

Witness Name: Alexander Charles Carlile

Statement No.: 1

Exhibits:

Dated: 08 March 2019

## THE INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE

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### Witness Statement of Alexander Charles Carlile (Lord Carlile of Berriew CBE QC)

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I, Alexander Charles Carlile , will say as follows:-

1. I have been asked by the Tribunal to make a statement in relation to the late Bishop George Bell.
2. In November 2016 I was asked by the Church of England to conduct an independent Review into the way the Church dealt with a complaint of sexual abuse made by a woman known as 'Carol' against the late Bishop George Bell.
3. I agreed so to do, on the understanding that my role was entirely independent, that I would be given all reasonable assistance and facilities, and that my review would be published.
4. My Review is already before the Inquiry. Given that the Inquiry has read it, I do not propose to repeat it in this statement. Rather, I shall deal with the particular questions that the Inquiry legal team has raised with me.
5. I was asked by the Inquiry to provide a statement on behalf of the Cambridge Theological Federation. I do not understand this reference. I have never had any dealings with that Federation, and was unaware of it until the Inquiry's request.
6. I have been asked to provide some information about my background.
7. I am a Barrister. I was called to the Bar by Gray's Inn in 1970. From 1971-84 I practised principally from chambers in Chester, on the Wales and Chester Circuit. I took Silk (became a QC) in 1984, and since then have practised from chambers in London, though with associated chambers in Liverpool and Chester.
8. I was the Liberal/Liberal Democrat MP for Montgomeryshire from 1983-97, when I stepped down for family reasons. Since 1999 I have been a member of the House of Lords as Lord Carlile of Berriew QC. I am now a cross-bench member.

9. I was the Independent Reviewer of Terrorism Legislation from 2001-11 and was awarded the CBE for services to national security.
10. I remain in Bar practice from Foundry Chambers in London. However, since 2012 the emphasis of my professional work has been as a Director of SC Strategy Ltd, an internationally active political risks consultancy, which I started and continue with my fellow Director and owner of the company Sir John Scarlett.
11. I am an Honorary Professor of Law at the University of Swansea, a Fellow of King's College London, and hold five honorary LLD degrees.
12. Over a long period between about the mid-1990s and 2010 I conducted several trials arising from non-recent child sexual abuse. These included both prosecution and defence briefs, arising from events in Cheshire, North Wales and Merseyside.
13. In addition, in 2002 I produced for the Welsh Assembly Government a review entitled *Too Serious a Thing*. This was a review of safeguards for children at all levels and in all parts of the NHS in Wales: I made over 100 recommendations, and almost all were adopted.
14. I conducted an independent review into sexual misconduct and safeguarding issues concerning St Benedict's School, Ealing, and Ealing Abbey. That issue has been the subject of separate consideration by this Inquiry.
15. I was asked for an explanation for my conclusion that confidentiality clauses were or could be an appropriate mechanism when dealing with allegations / civil claims concerning child sexual abuse. In particular, I was asked whether this conclusion related to the particular facts in George Bell's case specifically, or whether it is a more general view.
16. My view is both general and particular. I provided an explanation at pages 66-7, paragraphs 261-263 of my Review.
17. In addition, I would remind the Inquiry of the realities of litigation. Where a civil litigation defendant is faced with a claim, especially brought by a Claimant able to rely on public funds, settlements are often reached on an economic basis. In such cases confidentiality agreements are common, enforceable, and often in the interests of both litigants. Further, where the 'real' defendant is dead, and therefore cannot be talked to, evidential issues may lead to an economically driven 'litigation risk' settlement.
18. There will be some cases in which there will be an overriding public interest in publicising such an agreement at a later date – for example when a live person denies a former relationship, but has instructed his/her lawyers to reach a settlement on the basis that it occurred. This was not such a case.
19. Further, there are particular issues concerning the dead. I cannot accept that there is an overriding requirement that allegations against deceased clergy, even those that are

untrue or may well be, require publicity and the inevitable consequential destruction of the reputation of the dead person.

20. I was asked to comment on the fact that the Inquiry notes the EIO guidance (at EIO000140 and EIO000143) which concluded that such confidentiality clauses would not be usual or appropriate in such cases. I was asked to explain whether these documents were brought to my attention and if so, what I thought about them/why I considered it appropriate to depart from them.
21. In response, I can say that I was made fully aware of these and other considerations. My conclusion was founded on the issues in this particular case, alongside my considerable experience as a lawyer advising on litigation. I also obtained guidance about the practice in defamation and other reputation cases.
22. I was asked whether I was provided with any information by members of the Core Group or the Church of England about their concerns about the use of confidentiality clauses; and for associated detail.
23. This issue is dealt with at page 65, paragraph 254 of my Review. The Core group was not placed in a position to make a structured decision on this issue and, despite some reservations, their actions were based on the premise that disclosure was inevitable.
24. I was asked to refer to paragraph 170 of my report, where I reached the conclusion that the Core Group should have sought advice from a specialist criminal lawyer on the strength of the evidence. I was asked to explain my reasoning for reaching this conclusion and why the test under the Code for Crown Prosecutors was important, given that any group should assess matters on the basis of the balance of probabilities (as set out in paragraph 49 of my report).
25. In my view this case fell below the balance of probabilities test, so the question is not directly relevant.
26. However, Bishop Bell was accused by Carol of serious criminal acts against her. Ordinarily such accusations would attract a police investigation. It is always instructive in such cases to assess how likely or otherwise a prosecution would be. The process of a criminal investigation provides a useful discipline for measuring the strength of evidence. If the conclusion is that probably there would have been a prosecution, that would provide strong comfort for a decision to settle. If not, one would have to move on to applying the balance of probabilities test. I regarded the application of the criminal test as a helpful aide to calibration of the case.
27. I have been asked to explain why I reached my conclusion as to the need for more discretion / privacy in respect of the issuing of public statements.
28. In a weak case, and especially one where the deceased person accused by definition cannot provide answers to any questions, and in the absence of any confirmatory

evidence of substance, sending out a press release that effectively says there has been an adverse finding is a disproportionate representation of what has been found. The Archbishop of Canterbury told me that all accusations have to be made public. I just do not accept this as sensible, fair or proportionate.

29. I have been asked for an explanation for my reasons in concluding that the Church should have actively considered the question of limitation (please see paragraph 155 of your report).
30. Page 38-39, paragraph 155(v) of the Review is clear in dealing with this point. The action was time-barred, a proposition that in my view might well have been confirmed if the Church had considered the point fully. That would have provided a fair and just conclusion of the matter. I am astonished that the point was abandoned so rapidly, without even counsel's opinion.

#### Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed:

**DPA**

Dated: \_\_\_\_\_ 08 March 2019 \_\_\_\_\_

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**1. EXHIBIT ACE025920 (Inquiry reference)**

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**Report to the Church of England in relation to Bishop George Bell published on the 15 December 2017**