

## B5A or not B5A?: The archiepiscopal and episcopal hokey-cokey

Although there is now a degree of uncertainty due to [the sudden resignation of the Bishop of Newcastle as one of the LLF co-leads](#), it appears that there is [a plan to pause and reset the LLF process](#) rather than simply to proceed apace with further changes in liturgy or pastoral guidance. This has, unsurprisingly, created [a strong negative response from those eager for such changes](#). One particular area of strong concern is that of “standalone” services whose focus will be using the Prayers of Love and Faith (PLF) for a same-sex couple. It is therefore important to pause and consider the convoluted and confusing journey which has led us to where we now are and so identify some of the questions that need to be answered publicly and honestly, particularly in relation to legalities and legal advice, if there is to be any chance of gaining clarity about the process and perhaps fostering mutual understanding.

When [announced last January, at the February General Synod](#), throughout the Implementation Groups, and [at the July General Synod](#) there was no distinct category of “standalone services”. The proposals were for prayers to be commended by the bishops for use by those clergy who wished to use their discretion under Canon B5 to pray for same-sex couples. The draft PLF presented to Synod in February and in revised form in July included both prayer resources and outline orders offering service structures which showed how the prayers might be incorporated within A Service of the Word or Holy Communion. The discussions about the best route for introducing them did not suggest more than one canonical route would be used.

## The mysterious conception of “standalone services”: Summer

A crucial decision was taken at some point over the summer, at a time which remains unclear (meetings of the Next Steps Group were regularly, if briefly, reported on, in multiple press releases from [January 2021](#) to [March 2023](#) when it was said its remit had “reached its conclusion” and no more announcements were made concerning decisions at meetings of [the new Steering Group](#) overseeing the process). It was made by people who have never been identified or held accountable for it, and for reasons that have never been explained. This decision was to separate these previously united elements of the PLF proposal into two: (a) A Suite of Resources to be used within regular services and (b) “Standalone Services”. Two different ways of introducing these into the life of the church were now being proposed. This was a surprising development not least because using a suite of resources within a regular service would effectively involve taking that regular service (whether eucharistic or non-eucharistic) and adapting it to be much as proposed in the service structures. But now it was being argued that those service structures were instead an outline for a “standalone service” that required approval by a different means (as seen in [the papers presented to the November General Synod](#), Annex D).

There are perhaps two possible rationales for this crucial step, one legal and one political.

*Legally*, clergy are given permission under [Canon B5](#) to adapt services in two different ways. Under Canon B5.1, “The minister who is to conduct the service may in his discretion make and use variations which are not of substantial importance in any form of service authorized by Canon B 1 according to particular circumstances”. It would appear that this is what the bishops believe they were commending in December as suggested by the [notes on how to use the resources](#) and the [ad clerum of the Bishop of Southwell and Nottingham](#) which explicitly stated that “The House is commending the PLF as able to be used at the discretion of the minister with cure of souls (under Canon B5.1)”. Canon B5.2, in contrast, states, “The minister having the cure of souls may on occasions for which no provision is made in The Book of Common Prayer or by the General Synod

under Canon B 2 or by the Convocations, archbishops, or Ordinary under Canon B 4 use forms of service considered suitable by him for those occasions and may permit another minister to use the said forms of service". A "standalone service" would presumably be a service for such an "occasion" for which "no provision is made". If, however, [commendation by the bishops changes nothing in relation to formal legal authority](#), the [prayers in the suite of resources have now been commended as lawful](#), and [canon B5.2](#) grants "the minister having the cure of souls" legal authority (within doctrinal limits) to devise "forms of service considered suitable", then it is unclear on what legal basis the bishops are now stating "Material from the Resource Section should not at present be used to offer special or 'standalone' services (hereafter, standalone services). These are services that do not fall within the normal, usual pattern of worship for a parish, and are designed primarily around the Prayers of Love and Faith" ([Prayers of Love and Faith](#), p4). It would appear that a major reason for making this statement and preferring some form of authorisation for standalone services is that these uses of PLF are probably more likely to attract attention and legal challenge than prayers in a normal service and so require a firm legal foundation. It is also that following a route other than commendation allows the introduction of a requirement of PCC approval before such services are used and this form of "opt-in" system was seen as important. All this, however, is conjecture, and here, as elsewhere, the lack of transparency about the content or even the existence (or non-existence) of relevant legal advice from The Legal Office, is a major problem in making sense of where we now are and how we got here.

*Politically*, over the summer there was growing pressure that the only proper and legal way for any of PLF to be introduced was by means of Canon B2. This was a central argument of the newly-formed Alliance, articulated in a number of letters (e.g. [letter of 3<sup>rd</sup> July](#) and [14<sup>th</sup> August](#)) and [supported by a number of bishops](#). The separation of standalone services away from the suite of resources into the full, lengthy Synodical process of Canon B2 rather than commendation, ultimately requiring the support of two-thirds in all 3 Houses of Synod, may perhaps have been developed in the hope of thereby winning support for PLF among those pressing for the use of B2. If so, it seems to have failed.

Whatever the rationales for creating "standalone services" they now needed to secure a path to authorisation and if that was to be the Canon B2 process there was the additional question of whether experimental authorisation using Canon B5A should be introduced. This is what generated the "B5A or not B5A?" question. Once the "standalone and authorised services" vs "commended suite of prayers" distinction was put in place the bishops appear to have been all over the place in relation to how they should introduce the standalone services.

There are three distinct phases in relation to Canon B5A from the September College through the October House to the November General Synod (and then a fourth subsequently in which we currently find ourselves). These phases can be thought of as representing a sort of episcopal and archiepiscopal hokey-cokey with each step raising important questions, particularly in relation to the changing substance, interpretation and use of legal advice (all of it unpublished). Such legal advice must surely be a central element in due process for any decision-making, particularly decisions concerning which canons are legitimate, best suited and least risky if we are to introduce controversial new liturgy into the life of the church.

## Putting B5A in: September College

By the time [the College of Bishops met on 18<sup>th</sup> to 21<sup>st</sup> September](#) it would appear that this new structure to the PLF was firmly established and discussion and indicative votes focussed on whether or not the standalone services should wait until the end of the B2 process or instead be authorised

by the Archbishops for experimental use under Canon B5A followed by the Canon B2 process. It is [reported](#) that the College voted overwhelmingly for the latter option:

a majority of 75 to 22 at the College of Bishops meeting in September supported a plan to approve the services under Canon B5A, which would have enabled their immediate use as an “experimental” service under the authority of the Archbishops

The bishops are also reported, consistent with that vote, to have strongly rejected using only Canon B2 with no prior experimental use.

At this stage neither of these routes – B2 or B5A – had previously been seriously proposed in any public statements from the PLF process and, from memory, had not been front runners or even seriously considered, during the Implementation Group phase. Following my earlier survey of other relevant canons (there is [a short summary here](#), with [full PDF text here](#)) I did some research on this “dark horse” option over the summer. Hearing that it was now being seriously considered I [published an exploration of Canon B5A on 25<sup>th</sup> September](#). This raised a dozen crucial and still relevant questions for those supporting use of Canon B5A and offered a critical evaluation of the plan.

As with the decision to separate off “standalone services” which generated this new question of the best canonical process, there is once again nothing in the public domain concerning the existence or content of any legal advice considered by the bishops at the College when they voted so strongly in support of using Canon B5A.

As the College is not an authorised decision-making body, any votes taken at it were simply indicative and no more than recommendations to the House whose decision would be final. However, less than two weeks later, without revealing there had been votes with very clear majorities, the Bishop of London told various stakeholders in meetings (one of which I attended on 3<sup>rd</sup> October) that indeed the plan was for the House of Bishops to commend the suite of prayers for use under Canon B5 and to bring “standalone services” to Synod under Canon B2 but with an experimental period authorised by the Archbishops under Canon B5A.

Professor Helen King, Vice-Chair of the General Synod Gender & Sexuality Group ([who attended one of those early October meetings with groups supporting change](#) and was also part of the “[Living with Difference](#)” group that met three times in September), later [confirmed that this was what others were also being told](#):

You can imagine my surprise yesterday, when what emerged from the House of Bishops was...Instead of the option considered in some detail at the Living with Difference meetings, and at the subsequent meetings with ‘stakeholders’, of a period of trying out the blessings under Canon B5a – where the archbishops would authorise them – and then seeing if the trial period could be transformed into permanence with Canon B2 and its required two-thirds majorities ... the Bishops announced that they were going to commend the Prayers of Love and Faith for use in existing services but delay their use in stand-alone services – because these might look like weddings?? – and instead ask the dioceses for their approval for this before bringing such services to Synod under Canon B2 in 2025. What’s going on? How does this fit with what the facilitators told us about good process? Where did the ‘B2 decision in the life of this Synod’ proposal come from and has it been fully thought through? I don’t have the information needed to answer those questions. I can see how this answers people who want Synod to have more of a say in what comes into being, but is that what this is about?

## Putting B5A out: October House

### The House Decides

So what was going on? Although those attending the stakeholder meetings were aware – and had been warned – that it was ultimately for the House to decide, something significant apparently happened between the meetings on 2<sup>nd</sup> and 3<sup>rd</sup> October and the meeting of the House of Bishops on 9<sup>th</sup> October. This led the Bishop of London to propose to the House not what had the overwhelming support of the College and what she had announced as the planned way forward to stakeholders less than a week before. [She proposed](#) instead that “Special standalone services set out in *Prayers of Love and Faith* should be brought to the General Synod to decide whether to authorise them under Canon B2, after consultation with dioceses”. The same press release also noted that

Bishops gave serious consideration to an alternative legal process which could have enabled special services to be authorised almost immediately - but temporarily – (under Canon B5A). This would still have required a further process for the services to be authorised permanently (under Canon B2) by Synod.

The Bishop of London (described as co-chair of “the steering group which has brought the proposals forward”) explained

They have agreed to commend Prayers of Love and Faith and also considered the best way to authorise special standalone services. Having carefully considering [*sic*] the legal, theological and pastoral implications of possible approaches, the bishops concluded that it would ultimately be clearer to proceed directly to consideration under Canon B2. We acknowledge that there are some who would like this process to move faster, however the move to full authorisation will provide clarity and wide consultation ahead of a final decision by synod in 2025.

Although votes at this crucial October meeting of the House have never been publicly announced ([unlike those at the 12<sup>th</sup> December meeting](#) and even more fully in [these notes](#) with similar notes for [a November meeting](#)) it has [been leaked](#) that this vote was very close: “19 in favour of the plan to proceed straight to B2, and 16 against”. It is also understood that the Archbishop of Canterbury spoke strongly in favour of this approach rather than the previous plan of using Canon B5A.

### Reactions to House Decisions

It was perhaps hoped that embracing Canon B2 would win over bishops who had earlier pressed for this route and enable them now to at least tolerate commendation for the suite of resources. If it was, that hope was quickly shattered. On 12<sup>th</sup> October, a dozen of those present [issued a statement](#). This welcomed “the fact that the House recognised the need for General Synod to exercise its legitimate responsibilities in relation to liturgy and doctrine under Canon B2” but publicly dissented from the decision to commend prayers. As with the Bishop of London’s statement in the formal press release this too referred to legal and theological materials but (unlike her comments) this was not a pointer to legal advice at the meeting concerning the choice about whether or not to use B5A. They were concerned about legal advice relating to the decisions to commend the prayers, noting that the proposals meant that Synod could not “determine whether the bishops have fulfilled their intention (supported in February) that the final form of the prayers should not be “indicative of a departure from the doctrine of the Church of England””. They warned that “legal and theological advice the House has received suggest clearly to us that the decisions of the House may fall short of this commitment”.

As already noted, the announcement not to use Canon B5A delayed the introduction of standalone services and immediately led to major objections from those (including [Helen King](#)) wanting and expecting the services to be available quickly given the February motion passed by Synod. When the full details of the House's decisions were finally published on 20<sup>th</sup> October [in GS2328](#) this opposition to the bishops grew even stronger with [a particularly powerful critique from Charlie Bell](#). As [I noted at the time](#),

these new proposals have, quite understandably, elicited outrage from those pressing for change because of the latest paper's wording, substance, processes of production, and new rationale (as seen in the responses of e.g. [MOSAIC](#), [Ben Bradshaw MP](#), [Nicholas Bundock](#), [Helen King](#), [Andrew Dotchin](#), [Robert Thompson](#))

This was, undoubtedly, the cause of the leak to the Church Times about the contrasting voting figures in the College in September and then the House in October. The disappearance of experimental B5A services was only one of the objections but it is where, as Synod approached, it was decided to focus the attack.

### [GS 2328 & Stakeholder Meetings](#)

The paperwork for Synod was noteworthy for giving no attention to the "alternative legal process which could have enabled special services to be authorised almost immediately" or "the legal, theological and pastoral implications of possible approaches" which it was reported had been seriously considered by the House and led it to overturn the massive majority vote of the College only two and a half weeks previously. There is, in fact, no mention of Canon B5A or an "experimental" option.

The only hint as to why the House, led by the Archbishop of Canterbury and the Bishop of London, had overturned the mind of the College, was the brief statement in para 10 of the covering paper before the Annexes:

The third section of the Prayers contains the forms of service to be used for separate, standalone services (those outside of existing regular worship). These forms of service will not be commended, but will follow the process for liturgical authorisation under Canon B2. Following the Canon B2 process for these services will provide the firmest footing for those using them within the shortest possible timeframe. It will provide reassurance concerning legal challenges, both for those who wish to use the prayers and for those who do not. It will also regulate the form in which this material can be used, and enable an opt-in approach to provide clarity and transparency about which churches have decided to offer them.

At the heart of the "for B2 but not B5A argument" sketched here are the two criteria of *speed* and *security*.

In relation to *speed*, this makes sense if it was being advised that the experimental period of Canon B5A must precede, *and be concluded before*, the use of Canon B2. Such a process is hinted at in the [press release after the House met](#) when it refers to special services being "authorised almost immediately – but temporarily – (under Canon B5A)". Going straight to B2 would, it seems, mean not drawing out the long and contentious process more than necessary and would also prevent having standalone services permitted under Canon B5A but then having to be withdrawn for Synod to consider the results of the experiment under Canon B2.

In relation to *security*, there is an acknowledgment in this paragraph that "legal challenges" are much more likely if Canon B5A is used and those challenges would be directed not at clergy holding such

services but at the Archbishops who alone authorise liturgy under that canon. Furthermore, it appears that if the Church of England did face such a challenge as to whether the (totally unprecedented) use of Canon B5A in this way for new and contentious prayers was legal (and here the comments in the dissenting statement about legal advice were also relevant) it would seemingly not find itself on “the firmest footing”.

The unhappiness with the proposals from the House of Bishops led to the hurried convening of two additional stakeholder meetings, this time with the Archbishop of Canterbury (and, it turned out, many of his staff) on 3<sup>rd</sup> November. The afternoon meeting with those pressing for change led [one of those attending to report](#) that “it does sound like the Archbishop, or maybe ‘the bishops’, are keen to revisit the experimental use of the stand-alone blessing services, something not currently in the proposals” although the conservative groups were not given any such signal but rather one that the different parts of the process needed to be brought back together again.

### Written Answers to Questions

Despite this, on 10<sup>th</sup> November, when [the answers to questions](#) submitted by General Synod members were published there was no evidence of any such “revisiting”. A number of answers related explicitly to the question of standalone services (e.g. Questions 53, 57, 73) while others addressed the use of Canon B2 and/or B5A.

The first relevant answer to appear (to Q2) confirms the points above based on the Synod paper. The Bishop of London stated that using Canon B2 would “provide the firmest footing for those using them within the shortest possible timeframe”. This is repeated in answer to Q57 (“Why the sudden decision to move to Canon B 2 for authorizing the stand-alone service, rather than Canon B 5A?”, the only explicit reference to B5A) with the additional comment that “The House of Bishops decided that while B 5A could have enabled the standalone services to be brought into use more quickly, the process would ultimately require further B 2 authorization that would have taken longer overall for the status of the forms of service to be settled”.

In answer to Q24 the bishop was more explicit still on legal risk: “The risk of legal action is greatly diminished if the prayers are authorized, rather than commended, which is one of the reasons for bringing standalone services to Synod via a B 2 process. In addition, if a form of service is authorized, legal action would not be taken against individual clergy”. Asked specifically by Simon Butler (Q60) whether “Given the decision of the House of Bishops to seek authorization of parts of Prayers of Love and Faith under Canon B 2 at a very late stage, can the House identify those groups or individuals whose threats of legal action informed their decision?” the reply was that

The routes of commendation or authorization for the PLF have been under discussion by the House of Bishops since the LLF motion was passed at the February meeting of Synod. While authorization has been considered a preferable option, Canon B 2 has always been a possibility. The decisions taken by the House have been informed by iterative discussion and material provided by the LLF Steering Group. They have not been informed by specific threats of legal action by groups or individuals.

The answers also clearly confirmed that “The proposal that the standalone PLF services should be introduced in the General Synod for approval under Canon B 2 was a collective decision of the House of Bishops” (Q73).

Despite all these answers simply restating the position against using Canon B5A in the paper presented by the bishops to Synod, by the time General Synod gathered three days later on 13<sup>th</sup>

November it was clear that (as the Archbishop had hinted to stakeholders wanting such a change) a major episcopal “[reverse ferret](#)” was well underway.

## Putting B5A in: November General Synod

### Archbishops’ Presidential Address

In his opening part of the joint Presidential Address, Archbishop Justin made it clear that, in relation to Archbishop Stephen’s subsequent part focussed on LLF/PLF: “I want to say now that I stand in complete agreement with all that he will say” ([Report of Proceedings](#), p.2). This therefore signalled his support for the following clear retraction of the “collective decision of the House of Bishops” not to use Canon B5A: “I will be supporting the amendment being put forward by the Bishop of Oxford”

The exact wording of the proposed amendment was the inclusion of a request asking the House of Bishops “to consider whether some standalone services for same-sex couples could be made available for use, possibly on a trial basis, on the timescale envisaged by the motion passed by the Synod in February 2023”.

The Archbishop of York explained he was doing this

because, as things stand, I am concerned that clergy using the commended prayers might find themselves vulnerable to a legal challenge if their use of the prayer looks to someone else to be a standalone service. Something that allows standalone services for an experimental period seems to me to be a sensible and pastoral way forward. It gives clergy and parishes who want to use the Prayers of Love and Faith the legal protection they need, and because this will be on an opt-in basis, clergy and parishes who, in good conscience, will not use the prayers will be under no compunction or compulsion so to do, nor will they be disadvantaged in any way by their decision. We will, of course, need further discussions about how this provision continues to run through all that we are proposing (pp. 9-10).

### Question Time

The next agenda item to address the matter was answers to questions. In answer to Matt Beer (Q21) about the use of B2 the Bishop of London stated that “what we recognised was there was a concern about protection around the standalone services, hence the reason for looking at the standalone services being under B 2” (p. 35). In response to Q24 she again drew attention to the fact that “The risk of legal action is greatly diminished if the prayers are authorized, rather than commended, which is one of the reasons for bringing standalone services to Synod via a B 2 process”. She had to admit, however, in responding to a supplementary, that she could not answer whether the House of Clergy and General Synod had “ever before been asked to vote on a motion that involves placing fellow priests in a position of considerable legal uncertainty without being party to the legal advice on which the House of Bishops has acted?” (p. 36). She promised to provide a written answer but I am unclear if these are ever published or only given privately to the Synod member asking the question.

A London lay member, Debbie Buggs, highlighted another problem with using Canon B5A in a supplementary to Q39 (p. 46). This asked if the bishops “considered the extract from GS Misc 2358 [*sic*, actually [GS Misc 1359](#)], the Recent Evolution of Liturgical Procedures, where the Revision Committee at the time said, “It was not to be expected that any service authorized for use under Canon B 5A would be doctrinally suspect, but the proper test would be when that service was submitted for authorization under Canon B 2” given that the disagreements so far have surely indicated that the proposals are doctrinally suspect?” to which the reply was “Yes, Debbie, we have considered that. I think there is a difference in view on that”.

In relation to Q53 legal advice was promised to Synod members when the B2 process was underway and once again a written rather than verbal answer was offered when a definition of “standalone services” was requested but could not be supplied (pp. 52-53).

The fullest answer came in relation to the most specific question (Q57) and the exchange merits quoting in full:

Mr Peter Barrett: I just really wanted, if you can give it, some more clarity on why there was a sudden change in the decision to go from B 5A to B 2. I suspect it was probably around October the 9th.

The Bishop of London: The truth is there was not a sudden change. I even think back in July there was mention of B 5A. This has been a process where, as I said before, the House and the College have been in discussion with each other. We are doing exactly what we should do in terms of it. I do not think it was sudden, but I think it was recognising that B 2 gave the quickest way of getting the standalone services authorized into use. You will see that the Bishop of Oxford is bringing an amendment tomorrow. The further clarity has been that, actually, you could run experimental services alongside the B 2, which is where the amendment comes from, and I think the Archbishop of York has indicated that he will support it. It is likely that I will as well (pp. 55-56).

There are several matters of note here. *First*, the denial of “a sudden change” and the claim “I do not think it was sudden” is very difficult to square with the votes and briefings in September and October set out above. *Second*, there was no mention of B 5A in the paper presented to Synod in July and only one very brief mention in the Synod by the Bishop of Lichfield ([Report of Proceedings](#), p. 259). *Third*, the description of the process as “the House and the College have been in discussion with each other” is also an intriguing summary of the House disregarding an overwhelming vote of the College. *Fourth*, the focus is on *speed* where reference is made to “further clarity...that...you could run experimental services alongside the B 2, which is where the amendment comes from”. This suggests some change in the legal advice on this matter which the House had been “carefully considering” in October when they rejected use of B5A. This would entail that the current legal advice to the bishops at the time of Synod was different from that which the Bishop of London would later insist was all summarised in the Synod paper. *Fifth*, there is no reference to the other argument in the papers presented to Synod, the crucially important one of the relative legal *security* of different routes.

Shortly after this exchange, Simon Butler (Q60) was informed that were the Bishop of Oxford’s amendment were to be passed by Synod “what we will do is provide Pastoral Guidance related to using services in time for an experimental period” (p. 57).

### [The Oxford Amendment Debated](#)

Two days later, on 15<sup>th</sup> November, the Bishop of Oxford’s amendment (quoted above when it was first referred to on the floor of Synod by the Archbishop of York) was the formal attempt effectively to reinstate use of Canon B5A rather than leaving standalone services to be introduced (or not) by Canon B2. In his speech (pp. 252-3) the Bishop of Oxford said that “There are many bishops who could have moved this amendment” which arose because “there was disappointment, and is, that standalone services will not be available at present until the conclusion of a full B 2 process, several years away”. He reported that (even though it represented a reversal, which he did not explicitly acknowledge, of the House’s October decision), “This amendment was tested on the House of Bishops and received widespread, though not universal, support, and its effect will be to invite the



House to revisit the experimental authorization of standalone services". It would "enable those services to be celebrated much sooner, and during the Canon B 2 process". Presenting his proposal as "a reasonable and orderly way of proceeding" he claimed that "The period of experimental use will act as a genuine period of reception, and will also provide a way of testing and reflecting on standalone services in practical, lived experience, which will resource the B 2 process".

As she had indicated two days before in her answers to questions, the Bishop of London accepted this amendment with this less than clear explanation:

B 2 was proposed in the document that you have before you, GS 2328, because it was felt that it would bring standalone services in the shortest possible time. However, we have heard the concerns of both those who would want to use the standalone services and those who would not want to use the standalone services, and therefore B 5A does provide clarity, particularly around the ability to opt in to using the standalone services. B 5.2 [sic] would also, I believe, provide better information for Synod to make their decision around B 2. And because B 5A can run along the same timescale as B 2, I will accept the amendment in the ability for B 5.2 [sic] to be able to do experimental services (p. 253).

What is noteworthy here is that no details are given by either bishop as to the nature of the changing (presumably legal) advice concerning the *speed* of securing authorised services in "the shortest possible timeframe". This is despite the fact that the Bishop of London, in rejecting an amendment requesting the legal advice be published (pp. 228-9), had [claimed that "nothing is being hidden" as it was all set out in the papers](#). This had led the Bishop of Southwell and Nottingham to say to Synod in moving his amendment:

Appealing now to the benefits of a more iterative process only increases the confusion, while leaving, clearly, a good number here concerned that something more is being hidden. I am compelled to, respectfully and very regrettably, say that I cannot agree with the opinion that nothing that might be useful to this Synod is simply not being withheld. I believe that there are a number of things - discussions, decisions and advice that we have received in the House - that would be useful to the Synod, and important for its work at this time, but that is held behind SO 14 (p. 236)

It would appear, reading between the lines, that whereas previously it was being stated that Canon B5A would have to run its course for a defined period and then be followed by the Canon B2 process now the advice being given was that it could in fact be run "during the Canon B2 process" (Oxford) or "along the same timescale as B 2" (London).

Even more significantly, there is no reference at all to the other argument concerning *security* that had been used for avoiding Canon B5A, namely that it was using Canon B2 alone that will "provide the firmest footing" and "provide reassurance concerning legal challenges". The silence here presumably means that this advice remained unchanged. If so, the amendment was moving the process onto a less firm legal footing (and thus increasing the risk of legal challenge, costs and defeat) although how less firm remains unclear.

These points were powerfully picked up in the opening speech against the amendment by Kate Wharton (Prolocutor of the Lower House of the Convocation of York ie Chair of the House of Clergy in the northern province). After noting the problems with approving and then possibly withdrawing standalone services and the difficulty of devising a genuine experiment, she pinpointed what remains one of the greatest puzzles about this whole process:

The Bishop of Oxford does not name Canon B 5A, but that is effectively what we are talking about, and yet the House of Bishops discussed and voted against B 5A. In fact, GS 2328 and answers to some questions outline a number of reasons why B 2 is better than B 5A. There we are told that the risk of legal action is greatly diminished if B 2 is used, that the firmest footing for proceedings lies with B 2, that broad consultation across dioceses will be possible with B 2. Why, then, having been told so clearly that the bishops chose B 2 for all of these good reasons, would we now switch to B 5A? The question of legal advice has already been much discussed in this Synod. The House of Bishops has received such advice but have declined to share it. The House of Clergy has been told that advice cannot be provided to us in time. These are extraordinary decisions to be asked to make without recourse to such advice (pp. 254-5).

Joy Mawdesley, the third speaker against also highlighted crucial legal matters (none of which were addressed by supporters of the amendment):

I have actually been moved to speak by the comments on Monday of both the Archbishops and the Bishop of London. I was surprised to hear at that point that they would be supporting this amendment. Yesterday, the Bishop of London said that she listens to Synod, yet she stated her support for this amendment before listening to this debate. It concerns me that, on the one hand, we are being told that GS 2328 includes all the advice, legal or otherwise that we need, and yet it seems that it can be swept aside in an instant and standalone services offered, albeit on a trial basis, without waiting for the approval of Synod under Canon B 2. May I remind Synod of the reasons why the bishops concluded that B 2 was the appropriate way to go. These are just some of them. "It will provide the firmest footing for those using the services within the shortest possible timeframe". "It will provide reassurance concerning legal challenges whether you wish to use the prayers or whether you don't". "It will provide time to set up important safeguards, the Independent Reviewer, complete Pastoral Reassurance work, explore structural pastoral provision" (pp. 257-8).

Unfortunately for those opposing the amendment, the important reasoned legal points in these two contributions and the more theological and pastoral points made in the speech from the Bishop of Chichester (p. 256) were then overshadowed by the final, highly polemical and emotive speech against the Bishop of Oxford's amendment given immediately before the vote ("This is a blasphemy against the holiness and power of God... "These blessings are curses". Bishops, at the end of your ministry do you want to be able to say, "I have fought the good fight, I have finished the race, I have kept the faith", or will you reject it and make a shipwreck of your faith?", p. 260). Despite that immediate backdrop, which understandably offended many in Synod, the vote was as tight as possible in the House of Laity, passing by only one vote.

Canon B5A was now, it seemed, back in play as the final motion eventually passed in all 3 Houses (though, bizarrely, it was opposed by one lay member who, despite opposing the February motion, had voted for the Oxford amendment and who if he had voted against it would have caused it to fall by one vote).

## Shaking it all about?: B5A Post-Synod

The Synod motion of course could not *require* the House of Bishops to do something but simply asked them to "consider whether some standalone services for same-sex couples could be made available". It is unclear whether the question of standalone services was discussed at the 29<sup>th</sup> November House of Bishops two weeks later (the [published notes](#) refer only to commendation

explicitly but also signal this LLF discussion was “alongside other matters”). For 12<sup>th</sup> December, however, [the notes](#) read:

Noting that the House had previously voted in favour of seeking authorization of the Prayers of Love and Faith standalone services under Canon B 2, and that the Synod had asked the House to reconsider whether other options might be possible, for example experimental authorization under Canon B 5A, the BISHOPS OF LEICESTER and NEWCASTLE led the House in a discussion of the options. No decisions were made.

Other options likely included authorisation by diocesan bishops who wished such services (under Canon B4.3). This would allow standalone services in their dioceses distinct from the Canon B2 process and so would mean standalone services were “made available” albeit only in some dioceses. Strictly speaking, this December discussion may have met the canonical requirements of Canon B5A. These do not explicitly require any decision to be made by the House but simply state “Where a form of service has been prepared with a view to its submission to the General Synod for approval by the Synod under Canon B 2 the archbishops *after consultation with the House of Bishops of the General Synod* may, prior to that submission, authorize such form of service for experimental use for a period specified by them on such terms and in such places or parishes as they may designate” (italics added).

There may, however, be two problems blocking such use of Canon B5A. Firstly, if as it seems the October House’s resolution to introduce standalone services by Canon B2 explicitly rejected use of Canon B5A then that likely constrains the Archbishops unless the resolution is formally rescinded and here the complexities of [Standing Order 25](#) relating to reconsideration (which were raised in relation to the Oxford amendment during General Synod) may make things yet more complicated. Secondly, it may be that they (despite both voting for the Oxford amendment) are no longer keen on using Canon B5A which would make them the focus of any legal action. Helen King [reports](#) (italics added) that

Following the Bishop of Oxford’s successful amendment in November, the House did indeed – as Synod asked them to do – return to the stand-alone services using the Prayers of Love and Faith at their [December meeting](#). But the decision recorded there was still not to use stand-alone services on a trial basis, *and it seems that the archbishops – not the House – were the driving force in this decision*. So now it looks like there will be no trial.

When [the Pastoral Guidance](#) was formally published [immediately after that December meeting of the House](#) it included the following explanation (on p. iv):

#### **Commended prayers and standalone services**

In various places reference is made to standalone services.

This is intended to be a reference to the forms of service currently proposed for approval by the Synod under Canon B 2, and to clearly distinguish between what is allowed with regard to the commended prayers in the PLF Resource Section, and what can only be done if and once the forms of service have been authorized.

The text relating to standalone services is liable to change in the course of the synodical process for authorization. If that process concluded that the PLF services could not be authorized, then these passages from the Pastoral Guidance would then be removed entirely.

For now, these are indicated in italics.

The College met again on 18-19 January followed by a meeting of the House. No detailed notes have been issued and [the press release](#) makes no mention of the standalone services. In meetings with stakeholder groups the following week, and in [an article from the two lead bishops in the Church Times](#), the focus shifted to a “reset” with commitments being brought to General Synod and acknowledging that “more time will be needed to agree the details of a settlement”. The article said that these commitments “will support the process of authorising the stand-alone services of Prayers of Love and Faith” but it was not clear whether that would be by Canon B2 alone or experimentally by Canon B5A. In addition, the briefings with stakeholder groups suggested that authorising such services would only be made available as part of that wider “settlement” in which both pastoral guidance and pastoral reassurance/provision were also agreed, thus implying that their experimental introduction by Canon B5A was not imminent. [One report](#) from one of the meetings with groups supporting change was clear that “We were told that the "archbishops" (though only one's opinion matters) have decided to postpone the implementation of stand alone prayers of blessing for same sex couples” and [Helen King has suggested](#), “we are talking about an outline of what a settlement would look like, to come to July 2024 Synod, then a further stage in February 2025”. It is clear that this is not acceptable to many, with 130 members of General Synod [reported](#) as writing a letter to bishops stating that “that the proposal of a “reset”” to the process is “unwise” and warning

It is clear that the mind of Synod, determined by due synodical process, is to implement those things agreed in February [2023], being new pastoral guidance to replace Issues in Human Sexuality and to introduce the full Prayers of Love and Faith, including the stand-alone services. It is also clear that Synod has rejected this implementation being dependent on an agreed settlement or structural provision...Any delay in moving forward will be seen as a failure by the House of Bishops to implement votes passed in Synod and a rejection of the courtesy of Synod in welcoming your proposals. This will not reset the tone of the debate in a positive direction, neither will it build trust for any reconciliation discussions on maintaining unity.

In summary it looks like we are now about to enter the final stage of this episcopal hokey-cokey when the Archbishops and House of Bishops “turn about, that’s what it’s all about”.

## Conclusion

In the light of this rather complex, convoluted and far from complete history there appear to be at least the following ten questions about what has happened and in particular how decisions were made and what legal advice there was within the deliberation process.

### *The mysterious conception of “standalone services”: Summer*

- 1. How and why between the July General Synod and the meeting of the College of Bishops (from 18<sup>th</sup> to 21<sup>st</sup> September) was this new sharp distinction between “regular” and “standalone” services created and how and why were different canonical routes proposed for each category?**

### *Putting B5A in: September College*

- 2. What legal advice existed at this initial stage of the bishops’ consideration in relation to the “B5A or not B5A?” question and what did such advice state?**

### *Putting B5A out: October House*

3. What were presented to the bishops as the “legal, theological and pastoral implications of possible approaches” that led them now to conclude, after consideration, in favour of Canon B2 and to reject the use of Canon B5A?
4. Was this change in proposed canonical processes agreed by the House in October due to the legal and theological advice now being offered to them having become, in an iterative process, different from that which had been offered to the College in September in relation to the use of Canon B5A?
5. Why, [in a dissenting statement](#), did a dozen bishops at the House state that “legal and theological advice the House has received suggest clearly to us that the decisions of the House may fall short” of the bishops’ declared intention (and the requirement within the February General Synod motion) that “the final form of the prayers should not be “indicative of a departure from the doctrine of the Church of England””?

*Putting B5A in: November Synod*

6. What legal advice was being given to the bishops at this stage concerning (a) the respective speeds of the “B5A or not B5A?” question in relation to the B2 process and (b) the different legal risk assessments of “firmness of footing” and “reassurance concerning legal challenges” in relation to these two possible canonical routes?
7. What new legal advice was drawn up and provided to the bishops that persuaded so many of them in the November General Synod to overturn their decision in the October House (which had been based on the consideration of “legal, theological and pastoral implications of possible approaches”) and defended in GS 2328 and why was neither this or earlier relevant advice made available in any form to members of General Synod?

*Shaking it all about?: B5A Post-Synod*

8. Has the Legal Office now issued, after General Synod, further legal advice to the bishops that was not previously available and can ([as before the last February Synod](#) but never since) at least an accurate summary of that (along with any earlier 2023 advice) be made available?
9. What in any legal advice has changed post-Synod, particularly in relation to those criteria of *speed and security*?
10. Or has the legal advice remained constant after Synod and the bishops (or simply the Archbishops who alone can trigger Canon B5A) decided to “turn around” back to October’s “not B5A” rather than the “B5A” of September and November because of other, more political and/or relational reasons, rather than because they have received different legal advice?

If there are to be [proposals for the LLF process to be reset around certain commitments](#), including to “honesty and transparency”, then applying those principles to the history of Canon B5A within the PLF process will be important. In particular, we need much greater clarity as to how legal questions concerning its use were being answered within the legal advice that guided Archbishops and bishops as they danced their “in-out” hokey-cokey. Such transparency may help us as we go forward to better answer the “B5A or not B5A?” question and to follow the [pastoral principles](#) of addressing ignorance, acknowledging prejudice, speaking into silence, casting out fear, admitting hypocrisy, and paying attention to power.