distinction between knowing the facts that constitute the disability and knowing that they amount to a disability within the meaning of the Act had already been drawn, albeit in a different context, by Lady Hale in her speech in Malcolm: see para. 86 (p. 1430 F-G). Again, although it was common ground that this was the right approach, I should say that I agree that it is correct. In a case of perception discrimination what is perceived must, as a simple matter of logic, have all the features of the protected characteristic as defined in the statute.*

## **THE FACTUAL BACKGROUND TO THE CLAIMS**

6.1 This section of the Tribunal's reasons sets out the factual background leading up to those matters which are relevant to the issues to be determined. Some of the events in this case are largely undisputed, either because they are a matter of record in contemporaneous documents or because they were agreed. Any disputes of primary fact which are of significance to the Tribunal's conclusions will be addressed and resolved in its discussion of the evidence below at paragraph 6.108 onwards.

### **The Respondents**

6.2 The Tribunal had to decide the identity of the proper Respondent in this case. The Second Respondent asserts that he, in his corporate capacity, is the correct Respondent and not the First Respondent. It is argued by the Second Respondent that he is to be treated as the Claimant's 'employer' (applying the 'Gilham extension') for the purposes of the whistleblowing detriment claims. It is also asserted that the overriding context of the Claimant's claims was his progress or otherwise to

ordination and that ultimate decisions on this were the responsibility of the Second Respondent. It is further averred that all those individuals against whom detriments are alleged were acting on behalf of the Second Respondent.

6.3 The claims brought by the Claimant were many and varied and not all of them were concerned with DG's ordination and the decision not to ordain him. The lines of responsibility and authority between the Respondents, the Claimant and those accused of causing him detriment was not entirely clear. For this reason, the Tribunal was not persuaded that the Second Respondent alone was the proper Respondent. It decided therefore that the case would proceed against both Respondents.

6.4 The Tribunal found the detailed explanations of the structure and organisation of the Church of England to be helpful in its understanding of the evidence in this case.

6.5 The Church of England has no legal personality. It is made up of dioceses. Each diocese in England is headed by a Diocesan Bishop. Diocesan bishops are assisted by suffragan bishops who may have delegated responsibility for a geographical area within the diocese. The Bishop of Stafford (BoS) is one of three suffragan or area bishops in the Diocese of Lichfield and is the area bishop for the Stafford Episcopal Area.

6.6 Within each diocese, there are a number of benefices, each under the care of a rector or vicar.

6.7 The Second Respondent is the Diocesan Bishop of Lichfield (BoL) in his corporate capacity. The First Respondent is the Lichfield Diocesan Board of Finance (Incorporated) ("the LDBF"). The LDBF is a registered charity and performs various functions to promote, carry on, assist, benefit and advance the work of the Church of England in the Diocese of Lichfield. The LDBF is the financial and legal executive of the Diocesan Synod and is responsible for financing its activities.

6.8 The LDBF employs a number of lay and ordained people to perform specialist roles for the Diocese. Neither the LDBF nor the Diocesan Bishop employs the parish clergy.

6.9 A key role of the Diocesan Bishop is to ordain and commission clergy and other ministers. Clergy and other ministers may not minister within the diocese without the bishop's permission.

6.10 Someone wishing to minister as an ordained person in the Church of England needs to be first ordained and then in some way authorised by the bishop of the diocese to minister in a particular place.

6.11 Those aspiring to minister within the Church of England must complete a pathway of training and education before being considered suitable for authorisation by the Diocesan Bishop. The process begins with "discernment of vocation". It is insufficient for candidates for the Church of England clergy to have a personal sense of calling. A sponsoring bishop must discern the necessary potential vocation in the

candidate. Upon such discernment, the sponsoring bishop decides whether to sponsor the candidate for ordination training.

6.12 The first stage of training takes place at a Theological Training Institution (“TEI”). This theological training phase of the candidate’s formation is known as IME1 (Initial Ministerial Education), from which point until ordination the candidate is referred to as an “ordinand”. IME1 lasts for 2-years and takes place at a theological college.

6.13 After successfully completing IME1, ordinands proceed to IME2. This second stage of education is a training post otherwise known as a “title post” or “curacy”, typically within their sponsoring diocese. Ordinands who succeed in securing a curacy are ordained *deacon*, which is the lowest of three Holy Orders, namely bishop, priest and deacon.

6.14 Ordinarily, one cannot be ordained priest until one has first been ordained as a deacon and served for at least a year in a title post. Such a training post is normally within a parish setting, under the supervision of the incumbent (a rector or vicar) of that benefice who is known as the “Training Incumbent”. A full-time training post normally lasts for up to four years in the Diocese of Lichfield.

6.15 The person holding such a title post is an “assistant curate” under ecclesiastical law but is generally known simply as a “curate”. They remain a curate while in their training post, both as a deacon and after being ordained priest.

6.16 Central to the ordination process is “spiritual formation”. Although formation is recognised as being lifelong in nature, the Church of England has adopted a set of formation criteria which are used as part of the ordinand selection process and throughout the ordinand’s subsequent training and assessment of suitability for ordination as priest.

6.17 Curates in training are reviewed against these formation criteria. Before being ordained priest and successful completion of IME2 the curate must be “signed off” by the Diocesan Bishop or Area Bishop. Curates are expected to be able to demonstrate evidence of having met the formation criteria before they will be signed off. Until they are signed off, curates may not apply for stipendiary or incumbent status roles within the diocese. The formation criteria are arranged under the following seven headings.

- Christian faith, tradition and life
- Mission, evangelism and discipleship
- Spirituality and worship
- Relationships
- Personality and character
- Leadership, collaboration and community
- Vocation and ministry within the Church of England

6.18 The formation criteria are “disposition-led”, with primacy given to character rather than knowledge, understanding and skills. Throughout their curacy, curates are reviewed in light of the formation criteria and must demonstrate evidence of

having met the formation criteria before they will be signed off by the Bishop. In the Claimant's case curates are reviewed by the Area Bishop, the BoS, but the BoL has ultimate responsibility and authority in this regard.

6.19 Ordination into the priesthood occurs during curacy and priested curates are not signed off as fit to practise until the end of their second year after ordination as priest, or year 3 of curacy. Once signed off, a priest may apply for parish or other roles. Often, priests hold an ecclesiastical office under a framework known as "Common Tenure". Under Common Tenure a priest will be paid a stipend, which is a living allowance rather than a salary. They will also become eligible for the Church of England pension scheme.

### **Cuddesdon**

6.20 The Claimant DG was in training to be a priest. He was sponsored in this regard by the Diocese of Lichfield. The first phase of his training was the 2-year IME1, which was conducted at Ripon College, Cuddesdon, Oxfordshire (hereafter referred to as "Cuddesdon"). He completed this in the summer of 2019.

6.21 Events that took place at Cuddesdon, and related events that occurred after DG moved on to IME2, were an all-pervasive backdrop to this case.

6.22 It is not within the remit of the Tribunal to make any factual determination of what happened at Cuddesdon. But it is important to have some understanding of those preceding events as these became the catalyst for later events which form the substance of DG's claims. DG's narrative of events is not the only narrative, and in certain important respects, particularly his interaction with Person B, there is a quite different version of events to his own.

6.23 At Cuddesdon DG was in a class of theological students, both male and female. DG became friendly with one female student in particular: Person B. From December 2018 to January 2019 an issue arose between DG and Person B, which led to an intervention by staff at Cuddesdon. In essence Person B was unhappy with the nature and level of attention she was receiving from DG.

6.24 In his witness statement [14-22], DG provides a narrative of the intervention by Cuddesdon staff and his perception of the incident and how it was handled. He begins with a meeting with the Vice Principal, Mark Chapman (MC), who was also his personal tutor. He relates how he was informed that a pastoral concern had been raised after Person B reported that correspondence she had received from DG via email and Facebook had made her feel uncomfortable. On being told this DG agreed not to have any further private communication with Person B. DG was told this was not a disciplinary matter. In his statement, DG goes on [18] to mention Revd Dr Sarah Brush (SB), who was the college pastoral theology tutor, and how she placed him on a communication ban with Person B on 7 January 2019. DG was insistent in his evidence that his communication with Person B at this time was consensual and not unwanted. This was not consistent with written evidence subsequently provided to the Respondents by Person B.

6.25 DG's evidence on the Cuddesdon staff intervention and the pastoral concern raised in regard to Person B was incomplete and inconsistent with contemporaneous

emails [B/224-232] which passed between SB, MC and the college Principal, Bishop Humphrey Southern (HS). It is evident from those emails that Person B initiated the pastoral concern by going to see SB on 14 December 2018, with printouts of what SB described as “...*extensive rather inappropriate emailing from David Green.*” From the emails, SB formed the view that DG had become infatuated with Person B. Person B informed SB that she was not interested in forming any sort of relationship with DG and felt the time had come to make the college aware of his communication with her.

6.26 On 14 December 2018, SB informed the Principal, HS, of her concern regarding DG’s behaviour [B/226]. She said that she did not think Person B wanted to make a complaint, but she wanted what SB described as the “weirdness” to stop. SB suggested a course of action, which was for DG to address his conduct, and perhaps to receive professional counselling before ordination. The reason counselling was suggested was because SB believed the behaviour DG had exhibited towards Person B “*would be wildly inappropriate in a pastoral relationship with a parishioner or any future colleagues*” and that DG needed to realise that.

6.27 HS replied to SB the next day [B/225]. His instinct was not to escalate the matter into a disciplinary one and to resolve it by having DG’s tutor, MC, speak to DG. Although DG’s evidence is silent on it, and neither SB nor MC gave evidence to the Tribunal, an email from SB to HS on 7 January 2019 indicates that MC did speak to DG as planned and warned about his communication with Person B. Despite this, DG repeated his behaviour by contacting Person B by email and Facebook over the Christmas vacation. Person B reported this to SB who noted that DG’s further communication had made Person B very anxious.

6.28 In response to SB’s email, HS replied [B/227] on the same day, requesting that SB ask DG to “withdraw” and make it clear his behaviour was causing Person B distress. He also directed that MC needed to pick the matter up on his return to the college. According to DG’s witness statement [18], SB imposed a ban on him communicating with Person B, yet he remained adamant that Person B had asked him to contact her. He described SB’s ban as unjust and that the reasons for the same were not given to him, yet the evidence suggests that he understood or should have understood the reasons behind the ban and was aware of Person B’s feelings on the matter.

6.29 In his witness statement [19], DG made reference to Person C, a female student on his course, who would come to be a prominent character in his case. In short, he blamed Person C for causing trouble between himself and Person B by allegedly manipulating the situation. According to DG, Person C was instrumental in causing college staff to become concerned about his behaviour towards Person B. This was later contradicted by Person B in communication with the Respondents (see paragraph 6.84 below)

6.30 After his meeting with MC on 14 January 2019, DG ceased his communication with Person B. In his statement [23], he described having “*no further problems directly with Person B at the college*”. The Tribunal was satisfied that Person B had at no time been the cause of any problems for DG, at Cuddeson or at any later time. In fact, the reverse was true because of the nature of DG’s communication with her.

DG alleged that from this time of the intervention by the college, other students on his course, Persons A, C and M, began to ostracise and bully him. This led DG to experience low mood and anxiety.

## **Curacy**

6.31 Upon successfully completing IME1, DG was ordained deacon on 30 June 2019. From there he went on to start IME2 and was licensed as the Assistant Curate to the Longnor Benefice in the Diocese of Lichfield. This was a full time, fixed term, stipendiary training appointment.

6.32 During his curacy DG worked with and under the supervision of The Reverend John Baines (JB), his Training Incumbent. JB sadly passed away before these proceedings came to a final hearing and so he did not provide written or oral evidence to the Tribunal.

6.33 Although DG completed the planned 4-year curacy, he was not ordained as a priest, and he was not recommended for incumbent status under Common Tenure.

6.34 DG's claims concern the alleged acts or omissions of various individuals employed by or holding office within the Diocese of Lichfield during the course of his curacy. His complaints will be considered in detail below from paragraph 6.109 onwards.

6.35 Before examining DG's claims in detail, it is necessary to set out the Tribunal's factual findings on events which occurred post-Cuddesdon/IME1 and shortly after DG commenced his curacy.

6.36 A friend and former Cuddesdon course-mate, Person L, invited DG to attend their deacon ordination service which was to be a large event at a Cathedral in the South of England. Also being ordained at that service was Person B. DG took the precaution of checking with Person B, via his wife, whether Person B minded him attending the service. According to DG, Person B indicated that she had no objection to him and his wife attending the service.

6.37 On 10 September 2019, Person A sent DG's wife a Facebook message [238] in which she stated that she had Person B's permission to contact her, and then went on to write that whilst she, DG's wife, was welcome to attend the service, DG was not welcome and that he should not do so. In the Facebook message, Person A described DG as Person B's "stalker" and that Person B had suffered emotional abuse as a result of DG's past behaviour.

6.38 On 13 September 2019 DG telephoned Mr Neil Spiring (NS), the Lichfield Diocesan Safeguarding Adviser ("DSA") and explained Person A's objection to him to attending the service. NS advised DG to seek advice from Cuddesdon. He did so, by speaking to both HS and MC, who raised no objection to him attending the service. The call on 13 September 2019 was the first contact between DG and NS.

6.39 DG and his wife and children attended the service on 14 September 2020. DG alleges that after the service there was something of a confrontation when Person A

verbally accosted him. After reflecting on this incident, DG emailed NS on 19 September 2019. In his witness statement [46], DG refers to this email, providing an extract from it, which included a question to NS about whether it was appropriate to speak to a harassment adviser. DG pointed out that NS did not reply to his email. From the email [B/248-249], one can see that DG's intent was to update NS on how things went at the ordination service. DG then relayed what happened, at length and in detail.

6.40 During the course of live evidence, the Tribunal asked if it could be provided with NS's DSA job description. This was because it was not obviously apparent why DG chose to contact the DSA for advice on whether he should attend the ordination service, why he felt it necessary or appropriate to brief the DSA on what happened after the service and why the DSA was the correct person to advise DG on whether he should speak to a harassment adviser.

6.41 The Tribunal was provided with NS's DSA job description. Whilst the job description covers a broad spectrum of possible responsibilities and tasks, these all fall under the umbrella of safeguarding. The job description also refers to the DSA being responsible for taking the lead in responding to "serious situations" and providing such things as support and advice to victims and to parish personnel. On any objective view the DSA had no obvious professional interest or obligation in regard to the matters described by DG. What DG expected of NS was not consistent with his job description and it was laudable that NS spent so much time supporting DG in connection to those matters when they fell outwith the scope of his job role.

6.42 DG went to NS for advice on whether he should attend the service because he anticipated there might be objection to his presence or trouble of some kind. There was some sort of confrontation at the service with Person A. But on no reasonable view could DG's situation or concerns be described as a safeguarding matter or a serious situation. This was an example of DG's propensity to make himself the centre of attention, to escalate matters that he could have put behind him, and to draw as many people as possible into his personal life and problems.

6.43 In his witness statement [8] NS wrote "*Dealing with the issues raised by David was to a very large extent an unusual and very time-consuming addition to my normal workload.*" He then summarised his key role responsibilities as follows:

*Apart from my priority, which was live casework dealing with current risk, my role was to provide safeguarding training, draft safeguarding policies for the Diocese, ensure that DBS checks on clergy and volunteers were kept up to date, advise on safeguarding issues that emerged from the past, tackle project work cascaded to us by the National Safeguarding Team arising from the Independent Inquiry into Child Sexual Abuse and, between 2019 and late 2021, complete the Church of England's second review of past cases.*

6.44 NS's failure to respond to DG's email on 19 September 2019, either intentionally or by oversight, was entirely understandable and reasonable. NS explained [13] that after his first conversation with DG, he began to receive long email threads concerning things that had happened during DG's time at Cuddesdon. The Tribunal was satisfied that any complaints DG wished to make about events that

happened at Cuddesdon, or about any of his former classmates, had nothing to do with NS or the Respondents. If he wished to complain he could have done so to the college or to those dioceses sponsoring his alleged antagonists.

6.45 Despite receiving no response to his email of 19 September 2019, DG emailed NS again, on 24 September 2019 [B/244-248]. This was an even longer email than the first, setting out in great detail the events at Cuddesdon and the incident at the ordination service. These events were very obviously dominating DG's life at that time. Whilst DG inserted reference to Person A having possible mental health problems, the overwhelming inference from his email is that he wanted NS to take ownership of the matter and to conduct some form of investigation or advocacy on his behalf. Again, that was not NS's role or responsibility, and this should have been obvious to DG whom the Tribunal found to be a man who is quick to research the duties, roles and responsibilities of others and the rules and regulations that govern them (e.g. Doctor Donegan and Doctor Rajendran).

6.46 DG sent a further email to NS on the same day, without receiving any response to his earlier email. In that later email he sought to explain his reason for sending the earlier email, which was to record his concerns and to "safeguard" himself and his family. But when looked at in the round, there was no reasonable basis upon which DG might assert a safeguarding concern, given that all that triggered this particular string of emails to NS was the incident at the cathedral with Person A. This was very clearly not a matter for the Lichfield DSA and viewed objectively, it was unreasonable to expect NS to become embroiled in it. DG's labelling of the matter a "safeguarding concern" was no doubt intended to draw NS into DG's personal affairs when DG should have realised these events were outside the remit of his Diocese.

6.47 The lack of response from NS did nothing to dissuade DG and he sent a further email on 3 October 2019 [B/242-243]. In the first paragraph DG told NS that he had received advice that responsibility for Person A's conduct whilst at the Cuddesdon lay with the college. Whilst the Tribunal does not accept that the college was in any way responsible for Person A's behaviour, staff at the college were arguably under some form of duty to investigate any allegations made against Person A whilst at the college. Alternatively, this duty must have fallen to Person A's Diocese.

6.48 Having begun his email by stating that he had been advised that the college was responsible for investigating Person A's alleged behaviour, he went on to stridently make allegations about Person A to NS. In his penultimate paragraph DG wrote that Cuddesdon had advised him to "maintain contact" with NS and to arrange for counselling support. The Tribunal was not provided with any evidence of whatever advice Cuddesdon gave to DG at the time, however it found that DG had no reasonable basis for thinking that NS had any professional interest in past events at Cuddesdon or in Person A's mental health, or for thinking that counselling services for diocesan clergy fell with the DSA's remit. Without such evidence the Tribunal found these were not matters DG could reasonably have believed fell within NS's remit.

6.49 NS eventually replied to DG's emails with understandable brevity on 3 October 2019 [B/242]. In a single paragraph, he wrote that he was pleased that the college was taking the matter seriously and was trying to resolve it. He also informed DG that there was a staff counselling service and that he could provide details of the same to DG. What is obvious from NS's email is the absence of any acceptance of responsibility for the matters raised by DG, and NS's hope that this was the last he would hear about. NS was quite properly trying to distance himself from the matters raised with him by DG which were of no professional concern to him.

6.50 Unfortunately for NS, it was not to be the last he would hear about Cuddesdon, as DG sent him another long email on 12 October 2019 [B/240-241]. In his circumlocutory manner, which was seen repeatedly throughout DG's oral evidence, DG began his email with a statement about wanting advice in relation to "*this matter*". By this he meant Person A and Cuddesdon. But instead of getting to the point and asking for advice, DG provided another protracted narrative of past events. He raised his own suspicions about Person A's mental health, then asked NS for a point of contact for advice on whether it was appropriate to disclose potentially confidential information about Person A on the grounds of safeguarding her. If DG's only purpose in emailing NS was to ask this question, it very obviously could have been asked in a single short paragraph. But what this and other emails reveal is that DG was completely consumed by past events at Cuddesdon, which he was not prepared to let go. His feelings towards Person A in particular were clearly hostile, even when thinly veiled by the suggestion of concern for her wellbeing.

6.51 In his witness statement [13] NS wrote that at the time he did not fully understand the nature of the complaints DG was making in his various emails but later came to believe that it was about being bullied at Cuddesdon and about the alleged manipulation of Person B by other students. NS was clear and consistent on this point throughout his evidence: his responsibility was solely for the Diocese of Lichfield and not for anything that may have happened in another diocese. This was an entirely reasonable position for NS to adopt in the circumstances.

6.52 Whilst DG may have referred to "safeguarding concerns" about Person A and Person B, there was no cogent evidence to substantiate this. The evidence overwhelmingly suggested that DG was fixated by the belief that he had been wronged at Cuddesdon and his intent was either to protect his reputation within the Diocese of Lichfield or more likely to retaliate against those he perceived had wronged him.

6.53 In an email sent by DG to NS on 17 October 2019 [B/240], DG referred to a telephone call with NS earlier that day in which Cuddesdon was again the topic of conversation. The email reveals that DG had emailed the college and that SB had replied to him, asking him not to contact any former college students and indicating that she would liaise with NS and other Safeguarding Officers if it was appropriate to do so. There is no reply from NS in the email chain provided in evidence, yet DG sent another long email to NS on the same topic on 22 October 2019 [B/239-240].

6.54 The email of 22 October 2019 contains reference to a number of matters which, on any objective view, were not within the purview of the Lichfield DSA. Perhaps unthinkingly DG seems to have regarded NS as his personal counsellor or

welfare officer, which he was not. DG began his email by saying that he was thinking of beginning counselling and asked NS if it was appropriate to speak to one of the Diocese's counsellors directly. This was a question DG could have asked of his Training Incumbent, JB, and not the DSA.

6.55 The email then moved on to Cuddesdon and DG's thoughts on Person B potentially being a victim of some form of manipulation or coercive and controlling behaviour. When viewed in the round alongside all of the evidence in this case, DG's perception of events at Cuddesdon and at the ordination ceremony is a distortion of the reality. When others appear to have put the events behind them, DG refused to do so. This became the single major obstacle to successfully completing his curacy. He allowed a personal sense of grievance to become his priority and not his vocational training.

6.56 The email of 22 October 2019 is just one example of the many unnecessarily protracted emails DG sent to key figures in his own Diocese. Beneath the verbiage is buried DG's point of concern, which was whether or not Person B wanted him at her ordination ceremony or not. Without any sound evidential basis, he had formed the view that Person A had coerced Person B into turning against him. His unwillingness to accept that Person B did not want him at the service demonstrates that he had simply not learned an important lesson or heeded the warnings given to him at Cuddesdon about Person B and his unwanted conduct towards her.

6.57 On that same day, and without any response from NS, DG emailed him again. The contents of this shorter email were of no professional interest to NS as the DSA of Lichfield Diocese. Again, DG resurrected his grievance towards Person A, and referred to advice from Cuddesdon, to the effect that he could make a disciplinary complaint against Person A if he wished. The email is DG's protracted assessment of the pros and cons of making a disciplinary complaint against a colleague in another diocese. It is understandable therefore, from this email and from others, why it was that NS attempted to minimise his engagement with DG on this subject. NS was not in anyway neglecting his duty as the DSA: he was merely attempting to prevent himself becoming entangled in DG's obsession with Persons A and B, and his misplaced sense of injustice.

### **Safeguarding Concern to Oxford Diocese**

6.58 A new chapter in this case was opened on 12 November 2019. On that date DG exchanged messages [B/250-255] with Person D, a female friend and colleague who was then studying at Cuddesdon. The conversation was dominated by DG who gave an incomplete and partial summary of his experiences at Cuddesdon. He referred to college tutors getting involved in what he described as a "friendship breakup problem" at the college and he was critical of the informal manner in which his situation was handled. What is omitted from his narrative is the fact that he was the one who was the subject of concern for college staff and not the victim. Having got this matter off his chest again, Person D disclosed to him that she was assaulted by a man at the college the year before and she accused the college of sweeping the matter under the carpet. It can be inferred from this criticism of the college that this individual, Person D, did report the matter to staff at the college.

6.59 On receiving this disclosure from Person D, DG took it upon himself to take action, when none had been requested by Person D. He sent an email to Mr Stuart Nimmo (SN), the DSA for the Oxford Diocese. In concise fashion DG informed SN of Person D's disclosure and the assertion that the college had covered the matter up. Then in less concise fashion, DG devoted the majority of the email to his own grievance about Cuddesdon. Perhaps DG was partly motivated by a genuine concern for Person D and the manner in which the alleged incident was dealt with. But it is evident that he seized upon his friend's personal matter and used it as a vehicle for perpetuating his own grievance.

6.60 SN forwarded DG's email to Sophie Harney (SH), a Safeguarding Casework Officer for the Oxford Diocese. On 14 November 2019 SH contacted DG about Person D's disclosure. This email [B/277-278] opened a veritable Pandora's Box. Approximately 2-hours after SH's email, DG replied to her in another long email [B/276-277], the bulk of which was about his own grievance with Cuddesdon and Person A.

6.61 In a clear effort to extricate herself from DG's personal matter SH emailed him back that same day [B/275-276]. She told him that she understood from him that his own case was being dealt by the Lichfield DSA and that he did not therefore require any support from the Diocese of Oxford. DG did not pick up on this obvious cue to drop the topic and replied with a further long email [B/274-275] in which he focused on his own problems and not that of Person D. Only in the final short paragraph did he revert back to Person D who at that point appeared to be reluctant to revisit what happened to her at Cuddesdon. The Tribunal concluded that DG used Person D as a convenient excuse for keeping his own complaints alive and in the spotlight.

6.62 From 14 November 2019 to 29 November 2019, DG bombarded SH with eight long emails [B/263-275], almost entirely about his own situation and his complaints about Cuddesdon. Most of these emails went unanswered and when SH did respond, it was briefly and principally regarding Person D. At no time did she encourage DG or invite further information from him about his own complaints. DG's almost one-way contact with SH is further evidence of his complete pre-occupation with matters outside his own curacy and his own Diocese.

6.63 In response to this contact from DG, SH acted decisively, albeit principally in response to Person D's disclosure. SH arranged a meeting at Cuddesdon with SB and NS on 5 December 2019. But as NS describes in his witness statement [18], the Person D matter and DG's complaints had been overtaken by a new development, which was a complaint about DG from a number of his friends, former friends or former Cuddesdon classmates.

### **The Complaint Email**

6.64 In spite of everything that happened at Cuddesdon, being warned about his behaviour towards Person B, and the confrontation with Person A at the ordination service, DG chose to reopen a line of direct communication with Person B.

6.65 On 7 November 2019 he sent Person B a long email. In short, he tried to establish whether Person B had any interest in communicating with him again. He

acknowledged that he knew it was her decision to cut off contact with him at the college, yet he professed not to fully understand the reason for that decision and sought an explanation from her.

6.66 Of particular note DG wrote “*I'd been told that all restrictions I was under would expire on leaving college.*” Whilst the power of the college principal and his staff to impose a communication ban on DG must have been limited to DG's time at the college, it must also have been abundantly clear DG that Person B placed no such time limit on the ban. This was obvious dissembling on DG's part and evidence of his readiness to distort reality.

6.67 Person B did not respond to DG's email of 7 November 2019, but she did email him on 19 November 2019 [B/488-490]. She explained why she did this in a telling first paragraph:

*I just got your WhatsApp messages, sent that way presumably so you could see I'd read them. I'm going to be as straight as I can, as I really can't afford to ruminate over such things and drag this issue on nearly a year after it came to a head.*

6.68 It was evident then that Person B tried to ignore DG's first attempt at contact by email, but when she did not respond he changed tactics and sent her a WhatsApp message, a method which would indicate to him immediately if and when Person B read his message.

6.69 In her email Person B spelled out to DG, in detail, exactly what caused her such concern at Cuddesdon:

*The issue last year was that I was very concerned about your lack of awareness, inability to pick [sic] social cues and what I can only hope was subconscious manipulative behaviour.*

6.70 She described DG as manipulative, having a tendency towards the obsessive and seeing scenarios differently to the way she saw them. Observations made by Person B about DG are strikingly consistent with other evidence seen and heard by the Tribunal concerning his personality traits and propensities. She referred to him bombarding her and others with emails. She mentioned his willingness to make complaints about others or to threaten the same. She highlighted his seeming inability to put things behind him and to move on.

6.71 Person B wrote that she did not think his behaviour towards her at Cuddesdon came close to harassment, but she did believe he had the potential to commit harassment, and it was this concern that caused students and staff to rally round her. She explained that the restrictions imposed on DG were intended to prevent repetition and escalation. Person B had hoped the events at Cuddesdon were behind her, but DG's email to her caused her to think that his obsessive streak was still running strong.

6.72 It seems that it was DG's contact with Person B that prompted an email to NS on 22 November 2019 from a former Cuddesdon student, Person I [B/308]. The email was written by Person I, but it was also signed by Person B, Person A and four

other former Cuddesdon students. This email is at the heart of this case as it set in train a series of events which eventually prompted DG's complaint against the Respondents. Its full contents are worthy of repetition here:

*Dear Mr Spiring,*

*I'm writing to you on behalf of several people with regards to Revd. David Green, the curate at Longnor, Quarnford, Sheen and Warslow with Elkstone. We all trained with David at Cuddesdon and have unfortunately reached the point where collectively we feel that we must raise David's behaviour as a safeguarding concern.*

*Whilst at college, David began to obsess over one of our colleagues, Person B, and began exhibiting behaviour best described as stalking. Person B informed the college who responded by placing restrictions upon David's interactions with Person B and others. We left college in the summer of this year and had all hoped that this would be the end of the matter. Unfortunately, David has continued to obsess over this situation, sending reams of messages to a number of Person B's friends. Several of us have tried to help him and encouraged him to stop and seek professional help but he appears to be getting worse.*

*We have all reached a point wherein we feel that to not report David's escalating behaviour as a potential safeguarding issue would be negligent on our part. I wish to point out that none of us is seeking for David to be punished but that we think he's in real need of help and support, and that until he receives that support, we believe that he may be a potential risk to himself and others.*

*Both Person J and myself are Godparents to David's son and are committed to maintaining a relationship with him and the rest of the family. This is not an easy decision for us to make nor one taken lightly, but we all feel that the situation has grown unmanageable for us and that we need to pass it up to DSA level.*

*I have spoken with my Training incumbent (who happens to know David) as well as my DSA, as have several of my colleagues listed below.*

*David has told me that he has an ongoing case with the Oxford diocese DSA regarding how he was treated by both the college and several unnamed students during the past year.*

*We have between us a wealth of written evidence documenting David's failure to move on from this episode as well as the recent escalation in obsessive behaviour. We are happy to forward this to you at any point if you think that would be helpful.*

*Thank you for your time and please do not hesitate to be in touch if you wish to discuss this further.*

*Peace*

Signed by Persons I, A and B and four others

6.73 NS's memory of how he responded to this email appears to have degraded over the passage of time. In his witness statement [26], he recalled phoning Person I. But an email from the Bishop of Lichfield's Chaplain, the Reverend Doctor Rebecca Lloyd (RL), to the Bishop of Lichfield (BoL) on 5 December 2019 [B/318], indicates that NS had in fact spoken to some or all those who signed the email, as RL referred to him speaking Person B's "five friends".

6.74 The meeting between the SB, SH and NS, arranged for 5 December 2019 at Cuddesdon, went ahead. So far as NS was concerned, his original purpose in attending the meeting was to gain some insight into what had happened to DG at Cuddesdon. However, after receiving Person I's email, the focus shifted to DG's conduct towards Person B at Cuddesdon and this became the main topic on the agenda at the meeting.

6.75 Although Person I's email raised quite serious concerns about DG, namely his alleged "stalking" of Person B and fears that DG might be a risk to himself or others, NS's response, and that of the Diocese of Lichfield, was very measured. As described above, NS informed RL of the complaint about DG, and RL then briefed the BoL on it. No action was taken against DG by the BoL or RL and the matter was left with NS to deal with as a safeguarding matter in regard to DG's alleged conduct.

6.76 After the meeting on 5 December 2019, SH emailed DG [B/263]. She told him the meeting had taken place and that NS would be taking the lead on his "case". SH's email was unhelpfully misleading as it gave DG the wrong impression that NS was from that point on going to investigate DG's complaint or concerns about Person A and how the college handled the Person B matter. Any lead taken by NS at that time was purely in regard to the safeguarding issue raised about DG himself.

6.77 From NS's viewpoint, DG did not have a concern for his own safety which would demand his intervention as the DSA. NS's intent at that point was very clearly to nip the Person B matter in the bud, by gathering information from the complainants and then speaking to DG about his conduct. The absence of urgency at this time suggests that NS and those working on behalf of the Respondents did not rush to judge DG despite the complaint coming from multiple sources.

6.78 NS's response was self-evidently impartial and cautious, with his next step being a meeting with DG. However, before this could be arranged, DG emailed NS on 5 December 2019, after receiving the email from SH who misinformed him that NS would from then on be playing an active role on DG's behalf. From this point on until 23 December 2019, NS was subjected to a number of uninvited long emails from DG on the subject of Cuddesdon and Person A and Person B [B/320-337].

6.79 In response to the first email on 5 December 2019, NS sent DG a short and neutral email to say that he would be in touch to arrange a meeting with him. This meeting was eventually arranged for 14 January 2020. What is abundantly clear from this chain of emails is that DG, who was unaware of the complaint email from

Person I, was still clinging to the delusion that Person B was content to have some form of friendship with him, if it was not for the alleged coercive control of Person B by Person A.

6.80 In his email of 19 December 2019 DG asked NS if he had any objection to him writing to Person B [B/331]. The next day NS advised DG not to contact Person B at that stage because he had received communication from a third party indicating that Person B wanted no further contact from DG and he, NS, intended to speak to Person B directly about this.

6.81 On 14 January 2020 NS met with DG at his home. With NS at that meeting was his colleague Linda Clifford-Hayes (LCH), who has very sadly since died. At that meeting NS told DG about Person I's email and gave him the names of those who had raised concerns about his behaviour. NS asked DG to stop contacting them in order to avoid further complaints. Unfortunately, DG did not heed the warning given to him by NS and thereafter he continued emailing NS with his thoughts on the complaint made against him and his own conspiracy theories regarding the complainants.

6.82 On 19 February 2020, Person B emailed NS for the first time, and this was to inform him that she had received an unwanted email from DG the day before [B/481-488]. DG's email to Person B can be described as an essay, at almost 4,800 words in length. He began the email by mentioning that NS had told him about the complaint email of 22 November 2019. DG had been told that Person B was one of those who had signed it, and it informed NS that Person B did not want DG to contact her again. Although Person I's email did not state that in such specific terms, the concern was very clearly for Person B's safety and DG's obsessive behaviour towards her. DG had not seen the email at that time, and he did not believe it to be entirely genuine. Again, DG refused to accept the reality of the situation, which was that his behaviour was wholly inappropriate and unwanted by Person B.

6.83 In his email, DG reversed the truth of the situation by portraying himself as a victim, with NS as his protector. He then proceeded to set out, in granular detail, his own obviously distorted narrative of events surrounding Person B.

6.84 In her email to NS [B/478-481], Person B set the record straight from her perspective. This email is unequivocal and determinative on the point regarding the nature of any friendship between herself and DG. Her account of the situation was consistent with the complaint email sent by Person I on 22 November 2019. She acknowledged that she had not explicitly informed NS that she wanted no further contact with DG but said that she had assumed this was implied by what she described as her "blunt" email to DG in November 2019 [B/488-490].

6.85 Person B wrote that DG's email to her on 18 February 2020 was indicative of the kinds of communications which led her to talk to college staff in the first place. She described his email as indicative of "...*the obsessive re-analysis and re-directing that has gone on since.*" She wrote that she was tempted to reply to him, to challenge his perception of the facts, but "bitter experience" told her that would simply open up the dialogue and "...*return to the same cycle that gets nowhere.*"

6.86 This observation by Person B in regard to DG and his obsession with events at Cuddesdon and insistence upon reopening the dialogue on this topic was consistent with much of the evidence in this case, as time and again in the documentary evidence and in oral evidence, DG focused considerable time and energy on events at Cuddesdon and on what he saw as wrongdoing by fellow ordinands and staff members. From this viewpoint, DG was entirely alone and unsupported by the weight of evidence.

6.87 Person B described the events which led DG to mistakenly believe that he had a close friendship with her, describing this as an “*epic misconstrual of polite friendliness*”. She described being bombarded with messages from him and the concern her friends had for her because of DG’s behaviour. She described her friend’s warning to DG that he “back off” as an accurate description of what happened.

6.88 She dismissed DG’s theory about other students conspiring against him as unfounded, describing how a number of them, acting on their own evidence regarding DG’s behaviour, reported their concerns to college staff. She described his theory that they had coerced or manipulated her as laughable.

6.89 She said that she did not ban DG from her ordination because she had assumed he had “moved on”. Although she thought the language used by Person A towards DG after the ordination service was stronger than what she would have used, in that she would not have described DG’s conduct as emotional abuse, she did defend Person A intervention wholeheartedly.

6.90 Person B explained that DG’s behaviour had had an emotional effect on her and she resented the time she had had to spend on dealing with his renewed contact after Cuddesdon. She found his making a complaint against her friends as upsetting. She wrote:

*I cannot have him breaking into my life like this, not for the first time almost 'daring' me to act on behalf of my friends or he will escalate complaints. I cannot have him forcing his version of the last two years provoking me to try and set it all straight again.*

6.91 NS responded to Person B on 20 February 2020 [B/477-478]. He explained that he and a colleague had met with DG in January and warned him not to communicate with those who sent the sent or signed the complaint email of 22 November 2019. He wrote that DG’s email to Person B amounted to a breach of his instruction to him. He described how DG’s behaviour had escalated in the form of sending NS emails at least once a day which were “...*very long, regressive and conspiratorial...*”. NS wrote “*I no longer think his behaviour can be managed or contained within set boundaries...*”.

6.92 On 20 February 2020 NS spoke with RL and apprised her of the email from Person B. The next day, RL emailed the BoL [B/497-498] and informed him of what she had learned from NS. She wrote that NS believed that DG had ignored the clear advice previously given to him about respecting boundaries. According to RL’s

email, NS tried to telephone Person B. When she did not answer the call, he left a message advising her that DG's conduct amounted to harassment and that she should go to the police. RL and NS thought that DG's conduct might constitute a disciplinary matter (a "CDM"). RL wrote that NS also considered that a core group should be convened. RL pointed out that the BoL was due to ordain DG priest that summer. She then asked the BoL for his thoughts on the matter.

6.93 The BoL's response to RL's email was contained in his email to NS on 21 February 2020 [B/499] as follows

- 1. We certainly need to support [Person B] in going to the police, and organise a core group on David.*
- 2. I think John Baines needs briefing on this, not least because it does not look likely to me that I will be ordaining David as priest this summer, unless there is a remarkable change in behaviour.*
- 3. I am not sure about a CDM at this stage. From what I can remember of the Synod sessions I was at last week, there are plans to make ignoring safeguarding advice an unambiguously disciplinary matter, but I am not sure we are there yet. Of course, breaching an injunction, if we get to that point, certainly would be.*
- 4. Is Jeanette aware of this situation? Would she be an appropriate person to invite to a core group?*
- 5. I am due to see David for a pre-priesting interview on 25th March; it would be good to have a clear sense of where this might be heading in advance of that.*

6.94 A core group meeting was then arranged to discuss DG's behaviour. The core group is a process used by the Church of England to consider any safeguarding concerns raised about an individual within or working for a particular diocese. Such meetings are led by the DSA with other key internal stakeholders in attendance.

6.95 The core group meeting was held on 19 March 2020. The Archdeacon of the diocese, Sue Weller, chaired the meeting. Also in attendance were NS, JH, RL, JB and Andrew Wynne (AW) the diocese registrar and solicitor.

6.96 It was NS's evidence that he took notes during the meeting (which were not retained) and these were used to produce the minutes of the meeting. It was DG's contention that the minutes of the meeting were not contemporaneous or near contemporaneous, as one of the Cuddesdon complainants, Person K, was identified in the minutes by her married name and her marriage did not take place until August 2020. This was not the only document DG asserted had been fabricated. This issue will be discussed separately below at paragraphs 6.375-6.390. But on the balance of probability, having considered all of the evidence on this point, the Tribunal agreed with DG that this particular document was not produced at the time (or soon after) as claimed by NS because he would not have referred to Person K by her married name 5-months before she was married. This document was therefore

manufactured long after the event and most probably at the time NS was responding to the complaint made against him by DG in September 2021.

6.97 DG also alleged that a written record of the meeting at his home with NS and LCH on 14 January 2020 was also falsified because Person K was again identified by her later married name some 8-months before her marriage. The Tribunal found that this document too was manufactured in response to DG's complaint against NS on September 2021.

6.98 NS's motive for manufacturing these pieces of evidence is not known and it can only be assumed he felt the need to do so at the time of DG's complaint against him. Although NS did produce these false documents long after the events, they do appear to contain an accurate summary of the salient points of those meetings and no obvious prejudice to DG seems to have resulted from them.

6.99 What is recorded in the documents does not appear to be inconsistent with other reliable sources of evidence and is not materially in dispute. For example, on 14 January 2020 DG was told about the Person I email and warned about his conduct. Much of the core group document is given over to a narrative of the events which prompted the meeting. There is nothing contentious in that narrative or anything which was prejudicial to DG in terms of the actions that were agreed by the core group.

6.100 The "Discussion" section of the core group minutes summarised the discussion which determined the appropriate actions or next steps to be taken. The focus was on safeguarding others and on DG's own wellbeing. From a safeguarding perspective, the only action agreed upon was to have a further discussion with DG to reinforce the importance of maintaining boundaries. The discussion was also intended to provide support to DG in terms helping him to disengage from the Cuddesdon situation and a referral to a counselling service called "Listening Ear" was suggested.

6.101 Regardless of NS's ill-advised manufacturing of these documents, the core group meeting did not result in any actions which might reasonably be considered prejudicial to DG, his curacy and his opportunity to be ordained priest. A decision was taken separately by the BoL, after consultation with JH, to defer DG's priesting until Petertide (ie. late June) 2021. The reason for this delay was explained to DG by JH in person on 20 March 2020 and this was recorded in her email to the BoL on the same day [B/530-531]. It was because of the "*recent events*" (ie. the complaint by Person B and others and DG's reaction to that complaint) as well as for his own wellbeing. JH told DG that his priesting was dependent upon him "*attending satisfactorily to the issues*" raised with him about his behaviour. JH advised him to make use of the Listening Ear scheme.

6.102 The meeting with DG did not leave JH feeling confident that DG was at that stage able to bring closure to the matter and to see it from a different perspective. She advised him that she "*...did not expect to hear any other explanations within the diocese*", which clearly meant that she wanted him to drop the matter and move on with his life and curacy. DG persistently failed to heed this warning and others like it.

It was this unwillingness to close the matter and his obsession with it that became the self-imposed obstacle to completing his curacy.

6.103 The above then is the important factual context in which DG's complaints must be assessed.

## **FINDINGS OF FACT & CONCLUSION RELEVANT TO THE CLAIMS**

### **Submissions**

6.104 At the start of the hearing on 9 June 2025 the Tribunal was provide with detailed written skeleton submissions from both DG and Ms Murphy. The Tribunal read those submissions and later referred to them again during the course of its deliberations. On the last day of the hearing, 19 June 2025, both DG and Ms Murphy made oral submissions to the Tribunal which adopted and supplemented their opening submissions. Given the helpfully detailed and clear nature of the submissions from both sides they need not be repeated here.

### **Time Limits**

6.105 The Tribunal first considered whether it had jurisdiction to hear and decide DG's complaints. The Respondents contended that of the whistleblowing complaints, alleged detriments 1-16 are out of time, with the cut off date being 28 August 2022. However, the Tribunal was satisfied that the elements of the whistleblowing claims, which arose over a span of over 2½ years, were inextricably connected and therefore formed a series of similar alleged acts or failures. For this reason, the Tribunal decided it did have jurisdiction to decide all of the whistleblowing complaints because alleged detriments 17-20 were brought in time.

6.106 The Tribunal considered whether it had jurisdiction to deal with the direct discrimination claims. The alleged acts of discrimination did form a course of conduct. However, they were all presented out of time on the 3 December 2023 (Direct Discrimination 1 and 2) or on 4 July 2023 (Direct Discrimination 3). In any event, during the course of the hearing DG withdrew the second such claim, Direct Discrimination 2, which was accordingly dismissed by the Tribunal.

6.107 The Tribunal considered whether it was just and equitable to allow an extension of the 3-month time period for bringing the remaining claims. It found that throughout the period when such claims would have been "in time" and in the period between the expiry of the time limit and the date upon which the claims were made, DG had the capacity and the ability to make the claims. He devoted an inordinate amount of time and effort to complaining about the matters in question and long after it was clear, or should have been clear, that the Respondents would not or could not address his complaints. He demonstrated that he was quick to research the law when it suited him and so he had the ability to determine his legal rights and to bring a claim in time or in a reasonable period of time thereafter. DG also had the benefit of union advice during the relevant period yet elected not to bring the claims in time or within a reasonable period thereafter. The Tribunal therefore decided it was not just and equitable to extend the time limit for these claims.

6.108 The Tribunal determined that it does not have jurisdiction to decide the direct discrimination claims. However, it went on to decide the merits of the claims, recognising the potential for error in making a decision not to accept jurisdiction.

### **The Whistleblowing Claims**

6.109 The Tribunal first considered the merits of DG's whistleblowing complaints as they were identified and agreed in the list of issues and as they were addressed in turn by the Respondents during the hearing. Each of the alleged protected disclosures was considered before consideration of the alleged detriments.

### **The Disclosures**

6.110 The Tribunal considered each of the alleged protected disclosures in turn then before considering the alleged detriments.

6.111 Disclosure 1. This was not a protected disclosure ("PD"). DG did make a qualifying disclosure ("QD") to SH in his email of 14 November 2019. He disclosed sufficient information, apprising SH of his concerns for a friend who made an allegation of assault when she was at Cuddesdon. This information tended to show that a criminal offence may have been committed. In reporting a possible crime and concern for the safety of his friend or others, DG made the disclosure in the public interest.

6.112 However, this QD fails as a PD because it was not made to an appropriate person. It was made first to the Oxford Diocese DSA, SN, who then passed it on to his colleague SH. SN and SH did not fall into any of the categories of person laid down in Section 43C to 43F of the ERA. In particular, in regard to Section 43C, neither SN or SH could be considered to be the employer of the alleged victim of the assault or of the alleged offender, as neither victim nor offender worked within the diocese but were students at Ripon College, Cuddesdon, which had its own safeguarding establishment.

6.113 Disclosure 2. This was a PD. DG disclosed information to SH and NS about a possible leak of information in connection to Disclosure 1. This followed from his friend, the alleged victim of the assault, contacting him and telling him she had been asked by a third party about the alleged assault, suggesting a leak within the Oxford DST. This was a QD because it was about a potential breach of a legal duty to maintain confidentiality about such personal information. DG had a reasonable belief there had been a leak of the information and that it came from within the Oxford Diocese. The disclosure was made to SH, who works for the Oxford Diocese. If there had been a leak (and the Tribunal of course is not required to make a finding one way or the other on this point), then the Oxford Diocese was reasonably considered to be the employer of the person who leaked the information.

6.114 Disclosure 3. This was not a PD. On 15 January 2020 DG sent an email to NS [B/394] about a Facebook message Person A had sent to his wife on 10 September 2019 [B/238]. In that message, Person A accused DG of stalking Person B and thereby causing her emotional abuse. DG was disclosing information to NS, but it was not a QD. This was because DG did not have a reasonable belief that

Person B had committed a criminal offence or that her actions amounted to a health and safety issue.

6.115 On 15 January 2020, DG asserted that Person A's Facebook message constituted a possible offence contrary to Section 1 of the Malicious Communications Act 1988. DG made this allegation of a criminal offence by Person A on the morning after NS and LCH visited him at his home and told him about the complaint made by Persons A, B, I and others. The allegation of a criminal offence was obviously made in direct response to learning of the complaint and he believed Person A was the main driver behind that complaint. In his email to NS [B/394], DG wrote:

*I think the primary reason Person A's message bothered me so much is that if someone sends a message which is false, or believed to be false, or it is sent for the purpose of causing distress or anxiety, it may constitute an offence under the Malicious Communications Act 1988. I was already concerned that her message to [DG's wife] in September may fulfil these criteria...*

6.116 DG asserted, that at the time the message was sent to his wife 4-months earlier, he had identified the possibility that it constituted the Malicious Communications Act offence. This was not a persuasive piece of evidence. The criminal allegation was made only because of the complaint made against him by Person A and others, which he learned of the day before. If he thought the Facebook message constituted a criminal offence at the time it was received, then he would have done something about then. In his own statement [39], he telephoned NS on 13 September 2019 and told him about the message. His purpose in speaking to NS was to seek advice on whether he should attend the ordination service in light of Person A's Facebook message. In a subsequent email to NS on 24 September 2019 [B/246-247], he wrote that he had concerns for Person A's mental health, adding that he did not think the sending of the message was a disciplinary matter and he did not think her behaviour was malicious.

6.117 Therefore, on 24 September 2019, DG's assessment of Person A's conduct was quite different to that given in his email of 15 January 2020 when he shifted his position dramatically and obviously. This was a clear counterattack by DG as he sought to undermine the credibility of one of those who made the complaint about his behaviour. If DG reasonably believed that Person A had committed a criminal offence he would have reported it to the police as NS advised in his reply to DG's email also on 15 January 2020 [B/1584].

6.118 In reporting it to NS instead of to the police, DG's intention was to muddy the waters around the concerns raised about his own behaviour. Therefore, when DG made the criminal allegation to NS on 15 January 2019, he did not genuinely or reasonably believe Person A had committed a criminal offence or posed a health or safety risk to anyone. He did not act in the public interest in conveying this information to NS. It was done entirely to support his own personal campaign against Person A. It was not therefore a QD. It was also not a disclosure made to an appropriate person as defined by section 43C-F ERA.

6.119 Disclosure 4. This was not a PD. On 16 March 2020, DG sent an unsolicited email to NS [B/518-520], entitled "*Something potentially of relevance to situation*". In

the email he accused a fellow male Cuddesdon student of exhibiting concerning behaviour towards Person B the year before. With the email he attached a photograph posted on Facebook [B/521], taken by the male student in about October 2018. The male took the picture as he lay in a garden at the college. The image is of the garden and fields in the distance, with a lone female sitting on a park bench in the foreground, between the picture taker and the fields beyond. Unequivocally, DG suggested to NS that there was a sinister motive behind the taking of the picture and that this other male was attracted to Person B. DG went on to say that at the time he noticed Person B and Person A showing signs of being worried or upset by this male. He then went on to suggest that Person B and her friends had good reason to be “*unusually vigilant or cautious*” at that time if there were “*some signs of stalking-type behaviour, especially if they weren't sure who was doing it, or certain that was happening.*”

6.120 DG asserts that this was a QD because he was reporting a possible criminal offence or a health and safety concern. He did neither. This was a very poorly disguised and cynical attempt to divert attention from his own behaviour by making derogatory assertions against a colleague. His intention was plainly to suggest that Persons A, B and others were guilty of misreading his own behaviour, because at that time they were all troubled or distracted by the more concerning behaviour of the other male. DG did not genuinely or reasonably believe that he was making a QD and he was not doing it for the public interest. His motive was entirely selfish and was part of his campaign to discredit the complainants. Again, this disclosure also fails because it was not made to an appropriate person as defined by section 43C-F ERA.

6.121 Disclosure 5. This was a PD. This was an email to NS on 23 November 2020 [B/648-650]. It was a follow up to Disclosure 1. He added to that earlier disclosure that his friend, the alleged victim, had since told him that the alleged assault was sexual. This was a QD because DG reasonably believed he was disclosing information about a possible criminal offence and in doing so, it follows that he was doing it in the public interest (although not his primary motive which remained his own grievance). The disclosure was made to an appropriate person, namely NS, who satisfies the definition of “employer” for the purposes of this case, even though DG was a worker and not an employee.

6.122 Disclosure 6. This was a PD. Despite being told to put the Cuddesdon affair and Person B behind him, and to concentrate on completing his curacy, DG did not. This led to a meeting between DG, NS and JH on 26 November 2020 where again DG was advised to concentrate on his curacy and leave the Cuddesdon matter in the past. However, it was evident that DG was still fixated on it.

6.123 A meeting was held on 9 December 2020, attended by the BoL, NS, JB, RL and JH. In an effort to find a way to support DG in his curacy it was agreed that DG might benefit by some form of occupational health psychiatric or psychological assessment. NS took the lead on identifying a suitable psychologist to undertake the assessment and he determined that Dr Conall Donegan (CD) was the appropriate practitioner to do so.

6.124 On 19 February 2021, the BoL emailed DG and told him that in an effort to support him the Diocese had arranged for DG to undergo an occupational health assessment with CD. The BoL explained that after a number of online meetings, CD would produce a report for the BoL which would assist him in deciding how best to support DG.

6.125 DG's email response the same day was positive, and this gave encouragement to the BoL and JH that DG was prepared to take positive steps to address his behaviour and his distractions.

6.126 DG attended nine or ten sessions with CD instead of the originally planned three or four. DG also had two sessions with Dr Jayaprakash Rajendran (JR), a psychiatrist, who opined that DG may have Aspergers Syndrome. DG later contested this diagnosis on the basis he believed it was founded on allegedly false information supplied to CD and JR, which included the suggestion that DG's perception of the Cuddesdon affair was faulty. He blamed NS for provided both doctors with false information.

6.127 CD sent DG his draft report on 25 June 2021. DG disagreed with its contents, in particular the background information supplied by NS. On 2 July 2021, CD issued his final report on DG. DG asserts this was done without his consent. As soon as he became aware the report had been issued, he emailed CD withdrawing his consent to circulation of the report and he informed the BoL and JH of the same.

6.128 DG carried out research and discovered that CD was not in fact an occupational health practitioner, even though CD was a qualified and registered psychologist.

6.129 In his email to the BoS, the BoL and NS, DG complained that CD had breached his professional body's guidelines which state that a psychologist should reach an agreement with the employee about what information may be shared with the employer before any information is sent to the employer.

6.130 The Respondents accept that in his email of 31 July 2021 [B/1245], DG disclosed information to the aforementioned addressees. The substance of the information conveyed was the alleged poor quality of the report and the alleged breach of professional guidelines in not obtaining DG's agreement before promulgation of the report. The question to be determined is whether or not the disclosure was a QD?

6.131 At worst, on DG's evidence, CD failed to comply with professional guidelines on informed consent. If this was in fact true, then one could not reasonably believe that it amounted to a criminal offence or a health and safety breach. However, on the balance of probabilities, DG did reasonably believe this amounted to a failure to comply with a legal obligation. Guidelines may not create a legal obligation, but in this instance the Tribunal was satisfied that obtaining informed consent is an important requirement and so it was DG's reasonable belief that DG was under a legal obligation to do so. DG made this disclosure in the public interest as well as his own interest.

6.132 DG made this disclosure to his employer and so it was a PD. However, the Tribunal found DG's belief that CD failed to comply with a legal obligation was a mistaken belief. The guideline relied upon by DG was just that, a guideline and not a strict legal requirement.

6.133 There was no evidence at all before the Tribunal which justified DG's criticism of CD and his professional conduct. The Respondents may have erred in instructing CD, who was a counselling psychologist rather than an occupational health psychologist, but they, NS and CD all acted in good faith. There was no evidence to support any suggestion that CD did anything other than objectively apply his professional judgement, based on the information provided to him by DG and by NS.

6.134 Even if some of the background information provided by NS was incorrect, CD had the benefit of nine or ten one to one sessions with DG, a man who had no reservations when it came to discussing his problems and his own narrative regarding Cuddesdon, Person B and Person A. If any incorrect information had been supplied to CD by NS, DG had ample opportunity to correct it.

6.135 Disclosure 7. This was a PD. On 3 August 2021 DG reported CD to his professional body, the Health & Care Professionals Council (HCPC). His concerns were twofold. The first was about CD's competency based on DG's view of his interactions with CD during the various consultations, as well as about a possible discrepancy regarding CD's chartered status and his membership of the British Psychological Society (BPS). The second related to CD's alleged potential misuse of the title "clinical psychologist" on his LinkedIn profile. DG believed the latter was a criminal offence if proved.

6.136 The Tribunal has not seen sufficient evidence to substantiate any of the above concerns raised by DG about CD, and it is not for the Tribunal to make any determination of such concerns or allegations. Therefore, nothing in this decision should be taken as criticism of CD or any sort of adverse finding against him. But in regard to the information disclosed to the HCPC by DG, his second concern does amount to a QD on the basis that DG's investigations caused him to reasonably believe that CD had misused the title clinical psychologist. The Tribunal is not concerned with whether or not DG's belief was factually correct, it is concerned only with whether or not such a belief was genuinely and honestly held. Again, the Tribunal emphasises that this was DG's belief only and not a finding of fact that CD in any way misused that title. But DG did form a seemingly genuine belief that was not unreasonable based on the conflicting yet incomplete information he had uncovered about DG.

6.137 Whilst it is true that DG most certainly had his own interests at the forefront of his mind when making all the disclosures relied upon in this case, it must follow that this disclosure was in part (and undoubtedly the lesser part), made in the public interest as it was a report of a possible criminal offence and a possible failure of a legal obligation to represent one's professional qualifications or memberships accurately. The HCPC is a prescribed body under section 43F of the ERA.

6.138 Disclosure 8. This was not a PD. On 2 September 2021 DG submitted an online form to Social Work England (SWE), in which he raised concerns about NS.

SWE sent DG a response by email on 8 November 2021 acknowledging receipt of DG's concerns.

6.139 The SWE email contains no details at all about the nature of the concerns raised by DG, and he has not produced a copy of the form he submitted. DG refers to this disclosure in his witness statement [142-143], however he provided no details about what he submitted to SWE, and he did not adequately address this deficiency in oral evidence.

6.140 Without cogent evidence on this disclosure, it was determined that it was not a QD. It did not concern any of the categories listed at section 43B ERA, there was no evidence that DG had a reasonable belief he was making a QD or that he was doing so in the public interest. This disclosure also fails because SWE was not a prescribed body under section 43F of the ERA at the time of the disclosure.

6.141 Disclosure 9. This was a PD, but only in regard to General Data Protection Regulation (GDPR). On 12 September 2021 DG sent an email to the BoS (copied to the BoL and RL) [B/1587]. In it he lodged a formal complaint about CD's psychological assessment report. In particular he claimed that the Diocese had incorrectly appointed someone to carry out an occupational health assessment who was not qualified or accredited to do so. He was not provided with any of the referral information that was given to CD and as a result, alleged misinformation about him was included in CD's report.

6.142 He also complained that because CD released his report without his consent, the Diocese held information about DG which came under the special category of data according to the GDPR.

6.143 The Respondents accept that DG had a reasonable belief that CD had breached GDPR by supplying DG's personal data to the diocese. The Tribunal agreed that DG held such a reasonable belief and that the email constituted a QD as it identified a potential breach. It also follows that there must have been a genuine public interest element to the disclosure, even if largely motivated by self-interest, as were all disclosures made by DG in this case. However, this finding must not be taken as a finding that there was any actual breach of GDPR. What the Tribunal had to decide was whether DG had a reasonable belief only. This disclosure was made to an employer and so it was made to an appropriate person or body.

6.144 The Tribunal was not satisfied that the first two parts of DG's formal complaint amounted to a PD. This was because neither amounted to a QD. The fact CD may not have been accredited or qualified to do an occupational health assessment may have been contrary to guidance (i.e. CD's own professional guidance and Church of England guidance), but this was insufficient to provide DG with a reasonable belief that CD had failed to comply with a legal obligation.

6.145 Guidance does not automatically constitute a legal obligation and failure to adhere to guidance is not necessarily a breach of a legal obligation. Furthermore, there was no evidence that CD, or his selection by the Diocese, in any way endangered or was likely to endanger any individual's health and safety, and DG did not therefore have the basis for a reasonable belief that there was any such danger.

6.146 Whilst best practice may have been to provide DG with the referral information, a failure to do so did not constitute a health and safety breach or a breach of a legal obligation, and DG cannot reasonably have believed it did.

6.147 Disclosure 10. This was not a PD. On 29 September 2021, by email, DG lodged a formal complaint about NS to Julie Jones (JJ), the First Respondent's Chief Executive Officer and Secretary [B/1865]. There were four heads to DG's complaint and whilst he may have believed there was substance to these heads of complaint, the reasonable, well-informed observer would not. Therefore, this disclosure of information to JJ was not a QD because DG's belief, if genuinely held at all, was not reasonable when judged by an objective standard.

6.148 The heads of complaint were as follows:

1. *Failure to investigate the false allegation about me that I first reported to him on 13<sup>th</sup> September 2019.*
2. *Failure to investigate the related matters initially reported by me that were handed over to Neil at the meeting with the Oxford Diocese Safeguarding team and a representative from Ripon College Cuddesdon on 5th December 2019.*
3. *Failure to investigate the substance of the informal complaint received by the diocese in late 2019, which Neil Spiring summarised to me on 14th January 2020 without giving sufficient details to allow me to respond.*
4. *Passing on untested, and unverified information relating to the above matters to a 3<sup>rd</sup> party (Dr Conall Donegan).*

6.149 DG attributed an investigative function to NS which did not exist. A well-informed, reasonable and objective observer would not believe that NS had any duty or responsibility to investigate any of the above points 1 to 3. Therefore, these were not QDs because DG did not have a reasonable belief that NS failed to comply with any legal obligation or in any way endangered anyone's health and safety.

6.150 It was not NS's role as the DSA to investigate what amounted to DG's personal grievance about Person A, other former Cuddesdon students and college staff. NS was not DG's personal complaint investigator. His function was to advise and support the Respondents on safeguarding matters, that is to say, ensuring the safety of children and vulnerable adults.

6.151 It was unfortunate that SH's email after the meeting on 5 December 2019 [B/263] gave DG the misleading impression that NS would investigate DG's complaints or concerns. However, any reasonable person with DG's obvious intelligence and apparent interest in safeguarding matters, would have known that such investigations were outside NS's remit. But given DG's obsession with the Cuddesdon affair, and his intention to entangle as many people as possible in it, it was unsurprising that he would attempt to impose this task on NS.

6.152 From NS's viewpoint, there was no concern for DG's safety which demanded his intervention as the Lichfield DSA. The only potential safeguarding concern was for Person B and possibly future parishioners should DG ever be priested.

6.153 The fourth head of complaint was in regard to the information NS passed to CD when commissioning CD to produce a report on DG for the diocese. DG accuses NS of falsifying and backdating this commissioning information and indeed several versions of it are in existence and included in the hearing bundle [B/759-760, 791-794, 2124-217].

6.154 DG strongly objected to the information provided to CD by NS, asserting in his witness statement [11.5.2] that some of the information about him supplied to CD by NS was an egregious fabrication and an exaggeration. The allegation that NS falsified and backdated documents is considered separately (6.375-6.390). At this stage, it is DG's complaint that NS passed "untested and unverified" information to CD, that is to be considered.

6.155 The specific complaint was not that NS intentionally provided false information about DG to CD, but that was the overall gist of DG's evidence to the Tribunal. That proposition fails because none of the three commissioning documents contains information about DG, and his behaviour is inconsistent with the abundance of contemporary evidence about his behaviour at that time and at Cuddesdon. Quite understandably, this evidence caused real concern to key figures within the Diocese and caused them to commission CD's report.

6.156 DG's complaint was that the information was untested and unverified. It was not explained how the information might be tested, but DG was wrong to claim that the information was unverified. NS did take steps to verify the information given to CD. That was the purpose of the meeting in the Oxford Diocese on 5 December 2019, and NS went to some lengths to explore the email complaint of 22 November 2019 by contacting Person B and others.

6.157 NS's response to the situation was entirely proportionate in the circumstances. The information passed to CD was designed to assist CD to produce a report. The report was commissioned as part of the Respondents' attempts to support DG and his curacy, as well as quite properly for the purpose of identifying any possible safeguarding concerns.

6.158 If one or more of the commissioning briefs were later fabrications, or if they contained factual errors about DG and his conduct, these had no or negligible prejudicial effect on DG. This was because CD was a qualified psychologist who had nine or ten meetings with DG. CD was more than capable of exercising his own professional judgement and forming his own independent, professional opinions on DG, untainted by any incorrect information supplied by NS.

6.159 There was no reasonable basis for DG's formal complaint against NS. DG may have genuinely believed he had grounds for complaint, but when viewed objectively he did not.

6.160 Even if his belief was genuine, the nature of the information disclosed in his complaints is not of a kind which suggests a breach of a legal duty or of a health and safety concern. NS was under no legal duty to investigate the matters raised by DG nor was he under a legal duty to meticulously test the information supplied to CD.

6.161 NS acted reasonably and proportionately in providing an accurate summary of events to CD. Therefore, DG did not have a reasonable belief that his complaint was a disclosure in the public interest, when in fact it was entirely personal to himself, and it was not in regard to any of the categories listed at section 43B ERA.

6.162 Disclosure 11. This was a PD. This disclosure was to the Information Commissioner's Office (ICO) in the form of an online complaint about the Diocese of Lichfield on 14 October 2021. DG's complaint was that the diocese had processed DG's personal data without his consent.

6.163 Details of this complaint are found in the ICO's letter of 18 January 2022 [B/3368-3370]. The Respondents accept that the complaint to the ICO was a PD on the basis it was a QD by DG to the ICO, which is an appropriate body, in regard to alleged breach of the GDPR. DG had a reasonable belief there had been a failure to comply with a legal obligation and the disclosure was made partly in the public interest, although his primary purpose was to further his own agenda with the Respondents. Whilst the Tribunal found this was a PD, there was no finding of any actual breach of the GDPR as this is beyond the remit of the Tribunal when determining this claim.

6.164 Disclosure 12. This was not a PD. This alleged disclosure took place on a Zoom video call between DG and JJ on 9 November 2021. In his witness statement [170] DG said the Zoom call took place as part of JJ's investigation of his internal complaints. During this meeting DG raised a concern with JJ about the potential for safeguarding disclosures to be missed because NS and LCH were both absent on sick leave at the time, neither of them had turned on their "out of office" automated responses on their email accounts, and their emails were not being monitored.

6.165 At its highest, this may have amounted to a QD on the basis that the health and safety of an individual might have been endangered if a safeguarding disclosure was not identified and acted upon. However, this was not a QD in this instance. JJ shed her own light on this disclosure in her second witness statement [23]. She revealed that DG's true motive in mentioning the fact these email accounts were not being monitored was linked to him sending emails to LCH in which he complained about NS. Because of LCH's absence, those complaints were not read and dealt with.

6.166 DG's complaint in regard to Disclosure 12 is disingenuous, in that he had no genuine belief that anyone was at risk simply because the safeguarding officers' email addresses were not being monitored. His motive was entirely selfish and solely connected to his own grievance with NS. He did not reasonably believe he was making a QD, and he did not act in the public interest.

6.167 Disclosure 13. This was not a PD. On 24 April 2024 DG sent an email to the General Medical Council (GMC), in which he complained that both CD and JR had

not followed National Institute for Care and Health Excellence (NICE) diagnostic guidelines because they had allegedly used incorrect information provided by his employer to produce an incorrect diagnosis of Asperger's Syndrome.

6.168 The GMC is a prescribed body. In his email DG did more than make a mere allegation of a breach of NICE guidelines; he provided information as to how the guidelines were allegedly breached. The amount of information provided was minimal, but it was information none the less.

6.169 However, this was not a QD because DG did not reasonably believe that either doctor had failed to comply with a legal obligation or had endangered anyone's health or safety in the manner he described.

6.170 DG was notably selective in his criticism of JR. DG was happy to rely upon JR's diagnosis of an acute stress reaction to events that occurred at Cuddesdon, yet he criticised JR for his diagnosis of possible Asperger's Syndrome. JR's diagnoses were not founded on the alleged false information provided by NS but were the product of JR's own observations and assessment of DG from two separate video meetings with DG on 17 and 18 May 2021 [B/926-930].

6.171 DG knew or should have known that JR's diagnosis of Asperger's Syndrome was the product of a thorough clinical examination. DG's GP seemingly disagreed with JR's diagnosis. However, DG is a man well read in many areas, including mental health, and he would have understood that any difference of opinion on his GP's part regarding Asperger's Syndrome would carry little weight when measured against that of a psychiatrist who specialises in such conditions or in identifying them at least.

6.172 DG also knew or should have known that he was exaggerating or overstating the nature and extent of any inaccurate information provided by NS and that the substance of what NS told CD was true. Therefore, DG did not have a reasonable belief that he was making a disclosure in the public interest or in regard to a legal obligation or anyone's health or safety.

6.173 Disclosure 14. This was not a PD. These were DG's alleged concerns about CD and JR, conveyed to the Health & Safety Executive (HSE) on 17 August 2022. This was part of DG's scattergun approach to complain about as many people as possible and to as many people or agencies as possible, as a reaction to failing in his efforts to manipulate the narrative in his own favour.

6.174 His concerns were lodged via an online portal and were not saved and produced in evidence. The HSE replied to DG's concerns on 19 August 2022 [B/3115]. DG explained the nature of his concerns in his witness statement [192]. He complained to the HSE that CD and JR had the minimum competence specified by the HSE for occupational health providers, but despite this they had been appointed by the Diocese of Lichfield to carry out an occupational health assessment.

6.175 This then, according to DG's statement, was an allegation. But without the concerns form he submitted, his own evidence does not demonstrate that he

provided sufficient information to the HSE for it to be considered a disclosure of information. All he asserts in his witness statement is that CD and JR had the *minimum* competence specified, which suggests that they did meet the minimum competency required.

6.176 Even if sufficient information was disclosed to the HSE, it was not a QD because he did not reasonably believe that he was making a disclosure in the public interest or because someone's health and safety had been endangered.

6.177 DG disagreed with the findings of CD and JR, but their findings in no way put his health or safety at risk nor has DG provided any cogent evidence that CD or JR posed any risk to anyone else's health or safety. This was self-evidently an attempt to discredit the two doctors because he was disgruntled with NS who briefed them, and because he disagreed with their professional opinions about him.

6.178 Disclosure 15. This was not a PD. This was another element of DG's attempts to discredit CD and JR. This time it was to the Care Quality Commission (CQC) on 19 August 2022, after being advised by the HSE that the CQC was the appropriate body to deal with his concerns.

6.179 Again, the complaint submitted to the CQC was not produced in evidence. The only evidence is that from DG in his witness statement [193]. He said that he reported CD and JR for possibly carrying out regulated activity without being registered. Without the original complaint form, what is in DG's witness statement amounts to a bare allegation without any supporting information of substance. It therefore falls short of the disclosure of information.

6.180 If the Tribunal is wrong in making that determination, and if information was disclosed to the CQC, then it was not a PD because it was not made in the public interest. This was obviously part of what had become a personal vendetta against the two doctors, NS and the diocese.

6.181 Disclosure 16. This was not a PD. This was DG's complaint to JJ on 1 September 2022 [B/3140] that the "Contact Sheet" [B/759-761] purportedly supplied by NS to CD as part of the report commissioning process had been falsified retrospectively.

6.182 Again, discussion in regard to this separate allegation against NS can be found below at paragraphs 6.375-6.390

6.183 This particular disclosure was a disclosure of information, but it was not a QD. This is because DG did not reasonably believe that he was making the disclosure in the public interest, nor did he believe that the disclosure tended to show one or more of the Section 43B ERA criteria. Without evidence or explanation, the disclosure may have revealed a breach of NS's obligation to his employer, but it did not reveal any breach of a legal obligation, a health and safety issue or any other of the section 43B categories. If the Tribunal was wrong in regard to DG's belief that his disclosure was in regard to one or more of those categories, his purpose was entirely self-serving, and he did not reasonably believe the disclosure was made in the public interest.

6.184 Disclosure 17. This was not a PD. This was another complaint to the ICO, on 2 September 2022, this time against the Diocese of Lichfield for an alleged data breach, on the basis that NS had transferred DG's personal data to CD.

6.185 This transfer of data was part of the report commissioning process. At the time of commissioning, DG had consented to an occupational health assessment. He was not aware that NS had passed information about him to CD, but it is reasonable to assume that DG must have known or anticipated that whoever commissioned the assessment would have to provide some information about him to the identified specialist.

6.186 However, the point to be determined here is not whether there was an actual breach of a legal obligation, such as complying with the GDPR. The point is whether or not DG reasonably believed he was making a disclosure in the public interest in regard to one of the Section 43B categories.

6.187 This complaint did fall into at least one of those categories, namely failing to comply with a legal obligation (ie. to comply with GDPR). However, it was not a QD because DG did not reasonably believe his disclosure was in the public interest. By this time his motive was entirely one of self-interest and in doing professional harm or causing inconvenience to the Respondents. Furthermore, he did not reasonably believe there had been any data breach at all as he gave consent for an occupational health assessment on 19 February 2021 [B/771-772]. Any consents given by DG were withdrawn long after the personal information was passed by NS to CD.

6.188 Disclosure 18. This was not a PD. On 4 September 2022 DG sent JJ's investigation report back to her with his own notes on it. One of his comments was that NS had *"lied by omission, or provided misleading information, during this process to further cover up what happened."* He also complained of NS providing inaccurate and incomplete data to CD and falsifying a record of his briefing note to CD. This was disclosure of information to his employer.

6.189 The only potentially relevant category DG may have had in mind when he made this disclosure was that regarding failure to comply with a legal obligation. No evidence was produced as to what legal obligation had been breached, but if DG had such a belief, he did not make the disclosure in the public interest. Again, it was done entirely for self-serving reasons as part of his campaign against NS and the Diocese.

6.190 Summary of Disclosure. Having carefully considered the alleged PDs, the Tribunal found that Disclosures 2, 5, 6, 7, 9 and 11 met the statutory definition of a PD in accordance with section 43A ERA 1996. The remainder did not.

### **The Detriments**

6.191 The Tribunal then went on to consider whether the Respondents caused DG to suffer any detriments. If a reasonable worker might regard the treatment as a

detriment, and the Claimant genuinely does so, that is sufficient to establish there has been a detriment.

6.192 The statutory test is whether the worker was subjected to the detriment by the employer “*on the ground that*” he or she had made a protected disclosure.

6.193 It is for the Claimant to prove, on the balance of probabilities, that there was a protected disclosure, that there was a detriment and that the Respondents subjected the Claimant to the detriment. If the Claimant proves they were subjected to a detriment, then the burden shifts to the Respondents to show the ground on which the detrimental act was done (Section 48(2) ERA).

6.194 If the Tribunal rejects the reason advanced by the Respondents, then it is not bound to accept the reason advanced by the Claimant, namely that it was on the ground of a protected disclosure: it is open to the Tribunal to find that the real reason for the detriment was a third reason.

6.195 Detriment 1. The allegation here is that NS wilfully misled the BoL about DG’s behaviour at Cuddesdon and subsequently towards Person B. On the evidence, NS did not wilfully mislead the BoL or anyone else on this subject. In fact, NS accurately explained the situation to key figures in the diocese, and this was supported by the abundance of emails generated by DG, Person B and others at the relevant time.

6.196 Delaying a trainee priest’s ordination does amount to a detriment. DG claims that this detriment was suffered on the ground that he had made disclosures 1 to 4, because disclosures 5 to 18 occurred after this event. The decision to delay his priesting was made on or before 20 March 2020. Only disclosure 2 was a PD, however the Tribunal considered disclosures 1 to 4 in the event it was wrong in its assessment of the alleged PDs.

6.197 The nature of the disclosures has already been summarised above and need not be repeated. Having established that delaying priesting was a detriment, the burden of proof shifts to the Respondents. It was very clear from multiple sources of contemporaneous documentary evidence that there was no causal connection between disclosures 1 to 4 and this detriment.

6.198 The decision to delay DG’s priesting had nothing at all to do with disclosures 1 to 4 which were his report of a possible assault on a female friend, a possible leak of that information within the Oxford Diocese, his allegation of malicious communication by Person A and his suggestion that Person B had been stalked by another male.

6.199 DG’s priesting was delayed because of legitimate concerns by the BoL and his team within the Diocese that DG was not meeting the Formation Criteria and was a safeguarding concern. The first indication of a problem was conveyed to the BoL by RL on 5 December 2019 which was before disclosures 3 and 4. Despite intervention by the Diocese DG refused to heed the warnings and advice about his behaviour and he went on to make further contact with Person B which caused her or complain to the Diocese. It was this complaint which prompted the core group meeting on 19 March 2020.

6.200 The decision to delay his priesting was relayed to DG on 20 March 2020 by JH. The reason for the decision was given to DG verbally at a meeting in JB's home and repeated in JH's email to DG on 20 March 2020 [B/533-536]. The reason was clearly because of the safeguarding concern surrounding Person B and DG's failure to understand and to exercise "pastoral boundaries". DG knew this was the reason why his priesting was delayed, and he therefore had no genuine or reasonable basis for claiming that it was on the ground that he had made disclosures 1 to 4 or for any other reason.

6.201 DG may have believed that NS had provided false information to the core group, (which was an unfounded belief in the Tribunal's judgement), but NS's subjective input to the core group had little impact on its findings and outcome given the overwhelming evidence from other sources, such as from Person B, Person I, and Cuddesdon College.

6.202 Detriment 2. The alleged detriment here is twofold. First, JH's suggestion to DG that he should seek counselling, and second, a reference to the late Jean Varnier.

6.203 At the core group meeting, DG's own wellbeing was discussed alongside safeguarding concerns generated by DG's behaviour towards Person B. At the meeting JH made the suggestion that DG should be offered the services of the "Listening Ear" counselling service. This was a well-meant suggestion by JH and supported by those attending the core group. It was purely intended to help DG to address what were reasonably perceived to be his concerning behaviour, which was standing in the way of his ordination. This was a genuine attempt to assist him, and no reasonable worker would regard this suggestion as a detriment.

6.204 In the list of issues, the complaint in relation to Jean Vanier was said to be in connection with a feedback comment JH made on one of DG's written pieces of coursework. Jean Vanier was a Canadian catholic theologian who was accused, *post mortem*, of sexual abuse. DG's piece of work was anonymised and was marked before JH became aware that DG's conduct had been called into question. It was clarified in evidence that DG's complaint was that JH made further reference to Jean Vanier and DG's coursework during their meeting on 20 March 2020. DG asserts that JH compared him to Jean Vanier with the intention of likening him to a sexual abuser, and did so in front of his Training Incumbent JB.

6.205 JH denied making any comparison between DG and Jean Vanier. She could not recall the precise details of the conversation, and that was understandable given the passage time. But in her email to DG on 20 March 2020, which summarised the salient points of the meeting earlier that day, JH made the following reference to DG's essay:

*In relation to your essay that you wrote about spiritual friendship I explained to you that this was anonymously marked before I was aware of 'the situation' and that even at that point it raised concerns for me about your well-being and relationships. That alone would have been sufficient for me to have met with you to explore my concerns without any*

*others having been raised.*

6.206 DG's essay was discussed in the meeting as recorded in JH's email. But JH's email made no reference to Jean Vanier and there is no evidence from the time to suggest that DG had been upset or offended by any such reference. DG was very quick to commit any complaints or any counter narratives to email if he felt wronged. Yet there are no such emails in existence which refer to this episode.

6.207 When viewed objectively, JH had no reason to compare DG to Jean Vanier or for suggesting DG was some sort of sexual abuser because there was never any suggestion that DG was a sexual abuser or had the potential to be one. The concerns that JH and the core group had in mind were quite different to what came to light about Jean Vanier. Their concerns were about DG's apparent inability at that time to set or respect appropriate social boundaries.

6.208 Comparing DG to a sexual abuser would amount to a detriment. But in this case, there was no such detriment as JH made no such comparison. She did not compare DG with Jean Varnier at any time, either in his essay or in the meeting with him and JB. Long after the meeting DG seized upon this innocent reference and distorted it in order to build upon his raft of complaints.

6.209 This alleged detriment also pre-dated disclosures 5 to 20 and so could potentially only be linked to disclosures 1 to 4. If DG had suffered a detriment in this instance (which he did not) there was no evidence of a causal link between it and disclosures 1 to 4.

6.210 Detriment 3. DG's complaint is that either at the 20 March 2020 meeting or on a subsequent Zoom call (on 30 March 2020) JH said to him "*we don't want to hear any more about cover-ups*" and "*it's not your job to police the Church of England*". JH could not recall making these remarks to DG, but in her witness statement [11], JH said that she felt frustrated with DG at that time because he was not listening to what she and JB were telling him about putting the Cuddesdon matters behind him.

6.211 On 26 March 2020 DG sent an email to NS [B/573-575] which he began with "*Further to the meeting with Jeannette the other day, I understand the need to let go of the situation.*" Despite stating he understood the need to let go, he demonstrated his unwillingness or inability to do so as he then rehearsed even more detail about the Cuddesdon matter.

6.212 JH also emailed NS on 26 March 2020 [B/577] to inform him that JB had telephoned her that morning with a concern that "*DG has not really heard what we've been saying to him.*" Because of this she set up the Zoom meeting with JB and DG. It is understandable that JH felt frustrated by DG and his inability to put Cuddesdon behind him and to concentrate on his curacy. As the Head of the Diocese Vocations and Training Team, successfully getting DG through his curacy was her main aim. Taking DG's case at its highest, what he alleges does not amount to a detriment at all.

6.213 Whilst DG was not an employee of the Respondents, he was a trainee within their organisation. The Church of England is a hierarchical organisation and as with all such organisations, there is a need for discipline, in some form or other. JH, JB and other members of the diocese were faced with a very challenging and increasingly time-consuming situation, entirely created by a single trainee priest. If JH did tell DG *“we don't want to hear any more about cover-ups”* or *“it's not your job to police the Church of England”*, no reasonable worker would regard such words as a detriment, especially where the worker is a trainee expected to achieve certain standards before passing their training.

6.214 JH was effectively DG's training principal and DG, as the trainee, was not responding to clear and reasonable direction and guidance from his principal. He may have disagreed with her dismissal of his suggestion of cover-ups by Cuddeson or others, but this does not amount to a detriment. A statement that it was not DG's job to police the Church of England was also not in any way a detriment. These comments in no way fettered him or prevented him from making further complaints, which he went on to do.

6.215 Even if the words said to have been uttered by JH amounted to a detriment (which they did not), any such detriment was not on the ground DG had made any of disclosures 1 to 4. JH's words as described by DG, if uttered, were prompted by his obvious intransigence and unwillingness to address the safeguarding concerns of the Diocese. If anything, DG was lucky that the Respondents did not take more robust action against him, such as disciplinary action, for what amounted to disobedience to those in authority above him.

6.216 Detriment 4. Within weeks of the 20 March 2020 meeting, in the course of two zoom meetings, DG alleged that JH placed inappropriate pressure on him not to raise his concerns as a formal complaint with the Diocese or with the police. It was also alleged that JH and NS rendered it impossible to have a full and transparent discussion of his concerns. He claimed that JH had bullied him into submission.

6.217 The Tribunal did not accept DG's characterisation of the meetings with JH and NS. DG's claim that he was bullied by JH into not making a formal complaint to the Diocese or making a police complaint against Person A for a malicious communication, is inconsistent with a considerable body of evidence which provides a clear picture of DG and his persistently combative nature. The Tribunal was satisfied that if DG believed it was appropriate to make complaints to the police and to the Diocese, he would have done so, regardless of any objections made by JH or anyone else.

6.218 JH had no recollection of DG mentioning the making of any sort of formal complaints in the meetings and she insisted she would never put pressure on anyone not to report something. DG's evidence that he was intent on making a formal complaint about Person A is inconsistent with his email to NS on 24 September 2019 [B/246-247], in which he wrote that he did not think the sending of the message to his wife was a disciplinary matter and he did not think her behaviour was malicious. This near contemporaneous evidence of his assessment of the situation at the time is completely at odds with his much later suggestion that he was

intent on making formal complaints. Therefore, he was not pressured into not making complaints and so there was no detriment in this regard.

6.219 The Tribunal was also not satisfied there was any truth to the assertion that that JH and NS rendered it impossible for a full and transparent discussion of his concerns. The opposite was in fact true. NS demonstrated a significant degree of patience and devoted a substantial amount of time to DG's concerns. The main focus of DG's concerns were the events at Cuddesdon and difficulties with former friends and colleagues. This was far outside NS's remit as the safeguarding adviser.

6.220 Where anything close to a genuine safeguarding concern was raised by DG, NS devoted an appropriate and proportionate amount of time to it. But there came a point when it was simply not reasonable of DG to expect NS or anyone else in the Diocese to expend on more time on what was in reality DG's personal grievance with Ripon College and other trainee priests. DG suffered no detriment in this regard.

6.221 Again, even if there was a detriment here, it could only be linked to disclosures 1 to 4, as the other alleged disclosures postdated this alleged detriment. If there was a detriment (and there was not), it was not on the ground of any of disclosures 1 to 4. It was on the ground of DG's refusal to heed the repeated direction and guidance given to him to put the Cuddesdon matter behind him and to focus on his ministry.

6.222 Detriment 5. The nature of this alleged detriment was difficult to discern. DG claimed that during a zoom meeting on 26 November 2020, NS behaved in an avoidant manner and made a comment that DG might benefit from an occupational health referral. Taking DG's case at its highest, there was no detriment. Any suggestion that DG might benefit from an occupational health referral was the opposite of a detriment. At the time the suggestion of such a referral was made, DG was open to it. He only later turned his mind against the referral because he disagreed with the outcome of it and he believed that CD and JR were either not qualified to carry out the assessments or were not properly accredited.

6.223 The Zoom meeting with DG was arranged by NS and JH in response to DG's email to NS on 17 November 2020 [B/600-602]. In that email DG asked NS if Person J and Person K had both directly indicated to NS that they wanted no further contact with him, or was this wish conveyed by a third party. DG indicated that Persons I and J still wanted to have contact with him, and he wanted to have contact with them as they were his son's godparents. In his email back to DG on 19 November 2020 [B/599-600] NS told DG that he and JH thought it best to discuss this contact issue in a Zoom meeting.

6.224 In his witness statement [112] DG spoke of how he formed the impression that NS acted in an avoidant manner at the meeting. He accused NS of "*evasively avoiding telling the truth*". The alleged lie was that NS had told him and JH that all of those who put their names to the 22 November 2019 complaint email wanted no contact from DG when DG later came to believe that Person J did want contact with him because Person J had sent him a happy birthday message on 3 November 2020. In oral evidence DG said that he pointed out to NS that he had in fact been contacted by Person J and that NS evaded this piece of information. It is not clear

from DG's written and oral evidence whether the alleged lie was uttered during the meeting or whether it was reference to what NS had told him previously about the complaint email.

6.225 NS could not recall the relevant detail of this meeting 4-years later when he produced his witness statement and he did not know what DG meant by his alleged avoidant manner. But if the alleged avoidance was avoiding telling the truth about the complaint email, and who did or did not want contact with DG, then there was an obvious alternative to DG's accusation of dishonesty. The Person I email was sent to NS a full year before the Zoom meeting on 26 November 2020. He may just as easily have been paraphrasing the email, the gist of which was that all of the complainants wanted DG to desist with his behaviour, which was obsessing about Person B and sending messages to her friends.

6.226 It was true that Person I and Person J were committed to maintaining a relationship with DG because they were godparents to DG's son, but they too wanted him to stop his unwanted behaviour towards Person B. Given the volume of correspondence that DG had generated in the intervening time, which NS had to deal with, alongside his other work, it is more likely that this was an innocent mistake by NS on a point of detail contained in the original email. On 19 March 2020, after the core group meeting, RL emailed the BoL, to brief him on the outcome of that meeting. In that email, RL stated that since December DG had sent NS "*57 long emails*". This then provides a clear and unequivocal picture of what NS had to contend with after becoming the focal point of DG's grievances. It would come as no surprise then if NS did at times inaccurately paraphrase some of the information he received but did so innocently due to the sheer volume and frequency of communication from DG.

6.227 If NS did avoid discussing who and who did not want contact with DG, then there was no detriment as DG was already aware that Persons I and J were happy to have contact with him. In his email of 17 November 2020 DG indicated that he would do so, regardless of what NS or JH thought about it.

6.228 Even the alleged detriments here were proved (and they are not), there is no causal link between them and disclosures 1 to 4 which predated them nor is there a causal link between them and disclosure 5.

6.229 Any suggestion that DG might benefit from counselling was well intended and arose from concerns about DG's own wellbeing and state of mind which ran in parallel to concerns that he was a potential safeguarding risk to others. These concerns were the result of the Person I email and his subsequent unwanted contact with Person B. If NS avoided DG's questions about who or who did not want contact with him, it was not because of any disclosure before that point. It was simply because his and JH's primary aim was for DG to put the Cuddesdon affair behind him and to get on with his curacy.

6.230 Detriment 6. According to the agreed list of issues this alleged detriment occurred in the same Zoom meeting as alleged Detriment 5. It is alleged that JH pressured DG by implying that he should have dropped the issue he had previously raised about Person J. There is nothing in DG's witness statement about this

specific point nor did he refer to it in oral evidence. It is therefore not proved as a fact.

6.231 There is no record of the Zoom meeting, but what DG says about it in his witness statement [112] is that he repeated his Disclosure 1 (the alleged assault on a fellow ordinand at Cuddesdon) to JH and NS on 25 November 2020 [B/604-605].

6.232 DG asserts that JH inappropriately pressured him into dropping this matter. If this was the detriment he intended to allege rather than what is captured in the list of issues, then a reasonable worker would not consider it to be a detriment. This was not a refusal by an employer to investigate an employee's own complaint. DG had already made a disclosure in regard to an alleged assault on a friend. This was discussed with the Oxford Diocese and Cuddesdon in December 2019. If DG had further information on the matter, he or the alleged victim were at liberty to pass it to the relevant investigative body, which was not the Lichfield Diocese, NS or JH.

6.233 Detriment 7. As will be discussed below at paragraphs 6.375-6.390, DG alleges that NS fabricated and backdated documents, including the commissioning brief to CD. DG was initially told there was no written brief and that this was carried out verbally by NS on the phone to CD. Subsequently three different documents were disclosed by the Respondents.

6.234 Where an employer sends false information about a worker to a third party there must be the risk of detriment to the worker. But this will depend on the nature of the information, the use to which is put and any consequences which flow from such false information.

6.235 This alleged detriment is complicated by the fact that the alleged false information is said by DG to have been conveyed by NS to CD verbally by telephone and in writing in one of the three disclosed documents.

6.236 The three documents are a). the "Contact Sheet" dated 12 February 2021 [B/759-761], b). the document dated 16 March 2021 [B/791-793] sent by email by NS to CD by email [B/794], and c). the undated document [B/2125-2127] sent by NS to JJ by email on 20 October 2021 [B/2123].

6.237 It is DG's case that documents a) and c) above are false in that they were created by NS at a later date. Therefore, in regard to this alleged detriment he relies upon document b) only. This document does appear to be the genuine briefing document as it was sent to CD by email on 17 March 2021.

6.238 There is no record of any verbal briefing given by NS to CD other than the Contact Sheet which DG insists is false. DG cannot therefore rely upon it as an accurate record of the conversation between NS and CD. But even if the Contact Sheet is an accurate record of what NS told CD over the phone, albeit written up some time later, it does not contain anything contentious or prejudicial to DG. It gives a brief but accurate summary of the background situation which caused the Diocese to commission a report.

6.239 DG relies only on the document dated 16 March 2021 for this alleged detriment. In his witness statement [133] DG purported to have identified numerous examples of misinformation or other problems. He lists these under sub-paragraphs a. to q.

6.240 On examination of those sub-paragraphs, none of them amount to misinformation about DG which might be considered capable of prejudicing him when CD carried out his psychological evaluation of DG.

6.241 NS's briefing to CD may have contained factual errors, but these were minor in nature and unlikely to have any adverse effect on DG. For example, NS stated that DG left Cuddesdon in 2019 when it was in fact 2018, potentially giving the wrong impression that DG was still at theological college. NS referred to five complainants in November 2022 when in fact there were seven, an error which was more favourable to DG than the truth. NS wrote that DG had contacted Person B through calls when in fact it was via email and WhatsApp messaging. But this error made no material difference to the general nature of his behaviour. In similar fashion, he corrected NS who told CD that Person A sent a letter to his wife when in fact it was a Facebook message.

6.242 Some of the points DG identifies as misinformation by NS to CD appear to be references to CD's report and not to NS's original commissioning brief. It is DG's position that the factual errors contained in CD's report were the result of misinformation provided by NS. However, there was no cogent evidence to support this contention.

6.243 The information provided by NS to CD on 17 March 2021 was a clear and proper attempt by NS to give CD sufficient background information to allow CD to develop the necessary context for his meetings with DG. Whilst the briefing may have contained minor factual errors, the information provided was not materially inconsistent with the wealth of evidence about what happened at Cuddesdon, the Person I complaint email, and DG's reaction to those matters.

6.244 If NS did provide information which was not correct, DG had the opportunity to correct it during his nine or ten sessions with CD. But again, there was no such misinformation, or at least no intentional factual error or errors of substance, which was prejudicial to DG.

6.245 Even if any of the information in the briefing given to CD, either verbally or in writing, was incorrect, and if this was detrimental to DG, there was no causal link between the detriment and disclosures 1 to 5 which pre-dated this alleged detriment.

6.246 The referral to CD was not as a result of those disclosures. It was the result of DG's insistence upon keeping the Cuddesdon affair alive and giving the BoL and his team cause for concern, in terms of safeguarding risk and in terms of DG's own wellbeing.

6.247 Detriment 8. This was linked to Detriment 7. DG claims that he suffered a detriment because CD failed to correct errors in his final report. In his witness statement [64] NS said that it was not his place to correct CD's report. NS was

correct in this in so far it was not his place to correct any of CD's findings which were based on his meetings with DG.

6.248 However, NS would have been under a duty to correct any incorrect information which might have had a material impact on CD's findings, and NS did in fact attempt to do so when he had a conversation with CD about his report [63-64].

6.249 NS could not remember any details of that call, but he did recall agreeing with the BoS to have any factual errors corrected. On 21 July 2021 NS emailed RL [B/1216] and that email shows that NS had spoken to CD and asked him to make certain factual corrections, but that CD was unwilling to change his recommendations or the substance of his report. NS said that if he failed to correct any other factual errors, then that was a mistake and was not connected to any of the disclosures DG relies upon.

6.250 The Tribunal was satisfied that NS did attempt to correct any factual errors he had unintentionally made in his commissioning brief. The Tribunal was also satisfied that any errors made had no detrimental impact on DG.

6.251 If DG did suffer a detriment in the manner alleged, there was no causal link between disclosures 1 to 5 which pre-dated this alleged detriment. Of these, only 2 and 5 were found to be PDs and the Tribunal was satisfied that if NS did supply misinformation to NS, it was not on the ground that he had disclosed a concern for a friend who had been allegedly assaulted at Cuddesdon. The information supplied to CD was completely unconnected with that matter.

6.252 Detriment 9. The detriment alleged was the BoS's request on 30 July 2021 that DG have an assessment for autism. DG asserts that this request was founded on the report by CD which was inherently flawed because of false information provided by NS. Having found that NS did not misinform CD in any material way, the Tribunal rejected the suggestion that CD's report was unreliable. Furthermore, CD was capable of producing a psychological report which was untainted by erroneous information provided by the commissioning body. CD had nine or ten sessions with DG, and it was this extensive personal interaction with DG, and not factual errors in the commissioning brief [B/958], which led CD to his findings and his recommendation that DG should be assessed for autism.

6.253 A reasonable worker would not conclude that DG suffered a detriment when the BoS requested that DG submit himself for an autism assessment. The BoS made the request because it was recommended by CD, a qualified psychologist, in a report commissioned by the Diocese as part of its strategy to address safeguarding concerns about DG and to support him in his curacy.

6.254 The request was well meant and intended to help DG. DG in fact agreed with this recommendation by CD and he wrote this in a track-change comment in his annotated copy of CD's report which he sent to the BoS on 20 July 2021. However, DG did an about-turn on 29 July 2021, when he emailed the BoS and BoL, telling them that he had consulted with his GP and completed a questionnaire and online test for autism. According to DG, the results of both the test and questionnaire did

not support the suggestion that he had autism. Thereafter he declined to undergo the assessment recommended by CD.

6.255 It was perfectly reasonable of the BoS to ask DG to undergo the recommended face to face assessment suggested by CD. The BoS explained this convincingly in his witness statement [15]:

*...we were hoping for a more holistic, face to face assessment, taking account of his observed behaviours, rather than relying solely on what the Claimant self-reported via his answers to questions. Given the Claimant's resistance to any of the other recommendations of the medical professionals, I wanted to present this option to the Claimant in person, before abandoning the idea. We were not medically trained to diagnose an Autism Spectrum Condition, but it did seem from the Donegan report that such a condition might be having a significant impact on his ministry. We needed to increase our understanding of all this, so that we could make any appropriate adjustments to enable the Claimant to flourish in ministry.*

6.256 DG was not subjected to a detriment. Even if the suggestion of autism testing was a detriment (which it was not), it was not on the ground of any disclosure made before this time.

6.257 Detriment 10. DG claims that the letter he received from the BoS on 7 October 2021 was such that he felt harassed and victimised. He also complains that the BoS did not make any reference to the complaints he had made, including one against the BoS himself. He therefore claims this letter amounted to a detriment. This was not a detriment for the following reasons.

6.258 The BoS's letter to DG was written almost 2-years after the diocese was alerted to concerns about DG and the events that occurred at Cuddesdon. The Diocese responded to the Person I complaint and subsequent complaint by Person B in February 2020 in a very reasonable and balanced way. The BoL and his team, in particular NS, RL and JH, quite understandably dealt with the complaints or concerns regarding DG as a safeguarding matter. It was recognised that DG's alleged behaviour at Cuddesdon and afterwards, towards a female colleague, carried with it a potential risk to others if DG was eventually ordained priest and licensed to minister within the Church of England.

6.259 The Diocese responded in a measured way, by recognising that the cause of DG's behaviour may have been an underlying mental health or neurodivergence issue. In taking steps to explore this, the Diocese did not act to DG's detriment but did everything within its power to help him achieve his goal of becoming a priest. DG refused to accept the advice, guidance and support offered to him and so his failure to reach his goal was entirely of his own making.

6.260 DG's complaint here is that the BoS's letter was silent on DG's contemporaneous complaints. In his witness statement he did not specify which complaints he was referring to, but he lodged two complaints in September 2021. The first [B/1587] was directed primarily to the BoS but also to the BoL and RL on 12 September 2021. The second [B/1865] was a complaint specifically against NS and sent to JJ on 29 September 2021.

6.261 The first complaint was about CD and his report, his allegedly not being qualified or accredited to produce the report, that alleged misinformation was given to CD about DG which tainted the report, and releasing the report without DG's consent. The second complaint was about NS failing to investigate the Person A "malicious" Facebook message, not investigating DG's safeguarding concern about the alleged assault on his friend at Cuddesdon, not sharing the Person I email complaint, as well as the passing of untested and unverified information to CD.

6.262 The merits of DG's complaints are largely an irrelevant consideration for the purposes of determining this particular alleged detriment, but the 29 September 2021 complaint is worthy of examination at this stage as it provides an illustration of DG's poor appreciation of his own situation and a misrepresentation of NS's role and responsibilities.

6.263 Given DG's intellect, and the considerable amount of time he spent on these matters, it is more likely than not that he knew precisely what the DSA's role was and was not. He knew or should have known that it was not for NS to operate outwith the Diocese and to investigate DG's complaint against Person A. If DG believed a crime had been committed, then he should have reported the matter to the police. It was highly disingenuous of DG to accuse NS of a failure here, when in the first instance he openly told NS that he did not believe Person A had acted maliciously, as he believed she was suffering from poor mental health at the time. This was an example of how DG was willing and capable of distorting the truth and manipulating situations to fit his own narrative.

6.264 There was clearly no failure on NS's part by not investigating the alleged assault on Person D. That was a Cuddesdon or Oxford matter and DG must have been well aware of that, despite the incorrect suggestion by SH that the matter had been handed over to NS. At other times, DG professed to have a good understanding of safeguarding matters, and so it is unlikely he would have been misled in this way by SH. As with much of DG's case, this was an exercise in trawling back through past events and seizing upon anything which might undermine NS or the Diocese.

6.265 The accusation that NS failed to investigate the substance of the Person I complaint email is also unfounded. NS acted reasonably and proportionately. He followed up on the email by communication with a number of the signatories to the letter in order to ascertain the facts. This was a safeguarding matter, so far as concerns were raised about a trainee priest in NS's diocese and NS was a safeguarding adviser. It was not NS's responsibility to determine if the complaint true or false. Safeguarding is concerned with identifying and minimising or eliminating the risk of harm to children and vulnerable adults. Safeguarding is concerned not with determining guilt, but with preventing harm. NS approached the Person I and Person B disclosures quite correctly, from a safeguarding perspective, by attempting to identify any potential risk factors which needed to be addressed.

6.266 The complaints against NS provide an insight into how DG was intent on placing himself at the centre of attention and maintaining the focus of the Diocese on himself long after the point when he should have moved on with his life and completed his curacy.

6.267 There is no merit at all in DG's criticism of the BoS and his letter. DG may have felt affronted when his complaints against NS and CD were not given centre stage, but the fact the BoS chose not to mention them in his letter does not mean they were being ignored or dismissed out of hand.

6.268 The complaints were in fact being investigated at that time by JJ who issued her findings on 2 December 2021 [B/2340-2345]. DG wanted the BoS and other key figures in the Diocese to dance to his tune. Instead, the BoS left JJ to handle the complaints, and he addressed DG on matters of more pressing concern to him and the Diocese which were the obstacles DG alone had placed in the way of succeeding in his curacy.

6.269 The BoS addressed DG on four topics: *Communication*, *Safeguarding*, *Accepting Authority*, and *Completion of your curacy*. In short, the BoS gave DG a clear and unequivocal appraisal of where he was going wrong and how he was failing to meet the standards required of a priest in the Church of England. This was an attempt by an employer to bring one of its trainees back on track with a clear and objective assessment of his performance at that time and an action plan to assist the trainee in correcting their shortcomings. DG may not have liked or agreed with the BoS's assessment, but he did not suffer a detriment.

6.270 Detriment 11. In his witness statement [181], DG gave a fuller explanation of this alleged detriment than is captured in the list of issues. On 21 January 2022, DG attended a meeting with the BoS, JH, JB, and DG's union representative. DG complained that the BoS and JH made it clear to him that they did not regard the manner in which he had reported his concerns, especially the questioning of NS's conduct, to be acceptable. He said that JH told him that she was unwilling to hear his concerns about the conduct of colleagues and this prevented him from referring to the detail of his concerns and to defend his own conduct.

6.271 DG also claims that the BoS told him that going against NS's advice was a safeguarding issue in itself and that he was not willing to ordain DG until he showed "increased understanding". DG asserts that this was code for an insistence that DG drop his various concerns and complaints, although he conceded that the BoS did tell him to allow the regulatory body processes take their course. DG said that the BoS explained the manner in which DG could demonstrate increased understanding, which involved a series of monthly meetings with JH and producing written reflective practice pieces which would be read by JH and the BoS.

6.272 DG claims that the course of action proposed by the BoS was intended to "run down the clock", to prevent him being ordained priest during his curacy or to prevent him gaining sufficient experience to become competitive in the recruitment process for priested posts. When the whole of the evidence is considered, DG's assertion that the BoS and JH were running down the clock, to prevent him from priesting or securing a post, is without any foundation.

6.273 The delay to DG's priesting was entirely because of his own actions and his refusal to heed the advice, guidance and direction given to him over the preceding 2-years. DG referred to a comment made by the BoS in his email to the BoL on 8

October 2021 [1995-1996]. The BoS wrote *“It is very unlikely that we will meet before early November in any case. David should be aware that the clock is ticking ...”*. DG relies upon this statement as evidence that the BoS was running down the clock on his curacy. But this is an obviously skewed interpretation of what was plainly meant by the BoS, which was that time was running out for DG to satisfy the Diocese that he was fit to be ordained priest. His stipendiary assistant curate appointment was a training appointment which was time limited. DG knew this was the case and any reference by the BoS to the clock ticking was a perfectly reasonable reference to the fact that the end of DG’s curacy was fast approaching.

6.274 Intentionally or unintentionally, this complaint indicates DG’s failure to grasp the BoS’s role and the purpose of the meeting. In his statement [17], the BoS explained his role and that DG’s focus was on his complaints rather than on his curacy:

*My role was to focus on the Claimant’s training and curacy. After our meeting on 30 July 2021, the Claimant’s emails to the Bishop of Lichfield and myself continued, as he tried repeatedly to persuade us of his perspective, particularly about events at Cuddesdon. It seemed that this, and his complaints about the DSA and Dr Donegan, continued to be his main focus, rather than his work in the parish so as to make progress towards readiness for incumbency, that is, holding office as a parish priest in a significantly autonomous, trusted, public-facing position.*

6.275 The meeting on 21 January 2022 was intended to take place earlier and was mentioned in the BoS’s letter of 7 October 2021. It was delayed at DG’s request pending the outcome of JJ’s investigation of DG’s complaint. The BoS [26] stated that the purpose of the meeting was to get DG *“back on course and to focus on what was relevant to his training and preparation for independent ministry...”*. This was obviously the purpose of the meeting. The laudable aim was to assist DG in completing his curacy and to succeed in taking up an appointment. It was not the detriment he claims.

6.276 JH produced a written record of the meeting which was circulated by email on 1 February 2022. The note shows that the BoS opened the meeting by explaining the purpose of it to DG, which was:

*...not to rehearse the narratives of the past but to focus firmly on the future and what we might be able to do to prevent certain behaviours that you had exhibited during your curacy from reoccurring and provide the best opportunity for you to demonstrate evidence of meeting the Church of England Formation Criteria by the end of your curacy (June 2023).*

6.277 The conversation that followed covered the four topics mentioned by the BoS in his letter of 7 October 2021. Quite reasonably the BoS and JH had set the scope of the meeting, which was to discuss a way forward for DG. DG’s internal complaint had been investigated by JJ, and his external complaints were being dealt with by a variety of regulatory bodies. Therefore, it was entirely reasonable for a senior figure such as the BoS, to set the agenda for the meeting. It was not for a trainee priest to do so.

6.278 There is no evidence to support DG's assertion that the BoS or JH applied any pressure on him to drop his complaints or concerns. These were or had been addressed separately. The BoS was entitled to exercise effective and efficient time management in an effort to reach a positive outcome from the meeting. By this stage, the BoS had received numerous very long emails from DG which expressed his complaints and concerns in fine detail. To allow DG to commandeer the meeting and steer it back to his various complaints would have defeated the purpose of the meeting which was to assist DG in moving forward and successfully completing his curacy. The meeting was an attempt to support DG and not to undermine him as he claims. He suffered no detriment.

6.279 Detriment 12. On 20 October 2021, DG complained to Cuddesdon that it had given NS the false impression that he had been the subject of safeguarding or disciplinary action at the college as a result of the concerns raised by Person B. This was not the case, and the college bursar wrote to this effect in a letter to DG on 17 November 2021 [B/2190-2191]. DG said that this letter from the college refuted information to the contrary in CD's report on DG for the Diocese.

6.280 There is no reference in CD's report about DG being subjected to disciplinary action at Cuddesdon and so there was no information that required correction in this regard. DG's assertion that there was inaccurate reference in CD's report to him being a safeguarding concern is based on a factually incorrect reference to Person B reporting her concerns about DG to the Cuddesdon "safeguarding lead". This was incorrect because SB was not the safeguarding lead at that time Person B reported her concerns, but she became so several months later. This factual error was not significant and had no obvious prejudicial effect on DG.

6.281 According to both DG and NS, NS agreed to put the Cuddesdon letter on file to correct any possible impression that DG had been disciplined at Cuddesdon or had been a safeguarding concern there. DG asserts this was not done because the letter did not form part of the material supplied to him in November 2022 by the diocese when he made a Subject Access Request (SAR). Because the letter was not included in that SAR request, DG concludes that NS failed to put the letter on file as agreed. In his witness statement [86] NS insists he did retain the letter, but not on DG's safeguarding file which was created in response to the Person I email complaint.

6.282 In his email SAR dated 5 October 2022 [B/3291] DG specifically asked for copies of his personal data contained in his personnel file, his safeguarding file and from the core group meeting process. If the letter was not placed on his safeguarding file, one would have expected it to have been put on DG's personnel file, and it should therefore have been disclosed to him as part of the SAR process. If this was not done, then this was a failure on the part of the Diocese to do what was agreed between NS and DG. However, the letter was retained somewhere as it was produced as evidence in this case.

6.283 This apparent failure to disclose the letter and to place it in DG's personnel or safeguarding files or in some other relevant file does not amount to a detriment to DG. He wanted it placed on file to correct what he believed were errors in CD's

report. However, CD's only error, based on information supplied by NS, was that Person B reported her concerns to the college safeguarding lead, when that member of staff was acting in a pastoral role at the time and did not take up the safeguarding role until some months later.

6.284 The detriment claimed by DG was the effect of misinformation in CD's report which then influenced the BoL, the BoS and other senior members of the diocese. But there was no such detriment, because DG almost immediately identified this single error when he sent his own heavily annotated copy of CD's report to the bishops. The only error which required corrective action was corrected at the time and so he did not suffer a detriment if the Cuddesdon bursar's letter was incorrectly filed.

6.285 Detriment 13. This detriment is not explained in DG's witness statement (or at least it is not identified with a subject heading and so it cannot be identified there). According to the agreed list of issues, the allegation is that on a date after 11 March 22, NS sent DG an email refusing to share information with another DSA about the allegations made against DG by former Cuddesdon students. DG wanted this to happen so that the allegations could be investigated as potentially false allegations against him.

6.286 In his witness statement [87-88] NS recalled this point in time and that he and the BoS remarked on a recent "*uptick*" in DG's email communications about "*familiar topics*". In particular, on 11 March 2022, DG emailed NS [B/2626-2628], in which he revived, in detail, the matters the BoS and others had hoped had been laid to rest. What he asked was for NS to share with the Salisbury DSA any complaints made about him concerning Person B. DG informed NS that he had already been in touch with the Salisbury DSA and had supplied him with information about Person A's Facebook message to his wife and about communication from Person B. Persons A and J were both working in the Salisbury Diocese.

6.287 NS refused DG's request in an email on the same day [B/2625]. The reasons for his refusal were based on GDPR and other data protection rules.

6.288 The purpose of DG's request appears to have been to provide material to the Salisbury DSA so that he could conduct an investigation into the Person I complaint, which DG insists was false or without factual basis. NS provided DG with appropriate reasons for not sending a copy of the complaint and other communications to the Salisbury DSA based on data protection.

6.289 NS felt unable to share the material without the consent of those who sent the communications to him. But if DG was genuinely intent upon persuading the Salisbury Diocese to investigate alleged misconduct by two of its priests, this would not have been frustrated by NS's refusal. On the evidence, it is unlikely that the Salisbury DSA would have had any interest in DG's complaint against Persons A and J, in the absence of any obvious safeguarding concerns about them and more than 2-years after their complaint email. This was another example of DG trying to impose a task on a DSA which was outside their professional remit.

6.290 But if the Salisbury DSA was minded to follow it up, he would not have been prevented from doing so by NS's refusal to share the information. He could of course have asked Persons A and J to supply him with a copy of the email. Therefore, there was no detriment.

6.291 If DG did suffer a detriment (and he did not), it was not on the ground of any PD. The basis for NS's act or failure to act was his adherence to data protection law undoubtedly combined with a desire to extricate himself from DG's obsession with the Cuddesdon affair.

6.292 Detriment 14. On 27 May 2022 DG emailed the BoL [B/2935-2936], telling him that he had been informed by the GMC that as a result of a query he had raised with the GMC about the psychiatrist Dr JR, the GMC had referred JR to its triage team. The BoL replied (upon RL's advice) to this by email on 30 May 2022 [B/2927]. DG took exception to the following sentence: "*we in the Diocese do not need to know the progress of any complaints you may choose to bring against healthcare or other professionals.*" DG asserts that this amounts to a detriment on the basis that it was a failure by the BoL to address the alleged misinformation promulgated by NS which found its way into CD's report.

6.293 As already discussed, there was no misinformation or factually incorrect information provided by NS that could reasonably be considered to have any adverse effect on CD's opinion and report. If there were factual errors, they were unintended and minor in nature. DG also had plenty of opportunity, in nine or ten face to face meetings, to put the record straight.

6.294 The BoL's reply does not amount to a detriment. Although DG informed the BoL about JR only, the Bishop's response was wider than just the JR concern and is worth repeating in full:

*To answer your question: as far as we are concerned in the Diocese, the matter of the occupational health report is now closed. The report, including the part written by Dr Rajendran, has been removed from your file. You are also aware that we have reviewed and changed the way we commission occupational health services in the diocese, to ensure that HR expertise is sought and that we comply with the Archbishops' Council policies.*

*Bearing all that in mind, we in the Diocese do not need to know the progress of any complaints you may choose to bring against healthcare or other professionals. Indeed, as has been told to you before more than once, you must be quite careful about confidentiality and professional boundaries in terms of information you share while bringing complaints against any other professional.*

6.295 Contrary to DG's claim, the BoL's email does not amount to a failure by the Bishop to address the alleged misinformation promulgated by NS. The complaint against NS was investigated and dealt with. The BoL made a perfectly proper distinction between internal and external complaints and quite reasonably advised DG to exercise greater caution before sharing information about his complaints regarding third parties and their professional regulators. Any complaints DG chose to make about those who operated outside the employment or control of the Diocese

were of no direct concern to the BoL or anyone else in the Diocese, save of course in the event of an adverse finding against someone contracted by the Diocese to provide a service which was in some way impactful upon DG. But given that CD's and JR's reports were not relied upon by the Respondents, the BoL's position in his email was a reasonable one and was certainly so at this stage of the GMC's involvement.

6.296 DG did not suffer any detriment as a result of the BoL's email. There is no substance to the assertion that it amounts to a failure to address DG's concerns about misinformation.

6.297 Detriment 15. On 21 July 2022 CD sent DG an email [B/3041-3042] in which he warned DG that he would report him to the police for alleged stalking and harassment if he attempted to contact him again. This email was the result a number of SAR requests and other messages from DG which were unwanted and which caused CD to take advice from his solicitors and supervisors, who advised him to report DG to the police.

6.298 NS was copied into CD's email to DG. Shortly after it, on the same day, DG emailed NS, the BoL and the BoS, complaining about CD. DG asked the addressees to intervene following CD's email and specifically suggested that NS might handle it or else nominate another safeguarding lead. NS replied to DG very soon after [B/3080], telling DG to leave him alone and that if he did not, then he would telephone the police.

6.299 DG claims that CD's threat to go to the police was vexatious and that NS's threat to do the same was deliberately deceptive and detrimental. In reality both CD and NS had reached the end of their tethers. Both had been subjected to a quite exhausting amount of attention from DG, and they clearly wanted him to desist. DG had already displayed a propensity to carry on sharing his obsession long after it was inappropriate to do so. It was also somewhat hypocritical of DG to portray himself as a victim in this instance, when he had lodged numerous complaints about several individuals. He himself had made a complaint to police about NS, threatened to make a police complaint against Person A and would go on to make a complaint to the police about CD

6.300 Both CD and NS merely indicated that they were prepared to exercise their right to report DG to the police if he did not stop contacting them. This was a conditional threat, conditional upon DG ignoring their pleas for him to leave them alone. In all of the circumstances, given the volume and nature of communication generated by DG, over a long period of time, the threat of police action was not unreasonable. When viewed objectively, DG's behaviour provided the grounds for concern and it must have had an adverse effect on those who had to engage with him, especially NS who was the main focus of DG's attention. DG suffered no detriment. He was still able to raise concerns or complaints with the diocese or external bodies if he wanted to, so long as he did so in an appropriate manner.

6.301 Detriment 16. This alleged detriment was linked to alleged Detriment 15. In his statement [191] DG complained that the BoL refused to nominate another safeguarding professional in NS's place. On 21 July 2022 DG sent an email to the

BoL and the BoS [B/3059]. In it he alleged that NS had failed to investigate allegations from 3-years before which DG insisted was a safeguarding issue.

6.302 When viewed objectively, at no time did DG present a genuine safeguarding concern that fell within NS's remit to investigate. Unfortunately for NS, he became ensnared in the Cuddesdon affair in September 2019 when DG asked him for advice about whether he should attend Person B's ordination. That in itself was not a safeguarding matter, but regardless, NS gave DG a sympathetic ear and provided generic advice. This was at a time when NS knew nothing of what had gone on at Cuddesdon. The complexion of the situation changed on 22 November 2019 when NS was informed of DG's behaviour towards Person B and others. Person I described it, quite understandably, as a safeguarding concern. Instead of being the object of concern, DG became the subject of concern. Thereafter, DG insisted on labelling his own personal grievance with Person A and others, as a safeguarding matter, when there was no reasonable basis for NS to treat him as a person at risk of harm.

6.303 NS, the BoL and his team, exercised considerable patience and forbearance with DG and his persistent attempts to control and distort the narrative. This then was the context in which the BoL replied to DG and his request that another safeguarding professional be nominated. DG first accused NS of failings and then referred to NS's refusal to be further involved with DG's complaints and concerns. Why DG appears to have been surprised or aggrieved at NS's refusal to involve himself in the matter any further is unfathomable, given the complaints DG had already made against NS to the Diocese and to NS's professional body.

6.304 The BoL replied in detail the next day [B/3058-3059]. He told DG that he would not nominate another safeguarding professional to advise DG on claims against NS as these had already been investigated. This reasoning may have missed the point made by DG which seems to have been his request for someone else to lead an investigation into what he insisted were his own safeguarding concerns. Again, DG had no concerns which might properly be called safeguarding concerns. What he wanted was for someone to act as his personal grievance investigator, to clear his name and reputation in regard to what he asserted were false or malicious allegations made by former Cuddesdon students. In refusing to nominate another person to act at DG's behest, the BoL acted reasonably, and DG suffered no detriment as a result.

6.305 This alleged detriment was said to have been on the ground that DG had made a complaint to the ICO. This was not the reason for the BoL's refusal. His reasons were set out in his detailed email of 22 July 2022.

6.306 Detriment 17. In a Zoom meeting with JH and JB on 6 September 2022, JH is accused of asking DG a "targeted and inappropriate question". DG describes this meeting at length in his witness statement [198-203].

6.307 The main purpose of the meeting was to discuss a written reflective practice piece set by JH as part of the strategy agreed with the BoS as a way of testing DG's suitability for priesting. JH was not content with this piece of work which contained critical reference to the Diocese and its handling of his Cuddesdon concerns and his

personal data (which must be taken as a reference to the psychological assessment by CD). Given the purpose of the exercise was for DG to reflect on his practice, his own description of what he included in this piece of work tends to suggest that he was still clinging on to those matters which JH, the BoS and the BoL believed were a significant obstacle to him meeting his vocation.

6.308 JH told DG that the piece of work was not up to standard, and she asked him to rewrite it. He refused to do so. During this discussion DG challenged JH on whether or not she had disclosed an email from him marked 'Confidential'. JH replied that she had not done so. DG did not believe her.

6.309 DG then claims that JH asked him an "*inappropriate and targeted question*". The question was whether he could give her and JB an assurance that he would not make a complaint against either of them. He wrote in his statement [202] that he had grounds to complain about JH but no grounds to complain about JB.

6.310 In her witness statement JH gave a quite different perspective on this event [49]. She said that it was JB who expressed a concern that DG would bring a complaint against him under the Clergy Discipline Measure ("CDM") if he did not sign off DG's curacy. JH said this concern was raised by JB because DG appeared to have the habit of reporting individuals to their governing bodies if he did not get the outcome he was looking for. According to JH she also expressed the same concern to DG. She said DG responded that "*he was not planning to do that [complain] at the moment*" but he could not promise that he would not do so in the future."

6.311 In cross-examination DG denied that JB asked him if he was going to make a complaint about him, although he accepted that JB used words to the effect that he felt anxious.

6.312 On 16 September 2022 JH emailed DG her written summary of the meeting on 6 September 2022 [B/3244-3246]. Her note of what occurred included reference to JB's anxiety and to both of them asking if DG would make complaints against them, and his response. This note is consistent with her evidence on this issue and inconsistent with DG's evidence. It was put to DG that he did not challenge JH's summary at the time and so it is an accurate record of what happened and what was said.

6.313 On this particular allegation JH's evidence is the more credible. It could not be reconciled with that of DG who insisted JB did not ask the question about a complaint. JH's evidence was supported by a near contemporaneous written record which DG did not challenge at the time. The evidence DG gave on this point was intended to support his own narrative by suggesting that JH was alone in asking the question and did so inappropriately in front of his Training Incumbent, when in reality it was his Training Incumbent who raised the topic first.

6.314 Given that JB first asked the question, then JH followed, there is no reasonable basis for asserting that DG suffered a detriment. It was clear to all in this meeting that DG had failed to respond positively to the measures put in place by the BoS and JH to help him complete his curacy. Both JH and JB needed hard evidence from DG that he had developed sufficient insight into those inappropriate and

troubling aspects of his behaviour. But on this occasion, and from the piece of work in question, it appeared that DG was making no meaningful progress. DG was therefore at increased risk of failing his curacy and JB was understandably anxious about being on the receiving end of a complaint if he did not sign off DG's curacy, which was looking like the most probable outcome. It was also understandable that JH would have the same concern given that she was the person setting and assessing these critical pieces of work.

6.315 JB and JH were entitled to voice their concerns to DG. He suffered no detriment at all as a result of this. No pressure was applied to him not to make a complaint; indeed, he indicated to both JH and JB that the option of making a complaint in the future was still open to him.

6.316 If there was a detriment (and there was not) it was not on the ground of any disclosure. The questions were asked by two individuals because of their own personal concerns about what DG might do to their own detriment.

6.317 Detriment 18. The Tribunal had considerable difficulty in establishing the precise nature of the detriment alleged here due to the very lengthy narrative in DG's witness statement [204-207]. But it was taken to mean that when the GMC emailed him to say that it was taking no further action in regard to his complaint against JR, DG emailed the BoL and the BoS on 8 September 2022 and JH on 22 September 2022. In those emails he informed them that he still maintained the assessments by CD and JR were unlawful, as was the transfer of his personal data that took place in association with those assessments.

6.318 DG complained that the BoL, the BoS and JH did not "change course" and continued their detrimental treatment of him. DG did not specify precisely what he meant by not changing course and what the continued detrimental treatment of him was, but this is taken to mean their refusal to alter their previous findings in regard to DG's complaints against NS and their failure to act on his complaints about CD and JR who did not carry out the occupational health assessments he believed he was consenting to.

6.319 There was no discernible detriment in this instance. DG had made complaints; they had been investigated and determinations made. The fact that he did not like the outcome is not a detriment. He was unhappy with the reports on him by CD and JR, but the BoL was clear in his evidence [Second statement at 99] that the reports had long since been destroyed and no attention was paid to them so far as DG's ordination was concerned. It transpired that copies of the reports were kept on a file but were not relied upon and the BoL did not read the reports at any stage.

6.320 If the alleged failure to change course was a detriment (which it was not), it was not linked to any of the PDs.

6.321 Detriment 19. DG continued to send uninvited and unwanted emails to the Bishops and to other figures in the Diocese on matters which on any objective view had been previously considered, repeatedly and at length. DG's unrelenting communication, much of it unnecessarily lengthy, was absorbing a disproportionate amount of time and effort on the part of senior figures in the Diocese.

6.322 On 7 October 2022, JJ emailed DG, with an attached letter dated 6 October 2022. JJ wrote the letter in her capacity as the Chief Executive of the Diocese and as an officer of the First Respondent. After her introduction, the letter reads as follows:

*You have raised matters surrounding Dr Donegan's assessment, the GDPR handling of your personal data and the safeguarding response and other related issues. All these points have been looked at, or investigated, at diocesan level and / or by outside bodies. The latest specific suggestion that information has been tampered with by diocesan staff is wholly refuted.*

*I must impress on you that you are to desist from writing to bishops, clergy or any LDBF employees about the above matters. Further correspondence on these topics will not be entered into.*

*Also, we believe that it is in your best interests if, as you have been advised previously, you put aside these matters so that you have space to reflect on the future.*

6.323 Again, the nature of the alleged detriment is unclear. DG challenges JJ's assertion that his complaints or concerns had been looked into. His challenge seems to be on the basis that he later formed the view that NS had tampered with documents and that the Respondents had withheld information from Social Work England and the ICO. He did not specify what information was withheld. He then stated [211] that this alleged conduct constitutes "a continuation of detriment by the Respondents".

6.324 DG's logic is difficult to follow. His complaint does not appear to be about JJ's instruction to desist from writing to the Bishops, clergy or any LDBF employees on matters which had already been looked into. It appears to be about NS's alleged tampering with documents and the alleged withholding of information to statutory bodies by the Respondents. As will be discussed below, there is evidence to suggest that NS did create documents that were false in certain respects, but those actions had no discernible impact on DG. It is also not clearly established what information the Respondents are alleged to have withheld and how that caused any detriment to DG.

6.325 If DG's complaint is about JJ's instruction to desist, then it is without foundation give the instruction was entirely reasonable in the circumstances. The instruction was not a ban on all communication, but an instruction not to revisit those topics mentioned by JJ in her letter. By this time, DG was vexing numerous individuals with emails on matters which had been carefully considered and consigned to the past, so far as those individuals were concerned. DG's emails had become a nuisance and bordering on harassment to some. For these reasons, there was no detriment and even if there was, there was no causal link between it and any of the proven PDs.

6.326 Detriment 20. On 17 November 2022, the BoS sent DG a letter [B/3325-3327] in which he informed DG that he would not be recommended for a post under Common Tenure. The BoS began his letter by referring to the BoL, who had already

been in touch with DG and informed him of his decision not to admit DG to priest's orders in the diocese.

6.327 The BoS then went on to explain to DG why his ministerial formation did not satisfy the standards expected by the Church of England as set out in the *Formation Criteria*. The BoL set out the particular concerns raised about DG by JH as the Diocesan Director of Ministry. These related to four particular criteria, D, E, F and G. JH's assessment, as it appeared in the BoS's letter, is set out in full below:

*Criteria D: Evidence of 'insight, resilience, maturity and integrity in the pressure and change entailed in public ministry' and personification of 'an integration and integrity of authority and obedience, leadership and service'. Concern in this area relates to an apparent lack of awareness of self and understanding of self-care.*

*Criteria E: Evidence of the ability to 'demonstrate good reflective practice in a wide range of pastoral and professional relationships' and ability to 'establish and evaluate appropriate professional boundaries in their ministerial practice and personal lives'. Concern in this area relates to the ways in which you have sought to engage in and resolve issues of conflict, and an apparent inability/or reluctance to consider alternative viewpoints and perspectives in such matters.*

*Criteria F: Evidence of the ability to 'show skill and sensitivity in enabling the formation and flourishing of corporate life in the presence of diversity' and to 'use authority appropriately in ways that release, equip, enable and empower others...'. Concern in this area relates to an apparent lack of understanding of the appropriate use of power and appropriate reflection on your behaviour when you feel vulnerable.*

*Criteria G: Evidence of being 'ready for, and open to, exercising a ministry of oversight and vision [as priests] in the church of God'. Concern in this area relates to the apparent lack of a sufficient level of reflective ability to stand you in good stead in 'relatively unsupervised settings, exercising wise and discerning judgements.' An over pre-occupation with certain matters, suggest a lack of ability to take a broad view and to be appropriately focussed on wider ministry, as would be expected of an ordained leader in the church.*

6.328 The BoS concurred with JH's assessment of DG and told him that he was not able to authorise DG for a post under Common Tenure.

6.329 In his witness statement [218] DG explained the effect of the decisions not to ordain him as priest and not to recommend him for a post under Common Tenure. It meant that he could not apply for such posts anywhere in the Church of England. It also meant that he could not obtain a licence or permission to officiate on a voluntary basis as a deacon in neighbouring diocese. Paid chaplain positions in the Ministry of Justice and National Health Service were also inaccessible to him as these required a bishop's licence or permission to officiate. Therefore, the BoS's decision not to recommend him for Common Tenure and the BoL's earlier decision not to ordain him were detriments.

6.330 Although DG experienced detriments, they were entirely justified by DG's failure to meet the required standards set by the Church of England, and there was no causal link to any PD. DG asserted that these detriments were the result of whistleblowing, misinformation about him and the perception held by the BoS and JH that his complaints to regulatory bodies were inappropriate. DG was wrong in his assessment of causation. The Tribunal was presented with an abundance of evidence, in the form contemporaneous emails between the Respondents' witness, emails and letters between DG those same witnesses, and the testimony of DG and the Respondent's witnesses. All of this material gave a very clear and reliable picture of the events which led to the decision not to ordain DG as a priest and not to recommend him for a tenured post.

6.331 Those decisions, which prevented DG from pursuing his vocation, were not taken lightly or in haste. They were taken almost three years after concerns were raised about DG and his behaviour towards Person B. The Respondents response to the concerns and complaints, which could reasonably be regarded as a safeguarding matter, was balanced and objective. The complaint email of 22 November 2019 was dealt with in a reasonable manner by the Respondents. NS's meeting with DG on 14 January 2020 could and should have been the end of the matter. At that time, those with the power to ordain DG and to recommend him for a post under Common Tenure, had an open mind in regard to DG and the events at Cuddesdon. There was no lasting black mark against DG's name because of the Person I email or the later Person B complaint.

6.332 The Respondents efforts were directed at ensuring DG completed his curacy by meeting the *Formation Criteria*. If DG had heeded the advice given to him by NS and JH in early 2020, and focused on his ministry, then it is likely he would have been ordained priest and secured a tenured post. Unfortunately, DG refused to accept the support, guidance and direction that was given to him as he became completely obsessed and fixated on what had happened at Cuddesdon, the complaints that flowed from his behaviour after leaving Cuddesdon, and his perception of his relationship with Person B and others.

6.333 DG refused to accept that he was anything other than a victim rather than the cause of concern to others. Instead of channelling his energy into his training, his main interest became Cuddesdon and his grievance against former friends and colleagues.

6.334 DG's communication with NS and others became increasingly passively aggressive as he sought to divert NS from his important safeguarding role to that of his personal complaint investigator. DG became increasingly frustrated at NS's unwillingness to be manipulated into doing his bidding and eventually, NS became a target for complaint.

6.335 The referrals to the psychologist CD and the psychiatrist JR were obviously made with the best intentions, which was primarily to assist in identifying any personal obstacles DG might have to achieving his vocation and to make reasonable adjustments. But of equal importance, as the public would demand, was the identification of any safeguarding risk indicators.

6.336 At the time, DG recognised that the referrals were made as part of a strategy to support him as he himself believed he may have had a neurodiversity condition. However, when CD's report was revealed to him, he took exception to the way CD narrated the background events which led to the referral because these did not fully accord with his own perception of those events.

6.337 When it was discovered that CD and JR were not qualified or authorised to provide occupational health assessments and that what they delivered were not occupational health assessments, he understandably felt aggrieved because his consent was given specifically and only for occupational health purposes and not for safeguarding or other purposes. However, had CD's report been more favourable to DG and closer to his own narrative, it is likely he would not have complained about it and CD.

6.338 It was from this point that CD and JR, together with NS who instructed them, became the target of DG's attention. It was his unrelenting complaints about NS and the medical professionals engaged by the Respondents which kept DG in the spotlight. Even then, repeated efforts were made to get DG and his ministry back on track, but these failed and this was entirely because of DG's refusal to focus on his training.

6.339 Despite the sincere efforts of the BoL, BoS, JH, JB, NS and others, DG refused to take well intentioned advice and guidance, to accept accurate feedback and to respect those above him in the Church of England hierarchy.

6.340 The final assessment of DG's suitability and capability for ordination and posting, made by JH and agreed by BoL, was backed by a substantial body of evidence and was therefore reasonable and fair. Over a period of almost 3-years in his curacy DG repeatedly demonstrated a startling lack of insight into his behaviour towards Person B and how concerning that was to others, and into his inappropriate bombardment of the senior leadership of the Diocese with lengthy and repeated complaints which continued after they had been investigated.

6.341 DG appeared incapable of demonstrating effective reflective practice, of establishing appropriate professional boundaries, of resolving conflict, of maintaining a sense of perspective and of considering alternative viewpoints and perspectives.

6.342 The detriment experienced by DG was not caused by any PD, proven or unproven. The detriment was due to his failure to meet the essential criteria set by the Church of England. This failure was of his own making and despite the significant investment made in him by the Respondents.

6.343 . Not only did DG fail to satisfy the essential criteria for ordination, but on 22 September 2022 [B/3259] he wrote his Bishop, the BoL, and told him that:

*I have also moved from a point of being willing to accept ordination as priest if it were offered to not feeling that I can honestly make the relevant responses in an ordination service. Were I to be asked "Do you believe that God is calling you to this ministry?" I would currently have to answer "Yes, but not in this diocese in the present circumstances." It is effectively a temporary 'no'...*

6.344 On 22 September 2022 DG told the Bishop responsible for his ordination that he was not prepared to be ordained by him. It is therefore impossible to see what alternative action the Respondents could have taken to informing DG he would not be ordained and would not be given a tenured post within the Diocese.

6.345 Whilst others may not have shared DG's viewpoint on his interaction with Person B, on events at Cuddesdon, and on CD, JR, NS or any of the matters raised as alleged PDs, DG was of course entitled to hold and maintain those points of view. It was not the fact he seems to have been in a minority of one in holding such points of view which led his failed curacy: it was the manner in which he voiced those points of view, over a long period, which provided the Respondents with the evidence that he was unsuited to ordination as priest and a post within the Diocese.

### **Summary of Whistleblowing Findings**

6.346 The Tribunal found the claimed PDs 2, 5, 6, 7, 9 and 11 to be actual PDs and only claimed Detriments 20 to be an actual detriment. The detriment was the Respondents' decision not to ordain DG and as a consequence, not to give him a tenured post as a priest. There was no causal link between that decision and any of the proven or unproven PDs. The decision taken was entirely reasonable in the circumstances which were that had DG failed to meet the required standards and so could not be signed off as passing his curacy. All of the whistleblowing claims therefore fail.

### **Direct Discrimination**

6.347 DG's case is that he is not disabled but that he was directly discriminated against by those who perceived he had a disability.

6.348 As Underhill LJ stated in *Chief Constable of Norfolk v Coffey CA* "*In a case of perception discrimination what is perceived must, as a simple matter of logic, have all the features of the protected characteristic as defined in the statute.*" The first point the Tribunal had to consider in regard to the following discrimination claims was whether or not the Respondents did perceive that DG presented with the features of disability as defined by Section 6 of the EqA, regardless of whether they were aware of the law itself and its definition?

6.349 Direct Discrimination 1. DG explained the nature of this alleged discrimination in his witness statement [135]. On 30 July 2021 DG met with the BoS at his home. By this time the BoS had read CD's report [B/956-958] which included an opinion (based on JR's psychiatric report) that DG "...most likely has undiagnosed Asperger's syndrome or traits pertaining to it." CD recommended an autistic assessment known as the Autism Diagnostic Observation Schedule ("ADOS").

6.350 There is nothing in CD's report which suggests the potential undiagnosed autism had a significant impact on DG's day to day activities. CD opined that DG had the ability to manage autistic traits through various coping strategies which had been highly beneficial to him, however at times of stress and anxiety those strategies fell short.

6.351 DG asserts that at the 30 July 2021 meeting the BoS made it clear to DG that he wanted him to seek comprehensive autism testing prior to being ordained as a priest.

6.352 Having read CD's report, and his opinion that DG might be autistic, the BoS and others who read the report might reasonably have concluded that DG had some form of mental impairment in the form of a neurodiverse condition. However, the evidence available at the time would not reasonably have caused them to conclude that such a condition, in DG's case, would have a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities. There is nothing in CD's or in JR's reports which suggests that they found undiagnosed autism was having a substantial impact on DG.

6.353 At most the BoS thought DG was unwell at the time. He believe that if DG was diagnosed as autistic, then reasonable adjustments could be made for him. The willingness to make such adjustments is not a recognition that a person has a disability. At this time there was no evidence to suggest to the BoS that DG was presenting with all of the features of disability. The BoS was merely acting proactively and compassionately by anticipating that adjustments could be made to help DG in his curacy, and that a formal diagnosis would assist with this.

6.354 Therefore, at the time of the alleged first act of discrimination, the BoS did not perceive DG to have a disability and nor did any other relevant person employed by the First Respondent. The BoL also had no such perception as he intentionally isolated himself from the findings of CD and JR.

6.355 In the event the Tribunal was wrong in its assessment of perceived disability, it went on to consider whether the Respondents discriminated against DG because of such a perception and in the way alleged by DG.

6.356 According to the agreed list of issues the unfavourable treatment was an alleged decision by the BoS not to allow DG to go forward to ordination while reasonable adjustments were looked into. The alleged unfavourable treatment is described in slightly different terms by DG in his witness statement [135]: *"He made it clear that he wanted me to seek comprehensive autism testing prior to being ordained as priest."*

6.357 Although expressed in different ways, the commonality between the two is an alleged condition on ordination imposed the BoS. The condition being that DG submitted himself to a comprehensive autism test before ordination or alternatively reasonable adjustments be looked into before ordination. One would expect the latter to flow from the former condition

6.358 When interpreted widely the alleged unfavourable treatment is twofold, namely a demand that DG agree to the testing and the delaying of ordination until such testing had been carried out or reasonable adjustments identified.

6.359 The Panel rejected DG's assertion that the BoS told DG that his ordination was conditional upon being tested for autism or upon reasonable adjustments being explored or implemented. It was sufficiently clear from all of the relevant evidence

from this time period that the BoS and others were going to great lengths to ensure that DG completed his curacy successfully and went forward to ordination.

6.360 In his statement the BoS wrote [13]:

*If the Claimant had an autistic spectrum condition (or some other condition) we might have needed advice on how to help him do his job. We do have a number of clergy in the Diocese who identify as having an autism spectrum condition, as well as several with dyspraxia and dyslexia, so the concept of making reasonable adjustments is familiar to us.*

6.361 On 7 October 2021 the BoS sent a letter to DG setting out his concerns and those of JH and JB about DG's curacy. The BoS made it clear that he needed to be assured that the necessary foundations were in place before DG could be priested or before he could apply for an incumbency status post. The BoS asked DG to reconsider his decision not to have the autism assessment but making it clear that he could not be forced to have the assessment and the ultimate purpose of the assessment was supportive in terms of the Diocese understanding any condition identified and to make any necessary adjustments for him.

6.362 The claimed treatment here did not happen as DG alleges. It was not then the case that DG's ordination was conditional upon his undergoing an autism assessment and the making of reasonable adjustments. Ordination was not dependent upon his agreement to undergo the assessment and so any request made by the BoS on this matter was not in any way unfavourable to DG. He still had the opportunity to complete his curacy, be ordained and secure a post even if he refused to have the autism assessment. The fact he was not ordained and assigned to a post had nothing to do with that refusal. It was due to his failure to satisfy the Diocese leadership that he met the essential criteria for ordination as priest.

6.363 Asking him to have the autism assessment did not amount to less favourable treatment. DG complained [135] that the BoS held complete power over him and his ordination and described the BoS's request about the autism assessment as "coercive". It was true that the BoS had the delegated authority from the BoL to decide whether DG should be ordained, and so such power did rest with the BoS. However, the evidence does not suggest that the BoS exercised that power in anything other than an impartial, fair and circumspect manner.

6.364 The BoS was under a duty to the Church of England and to the general public to ensure that great care was taken before signing off any deacon for ordination as priest. It was clear that the BoS was not abusing his power and exercising it arbitrarily. Instead, he was attempting to achieve the appropriate balance between the needs of the individual (DG) on the one hand and the needs of the Church and the public on the other.

6.365 Therefore, for the above reasons, DG was not directly discriminated against because he did not suffer any less favourable treatment.

6.366 Direct Discrimination 3. On 16 September 2022 JH sent DG an email in which she summarised the salient points of the meeting she and JB had with DG on 8 September 2022. In one of the paragraphs in the email in JH referred to a comment made by JB in the meeting to the effect that he was anxious about DG making a complaint about him if he did not complete his curacy satisfactorily. JH added at the meeting that she was also fearful of DG making a complaint against her. According to JH, DG responded by stating that he had no intention of making complaints about them at that time, but he could not promise that he might do so in the future.

6.367 In regard to DG's suggestion that he might make complaints against JB and JH in the future, JH wrote in her summary of the meeting:

*My impression was that you did not appear to show any evidence of being aware of the impact that may have on your colleagues, both in acknowledging Fr John's observation and in your subsequent statement.*

6.368 DG takes exception to the above comment by JH. In the agreed list of issues the alleged act of direct discrimination was JH "saying that the claimant did not show evidence of understanding how "that" was affecting his colleagues..." This by itself was insufficiently clear for the Panel to deliberate on, but this complaint was clarified by DG in cross-examination. DG said that the above three lines from JH's email amounted to an accusation that he did not possess empathy because he had autism.

6.369 Turning first to the perception of disability, in terms of an autism diagnosis and DG's unwillingness to be tested, by September 2022 nothing had changed since the end of 2021, which marked the end of the time period material to alleged Direct Discrimination 1. So far as the Respondents were concerned, and JH in particular, they had no reason in September 2022 to perceive that DG had a disability.

6.370 If they suspected he had autism, the evidence does not suggest that JH, the BoL or anyone else working for the Respondents thought that DG was showing the features associated with disability. If he was suffering from any impairment, there was no evidence to suggest that it had a substantial and long-term adverse effect on his day-to-day activities. Whilst he had become obsessed with his belief that he had been badly treated and this prompted him to devote an inordinate amount of time and effort to sending long complaining emails, and whilst his behaviour was a cause for frustration and perhaps concern, his day-to-day activities were not substantially affected, or at least, there was no evidence of this being the case.

6.371 In the event the Tribunal was wrong in its finding that the Respondents did not perceive DG to be disabled, it went on to consider whether JH treated DG less favourably than someone else on the basis of perceived disability ie. autism. The Tribunal found they and JH in particular did not for the following reasons.

6.372 The alleged treatment was accusing DG of lacking empathy. In her email summary of the meeting on 8 September 2022, JH made the point that DG appeared to show no awareness of the impact a lingering threat of complaint might have on his colleagues (ie. on her and on JB). In other words, JH did tell DG that during the meeting he had demonstrated a lack of empathy. But pointing such a thing out to him or to any trainee priest does not amount to less favourable treatment. Empathy

must be one of the most important “tools” in any priest’s vocational “toolkit”. JH was head of the First Respondent’s Vocations and Training Team. It was her duty to ensure that only those curates who met the standards set by the Church of England were signed off as being suitable for ordination in that Church and in that diocese.

6.373 In cross examination DG asserted that it was JH and not JB who first raised a concern about making a complaint. The Panel did not accept his version of events on this as he did not challenge JH’s summary of the meeting at the time and DG was and is a man who is not afraid to immediately challenge something he disagrees with. Who started the conversation about fear of complaint is irrelevant because DG accepted that JB did say words to the effect that he felt anxious about a complaint from DG and DG did say in cross examination that he could not give any assurance to JH about not making a complaint against her.

6.374 In the circumstances, what JH said to DG was perfectly reasonable. She was acting in her professional capacity as DG’s training principal. It was incumbent upon her to give one of her trainee priests valid feedback on an important attribute which he appeared to lack at that particular time. JH, and others employed by the Respondents, may have suspected or believed DG was autistic or was affected by some other condition and that this may have prompted behaviour which they found to be disconcerting. But there is no cogent evidence to support DG’s assertion that JH gave this feedback *because* she suspected he had autism, if she so suspected at all. The same feedback would validly have been given to any trainee priest in the same set of circumstances, regardless of whether or not they had autism, a disability or any other protected characteristic.

6.375 For these reasons, this claim of direct discrimination fails.

### **The Alleged Fabrication of Documents by NS**

6.376 DG accuses NS of fabricating a number of documents provided to JJ as part of her investigation into DG’s complaint against NS. The Tribunal found that NS did in fact retrospectively amend or otherwise manufacture documents provided to JJ, however, for the reasons given below, this did not undermine the credibility of this witness when it came to the issues the Tribunal had to decide,

6.377 On 20 October 2021 NS sent JJ a copy of the Person I complaint email of 22 November 2019 [B/2122-2123]. When one compares this against the original [B/308-309], can see it has been amended by words not included in the original. The underlined part of the below extract was a later addition:

*Both Person J and I are Godparents to David’s son and are committed to maintaining a relationship with him and the rest of the family. To be clear the others listed below (besides myself and Person J), want no further contact with, or from David. This is not an easy decision for us to make nor one taken lightly, but we all feel that the situation has grown unmanageable for us and that we need to pass it up to DSA level.*

6.378 Given that the original version was sent to NS and NS then forwarded the amended version to JJ, it follows that NS made the amendment.

6.379 On 23 November 2021 NS sent JJ what he said was a copy of the notes from the meeting he and LCH had with DG on 15 January 2020 [B/2195-2197]. The notes list the seven individuals who signed the Person I email of 22 November 2019. One of them is Person K. The name given in the note for Person K is her married name. Person K was not married until August 2020, some 8-months after the meeting with DG. NS provided no cogent explanation for this; therefore, he must have created the document long after the time when he said it was created (i.e. January 2020).

6.380 The same discrepancy was identified by DG in a document which was said to be the minutes of the core group meeting on 19 March 2020. DG was provided with a redacted version of this document [B/527-529]. However, he later discovered that Person K was again referred to by her later married name. Without a plausible explanation from NS on this point, it was found that this document was not the original and was produced long after the date on which it was purportedly produced.

6.381 The remaining discrepancies related to documents relating to NS's referral to CD. When JJ investigated DG's complaint against NS, which was made on 29 September 2021, NS told JJ that he did not have a written record of the referral to CD which he recalled had been a verbal referral. However, the three separate documents subsequently came to light which related to NS's referral of DG to CD.

6.382 The three documents are:

(1) the "Contact Sheet" dated 12 February 2021 [B/759-761],

(2) the document dated 16 March 2021 [B/791-793] sent by email by NS to CD by email [B/794], and

(3) the undated document [B/2125-2127] sent by NS to JJ by email on 20 October 2021 [B/2123].

6.383 DG asserted that the second document above is the true referral document and the other two are later fabrications.

6.384 In an email to RL and JH on 18 February 2021 [B/762] NS wrote that he had briefed CD, presumably over the telephone. He added that CD would need a "written summary" which NS said he would provide. The second document, which DG accepts as the authentic referral document, is dated 16 March 2021 and was sent to CD by NS by email on 17 March 2021. This then appears to be the written summary which NS referred to in his email on 18 February 2021 and is genuine.

6.385 The third document is undated but was sent by NS to JJ on 20 October 2021 to assist with her investigation. NS describes this as the "commissioning" document. It is similar in form and content to the second document, but it is not identical. DG asserts it is a falsified version of the second document. DG makes a comparison with what he believes is the genuine referral document. He notes that the several people who made a complaint about him were named in the original document but are not in the later version, because he was covering up an alleged data breach. He

also suggests that the later version is more neutral in tone and does not portray him as a villain as he believes the original version does.

6.386 On the balance of probabilities, the Tribunal found that DG was correct in that this third document is an amended version of the original referral summary sent to CD. This was sent to JJ on 20 October 2021 in place of the true version.

6.387 The Tribunal considered whether first document is also a fabrication and found that it was. This was because NS first told JJ that he did not have a record of his initial contact with CD but subsequently produced this document. Its header refers to it as a "Contact Sheet" and it is in an identical format to the falsified 15 January 2020 meeting notes. Of course, NS may simply have been using a standard form to record such things, however in light of his first response that he did not keep a record and his propensity for manufacturing other documents in response to DG's complaint about him, it was more likely than not that this was produced at a later date and is not authentic.

6.388 NS denied falsifying any of the above documents. In the absence of any explanation, it is difficult to identify what his motive for doing so was. Of course, creating false document must be an act of dishonesty and in providing false versions to JJ, the person investigating a complaint against him, was intentionally misleading. However, this reprehensible behaviour did not alter the Tribunal's findings in regard to any of the claims brought by DG.

6.389 Perhaps in some way NS was trying to protect himself, given that he was under investigation. But there was no obvious reason for him to do so as there was no evidence to suggest that he in any way acted improperly in his dealings with DG or the Respondents. NS had otherwise acted in good faith at all times, and there was no obvious reason why he needed to falsify the documents in the way he did.

6.390 Although NS misled JJ by producing the false versions of these documents, it did not automatically follow that he had misled the Respondents in any other way which caused a detriment to DG. There was nothing in the falsified documents which was fundamentally untrue so far as it related to the complaints made against DG, his response to that complaint, the earlier events at Cuddesdon, and in the general background information given to CD at the referral stage of the psychological assessment.

6.391 The Tribunal found that DG's conduct towards NS over the many months prior to the complaint may well have had an adverse impact on NS's state of mind and the complaint, when it came, must have made matters even worse. This, and the unjustified criticism of him by DG, may have caused NS to react in the way he did.

Judge C J Cowx

23 September 2025

REASONS SENT TO THE PARTIES ON  
3 November 2025

.....  
FOR THE TRIBUNAL OFFICE