Following their regular October meeting, the House of Bishops initially issued a rather uninformative report on 8th October followed by a much more detailed and significant account a week later. This was released in part it is rumoured because of yet another leak, a disturbing feature of the Prayers of Love and Faith process since its start. This fuller update opened by referring to the fact that "the House reviewed detailed theological and legal advice on outstanding questions" and later signalled that "the Bishops reviewed advice both from the Church of England's Legal Office and the Faith and Order Commission" but there were precious few details apart from the promise "all of which will be published in due course". That publication happened this week (on Bonfire Night) and it is important because of the unexpected and significant changes to the future LLF/PLF plans that were reported in that second fuller account. The central elements of these were:

- "the bishops agreed in principle that both bespoke service and clergy same-sex marriage would need formal synodical and legislative processes to be completed before they could be permitted" and this was because
- Despite the "wide range of views within the House on questions of sexuality and relationships" there was now "strong consensus on the need for unity, transparency and proper process alongside pastoral care" and "across traditions, the House of Bishops recognised these were the procedural realities to effect any future change". Indeed, in perhaps the most surprising element among many surprises there was the statement that "the decisions on most points were reached with near unanimity – spanning the breadth of theological tradition".
- As a result of these decisions, the bishops also "concluded there is currently no need for a new code of practice setting out special arrangements such as Delegated Episcopal Ministry".

Explaining this U-turn, the Archbishop of York was reported as saying "we believe these are the right decisions following further legal and theological advice".

Initial Reactions

Quite understandably, particularly given past decisions, Synod votes, and multiple statements from the Archbishop of York and other bishops about the direction of travel over nearly three years now, this has led to widespread hurt and anger being experienced and expressed by many people. They were expecting bespoke services to be swiftly introduced by commendation for use under Canon B5 shortly after next February's Synod, as supported by Synod in July 2024 (not taken through the Canon B2 process now planned). They believed that at some point in 2026 there would be new pastoral guidance issued by the House of Bishops that would permit clergy to enter civil same-sex marriage (along the lines drafted and circulated for comments over two years

ago in summer 2023 and supported by the House of Bishops in October 2023). Among the particularly important and powerful articulations of these responses have been pieces by David Monteith, the Dean of Canterbury, Mark Oakley, the Dean of Southwark (text and video), and Charlie Bączyk-Bell. Other significant analyses from those disappointed at these developments include reflections from Steve Hollinghurst, Ruth Harley, Helen King, Together Trustees, and an Open Letter from Inclusive Church. There are here many similarities with (1) the responses to the bishops' proposals after the Shared Conversations (set out in GS2055 in January 2017) leading to the House of Clergy refusing to take note and triggering what became the LLF process and (2) reactions to the initial decision (set out in GS238 in October 2023) to only commend PLF for regular services and to use Canon B2 for standalone/bespoke services leading many bishops to backtrack and support an amendment calling for some form of experimental services being authorised without waiting for the B2 process.

In contrast, those associated with the Alliance who have worked and hoped and prayed for something similar to this new position now so widely embraced by the bishops have said little publicly (although CEEC issued an initial public response and a later internal, but also leaked, newsletter).

All of these responses were reacting to the decisions made by the bishops (to be finalised in their December meeting and then in that final form brought to General Synod for debate in February 2026) but until these new documents appeared they had not "shown their workings" to get to this answer. Now we can see the theological and legal advice what do they show? These are lengthy, serious documents requiring further thought and analysis but by setting them in the context of the history behind their production we can identify some key questions which we can then try to answer for both forms of advice.

The documents and earlier key PLF documentation are available and able to be queried by AI in this Google Notebook LM notebook.

Theological and Legal Advice - Key Questions

The statement attributed this largely unexpected development to the bishops having a focus on "the need for unity, transparency and proper process" in the light of this new advice.

This raises the question about why it has taken three years since the bishops began the post-LLF discernment process for these three criteria to become so decisive and whether the previous lack of "transparency" (something Martyn Snow spoke of when he first reported to Synod back in February 2024) has in fact helped to conceal a lack of "proper process". It is important to recall that in a dissenting statement from the October meeting two years ago, 12 bishops included their concern that there was "legal and theological advice the House has received" which "suggest clearly to us that the

decisions of the House may fall short of" the commitment, supported by Synod, that "the final form of the prayers should not be "indicative of a departure from the doctrine of the Church of England"".

The more specific obvious questions are

- What has changed in this "further legal and theological advice"?
- Is it advising on matters where previously the bishops did not seek such advice?
- Is it explicitly or implicitly revising and/or retracting past advice?
- Or is it just making even clearer what that advice always said, explicitly or implicitly, but the bishops previously sought to downplay or ignore or workaround?

We can take the legal advice and theological advice in turn.

Legal Advice

What has been the previous legal advice?

A major problem in answering these questions in relation to legal advice of course is that this release of legal advice is unprecedented within the LLF/PLF process. The House, despite having published an "extract from a note from the Legal Office" in GS2055 has previously resisted calls to see the legal advice. It has instead insisted that this was not necessary or desirable and that the reports to Synod were a sufficient summary of the formal advice.

I have discussed questions about legal advice in various past articles and most fully here in Nov 2023 and here in February 2024 (drawing on the listing of legal advice provided to bishops in an answer to a question at that Synod).

Although further more detailed analysis of the various documents will be necessary either to substantiate or to qualify this, my initial judgment is there appears to be very little in the published legal advice which is surprising given (a) the content of GS 2055 (the advice in which Synod was told in July 2024 had not changed) and (b) the summaries of more recent legal advice in various Synod papers. Those summaries were of course produced to give as clear and strong an impression as possible that the decisions and future plans of the bishops which the summaries appeared alongside were legal and secure. Ultimately, only the release in full of the actual legal advice offered previously will enable full transparency as to the extent to which the new and now published legal advice is different in either substance or tone. However, in summary

- Back in January 2017, GS2055 in its Annex set out possible pathways for "providing services for same sex couples" (para 8). Two of these involved amending canons (B5 or B30), one was to "maintain the position set out in the 2014 pastoral guidance on same sex marriage" so no change leaving only one of the four paths that brought change without changing canons (para 8c) where the two requirements, with a possible third requirement (para 9) for this non-canonical route being practically challenging. That is why the bishops in 2017 did not want to go even as far as the relatively small steps that have already been taken by PLF. Similarly, in relation to clergy discipline, there were five paths outlined, including "no change". Again, 3 of the 4 that would introduce change required canonical change (canons C26 or B30), or a teaching document distinguishing civil same-sex marriage and holy matrimony.
- That distinction was of course the initial approach taken when introducing PLF and a summary note of the legal advice relating to it was subsequently published (GS Misc 1339) and strongly critiqued (here and here) and by summer 2023 was already recognised to have serious legal and theological weaknesses. This made any changes without changing canons even more difficult.
- That approach was taken in order to create a workaround because in their final Dec 2022 discernment meeting considering options going forward the bishops were advised that if they opted for a proposal "to offer same-sex couples in civil marriages or partnerships a new service of blessing which is not a solemnisation of marriage" then "Legal and canonical change would be required alongside new liturgical texts" and "This would require theological grounds for 'development of' or 'departure from' current doctrine". Here we have being flagged elements of what is now set out in the "new" published legal and theological advice.
- The House appears to have received legal advice in October 2023 that although it may decide that PLF did not indicate a departure from the church's doctrine in any essential matter (the canonical test), "it would be difficult to say that making the PLF available for same-sex couples without there being an assumption as to their sexual relationships was not indicative of any departure from the Church's doctrine" (GS 2328, para 17). This means it failed to pass the Synod's test set out in the Cornes amendment in February 2023 and it may have been one reason why at this point the House moved to supporting the canon B2 process for standalone services to which it has now returned.
- GS 2346 Annex A in Feb 2024 set out a summary of legal matters in relation to liturgy and its summary table states that Canon B2 is a "clear Synodical process" with "lower legal risk" and the only disadvantage noted was the difficulty of securing ⅔ support. In contrast, use of commendation, although making services "available quickly" (in theory!) and being what Synod had supported a

year earlier, had the risk of "High likelihood of legal challenge being brought against individual ministers".

- GS 2346 Annex B gives a summary of legal advice provided to the House in late 2023 and held that, given canonical changes (again the key canons cited as in 2017 are C26 and B30) were not wanted, "There appear to be three options for removing restrictions on clergy entering into same-sex civil marriages: either the bishops issue new doctrine or teaching, or they take significant legal risks in extending pastoral provision in a time of uncertainty, or they agree not to enforce disciplinary proceedings". The discussion of these 3 options makes clear all of them face significant difficulties and the new legal advice and new FAOC papers on doctrine and on discipline confirm and strengthen this initial assessment as discussed below.
- In July 2024, GS2358 Annex C included a note on the legal position which sketched some of the history and summarised past legal statements in relation to canonical processes for introducing standalone services.
- It also needs to be noted (see my discussion here and here) that in the July 2024 debate in General Synod, Michael Beasley, the Bishop of Bath and Wells referred to legal advice received by the House in December 2023 which suggested they were already being told then (though did not write this into the Pastoral Guidance or make it clear to Synod) not only that standalone services "must not resemble Holy Matrimony" but they "must also not resemble any other form of service connected with a marriage" if they were to pass the legal doctrinal tests for liturgy.

What is in the new legal advice?

The new advice published as GS Misc 1432 appears to be 12 pages lifted from HB(25)39.

Liturgy

It first considers three routes for introducing what are now called "bespoke services" and previously were called "standalone services": authorisation under Canon B2 or for an experimental period under Canon B5A and commendation for use under Canon B5. All these routes and the overwhelming majority of the legal advice found here has appeared in previous published documents (most fully GS 2346 Annex A) and one assumes in previous unpublished legal advice offered to the House including the crucial advice on B5A ("Prayers of Love and Faith: Authorisation for Experimental Use and Approval by the General Synod") that was prepared in September 2024 but only shared with the House in December 2024. Indeed, much of this "further legal advice" is simply cut and pasted with minor editing from GS 2346 Annex A in Feb 2024. The main new element appears to be para 17 which may have increased caution about

commending PLF for bespoke services but also weakens the existing commendation for PLF in regular services. Having reaffirmed previous advice that commendation does not determine the lawfulness of a form of service (para 15), that individual clergy may be exposed to legal proceedings (para 16, also para 18) but "it is unlikely that an accused who uses a commended form of service will be found to have acted unlawfully" (para 16) it then adds:

> However, where a form of service is commended only by a majority of the House of the Bishops, with significant dissent, the position is less clear. Commendation of forms of service has conventionally been by the unanimous decision (or at least a decision from which no bishop actively dissented) of the House of Bishops. Where – as was the case with the PLF Resources – a significant number of bishops dissent, it cannot be said that the episcopate is of a common mind that a form of service meets the requirement that it is "neither contrary to, nor indicative of any departure from, the doctrine of the Church of England in any essential matter". In those circumstances, a court might consider that less weight should be given to the fact that the form of service had been commended in determining its lawfulness.

Discipline

Turning to "permitting clergy to enter into same sex marriages" there is more new material here which is worth noting:

- Para 20 cites the important wording of the judgment in the case of Jeremy Pemberton. Although not cited in previously published material this was drawn upon less fully in early but unpublished legal advice (*Living in Love and Faith – Analysis of Legal Issues*: prepared by the Legal Office in March 2023 – provided to the College of Bishops in March 2023) which was shared with those of us who were on the PLF Implementation Groups at that time. This shows how difficult it is to tell what advice in this document is new when earlier legal advice remains unpublished.
- Para 21 (perhaps in the light of the theological papers discussed below) notes that "it is not obvious what principled basis there would be for changing the legal position….that the Church's doctrine means it is not open to clergy to enter into same sex marriage". It then asserts "to make such a change would require legislation". This is stronger than in the late 2023 advice set out in GS 2346 Annex B which considered other non-legislative options as the bishops were saying they wanted to work within the existing legal position.
- The legal changes required again refer to Canon C26 (referenced as far back as GS 2055) but also now add in Canon C4 (and its treatment of ordination and further marriage after divorce) which has not appeared previously in the papers.

This is also now prominent in the FAOC papers suggesting this path has perhaps now become the most likely one to be used to secure same-sex married clergy.

- The new advice that legislation is required leads to the setting out of those processes in relation to both canons and Measures (paras 22-27).
- The option of amending the canon on marriage, canon B30, (where advice has presumably not been sought before as the bishops had said, and Synod supported them, that they were committed not to do this) is then discussed (paras 29-32) the challenges of which are neatly captured in the comment that this approach "would be likely to include repealing the references to dominical teaching" and "amending the Prayer Book".
- Another new option of "a canonical dispensation to individual clergy" to permit their civil same-sex marriage is also explored (paras 33-37). Here it is noted that "to provide for a power of dispensation to permit the doing of something that was contrary to doctrine would be a novel departure in the canon law of the Church of England" (para 35) and would not include those already ordained who then enter such a marriage.
- The final section looks at the situation without legislative change - the focus of previous advice as that is what the bishops were seeking to do. This notes existing practice (para 38) and that this practice is not mandatory and could be diverged from by individual bishops (para 39). This is what previously was discussed as the third option of "agree not to enforce disciplinary proceedings" likely on the basis of the second option of "pastoral provision in a time of uncertainty". It is made clear that bishops here are subject to the canons (notably C 26 again) and so "cannot, therefore, lawfully decide that he or she will simply dispense clergy from compliance with their canonical obligations" (para 39). There is, however, held out the possibility (para 40) of a "more pastoral" approach in certain cases leading to "scope for different approaches to be taken to meet the circumstances of particular cases" within existing doctrine and law.
- Perhaps the most stark statement that will have unsettled those bishops wanting to proceed to permitting clergy in same-sex marriages is found in para 41: "What it plainly is not lawfully open to a bishop to do is to declare that no clergy in his or her diocese will face discipline if they enter into a same sex marriage".
- The final para 42 therefore states more strongly what was already clear for those with ears to hear in GS 2346 about the dangers in the option of not enforcing disciplinary proceedings rather than changing the canons: "if there is to be a diversity of practice in how such cases are dealt with, bishops – collectively as the House of Bishops or individually – will need to take great care how they express their intentions in that regard. So far as the House itself is concerned, it

will need to avoid including anything in its statement that would render the policy set out there unlawful (and therefore subject to the possibility of being successfully overturned by a court)".

Legal Advice: Summary Conclusion

In summary, it has always been clear that any ways forward to standalone/bespoke services or permitting clergy to enter same-sex marriage that avoided Canon B2 or changes to other canons faced major difficulties and significant risks of legal challenge. For some reason the bishops pressed on regardless, seeking to introduce such services by commendation and new pastoral guidance without canonical change. It would seem that a majority were so keen to achieve these goals by those means that they simply downplayed the legal difficulties being highlighted.

Although given the non-publication of previous legal advice there are many "known unknowns" here and possibly some "unknown unknowns", in short, the answers to the four questions raised earlier appear in relation to the legal advice to be

- **What has changed in this legal advice?** Nothing in relation to introducing bespoke services and nothing fundamentally different in relation to clergy same-sex marriage (the Feb 2024 paper was clear after considering the options that "it is hoped that by explaining the considerations above the General Synod will understand why it is a complex undertaking to permit clergy to enter into same-sex civil marriages within these [doctrinal and canonical] constraints") although the need for legislation is more directly stated and Canon C4 is introduced into the discussion .
- **Is it advising on matters where previously the bishops did not seek such advice?** The matters covered in the advice were advised on previously although there is fuller and stronger discussion of the dangers in proceeding to permit clergy same-sex marriage without canonical changes.
- **Is it explicitly or implicitly revising and/or retracting past advice?** No
- **Is it just making even clearer what past advice always said, explicitly or implicitly, but the bishops previously sought to downplay or ignore or workaround?** The bishops have now simply had to face up to the legal difficulties that were always there and always being signalled, even if sometimes more subtly, in previous legal advice

GIven this, it would appear that it is the theological advice that may have been more significant.

Theological Advice

What has been previous theological advice?

The difficulty in relation to theological advice has been different from that in relation to legal advice. Here, as far as we know, there has not been unpublished material provided previously to the House but withheld from Synod and the wider church. The difficulty here was rather that the House appeared to think, until several months after it published its original plans and Archbishops and other bishops had made promises and given signals of more developments to come, that it did not need "further theological advice". In fact, earlier offers from the body instituted to do such work (FAOC - the Faith and Order Commission) that it assist the process of episcopal discernment by addressing the sort of questions it was becoming clear needed serious theological reflection (and that have now appeared) were declined and the erroneous argument made that all the necessary theological work had already been done and could be found in the LLF materials. This stopping of formal theological work on important questions from the publication of LLF in November 2020 and continuing through the episcopal discernment process in the second half of 2022 and start of January 2023 was one of the major flaws inherent in the whole process from the start.

The detailed theological rationale that was eventually offered for PLF (published in Oct 2023 as Annex H of GS 2328) was therefore a rationale written up after PLF had been proposed and accepted by Synod and it was not the work of FAOC as a body. It was instead "prepared by NCI staff and the chairs of the Steering Group" and "run past a small group of readers from different theological traditions, whose comments were taken into account" over a few months in the summer of 2023. As I and others noted at the time, there were some serious difficulties with its argument and proposed theological rationale for PLF in terms of "pastoral provision in a time of uncertainty". Even the bishops had to acknowledge its limits which meant that there was a need for "further work" to "consider whether the rationale of pastoral provision might provide a basis for allowing clergy to be in same-sex marriages" (GS 2328, para 15). This was because "The paper only covers the Prayers of Love and Faith and does not address questions around the lives of clergy and whether pastoral provision can be extended to clergy" (Annex H, Point 4).

Theological advice from FAOC does not come quickly or easily because it involves rigorous collective discernment and seeking of consensus and insight by a group of theologians representing a significant diversity of theological perspectives who provide unremunerated service to the Church of England in this way alongside their significant professional academic and other responsibilities. The delay in asking for such work to begin until the summer of 2023 when FAOC already had other projects underway and had not engaged with these questions meant there would be no quick or easy answers however much certain people wanted them.

The first set of answers appeared in theological advice published in two documents in February 2025 (so after the last significant Synod debate on PLF back in July 2024).

"A Report from FAOC" (GS Misc 1406) had 3 sections. The first section built on earlier work (in Communion and Disagreement, GS Misc 1139) published in 2016 to explore questions of unity and disagreement in relation to LLF/PLF. The second examined individual and collective conscience in episcopal ministry. The third section theologically assessed the widely repeated claim (backed by a majority of the House of Bishops in October 2023) that a clear distinction could be made between Holy Matrimony and Civil Marriage. It expressed "scepticism that a clear distinction between holy matrimony and civil can withstand scrutiny". The second document (GS Misc 1407) came from the bishops on FAOC (the Episcopal Reference Group or - unfortunate Brexit echoes - the ERG) as a part report on LLF and the doctrine of marriage. It comprised a compendium of sources on Church of England teaching on marriage and "Nine Theses About the Doctrine of Marriage" derived from those sources. A helpful 8-page summary booklet of these materials appeared to assist Diocesan Synods.

What is in the new theological advice?

The newly released material is in three parts. First of all, building on that earlier discussion of the doctrine of marriage, there is "The Nature of Doctrine and The Living God" (GS Misc 1429, 47 pages) now coming from FAOC as a whole, not just the ERG. Then, focussed on questions relating to introducing bespoke services, there is "The Doctrine of Marriage and the Prayers of Love and Faith: Texts and Contexts" (GS Misc 1430, 34 pages) which also drew in members of the Liturgical Commission as well as FAOC for its work. Finally, in relation to clergy in same-sex marriages, there is "The Exercise of Discipline and Clergy Exemplarity in the Church of England: The Case of Same-Sex Civil Marriages" (GS Misc 1431, 54 pages). These are all substantial and rich theological discussions (all helpfully have an executive summary) and, as noted at the start, merit much more detailed analysis and reflection. The aim here is simply to point out what within them, individually and collectively, is significant and might have led the bishops to take the decisions they did.

Doctrine

The paper on doctrine is in many ways the lynchpin and to see why it is necessary to recall why advice was finally sought in this area. Once it became clear (legally and theologically as noted above) that the distinction between civil marriage and holy matrimony was not really defensible it became very difficult to press on further with PLF plans while insisting that the doctrine of marriage was going to be unchanged. This was always a rather implausible claim on several grounds including that it meant any of these new developments could have been introduced at any point in recent decades as they were all consistent with marriage doctrine. Those wanting change therefore began to appeal to "the development of doctrine" or how doctrine "evolves" in order to open

up the possibility of the PLF plans and clergy in same-sex marriage being able to proceed. Having focussed in the earlier ERG paper on the doctrine of marriage this new paper looks more at doctrine as a whole.

It is significant that although much of the paper engages richly with more recent and contemporary writers on doctrine (an ecumenical group of 9 theologians comprising Newman, Westcott, Ramsey, Vanhoozer, Thiselton, McGrath, Coakley, Charry and Higton, paras 56-138) it begins, in some detail, with Thomas Aquinas (paras 4-29). This signals what is clear throughout: that the account is seeking to be rooted in catholic theological tradition (itself "regulated by Holy Scripture", para 15) and to show how the Church of England's understanding of doctrine and its development is not a novelty (para 30) but one expression of that tradition where "all share the view that doctrine is divinely revealed knowledge about God, which in this dispensation, where human sinfulness corrupts our reason, must be regulated by Holy Scripture" (para 15).

Despite having just referred to doctrine's development, one of the important elements of the paper is its preference for "dynamism" and caution that, in the words of FAOC's chair, "the Commission takes the view that 'development' is a potentially unhelpful notion with connotations of unidirectional progress and improvement" (p. 2, expanded at p.8 para 30 and discussed at para 74 in light of Newman). This challenges the many appeals (by the Archbishop of York and others) to this language to justify changes in relation to PLF and clergy in same-sex marriage.

In outlining "An Anglican Approach to Doctrine" (paras 30-55) the report ends with an important definition highlighting the need for both biblical warrant and ecclesial authorisation:

> the church's understanding of doctrine consists of that which the community has authorised as consistent with the Holy Scriptures or legitimately proved from it. Doctrine, one might say, is communally authorised knowledge about God warranted by the Holy Scriptures (para 55, see also para 146).

This is important because the bishops have at no point sought to offer any argument for any change in the church's doctrine of marriage and certainly not sought to show how any such proposal might be "grounded in and agreeable to the Holy Scriptures" (para 143; cf. para 160). The February 2023 Synod motion in the Cornes amendment also makes clear that Synod is not looking to "communally authorise" any such proposal in relation to marriage.

In addition to stressing that doctrine is dynamic and has to be "communally authorised" the report is also clear that doctrine is "communally regulative" (paras 139-146). As is noted in the discussion of Coakley (not one of the more conservative contemporary theologians discussed), doctrine "plays a regulative function in the lives of believers, individually and communally" (para 122). When it turns to the Church of England and

the dynamism of doctrine (paras 147-164) it sets out the responsibilities of bishops and Synod in "the Church's dialogue and discernment on doctrine, which may sometimes include defending wholesome doctrine by calling the church to reform, sometimes by leading it to realise the limits of doctrine reach beyond where previously recognised" (para 164).

Concluding with the LLF process (paras 165-174), the reason that this paper is so important in relation to the other two addressing the two key areas for decision, is that it has argued that "doctrine once communally authorised plays a regulative role in the community" (para 126). Here there are important implications explored but also perhaps more contested statements such that "the present disagreement about the content and use of the PLF is not over whether or not Holy Scripture plays the determinative role in doctrinal formulation expounded above, but how it does so" (para 168). What is clear, however, from this paper is that any attempt to argue for liturgical change or change in discipline cannot simply detach itself from doctrine and simply appeal to being "pastoral" or "missional".

The question that the church now must face is the extent to which it needs to be much more honest about the fact that the overwhelming majority of those pressing for change are doing so because they are convinced that our received doctrine is wrong to exclude same-sex couples from marriage. The question is therefore whether what we currently teach is "wholesome doctrine" to be defended or a limited and flawed doctrine which we need to "reach beyond". In determining the answer to that we need to be considering what the Church of England through its bishops and Synod can "communally authorise" as doctrine which is "grounded in an agreeable to the Holy Scriptures".

Liturgy: Prayers of Love and Faith

The regulative importance of doctrine in relation to liturgy is firmly articulated in all the canons concerning liturgy which seek to ensure liturgy is not contrary to or indicative of a departure from the church's doctrine in any essential matter. This is at the heart of our divisions over PLF as is clearly stated:

> the central claim is that the issue at stake is not merely pastoral or aesthetic, but potentially doctrinal: whether, in form or effect, the public use of the PLF constitutes a departure from the Church's received teaching on marriage as set forth in the formularies (para 9)

In evaluating this claim, one of the most important elements in the FAOC/Liturgical Commission paper, signalled by its subtitle ('Texts and Contexts") is that it offers a major critique of the argument that was previously being strongly advanced that all that really matters is the words spoken and thus if the words have been commended for use in one context ("regular services") they can and should be commended for use in another context ("standalone/bespoke services").

Once again how the paper opens is significant but the significance could be easily missed. It does not turn to that "regular/bespoke" distinction but rather to the private/public distinction which sadly was simply noted but never explored when the suite of PLF prayers were first commended by the bishops. If this became more central there may be less deep and less heated disagreements between those who have been in conflict. Having noted this in paras 5-7, it is helpfully explored in paras 10-23 followed by a recognition that any public service has a range of audiences which need to be considered (paras 24-35). This concludes that defending PLF texts "depends heavily on the clarity of liturgical differentiation and on the willingness of Church leaders to undertake sustained theological communication. Without such efforts, the mere fact of public enactment may carry doctrinal consequences that no disclaimer can fully prevent" (para 35). All this applies of course to *any* public use of PLF:

> The public use of the PLF, in any service…may have a considerable unintended symbolic and theological impact, particularly when they occur in church buildings and are witnessed by congregations gathered specifically for that occasion (para 7)
>
> In the setting of public worship, it is impossible to escape the reality that the use of the PLF is liable to be received, however unintentionally, as ecclesial endorsement of the relationship being blessed, particularly in the absence of an explanatory catechesis (para 14; cf paras 28-33)

As is then explored (paras 36-65), using ministerial discretion (which occurs whenever canon B5 is appealed to) is therefore a major responsibility given the importance of doctrinal fidelity and has to be taken seriously when considering whether, and if so how, to introduce new forms of prayer. There is a need for both "liturgical restraint…and theological clarity" so as not to "blur the distinction between pastoral accompaniment and doctrinal endorsement" (para 40). This is required to avoid the danger of PLF becoming "an instrument of theological partisanship" not "a shared act of worship grounded in common faith" (para 43) or amounting to "a de facto change of doctrine at the local level" (para 59) where "pastoral discretion becomes doctrinal pluralism, without the theological safeguards of collective discernment" (para 60) so that the link between doctrine and worship "may be placed in jeopardy" (para 64).

Recognising the move away from any claim of uniformity, the discussion here helpfully articulates one of the key questions that has rarely been addressed in the debates thus far:

> The introduction of the PLF raises the question of whether the Church's established limits of variation can accommodate liturgies of blessing for same-sex couples without doctrinal incoherence. The central concern is not simply whether such services are pastorally useful, but whether their liturgical structure

> and theological content can be reconciled with the formularies' doctrine of marriage and teaching on sexual intimacy (para 58).

The implications for how to proceed are then clearly stated in a way that has never been done thus far as the bishops have chopped and changed between multiple possible routes of introduction:

> In general, historically speaking 'commendation' by the House of Bishops represents the lightest touch and the highest risk of challenge once enacted, and a full synodical process would represent the most substantial treatment and the least likelihood that material would successfully be accused of communicating something contrary to or indicative of a departure from doctrine in an essential matter (para 62)

All this becomes even more complex in the light of the previously noted stress on considering more than the "words on the page" (paras 66-84). Here there are significant statements made about the context including in relation to the use of PLF, particularly in "bespoke services" but also in any public service. For example, that:

- "The action of blessing a couple within a public liturgical rite constructs an ecclesial meaning that is more than the sum of the words used. It becomes a social, ecclesial, and theological declaration" (para 71)
- Various gestures "may convey equivalence to marriage or suggest the conferral of ecclesial approval upon the relationship's sexual dimension" (para 76)

There then follows once again a clear statement of what is at stake that has astonishingly never been articulated by the bishops themselves throughout the synodical process:

> The central theological question, then, is whether the Church can enact a rite which is received as celebratory and offered publicly in its worship, while still maintaining that its doctrine of marriage and sexual ethics remains unchanged. The evidence of symbolic action, audience reception, and liturgical theology suggest there are clear and present challenges for this coherence that need prayerful, informed reflection in considering how the Church may want to proceed with the PLF (para 84)

The arguments now being advanced to justify changes as within the doctrine of marriage are now becoming highly nuanced and this then creates significant challenges in relation to liturgy:

> This paper has shown that the attempt to distinguish between affirming certain goods within a relationship and affirming the relationship in its totality poses significant practical and theological challenges. Symbols tend to communicate in broad terms, not nuance; liturgy tends to perform theology more boldly than it

> can qualify it. Attempts to explain these distinctions through prefaces or caveats may fall short of addressing the power of symbolic action (para 87)

Before ending with an important set of questions (para 90) The paper concludes by drawing together the threads of doctrine, discipline and liturgy that unite the 3 FAOC papers in its concluding paragraphs (para 88 and 89) highlighting that pastoral responses cannot be divorced from doctrine:

> Theologically, the question posed by the public use of the PLF is not primarily about whether God's grace is available to all. It is about how the Church responds lovingly to the hope of those who come before God and desire to show forth their praise in thanksgiving for what God has given them. But when the Church speaks, it necessarily proclaims and embodies its understanding of human relationships, of moral order, and of the relationship between function and form. The Church's rites are responses to pastoral need, but they are also instruments of formation and proclamation. They are the most visible means by which doctrine is communicated. The earthly audiences to which public liturgy speaks are likely to see it as performed in the name of the whole Church.
>
> If the Church is to maintain its doctrinal coherence while exploring new pastoral possibilities, it must attend rigorously to the theology of worship, the significance of public action, and the nature of prayer. The different possible contexts for the use of the PLF – private pastoral conversation, regularly scheduled public worship, and bespoke public services – are key to understanding whether their use may signify a challenge to doctrine. In either case, it cannot proceed as though liturgical practice were neutral or incidental. It is in the Church's public worship that her deepest convictions are revealed, and by which she teaches not only her members, but the world, what she believes about God, about humanity, and about love

In the light of all this it is easy to see why it would have been very difficult for the bishops to proceed with commending PLF for "bespoke services" but two other aspects of our current situation are also now very difficult. The arguments in this serious piece of liturgical theology from members of the two commissions tasked to advise on this matter have led the bishops to decide that the doctrinal questions at stake are such that they cannot any longer proceed to commend PLF-focussed services but that the church must follow the B2 processes.

Firstly, given this fact, are individual clergy really legally and theologically competent enough to assert they can determine under canon B5 the legal and doctrinal acceptability of such a form of service? Secondly, given the stress that the analysis and concerns raised apply to some degree to "the public use of the PLF, in any service…particularly when they occur in church buildings" (para 7) and that "the

introduction of the PLF into public liturgy, particularly without formal authorisation or broad doctrinal consensus, places strain" on our "framework of authorised texts and common structures (para 63) was not the original commendation of PLF rather than using Canon B2 a serious mis-step by the bishops?

Discipline: Clergy in Civil Same-Sex Marriage

After a context-setting introduction (paras 1-7), this paper explores the connection between discipline and doctrine in the Anglican formularies and canons, confirming the doctrine paper's account of the communally regulative element in doctrine and establishing three foundational concepts (paras 8-39). It helpfully shows that discipline is not simply punitive but formative and reformative (paras 40-46) and again roots this in wider catholic tradition, concluding with reference to the 4th century and Gregory of Nazianzus (para 46). There follows a lengthy examination (paras 47-74) of the question of whether the clergy are a special case in relation to discipline (of importance since at least the distinction in clergy and lay disciplines established in 1991 by *Issues*). This clearly shows clergy in their oaths and declaration commit themselves to "an individual and familial form of exemplarity" which rules out certain options for them and that the nature of the exemplarity "is shaped by the demands of Holy Scripture, and has both a primary, divine audience and a further, human audience" (para 74).

It is at this point that the two key categories or pathways that have been proposed to enable clergy same-sex civil marriages are introduced. This first of these is "pastoral accommodation" (paras 75-79, this terminology is here revived despite the rationale for PLF having sought to replace that terminology with talk of "pastoral provision in a time of uncertainty", a rationale not discussed here). This is explored in relation to Canon C4 which provides a form of communal regulation in relation to marriage and clergy exemplarity by permitting, under certain conditions, the ordination of someone who has remarried with a surviving spouse from a previous marriage. The second possible pathway is the contrasting one of "relaxation of discipline" (paras 80-84). Here it is noted that if this is agreed by the House of Bishops it would still amount to "a form of communal authorisation and communal regulation" (para 83) but that as the action of an individual bishop "there is no longer a direct link between communal authorisation and communal regulation" and "this increases the chance that doctrine and discipline may become disconnected" (para 84).

The question of the connection between doctrine and discipline is then considered further (paras 85-90) but sadly a third option of "realising new limits to the doctrine of marriage" is not explored on the basis of the past decisions of bishops and Synod not to change this doctrine. This is particularly frustrating not only because this is what probably most who support clergy in civil same-sex marriage would wish to happen but also because, as it is acknowledged,

> Revising Canon B30 offers the highest level of communal authorisation as well as the highest level of coherence between what is communally authorised and communally regulative. That is to say, this approach includes no tension between doctrine and discipline as the community agrees on what it has authorised and what it regulates as a result of that (para 90).

It is highly significant that it is the next section–on the subject of pastoral accommodation–which is the longest part of the paper, comprising half of its length (paras 91-188, 24 pages). As such its important arguments merit analysis in an article of their own. The discussion looks at the possibility of canonical change to Canons C4 and/or C26 and in particular at the alleged analogy (distinguished from a precedent, paras 94-98) of the pastoral accommodation made in 1991 through Canon C4.5 in relation to clergy in a further marriage. There is first presented a case for pastoral accommodation for same-sex civil marriage (paras 99-148) and then a case against (paras 149-186). It is particularly important that what these two cases enable is the emergence of greater clarity as to the key questions that the church must address in relation to whether or not it should permit clergy to enter a civil same-sex marriage through a canonical change based on pastoral accommodation. Three questions are identified (para 187 repeated in para 211):

> i. Would making pastoral accommodation for people in same-sex civil marriages to be ordained and (re)licensed create an inconsistency between the doctrine of the Church of England and its discipline that is:
> a. Of a different kind than that created by the pastoral accommodation on offer for further marriage;
> b. Related to any doctrine of the Church of England other than marriage in a way that would be contrary to that doctrine, or indicative of a departure from it, in an essential matter;
>
> ii. Would adopting a pastoral accommodation for clergy in same-sex civil marriages permit (implicitly or explicitly) some clergy in the Church of England to live in a fashion that fails to provide a faithful witness to the Gospel and is not a wholesome example and pattern to the flock of Christ?

Even more significantly and helpfully, there appears to be agreement across different views on whether or not it would be right to proceed with clergy in civil same-sex marriage on the basis of pastoral accommodation as to the answers that would be needed in order to proceed:

> To support proceeding with this path to pastoral accommodation (via amending Canons C 4 and/or C 26) for those in same-sex civil marriages, one should be satisfied they can answer no to all these questions. Answering yes to any of

these questions would indicate there is an impediment to supporting pastoral accommodation as discussed here (para 188).

Here, we might say, we have a new "triple lock" (compare the "quadruple lock" in statute law in relation to the CofE holding same-sex marriages) all three parts of which need to be unlocked before it is possible to open up a way to proceed down this route with theological integrity.

Finally, and much more briefly (paras 189-197) the report explores in a little more detail the option of relaxation of discipline through episcopal discretion. Here, as in the legal advice's discussion, there are major red flags about "a tension between doctrine and discipline" (para 193) and "notable concerns" about "the least possible communal authorisation - perhaps none at all". This, combined with the problem of finding a form of communal regulation, means "this path carries the greatest risk for discipline to depart from doctrine" (para 197).

In short, the most theologically consistent way forward to clergy in same-sex marriage is the path of doctrinal change that they have rejected and the doctrine paper shows would require significant theological justification. The way forward many would have preferred is, in contrast, the weakest theologically. That leaves the highly contested path of pastoral accommodation where the theological advice has focussed on three criteria, all of which must be met. Many think none of the three criteria can be met but someone only need to fall at one the hurdles for their finishing line of permitting clergy same-sex marriage to become unreachable.

Theological Advice: Summary Conclusions

If we return to the four opening questions we can sum up the differences made by the three FAOC papers as follows:

- **What has changed in this theological advice?** The main changes from the limited past advice are the abandonment of the previously crucial language of "pastoral provision in a time of uncertainty" and of any appeal to a sharp distinction between civil marriage and holy matrimony, the restoration of the language of "pastoral accommodation", and the strong emphasis on the need to relate liturgy to doctrine in relation to more than words and to relate discipline to doctrine.
- **Is it advising on matters where previously the bishops did not seek such advice?** Yes, the major difference is the bishops have now been given a significant amount of rich theological advice that they had previously sought to avoid being given. The content of that is, to many of us, not surprising but the bishops had previously sought not to think theologically but politically and pastorally, downplaying the significance of doctrine.

- **Is it explicitly or implicitly revising and/or retracting past advice?** Yes, in the crucial areas noted above. In addition it weakens the previously prominent episcopal appeals to "development of doctrine" and undermines some of the claims that have been made suggesting the PLF as currently commended do not really have doctrinal significance.
- **Is it just making even clearer what past advice always said, explicitly or implicitly, but the bishops previously sought to downplay or ignore or workaround?** Although some points are clearer than before (past advice does seem to have accepted PLF was indicative of a departure from doctrine) most of the theological advice is quite simply drawing attention to central questions that have been seemingly ignored until now in the bishops' discernment and articulation of their plans.

Conclusion: A Missing Piece of the Jigsaw?

It would therefore appear that in relation to theological and legal advice what has happened is that the bishops have had to pay greater attention to the significance of legal advice they had previously received and they have finally been made aware that there are serious theological questions that they have tried to avoid considering particularly as regards the importance of doctrine in relation to liturgy and discipline.

They also appear to be finally recognising and acknowledging that in the last three years they have not been sufficiently transparent or followed proper process.

But that is not all and may even not be the most important explanation for what has happened. Although the press release spoke of the decisions based on legal and theological advice having the consequence that there was no need for "pastoral provision" that may be reversing the real dynamic (putting the advice cart before the episcopacy horse).

In the first major episcopal statement from a leading past supporter of the PLF process, the Bishop of Manchester wrote

> It has become increasingly clear over the last six months that it would not be possible at the present time to secure the necessary majorities at General Synod to authorise either the use of bespoke services for those in same sex marriages, nor the ordination of persons married to a partner of the same sex, without such a high level of delegation of episcopal ministries as to render, in the view of many bishops, such violence to our ecclesiology as to make it arguable as to what extent we could still be considered a single church. Whilst some on both sides of the LLF debate have indicated a willingness to accept such a stark division, it is not something which the House of Bishops has felt able to sanction. The role of

> bishops as guardians of the unity of the church, compels us to resist further disintegration.

In a similar vein, the Bishop of Chelmsford wrote

> The options laid before us at the House of Bishops earlier in October by the LLF Programme Board made very clear that, at this point in time, any further changes (such as the use of Prayers of Love and Faith in bespoke services or permission for ordinands and clergy to enter same sex marriages), would require proper consent from General Synod and an accompanying code of practice. The code of practice would, in effect, have considerably altered our ecclesiology through the introduction of separate episcopal structures for a whole range of matters, including sponsoring bishops, the discernment process, ordinations and services of licensing for both lay and ordained roles. Not only would this significantly undermine our Anglican identity – changing the nature of episcopal ministry - but in a diocese like ours, it would also risk fracturing our shared life, putting huge pressure on our Area Scheme and our desire to maintain levels of consistency and a common direction of travel.
>
> I appreciate that for some this might have been a price worth paying, with comparisons made to the Five Guiding Principles and women in the Episcopate. But let me gently remind us that in that case, the decision to consecrate women had gained a two thirds majority in General Synod, and it involved restricting the ministry of women without unravelling diocesan structures. In this case, the proposals (which have not had a two thirds majority in General Synod) would have involved a raft of structural and pastoral provision and would have moved us towards alternative or extended oversight, not on the basis of who a bishop is or what action they may have taken, but purely on the basis of the views they may hold. Arguably, that would have taken us to a level of such complexity that it would risk breaking the Anglican model entirely.

In short, there was a widespread episcopal horror at the prospect of having formally to introduce even relatively minor reconfigurations of episcopacy (such as Delegated Episcopal Ministry). That was why they had so swiftly rejected the “three spaces” proposal developed within the Leicester groups. These changes had, however, been recognised as necessary proportional responses (or concessions or the required *quid pro quo*) if there were to be any further changes in relation to liturgy or discipline.

For some, perhaps many, bishops therefore the key driver explaining their sudden move into reverse gear may have been as much a determination to preserve current structures of episcopacy (perhaps what is alluded to in the Archbishop’s reference to “unity”?) as the legal and theological advice they received. It may well therefore be that the legal and theological advisors who have done such an excellent job in these new

papers now need to turn their attention to these questions surrounding ecclesiology and episcopacy if we are to find a way out of the new impasse in which we now find ourselves as a church.