

IN THE CONSISTORY COURT OF THE DIOCESE OF LEICESTER

RE ST NICHOLAS' CHURCH

JUDGMENT

1. This is a petition for the introduction of a new altar frontal, gifted to St Nicholas' Church, Leicester, displaying the colours of the Progress Pride flag. In addition, the petition is for the incorporation of a cross to the new altar frontal design.
2. I am not persuaded to grant a Faculty.

REASONS

Factual background

3. The site of St Nicholas' Church was the original site of Leicester Cathedral in the 7th Century. The cathedral was short-lived as the area was invaded by the Vikings and the Bishop fled. St Nicholas' is a Grade I early medieval church rebuilt on the site. It is one of the UK's 10 oldest churches with its nave dating back to 879AD. It is positioned less than 10 feet from one of the UK's largest standing pieces of Roman civilian masonry, Jewry Wall.
4. Over the last 50 years, St Nicholas' church has become a safe worshipping space for the LGBT community. The worshipping community has doubled in size since 2022, a feat to be commended. It is inter-cultural and has a congregation that is largely under 35 years of age. It has a growing reputation as a safe place for LGBTQIA+ people of faith, most of whom have experiences of conditional acceptance, rejection or spiritual abuse in other churches. Ministry and mission in LGBTQIA+ communities is the charism and distinctive calling of this church.

5. Of deep concern and sadness to me is that St Nicholas' has faced continued hostility and vandalism because of its clear and visible welcome of LGBTQIA+ people.
6. In September 2022, St Nicholas' was gifted an Altar frontal displaying the colours of the Progress Pride flag. The frontal was displayed on the Nave altar until a complaint was made to the Archdeacon by someone outside of the Diocese. The altar frontal was then removed and permission sought by way of this Faculty petition.

Interlocutory decisions

7. During the notice period of consultation, the Registry received nine objections to the Petition. There were sixteen supportive letters.
8. In respect to the nine objections, Deputy Chancellor David Rees KC considered the question of whether any objectors were "interested persons" within the meaning of Rule 10.1 of the Faculty Jurisdiction Rules 2015. Originally, Dep Ch. Rees KC, concluded that three of the objectors had sufficient interest in the petition for the purposes of Rule 10.2 of the Faculty Jurisdiction Rules 2015¹. This decision was reconsidered upon confirmation from both the Petitioners and the putative objector, Mr Sam Margrave, that Mr Musgrave was not a regular attendee of St Nicholas'². As a result, it was held that Mr Musgrave was not a person with sufficient interest in the Petition³.
9. The remaining objectors are Revd Brett Murphy and Revd Dr Ian Paul. Both have decided not to become formal parties opponent. The Petitioners continue to object to the standing of both as objectors. I address this further below.

¹ [2023] ECC Lei 1

² [2023] ECC Lei 2

³ [2023] ECC Lei 3

The proposed Altar frontal

10. The proposed Altar frontal is a bespoke piece of fabric sewn from high quality cotton to display the colours and design of the Progress Pride flag. A considered and thoughtful choice was made for the design to be the Progress Pride flag symbol rather than the traditional six stripe rainbow Pride Flag due to the Progress Pride flag's inclusion of transgender and LGBTQIA+ racially marginalised people.
11. The Petitioners would also like to add a cross to the design. It is hoped the message conveyed by the proposed Altar frontal is that '*God in Christ has redeemed the world - including Trans people, black and brown people, and LGBT people- through the death of Christ*'.
12. The proposal is for the frontal to be placed on the Nave Altar for Sunday worship, and on Saturdays when the building is open to the public.
13. There are two proposed designs:

Design 1:



14. Alternatively,

Design 2:



Statement of need

15. The Petitioners explain that the ongoing reputation and viability of this church as a safe place for LGBTQIA+ people is signalled in this proposed Altar frontal.

16. In the statement of need the petitioners highlight that the Progress Pride design is a universally recognisable sign of welcome for different racial groups of LGBTQIA+ people. The inclusion of a cross is a clear expression of God's love and acceptance of all, signalling the ongoing reputation and viability of this church as a safe place for LGBTQIA+ people. The instant recognisability of the design is important to the ministry team as a sign of welcome to all from the first visit, before a relationship of trust has been formed.

Statement of significance

17. St Nicholas' current church community is largely, though not exclusively Christians who are LGBTQIA+. The Petitioners explain that the proposal formalises something that has been informal for many years namely, a

community that has grown around the symbols of the Progress Pride flag in the building.

18. The proposed Altar frontal is described as being significant because it will signal St Nicholas' as open and accessible to all, particularly people of all ethnicities and the breadth of human identity and sexuality. The symbol says, *'This is a psychologically safe place for you, God accepts you, it is safe here'*.

19. The Petitioners also explain that the use of this frontal builds on other signifiers of welcome such as St Nicholas' liturgy.

20. In respect to the pertinent question why the proposed frontal is to be on the altar, the Petitioners are clear that St Nicholas is a Eucharistic community and every service is a service of Holy Communion. The statement explains:

'On this altar table, in each act of worship, we remember the death of Christ. His experience of rejection and physical torture is not unknown to LGBTQIA+ people. This act of remembrance mediates the solidarity of Christ with the suffering of those in our community.'

21. However, the Statement of Need then explains that the above is not a doctrinal statement, or protest. It is about pastoral care and a statement of welcome and safety.

22. The impact of the proposal, and more so the outcome, is said to be an indication of St Nicholas' as a safe place, an act of grace and support from the Diocese for the ministry and mission of St Nicholas' and affirmation and acceptance by the Church as an institution. Mr Gau, in his written submissions, helpfully summarised the Petitioners' position as follows:

- a. The proposed Altar frontal is a demonstration of welcome and unity;
- b. The proposed Altar frontal is a demonstration of a safe space for the marginalised and persecuted;
- c. The proposed Altar frontal is of assistance in the ministry and welcome of this particular church.

23. There is no cost to St Nicholas' for the proposed frontal and/or proposed changes to the proposed frontal.

Consultation – support and objections

The Diocesan Advisory Committee

24. The DAC support the petition subject to two conditions:

- a. That the larger of the two proposed cross designs should be applied to the frontal; and
- b. That the frontal should only be used on the Altar on an occasional basis. If the PCC wishes to have it on display when not in use, a suitable location should be agreed.

25. The Vice-Chair of the DAC, Revd Johnson, wrote a response to the Petition to explain why it was not the place of the DAC to recommend the *permanent* use of the Progress Pride flag as an altar frontal. In his response, he explains:

'The fact that this proposal relates to the altar marks it out as worthy of particular note and examination because of the altar's symbolic role within the building. To my mind, this would also be the same in relation to the font, pulpit and lectern because of their canonical status and importance within the building.'

26. The DAC's Vice-Chair explains that the Church of England in its Canons and rubrics are careful in its approach to liturgy and the adornments of its churches. This is to ensure the Church remains a place where all are welcome.

27. Reference is also made to Canon F2 which prescribes that the communion table "*shall be covered in the time of divine service with a covering of silk or other decent stuff, and with a fair white linen cloth at the time of the celebration of the Holy Communion.*"

28. In respect to customary usages of altar frontals, these are liturgical colours that are well established rather than earthly symbols.

29. It is noted in his response to the Petition, that whilst many would recognise the Pride Progress flag as a symbol of welcome, others may consider the Pride Progress flag as a political symbol. In some, it may arouse strong positive feelings but, in some others, it may bring negative feelings. Whilst the Pride Progress flag represents a proportion of society significantly represented within St Nicholas' congregation, the design still represents only a proportion of society. As a result, the response reflects on the unintended possibility that the eucharist is 'claimed' as belonging to one group or another when in fact it is the table of the Lord, with Christ as host, not us. Revd Johnson explains that the Eucharist and the suffering of Christ experienced on the Cross is Christ's saving work for all people:

'... in the eucharist, Christ calls us to lift our eyes above... To use the pride-progress flag or any other earthly symbol as part of an altar frontal risks diverting our focus away from the memorial of Christ's cross and passion...'

30. In response to the Petitioners' position that the use of the altar frontal is in no sense a doctrinal statement or protest, but pastoral and a statement of welcome, Revd Johnson notes in reflection that St Nicholas' successful inclusion and growth is because of their actual community and their efforts and ministry. The statement the Church wishes to make is therefore already being made and successfully so.

31. Revd Johnson's suggested approach, registering his caution about it, in light of his overall response, was for there to be some thought about the occasional use of the proposed Pride Progress frontal.

Responses in support

32. The Registry received sixteen responses in support of the Petition.

33. The responses were wide ranging but broadly fell into the following:

- a. The altar frontal sends a message that all are welcome;
- b. The altar frontal is an attempt to create solidarity including, and affirming, marginalised people;
- c. The altar frontal supports the pastoral care of the congregation;
- d. The altar frontal sustains the enthusiasm of the worshipping community.

34. Some responses commented that whilst the Progress Pride flag may be considered as a political symbol by others, it was not considered political for those attending St Nicholas.

Responses in opposition

35. The Registry received nine objections to the Petition.

36. Further to the interlocutory decisions of Dep. Ch. Rees KC, two objectors, Revd Brett Murphy and Revd Dr Ian Paul, have been treated as having sufficient interest in this Petition.

37. The Petitioners have objected to both having sufficient interest in the Petition. For the reasons set out below under the heading Preliminary Decisions, the only objector I consider to have sufficient interest in the Petition is Revd Dr Ian Paul (hereinafter **Dr Paul**).

38. Dr Paul is a member of the General Synod and of the Archbishops' Council of the Church of England. His objections to the Petition can be summarised as follows:

- a. The purpose of the table at which Holy Communion is celebrated is to focus the congregation on remembering the death of Jesus for the forgiveness of sins and not to focus on contemporary and political issues;
- b. The presence of the Pride Progress flag introduces a tension with the teachings of Jesus, and the Scriptures as a whole, into the centre of the rite of Communion;

- c. The teaching of the Church of England is that marriage is between one man and one woman (Canon B30), the proposed frontal brings to the centre of the rite a contradiction to the Church's teaching;
- d. Placing a symbol, that introduces the concept of sexual identity, at the centre of the service is inappropriate due to the presence of children and therefore raises a potential safeguarding issue;
- e. There is contemporary debate in wider culture on aspects of the ideology underpinning the Pride Progress flag;
- f. The use of the frontal would be divisive as there is strong feeling and debate within the Church of England on the matter of doctrine underpinning it. Those with contrary views, including within clergy or laity, may feel excluded from worship at St Nicholas and/or unable to participate in the central rite of Communion.

39. Dr Paul requested that that his written objections are considered but did not wish to become a Party Opponent.

Preliminary Decisions

(i) Objectors

Revd Dr Ian Paul

40. In written submissions, the Petitioners object to the decision made by Dep. Ch. Rees KC that Dr Paul has sufficient interest to be an objector. It is asserted that the decision that Dr Paul had sufficient standing was on the basis of Dr Paul's membership of the Archbishops' Council coupled with his membership of Synod. It is argued that this fact alone is insufficient to meet the test set out in the Supreme Court Scottish case of Walton v Scottish Ministers [2012] UKSC 44.

41. The Petitioners contacted Mr William Nye, Secretary General of the Archbishops' Council to request confirmation as to whether Dr Paul was, 'acting as a representative of the Archbishop's Council or with their knowledge

or approval, and whether [Dr Paul's] objections reflect the views of the Archbishop's Council'.

42. Mr Nye responded to confirm Dr Paul was a member of the Archbishops' Council and General Synod but was not acting on either's behalf.

43. I am not persuaded to set aside or vary the Deputy Chancellor's order on the standing of Dr Paul. Dr Paul did not hold himself out as acting on behalf of the Council or Synod. As is set out at paragraphs 13 and 14 of Leicester St Nicholas [2023] ECC Lei 3 it was held that Dr Paul's objections:

'...raise points of liturgy and doctrine (beyond those put forward by Mr Margrave) and both refer to the effect that a decision to allow the petition would have on other members of the Church. I accept that there is a general public interest in these matters being considered by me in relation to the petition and both seem well placed to make those arguments... Rev Dr Paul is (like Mr Margrave) a member of the General Synod. Whilst I do not consider this by itself provides "sufficient interest", his objection (among other matters) makes reference to the current debate within the church on the doctrine of marriage and I accept that his position on the Synod may mean he is better placed than other objectors to raise these issue before the court.'

44. It is evident from the original decision that the reason Dr Paul was considered to have a sufficient interest was twofold: Firstly, because of his membership on the Archbishop's Council and General Synod and secondly, because there is a current debate within the church on the doctrine of marriage. The points he raised on liturgy and doctrine are of general public interest. It was on this dual basis, Dr Paul was able to demonstrate some particular interest in the Petition.

Revd Brett Murphy (hereinafter **Mr Murphy**)

45. In July 2023, it was brought to the Petitioners' attention that Mr Murphy had resigned as a priest within the Church of England. The Petitioners therefore renewed their objection to his standing as an objector.

46. I gave directions for Mr Murphy to be notified of the objection and for him to be given 14 days in which to respond.

47. Mr Murphy did not respond within the deadline set (or at all). I am satisfied sufficient efforts were made to make Mr Murphy aware of the Petitioners' objections.

48. Pursuant to Rule 20.3 of the Faculty Jurisdiction Rules 2015, the Court may set aside any judgment in whole or in part where it considers it just and expedient to do so.

49. Dep Ch. Rees KC treated Mr Murphy as having sufficient interest in this petition on the grounds that he had raised points of liturgy and doctrine in the public interest, and he had a close connection with the parish as a priest within the Leicester Diocese.

50. Mr Murphy is no longer a priest within the Leicester Diocese or in fact the Church of England. He is not a person affected by the application. This fact, coupled with his failure to respond to the Petitioners' application that he is removed as an objector, demonstrates a lack of reasonable concern on his part in the matters to which the Petition relates⁴.

51. I will therefore set aside the decision to treat Mr Murphy as having sufficient interest in the Petition.

(ii) Experts

52. By an Application dated 3 November 2023, the Petitioners applied to rely on the following individuals to provide expert evidence:

- a. Mr Shoulder to address the meaning of the Progress Pride symbol;
- b. Revd Dr Ayla Lepine, Associate Rector at St James's Church, Piccadilly to address the relationship between the theological significance of altar frontals and the Progress symbol.

⁴ AXA General Insurance Ltd v HM Advocates [2011] UKSC 46, paragraph 92

53. The Application was in response to directions I made for a Theological statement from the Bishop of Leicester and a response from the Petitioners addressing:

- a. the use of Altars and
- b. the use of Altar frontals.

54. This appeared to be an important consideration raised by the Petitioners, Revd Johnson and the objector but had not been amplified directly in a way that assisted my decision-making process.

55. Mr Gau, on behalf of the Petitioners, objected to a Theological Statement being provided by the Bishop of Leicester due to his stance on marriage and the fact that he appointed me as Chancellor of the Diocese. The latter argument remains puzzling. A request was made for a Consistory Court hearing to cross examine the Bishop if I chose to rely on the Theological statement provided by the Bishop rather than obtaining a Theological statement from another person (unspecified).

56. Matters moved on in that Bishop Martyn Snow took up a national role in relation to the Church of England's Living in Love and Faith journey. As a result, he withdrew the statement on the basis he considered it inappropriate to comment on a local matter in circumstances where it could be misinterpreted as having national implications.

57. On 4 December 2023, the Petitioners confirmed they were content for the matter to proceed, as before, by a determination on the papers. For the avoidance of doubt, I have not taken into account the Bishop's Theological Statement.

58. The experts provide assistance to the matters set out in my Directions for which I am grateful. I give permission for both expert reports to be relied on.

Decision on the Petition

The Law

59. In determining this petition, the test set out in *Re St Alkmund, Duffield [2013 Fam 158]* applies namely:

- 1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?*
- 2. If the answer to question (1) is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals.*
- 3. If the answer to question (1) is “yes”, how serious would the harm be?*
- 4. How clear and convincing is the justification for carrying out the proposals?*
- 5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering this question, the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.*

60. Canon Law is also applicable and provides at Canon F2.2 that:

‘The table, as becomes the table of the Lord, shall be kept in a sufficient and seemly manner, and from time to time repaired, and shall be covered in the time of divine service with a covering of silk or other

decent stuff, and with a fair white linen cloth at the time of the celebration of the Holy Communion.'

Analysis

61. St Nicholas' is a church that has a mission to pursue the marginalised in not just the community but the Church community. It has a particular mission towards, and a strong pastoral care for, Christians from the LGBTQIA+ community.

62. I have read with great care the letters of support accompanying this Petition. I was moved particularly by those who wrote to me who attend St Nicholas'. They provided invaluable insight into the work of the Church at St Nicholas' and the impact of this work on their journeys to faith and/or back to faith. I was sincerely grateful for the accounts of their shared and individual experiences.

63. Whilst I have not granted this Petition, I hope the clergy and church community at St Nicholas' remain proud of their successful efforts in creating a safe space within the Church of England for LGBTQIA+ people.

64. The starting point of my consideration is the test set out in Duffield. I accept and agree with the submissions by Mr Gau, on behalf of the Petitioners, that it cannot in any way, worthy of respect, be suggested that the proposal causes harm to the significance of the building. Therefore, the ordinary presumption in favour of things remaining as they are applies, unless rebutted by the Petitioners. I therefore confined myself to the second question within the Duffield test.

65. In order to rebut the presumption, the Petitioners' arguments are as follows:

- a. The Altar frontal is a demonstration of welcome and unity;
- b. The Altar frontal is a demonstration of a safe space for the marginalised and persecuted;
- c. The Altar frontal is of assistance in the ministry and welcome of this particular church;

d. The Altar frontal design is not a political symbol.

66. The expert reports support these arguments and in particular reject the assertion that the Pride Progress flag is a political symbol.

67. I have taken into account Dr Paul's initial response and additional detailed response which was of assistance. I was also assisted by the submissions made on behalf of the Petitioners in response to the points raised by Dr Paul. These can be summarised as follows:

- a. Dr Paul has a misunderstanding of the meaning of the Pride symbol;
- b. The idea that the Progress Pride symbol is solely about marriage rather than unity and welcome is only Dr Paul's view;
- c. The idea that the symbol is solely to do with fornication is a projection by Dr Paul alone;
- d. Dr Paul's position verges on, or is repeating tired tropes about same sex attracted people or those who have transitioned;
- e. While the opinion of many secular feminists on the matter of gender ideology is not to be automatically rejected, this is not relevant to the matter of an Altar frontal;
- f. The Pride Progress symbol and the Gay Liberation movement are separate;
- g. There is no evidence that prejudice is suffered by conservative evangelicals wishing to attend St Nicholas'.

68. I have also taken into account the response provided by the Vice-Chair of the DAC Revd Johnson which I found also greatly assisted me.

69. I deeply appreciate that the underlying matters raised by this Petition invokes strong convictions both in favour and against the grant of a Faculty. In order to determine the matter, and having taken into account all relevant points, I have found it helpful to focus on one aspect of this Petition, that is at its core, and which in fact all agree: This Petition relates to one of the most symbolic parts

of the building, the Altar. Revd Johnson equates its importance and canonical status with that of the font, pulpit and lectern.

70. As a result, it is unsurprising Canon F2.2 states:

'The table, as becomes the table of the Lord, shall be kept in a sufficient and seemly manner, and from time to time repaired, and shall be covered in the time of divine service with a covering of silk or other decent stuff, and with a fair white linen cloth at the time of the celebration of the Holy Communion.'

71. The Progress Pride flag is not a Christian emblem. Whilst I agree it is a sign of welcome for people from the LGBTQIA+ community and although not itself political, it is a secular contemporary emblem used for many causes and contemporary discourse.

72. The "decent stuff" referred to in Canon F2.2 in my view refers to material that is readily associated with ecclesiastical heritage that points towards, or maintains the focus on the celebration of the Holy Communion.

73. The focus, purpose and celebration of the Holy Communion is for all to come to Jesus and remember His sacrifice. We come to the Communion table, not to forget who we are or our identity, but to *remember* the sacrifice of Jesus and our identity in Him. At the Communion table, *'there is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for [we] are all one in Christ Jesus'*⁵. It is clear that there is not a unified belief that the proposed Altar frontal achieves this message of oneness in Christ and, in my view, this is the purpose of an Altar frontal. The Petition is on the basis of drawing to the Communion table one group within the Anglican communion (albeit a marginalised one). It is therefore inherent in that objective that not all are represented in the design and the call to draw near.

74. It is with this context in mind that I considered whether the mission and pastoral efforts to create a safe space and welcome was a sufficiently good

⁵ Galatians 3v28

reason to highlight a particular, marginalised, part of our Anglican communion at the Altar. The Petitioners explained,

‘Why on the altar and not just a hanging? We are a Eucharistic community and every service is a service of Holy Communion. On this altar table, in each act of worship, we remember the death of Christ. His experience of rejection and physical torture is not unknown to LGBTQIA+ people. This act of remembrance mediates the solidarity of Christ with the suffering of those in our community.’

75. I accept and agree however with Revd Johnson’s view that whilst those from the LGBTQIA+ can resonate with Christ’s suffering, the remembrance of Christ’s suffering relates to its saving grace and our redemption through it. I am not persuaded that the Petitioners’ response provides a good reason with this core purpose in mind. It is also for this reason I have decided not to grant occasional use of the proposed Altar frontal on the Nave altar.

76. Further, I’m not persuaded that the message and mission to LGBTQIA+ people would be impacted by the refusal of this Petition. The message and mission of St Nicholas is carried by the passion of the community at St Nicholas’. I have no doubt this will continue. I also note there are Pride Progress flags within and outside the Church to indicate welcome. Any concern I have about the impact on mission and pastoral care is outweighed by my view that the Altar frontal should be of a design that all can gaze upon, and immediately focus on in remembrance, the saving work of Christ and Christ alone.

Conclusion

77. It is for the reasons set out above that I do not grant a Faculty.

78. I noted with grave concern the Petitioners’ view that the outcome of this Petition would indicate whether there was support for St Nicholas’ and affirmation and acceptance by the Church as an institution of LGBTQIA+ people. I appreciate that, for some, my decision may be viewed as a rejection of them, their experiences, their traumas. It is not. This Judgment relates

simply to a petition for an Altar frontal that, for the reasons set out above, I have not granted a Faculty. A rejection of a petition does not equate to, nor does it infer that, LGBTQIA+ people are not welcome. I sincerely hope the two notions are not conflated.

79. I would like to thank the Petitioners for their patience in respect to this Petition and I wish to apologise for the delays experienced in the process and ultimately in receiving an outcome.

80. I waive my fee for the writing of this Judgment.

Naomi Gyane

Chancellor of the Diocese of Leicester

7 February 2024