

“Bishop’s Council members’ responsibility to be ‘critical friend’ - are we doing enough?”

I wrote a paper for the Bishop’s Council in which I raised the following six thinking points:

- Our attitude: As Bishop’s Council members, in our role to support our bishops and diocesan staff in their work, does our default position tend to be one of “friend”, when our actual legal duty is to be “critical friend”?
- Our time: At Bishop's Council meetings we receive reports from other committees and only have time for a few minutes discussion on each matter. Are we similarly at risk of being unable to provide sufficient oversight and scrutiny?
- Our expertise: How often on Bishop's Council do we consider commissioning external independent expertise to supplement or as a cross check against the in-house expertise provided by the diocesan staff?
- Sub-structure: How certain are we that specialist committees underneath the Bishop's Council have sufficient specialist expertise amongst the membership, and that the expert attendance at those meetings is good?
- Questioning: Could we be criticised for making no effort to independently verify?
- Specific risk areas: The Bishop's Council receives a regularly updated Risks Register. These list the areas which the staff consider to be our major risks. Are there any other areas of risk that Bishop's Council members can think of that might not be picked up by the staff perspective?

My paper was discussed at the September meeting of Bishop’s Council and taken further forward at its October meeting. The paper is attached.

Adrian Vincent, October 2016.

Bishop's Council members' responsibility to be "critical friend"

– are we doing enough?

Discussion paper for Bishop's Council: 6 September 2016

On 10 May 2016, I, another member of Bishop's Council and two members of diocesan staff attended the "Training for Charity Trustees" day by Charles Russell Speechlys LLP. I am most grateful to the Diocese for funding that training. The training material listed the legal duties of charity trustees, which we have as members of the Bishop's Council / Diocesan Board of Finance. These duties included:

"Duty of care: (i.e. use of 'reasonable care and skill' as trustees, and obtain professional advice where necessary.)".

"Duty to "establish good internal controls."

"Functions (but not ultimate responsibility) can be delegated to committees, chief executive etc."

"Trustees should not merely 'rubber stamp' what chief executive wants to do."

Two subsequently published reports provide examples where boards have failed in these duties, and this has challenged me to ask whether there are lessons which we as members of the Bishop's Council could learn.

In July, the House of Commons report into the collapse of BHS was published.¹ The investigation included how the then owner of BHS, Sir Philip Green had failed to properly fund the staff pension scheme. The House of Commons report criticised the Board of Directors:

"133 [...] When asked, board members failed to articulate any convincing examples of instances in which Sir Philip was successfully overridden by the rest of the board or indeed challenged at all."

"135 [...] We saw meagre evidence of the type of constructive challenge that a good board should provide."

¹ *House of Commons Work and Pensions and Business, Innovation and Skills Committees: BHS: First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016–17. Report, together with formal minutes relating to the report Ordered by the House of Commons to be printed 20 July 2016* <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/54/54.pdf>

Thinking point 1: Our attitude: As Bishop’s Council members, in our role to support our bishops and diocesan staff in their work, does our default position tend to be one of “friend”, when our actual legal duty is to be “critical friend”?

The second report, also published in July, was of the review into Kendall House, commissioned by the Dioceses of Rochester and Canterbury.² Kendall House was a Church of England run children’s home for girls which operated from 1967 until 1986. The review found that the girls had been wrongly-medicated, isolated, and suffered physical and other abuse. Kendall House had been overseen by an Executive Committee which reported to the Joint Diocesan Board of Social Responsibility (the “Joint Council”). The home was run by a superintendent (Miss Law) who was a Church of England lay Reader.

The review identified failings by members of the Executive Committee and the Joint Diocesan Board:

Insufficient time for scrutiny by Board members

Page 35: “In our view, the size and constitution of the Joint Council were such that proper oversight by it of Kendall House would have been impossible. It met only infrequently and essentially received reports from other committees about the many and varied projects it was funding across both dioceses.

Thinking point 2: Our time: at Bishop’s Council meetings we receive reports from other committees and only have time for a few minutes discussion on each matter. Are we similarly at risk of being unable to provide sufficient oversight and scrutiny?

Insufficient expertise amongst Board members

Page 41: “There was also a consistent lack of curiosity demonstrated by these ‘oversight’ committees. They were attended by well-meaning but often ill-informed members who were content to engage in fundraising, attend events and offer thanks, but who were quite unable to probe, challenge or ask questions about what was happening at Kendall House or why. [...] committee members were largely lay volunteers and clergy. They had no experience at all of dealing with children with the problems of those at Kendall House and, significantly, no experience or awareness of good practice at other similar institutions.”

² *Report of a Review of Kendall House, Gravesend 1967-1986: Prepared for the Church of England Dioceses of Rochester and Canterbury*, S Proctor, S Cohen & R Galloway, June 2016 <https://www.churchofengland.org/media-centre/news/2016/07/statement-on-kendall-house-review.aspx>

Page 69: “No evidence was found of the committees seeking external assurance from other social work or clinical professionals.”

Thinking point 3: Our expertise: I am an example of a “well-meaning...lay volunteer” in that I do not have expertise in many of the areas for which the Bishop’s Council is responsible. How often on Bishop’s Council do we as members consider commissioning external independent expertise to supplement or as a cross check against the in-house expertise provided by the diocesan staff?

Insufficient expertise amongst the Executive Committee

Page 35: “The Executive Committee [...] had a minimum of 7 members (of which there was to be a nominee from the social services departments of Kent, Bromley and Bexley councils. These people would have been nominated by the local authority and would not necessarily have had any social work experience, as they may have been elected members, not officers). [...] Concerns were raised at the time about poor attendance of these nominated members from the local authority.”

Page 118. Recommendation 12. “Both dioceses should assure themselves that all committees have clear written terms of reference, and clear, written reporting and accountability arrangements. These should be reviewed at least every two years and assurance given they are fit for the purpose for which they were established. This should be overseen by the Diocesan Synod;”

Thinking point 3: Sub-structure: How certain are we that specialist committees underneath the Bishop’s Council have sufficient specialist expertise amongst the membership, and that the expert attendance at those meetings is good?

Insufficient questioning by members

Page 35: “Miss Law (or someone on her behalf) provided reports about Kendall House. [...] The minutes of these meetings describe no proactive enquiries of Miss Law about the regime at Kendall House. It appeared that the committee accepted uncritically and without question what it was told. Committee members also visited Kendall House individually, at a rate of about one every month. No resident we have interviewed recalls being spoken to by any visiting committee member, although we have seen references in the individual files of committee members being given lunch or tea with the girls. We take the view that these visits were not likely to have provided much insight into the true nature of the regime at Kendall House and such little time

was spent with the residents. It is unlikely that committee members would have spoken with the girls without a senior staff member in attendance.

Page 41: “It is our opinion that there was no effective supervision of Kendall House, by the Joint Council or its Executive Committee. These committees received brief reports from Miss Law about the home without any record of discussion, challenge or question. Members appeared to trust that she and Dr Perinpanayagam were always correct, candid and professional, and were deferential and affirming towards them constantly. It is not clear to us that members of these committees understood the importance of their roles, or appreciated that they could challenge or question the running of Kendall House. [...] Criticism of Kendall House would necessarily have meant criticism of Miss Law. This was particularly difficult for those on the oversight committees who were likely to have known Miss Law for many years through her work with the church, and have come to respect her and what she stood for.”

Page 80: “We found one example contained in the minutes of the committee which suggests that one member paused for thought about the adverse publicity concerning the medication regime at Kendall House. This arose after a critical article was published by the then Chief Executive of mental health charity, MIND about Kendall House. On 10th June 1980, a member, *“wondered if criticism should be ignored. Miss X, (senior diocesan officer) expressed confidence in Dr Peri. He maintained that he was not experimenting on the girls as had been suggested and that drugs given to the girls were for treatment, not crisis intervention. (The member) continued to express concern.”*

It is incorrect that drugs were not given for crisis intervention; this chapter has described extensive examples of precisely that. Had any committee member looked at the individual daily records of almost any child resident at Kendall House at that time, or even spoken with them, they would have been able to discover for themselves repeated examples of the regular administration of psychotropic medication in non-crisis situations. It is not possible to determine why the senior diocesan officer (now deceased) provided that information to the committee. We consider that the committee members were likely to have been misled by this information.”

Page 118, Recommendation 11: “Both dioceses should assure themselves that all diocesan committees develop a way of working that fosters a style of curiosity, scrutiny and constructive challenge in the manner of members taking on a ‘critical friend’ role to officers. This should be facilitated by the development of clear guidelines and standards for practice”

Thinking point 4: Questioning: Could we be criticised for simply taking on trust whatever staff members say and making no effort to independently verify? For example, the Bishop’s Council presumably has ultimate oversight of the Church of England schools run by the Diocesan Board

of Education (DBE). Do we receive DBE minutes as a matter of course? Do we accept uncritically what is contained in them? If there was something going wrong in one of our Church of England schools, would this come to the attention of the Bishop's Council; and if it did, what would we do about it? I use our schools as a random example; other examples could be the work of our prison and hospital chaplains.

Thinking point 5: Specific risk areas: The BHS report related to pensions. The Kendall House report related to safeguarding. What could be our 'BHS' or 'Kendall House' in the Guildford Diocese? Probably something completely different from pensions or safeguarding, given that the above reports have alerted us to those problems? The Bishop's Council receives a regularly updated Risks Register. These list the areas which the staff consider to be our major risks. Are there any other areas of risk that Bishop's Council members can think of that might not be picked up by the staff perspective?

17 August 2016

Adrian Vincent