had already been introduced, though there were no other teddy-bear-shaped memorials. Despite recognising the very strong pastoral considerations involved, the chancellor held that the petition had to be decided in a wider context. Previous petitions seeking to introduce teddy-bear-shaped memorials in the diocese had been refused. If the proposed memorial were allowed, not only would that be a precedent for other such memorials but other grieving parents elsewhere in the diocese would be hurt and aggrieved by the decision. The chancellor applied the reasoning of Tattersall Ch in *Re St Andrew, Dacre* (2011) 13 Ecc LJ 119: an applicant's own assessment of what was a worthy memorial could not weigh heavily in determining what should be permitted; otherwise there could be no effective system of regulation of memorials in churchyards. A memorial could not be justified simply because it was said that it would meet the pastoral needs of the deceased's family. The petition was accordingly refused, the chancellor indicating that he would permit a small, coloured engraving of a teddy bear in one of the bottom corners of a normally shaped memorial, were the petitioner to seek permission for that. [Alexander McGregor]

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R (on the application of the parent governors of Cardinal Vaughan School) v Roman Catholic Archbishop of Westminster and another
Court of Appeal: Rix and Smith LJJ, Sir Richard Buxton, April 2011
Schools – foundation governors – appointment

Paragraph 5 of the governing instrument of a Roman Catholic voluntary aided maintained school required that two foundation governors should, 'at the time of their appointment, be eligible for election or appointment as parent governors'. The parent governors of the school challenged the decision of the Archbishop of Westminster in appointing four new foundation governors, none of whom was eligible for election or appointment as parent governor. The Archbishop had not renewed the appointment of two foundation governors who were parents of current pupils at the school. Paragraph 10 of Schedule 1 to the School Governance (Constitution) (England) Regulations 2007 provides at follows:

> 10 (1) . . . the governing body must appoint as a parent governor—
> (a) a parent of a registered pupil at the school;
> (b) a parent of a former registered pupil at the school; or
> (c) a parent of a child under or of compulsory school age.
> (2) The governing body may only appoint a person referred to in sub-paragraph (1)(b) or (c) if it is not reasonably practicable to appoint

a person referred to in the sub-paragraph which immediately precedes it.

The Archbishop relied upon the fact that two of the existing foundation governors had fulfilled the requirements of paragraphs 10(1)(b) and (c) respectively at the time of their appointment, and thus the requirement of paragraph 5 of the governing instrument was satisfied. He argued that paragraph 10(1) alone defined who was 'eligible for election or appointment as a parent governor', and that paragraph 10(2) was relevant only to the method of choosing parent governors. The claimants argued that paragraph 10(2) meant that it was only lawful for the foundation body to appoint governors eligible under paragraphs 10(1)(b) or (c) if it was not reasonably practicable to appoint a current parent. In upholding the decision of the first instance judge, the Court of Appeal, by a majority, agreed with the arguments of the Archbishop. The Court of Appeal noted the particular function of foundation governors to secure, preserve and develop the religious character of the school. It was held that to accept the arguments of the claimants would be to place an undue fetter on the discretion of the Archbishop in appointing foundation governors and would create unintended and unreasonable operational difficulties for the Archbishop in exercising his discretion. Sir Richard Buxton, in a dissenting judgment, found that paragraph 10(2) also informed whether a person was 'eligible for election or appointment as a parent governor' and as such the governing body of the school was unlawfully constituted as it did not have two foundation governors who, at the time of their appointment, were eligible for election or appointment as parent governors. [RA]

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Gilmore v Archdeacon of Charing Cross
Court of Arches: April 2011
Clergy discipline – conduct unbecoming – sexual misconduct – penalty

The appellant appealed against the decision of, and the penalty imposed by, a clergy discipline tribunal for conduct unbecoming or inappropriate to the office and work of a clerk in holy orders. The appellant had provided overnight accommodation in the rectory for two servicemen attending a Lesbian, Gay, Bisexual and Transexual Conference in London. The appellant had made indecent proposals of a sexual nature to the two servicemen and persisted in pressing his attentions on them when they had clearly indicated that his attentions were