

**Litigation and Employment
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Your Reference: ARHS/29899/1/PCEM

14th January 2009

Dear Sirs,

**DEAN AND OTHERS -v- BURNE AND OTHERS (HC07C03109 - THE DIOCESE)
DEAN -v- BOWLBY AND OTHERS (HC07C03020 - THE PARISH)**

I set out below, for the benefit of the parties the views of the Attorney General in these cases.

The papers have been carefully considered by counsel and the conclusion of the Attorney General is that as a matter of factual and legal analysis the Moscow Patriarchate adherents are entitled to control the charities and their funds are applicable for the promotion of the religious lives of the Moscow Diocesan and Parish Communities.

Thus the Attorney General does not oppose the making of declarations that the promotion of the religious lives of the Diocesan and Parish communities of the Moscow Patriarchate currently remain the objects of the Trusts, and appropriate consequential relief.

As to costs, the Attorney General based on the existing material and on the footing that in substance the Claimants' claims succeed might well form the view that the Ecumenical institutions and the trustees and/or the Ecumenical Parish and Ecumenical Vicariate should pay the Claimants' and the Attorney General's costs, without recourse to the Parish Trust's or Diocesan Trust's funds.

I have written to the claimants, the representative of the Ecumenical Patriarchate, and Messrs Darbys in similar terms to the above and I have also sought further information further from the other Defendants to assist the Attorney General in coming to a concluded view on costs.

The Attorney General is likely to be assisted in forming her view in relation to the possible liability of the trustees for costs if she knew what advice had been given in relation to the calling of the meetings and the implementation of the resolutions, and whether and why they had not sought the advice or approval of the Charity Commission or the court before acting. In particular whether the trustees were advised that it was their duty to call the meetings or whether they were merely advised that they had or might have power to do so or whether

they were advised that there were doubts or risks involved in the steps which they proposed to take and in due course took in that regard.

I should point out that on the footing that this advice was obtained by them in their capacities as trustees of charitable trusts, the Attorney General as representative of the beneficial interests in charities is a person in whose favour the court in the exercise of its administrative jurisdiction in respect of trusts might be expected to order disclosure in accordance with the principles set out in Schmidt -v- Rosewood Trust Ltd [2003] 2 AC 709.

I look forward to hearing from you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Edmunds', written in a cursive style.

D B EDMONDS
for the Treasury Solicitor