

In the matter of a Complaint under the Clergy Discipline Measure 2003
Before the Bishop's Disciplinary Tribunal for the Diocese of Chelmsford
In the matter of the Reverend William Bulloch

The Venerable Michael John Lodge Complainant

and

The Reverend William Bulloch Respondent

Determination

Introduction

1. By a complaint dated 22/11/17 the Complainant, the Archdeacon of Southend, brought proceedings against the Respondent for misconduct under Section 8(1) (d) of the Clergy Discipline Measure 2003. He alleged that the Respondent had acted in a way unbecoming or inappropriate to the office and work of a clerk in Holy Orders contrary to Canon C26(2) and Section 2 and 10 of the Guidelines for the Professional Conduct of the Clergy 2015. The complaint was considered by the Deputy President Sir Mark Hedley on 27/7/18 who concluded that there was a sufficient case that ought to be required to be answered before a Tribunal. The allegation to be heard he formulated as follows:

“ The conduct of the Respondent, the Reverend William Bulloch, Vicar at Leigh-on-Sea , St James the Great, was unbecoming or inappropriate to the office and work of a clerk in Holy Orders within section 8(1) (d) of the Clergy Discipline Measure 2003 in that:

- (i) from late 2016 to early 2017 he, a married man, had a sexual relationship with AB to whom he had been giving pastoral support, and
- (ii) during 2017, having refused to provide AB with pastoral support a time when she was in need of such support
 - (a) failed to seek assistance or advice from the diocesan safeguarding team or senior diocesan clergy as to how

suitable help or support could be provided for her and/or as to how he should respond to her, and

(b) in the course of a number of conversations with her was rude and abusive by using foul and obscene language”

2. On 11/1/19 directions were given in preparation for a hearing fixed for 25 and 26 April 2019. On 21/2/19 the statement of case of the Designated Officer ('DO') was lodged with witness statements from the Complainant and Danielle Law the deputy safeguarding officer for the Chelmsford Diocese dated 1/2/19. No witness statement were served at that stage from AB because the DO confirmed it was not his intention to call her in support of the allegations but to rely upon documents supplied by AB which included transcripts of recorded conversations she had held with the Respondent ('R'). The DO submitted that these transcripts amounted to clear evidence of R's admission of the allegations and proof of the misconduct alleged.
3. R's Statement of Case dated 20/3/19 admitted the charge set out at (ii) (a) and (b) above, but denied (i): ie he denied that he had had a sexual relationship with AB whilst giving her pastoral support. On 13/3/19 it was submitted to the Tribunal on behalf of R that it was contrary to natural justice for the case to proceed on the central allegation concerning the nature of the relationship between AB and the R without AB being called and cross examined. At a directions hearing on 4/4/19 submissions were heard by the Chair alone and a ruling given on 7/4/19 that it would be a breach of the overriding objective if AB were not called by the DO and R was thereby deprived of the opportunity to cross examine her. The DO then indicated that he would call AB as a witness.
4. Although it was hoped that the hearing could still proceed on 25/26 April, for good reasons, including the illness of the R's wife, this date had to be vacated. Further case management rulings were given by the Chair alone on 1/9/19 after submissions. The hearing took place on 2-4/10/19. The Tribunal then adjourned part heard for final submissions on 13/12/19. The Tribunal reassembled to discuss those submissions and to reach a decision on 30/12/19.

The legal framework

5. Section 8(1) (d) CDM provides :

“ Disciplinary proceedings under this Measure may be instituted against any...priest alleging any of the following acts or omissions-

.....

- (d) conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders”
6. The hearing proceeded on the basis that it was accepted that a sexual relationship between a priest and a person with whom they were in a pastoral relationship would be a breach of this requirement.

Burden and standard of proof

7. Under s 18(3) CDM the standard of proof by which the complainant must prove his case is to the civil standard applied in proceedings in the High Court exercising civil jurisdiction. In Re B (Children) 2008 UKHL 35 the HL considered the operation of the civil standard of proof in a family proceedings case and some suggestion in earlier authorities that there existed a ‘heightened civil standard’ the more serious the allegation. At para 13 of his judgement Lord Hoffman approved the reasoning of Dame Elizabeth Butler-Sloss P in re U (A child) (Dept for Education and Skills intervening) 2004 EWCA Civ 587 where she held that the approach of Lord Nicholls in re H (Minors) (Sexual Abuse: standard of proof) 1996 AC 563 was correct where he ruled:

“the balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind as a factor, to whatever extent is appropriate in the particular case, that the more serious the allegation the less likely it is that the event occurred and , hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. ... Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation.

Although the result is much the same, this does not mean that where a serious allegation is in issue the standard of proof is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established’

8. In Lord Hoffman’s judgement at para 14 in Re B (Children) 2008 UKHL he added that he would wish to emphasise (in italics) some words in Lord Nicholls’s judgement already set out above :

“the court will have in mind as a factor, *to whatever extent is appropriate in the particular case*, that the more serious the allegation the less likely it is that the event occurred and hence the stronger should be the evidence

before the court concludes that the allegation is established on the balance of probability”

Lord Hoffman explained that there is only one rule of law which is that the occurrence of the fact in issue must be proved to have been more probable than not. He states:

“ Common sense, not law, requires that in deciding this question, regard should be had to whatever extent appropriate, to inherent probabilities”.

9. Mr Gau (counsel for R) relied upon a recent authority El Karout v NMC 2019 EWHC 28 (Admin) where Spencer J applied Lord Nicholls’ judgement in Re H (Children) 1996 AC 563. Spencer J held that there was a need in that case when determining serious charges for the evidence to be of particular cogency before finding the charges proved.

Previous allegations

10. An additional part of the legal framework which the Tribunal must apply concerns the assessment of any evidence of past allegations made by AB against persons other than R. I will summarise this evidence and the Tribunal’s use of it later in this determination. The legal framework to be applied is that the Tribunal may use evidence of past allegations made by AB if it can be satisfied on the balance of probabilities that the allegations were made by her and that they were false. If they can be so satisfied, then it is open to the Tribunal to use that evidence to decide whether AB had a propensity (or a tendency) to make false allegations of that kind. If the Tribunal concluded that she did have such a propensity, then the Tribunal could take this into account when judging the truth or otherwise of her allegations in this case. This is the approach required by Julian Knowles J in Arowojolu v GMC 2019 EWHC 3155.

Good character

11. Within the statements of Karen Benford, Maureen and John Benford and Graham Powling (bundle p 191-195) there is evidence going to the issue of the R’s good character. The legal framework for the consideration of such evidence is that good character cannot be a defence to the charge alleged and it does not mean that even if the evidence of good character is accepted that R could not have committed the misconduct alleged. However, it is relevant to the Tribunal’s consideration of the case in two ways. First, R has given evidence. If the Tribunal accepted the evidence of good character in these statements, then that is a positive feature of R which the Tribunal may take into account when considering whether R’s evidence is accepted as truthful. Secondly, if the Tribunal accepted the evidence of his previous good character, the fact that R has good character in the past may make it less likely that the R acted as is now

alleged against him. However, even if the Tribunal accepted as proved the evidence of his past good character in the terms set out by these witnesses, the weight that should be given to it and the extent to which it assists on the facts of this particular case are for the Tribunal to decide. In making that assessment the Tribunal may take account of everything that they have heard about R including the principal complaint against him. We deal with good character evidence at para 108(xiii) of this Determination.

Inferences

12. The Tribunal may draw inferences which means that it may come to common sense conclusions based on the evidence which it accepts, but it must not speculate or guess what evidence there might have been or be drawn into such speculation.

Analysis of the evidence

13. AB's statements dated 16/4/19 ((p466-473 w/s 1) and 3/5/19 (p474-476 w/s 2) sets out her account of the developing relationship with R. There are also pages of her own notes which have been attached to her initial short statement dated 22/11/17 (p 87-118). We summarise her evidence in the following paragraphs.
14. She confirms that having been a member of a congregation of another church (St Luke's), she faced some difficulties there and her parish priest (this we find must be Fr McCluskey) suggested she may prefer to speak to another priest.
15. In cross examination she was asked about notes of conversation between the Complainant and Fr McCluskey p 11 and the note of a meeting 5/1/18 between Fr McCluskey/R p 197, relating to past allegations against other men, or becoming pregnant. She said that there had been an occasion when a friend from St Luke's had asked her on a date and Fr McCluskey said they could use the centre at St Luke's for a romantic dinner. *'Something happened when no protection was used'* but the last thing she wanted was to be pregnant. Additionally, she said that she had not had any relations with a man from Tiptree (who had been working on a St Luke's church website) and did not tell Fr McCluskey that she had become pregnant by that person. Neither had she claimed that she was pregnant in 2010 in a conversation with Fr McCluskey. She said that it was correct that the deputy head of the school was involved pastorally with her after she had a miscarriage.
16. Following her referral to R, she phoned R in August 2015 and eventually they met and they talked for many hours and he gave her confession. She explains how close they became and she purchased gifts and meals for him and his wife: she gave significant amounts of money (see receipts and email from R p 156-

159). Her evidence was that she was his family and *'I felt I belonged to him. He said I was his family. He was clever in how he worded things to me, and I believed him'* (para 6 w/s 1). She called R her lighthouse, like a guiding light, a shepherd: R became the only person in her life (para 13 w/s1). She would go to R's house and watch films with R's wife and daughter and was drawn into his family stating *'I had been drawn into something that was putting me at harm, leading to what would happen'* (para 16 w/s 1). The Tribunal noted other evidence from Mrs Bulloch concerning a film which AB chose and brought over to the Vicarage to watch with them (w/s para 10 p 533): it was a horror film with scenes of *'graphic suicide'* and *'very disturbing sexual behaviour'* which they found very offensive: after AB fell asleep on the sofa they were able to switch it off). The Tribunal also notes that the gifts AB gave R and his wife became according to Mrs Bulloch *'uncomfortable, the gifts were becoming too generous or too strange. One such gift was a whole pig's head.'* (w/s para 9 p533).

17. From 2016 her evidence in cross examination was that she was in declining health. She had not disclosed her medical notes to the Complainant in this case because she is a *'private person'*: no one had asked her for them, she said. There was a time when she could not walk and R bought round his daughter's wheelchair to assist AB. In November 2016 she told R that she was dying. She told R that she was on a palliative care pathway.
18. She states that there came a time when R would visit her at home because of her ill health. She claims he visited her in hospital and asked her if she was wearing knickers under the bed cover: she felt uneasy with this. The visits to her home increased in frequency (once and then twice a week) and then daily phone calls. It was very secretive between them. She states (para 10 w/s 1) that *'something was very wrong and all the money and control with the power he had somehow gave him the ability to control what I did and was clever'*. She and R went by car to see a sunset and a picture was taken which he told her should not be seen by anyone because *'they will see the adoration in your eyes'*: so the picture was hidden. (This picture was produced as an exhibit in the hearing at p379).
19. Her case was that she stayed at R's house for 2 weeks when her heating was not working and she was quite weak: she stayed in the lounge and R stayed with her. She said that she had feelings for R at this stage and was falling in love. At some stage when she was staying at his house she said that there was sexual touching by him of her when she was lying on the floor on cushions and he came to lie beside her. His wife was upstairs in bed when this happened (para 19 w/s 1). She states that this made her uncomfortable and she wanted to go home but R made her stay by stating that if she left she would no longer be his family. She states that whilst she was at R's house she was unable to do *'personal things'* and she was restricted.

20. AB stated that when she did go home (a friend having collected her) R then came to visit her every day at her home. He always wore his cassock. On one day as she lay on the sofa he leaned over and kissed her and said that he wanted to see her private areas under her knickers: she felt pressured by this. She felt exposed when this happened and R played with his penis. He then penetrated her vagina with his penis. Over the days ahead there was oral sex as well as full sexual intercourse. At one stage she alleges that he put his hand around her throat and she became scared: she says that he knew he had power over her (para 29-33 w/s 1). The sexual acts she alleges were performed by R is set out in some detail in her w/s which we do not need to further summarise here. All these acts were denied by R.
21. In his evidence R 's w/s p483 para 7 states that he believed that 'Julian' was a bona fide psychiatrist working for social services who had the responsibility for the care of AB. He accepted what 'Julian' said and was being encouraged as someone that AB trusted to support her and the children as she died. On 22/11/16 (para 12 p484) he received an email from 'Julian' saying that she had been rushed to hospital with seizures and that her death was imminent and would be before Christmas. There was no hospice place for her and she wanted to be at home when she died. The removal of her children from her had been devastating to her, as R believed, and her 'last dying wish' was to be part of a family. This was confirmed to R by 'Julian' emails 27/11/16 (p 485 para 14) . R with his wife or one of his daughters would take her out on 'last visits' to places important to her and she came to R's vicarage to offer her a family feeling that she was missing. At the end of November the heating failed in her house and R with his family agreed to have AB live with them as she died, which she and 'Julian' said was imminent (para 15 p 485/6). There were some difficult days when R had wanted to call an ambulance but she had insisted not to. Eventually some contact was made with her son and a visit was arranged with them which had to take place at her house so R's wife took her back to her own home.
22. Once the visit was over R and his wife wanted her to return to their house but she said that she wanted to remain in her home: they kept in touch and eventually she changed her mind and said that she would come back to the Vicarage where 'she felt safe and part of the family'. She was unable to walk or stand properly when at the Vicarage. She had an oxygen tank and wore patches which she said were morphine (p 487 para 15). Both R and his wife took turns sitting with her at night: there was a duvet outside in the passage way and when R was with AB his wife would be outside in the passage way and vice versa. R stated (para 15 p 487) that it would have been madness for him to have sexually touched AB in that situation as she alleges. At one stage she arranged a friend to take her to the police station because of a problem with one of her children. R was unsure how she would get there, and she then returned to her own home. The Tribunal notes that R then received further emails from 'Julian' which we summarise at para 35 of this Determination.

23. R said that he and his wife agreed that they could not have her back at their home given her difficulties and so R told 'Julian' this and he promised both AB and 'Julian' that he would visit each day and speak on telephone (para 18 p 488). He would ring ahead before arriving and stay 30-60 minutes: he made no attempt to hide his visits. He was encouraging her to get help from doctors and nurses. When he visited, he said, she was unable to eat and would choke and so he could not provide her with the sacrament. He has subsequently learnt that during this period Fr McCluskey was visiting her to minister the sacrament to her (and noted bowls of sick/blood: see note at p 198). R's evidence (confirmed by his wife) was that his wife would sometimes come with him or would drop him off. Sometimes her children were there and sometimes AB's father was there to pick up her daughter. R states that he did *'not believe I visited her alone without someone else being there the 20 times AB claims they had sexual encounters'* (w/s p488 para 19). He states that it would be quite impossible to have a sexual relationship with someone in this state: she was unable to walk, open her eyes without dark glasses, she used an oxygen tank to breathe and often wore a canula. Medication, bowls of sick and vomit were on the floor.
24. This pastoral relationship continued until it ended at the beginning of February. On 8/1/17 'Julian' and AB asked R to speak to her daughter aged 7 about her imminent death. To this end he took her daughter with her mother to Shoebury which AB said was important to her and then spoke to her daughter in the car about the imminent death of her mother with AB present. R states this was a *'harrowing experience'*.

The Julian emails over the period of the alleged sexual relationship

25. AB's evidence is that her son found out about the relationship with R and started to send emails to R to 'find things out' (para 76 w/s). This is a reference to the 'Julian' emails. Her evidence was that he was autistic and for some period was not living with her. He was aged 16/17 in 2015 and was now aged 21: therefore we calculate he was aged around 18 at the time of the 'Julian' emails: p 201-339. These emails purport to come from a medical professional with access to her medical records who is treating/ having some professional responsibility for AB. Approximately 130 emails are sent from 'julian1therapy@outlook.com' to R and roughly the same number in reply from R, in an approximate 2 month period between 17/11/16 and 21/1/17. Many are written on the same day. It is AB's case that these emails are all written by her 18 year old son to find out information from R about his relationship with his mother. R's case is that he is responding to what he believed was a genuine medical professional with responsibility for AB's care, when in fact, as he states he now realises, these emails were being written by AB herself as part of her manipulation of him.

26. In a further twist of complexity, it was the DO's submission to us that these emails were indeed written by AB (contrary to what she says) but that R knew that she was sending them and they were both 'playing a game' with each other in keeping up the pretence that Julian was a real medical professional discharging professional responsibilities for AB. It is the DO's case that the emails are so obviously not written by a professional person that R could not have been taken in by them: R's case is that he was. The issue of who wrote these emails and why is a matter for us to determine in this case.
27. The first 'Julian' email to R is 17/11/16 (p230) in which ' Julian Barton' introduces himself as someone with professional care for AB with '*access to her medical records*' expressing his concern that she has insufficient support at home. He requests that R becomes the next of kin for AB because she is on a '*palliative care pathway*' which she is finding difficult to accept. The email mentions her '*excruciating pain*' and distress, the report of nurses who visit '*daily*' and the need for a hospice for her that is not in Southend. He wants to involve R '*as much as possible*'. R responds (p201) recording that he has urged AB to accept the offer of a place in a hospice which AB has told him has been offered to her: he records how her suffering is '*heart breaking*' and he hopes that she will find some peace in her last days/weeks. Whilst writing his reply he records that AB has rung him to say she has just found out that the proposed hospice is not in Southend and so R records his hope to 'Julian' that a hospice with which she is familiar will be available to her. These are the tone of the exchanges between R and 'Julian' over the next 2 months.
28. AB in cross examination accepted that she knew that R was to be her 'next of kin' and that it had been first raised by 'Julian'. Given that it is AB's case that it is her 18 year old son who is writing these emails, this must mean that it is AB's case that her son was first raising this with R.
29. On 25/11/16 (p230-237) there is a sequence of emails between Julian and R all sent on 1 day. At p230 'Julian' asks if R is prepared to continue as next of kin and asks whether R can have AB at his home to make her feel '*your paying attention*' and offering AB support so that she is not isolated. This is the day after R has discovered that the Chelmsford hospice he has been told by 'Julian' he should take AB to visit, know nothing of AB nor any planned visit. R replies (p231) that AB cannot stay at his home ('*there is a limit to how much attention I am able to give..*'). This is followed by another email from 'Julian' saying that AB is '*sobbing*', that she is a '*beautiful lady*' and it would be a '*joy to see that smile again*'. He also wishes R to confirm that R is picking her up on Monday to go to another hospice in Colchester. R replies on the same day (p232) that he is unable to take her to Colchester on Monday because he has no time for such a trip. In a response (p232) 'Julian' wants R to confirm that he will not be taking her to Colchester on Monday, and then returns to ask whether she could stay at his home to be provide with support ('*[AB] has said about staying over at your home*'). 'Julian' further emails that day (p233) asking R to confirm whether he

has yet spoken to the Hospice at Colchester. Later that day (p234) R confirms that the Colchester hospice had phoned but he had not returned the call because he did not have the time to take AB to Colchester on Monday. He asks why has no interim care being put in place for AB at home whilst a hospice is arranged. He continues to say that it would be difficult to have AB living at his home: her care is putting some stress on his family but he asks 'Julian' not to tell AB that. 'Julian' responds on the same day (p234/5) that R should tell AB himself that he is not going to Colchester with her (and that her daughter aged 7 is visiting the next day). A yet further email from 'Julian' on that day asks R if he can get her daughter back to her grandfather's for 7 pm the next day. R replies (again that day: p 236) that he cannot take her back: but he has agreed to take AB back for some time at his home on Monday.

30. Thus by the end of the series of emails on 25/11/16 R has agreed to have AB stay at his home on Monday 29/5/16. On 27/5/16 (p241) 'Julian' states that he is glad to know she is coming to R's home and *'that is vital for her to feel she is part of a family'*. By an email on 28/5/16 from R (p246) he records that AB is now at their home and stayed overnight. *'We have dropped her back home this morning'* (ie on Monday 29/5). He had been trying to speak to the nurse but had no luck in getting through. However, AB had told him that she had been in contact with the nurses and they would see her at her home. He understood that AB would tell the nurses that she would now be at R's house and that a friend would be bringing her back to R's house. The Tribunal notes the unsuccessful attempts by R to contact nurses using the numbers he has been given by 'Julian' is a continuing theme in his evidence.
31. On Monday 29/11/16 'Julian' sends a very long email asking *'how has it come about that [AB] is now going to be under your care and responsibility in your family home, I know this was something you felt reluctant to do and had told her no'* (p247): 'Julian' continues *'[AB] did say she felt very comfortable at your home and felt at ease with the family, she said she felt better of(sic) at home..'*. The email also confirms in some detail the arrangement for *'very heavy amounts of morphine'* (delivered by patches to the thigh and not IV because a canula cannot be attached). 'Julian' asks where is AB to be sleeping at R's house and what help can be provided for her personal care needs (she may be reluctant to ask for help). He states that AB does not realise how close to death she is and asks that R *'talk to her kindly about this'*(p 249).
32. In response R replies that day (p249) stating that there is *'no other choice but to have her here as she is not getting the help she needs elsewhere and her house is cold and she is alone. We do this willingly and knowing what that means'*. R asks why has her care package been cut back? He finds it strange that in her confused state and with a high morphine dose she should be expected to self administer medication. He wants to know who is responsible for her care package? He notes that AB is allowing his wife to help her with her care needs: she is *'very wobbly'* on her feet. He believes that she is close to death. He still

has not been able to contact the lead nurse on the telephone number given to him by 'Julian' in earlier emails. He states that he does need to speak to someone. In reply 'Julian' explains that AB has refused to have nurses administer the medication but if she changes her mind then nurses can do it. 'Julian' says he will contact the lead nurse to tell her that R has been trying to contact her without luck. He also states that he will be slow to reply to further emails because he has clients from 5pm-11pm. R replies (p251) that he will try and persuade AB to give permission to the nurses to administer the medication.

33. By now AB is staying at R's house. On 1/12/16 R emails 'Julian' knowing that he knows that Julian 'is on a 2 week break'. We note this is not mentioned in the 'Julian' emails and so must infer that this information had come from AB. R also states that he knows that AB has spoken to 'Julian' this morning '*because I left the room so she could feel some privacy so am not aware of how that went except from [AB's] perspective*'. He records that despite AB agreeing with him once for nurses to attend her at R's home to administer medication, she still refuses to permit this. He has no contact with any doctors or nurses about this despite '*asking AB to allow this*'. The Tribunal notes:

- (i) 'Julian's' alleged 2 week break coincides with AB staying at R's house
- (ii) R left the room so that AB could speak to 'Julian' privately and knows nothing of what was said except what AB has told him
- (iii) R is seeking the attendance at his home of nurses to administer medication, and is trying to contact nurses on a number that 'Julian' has given to him without any success. He appears to want nurses to attend his house to help AB with her medication needs.
- (iv) His wife is helping with her care needs.

34. The email from R on 1/12/16 (p251) also recounts the disturbed night that AB has had at R's house : he asked AB if he could ring the doctor or the ambulance but she refused. He states '*we got her home early enough to prepare...*' for the visit of her 7 year old daughter and 18 year old son. She was very upset after this visit and he wanted her to return to his home that evening: she refused but agreed to return to his home the next morning. He notes that she stumbles and falls when with them '*pushing us away and clinging tight*'. From this email The Tribunal note that R writes of 'we' and 'us' from which we infer that he is referring to himself and his wife.

35. The emails from 'Julian' resume on 18/12/16 (p252) after AB has returned home from staying at R's house. This email reports that he has a social services report on her children and AB has told him that she had supported her 18 year old son at a police station before her return home. He notes she is struggling with her mobility and that R is visiting daily spending time

comforting and supporting her with phone calls: he reports that these are comforting to AB as *'she becomes more aware that she will die'*. He also has a report from the *'Lead Consultant'* and he reports to R the medical details of her failing organs (*'huge amount of internal bleeding that is passing into her stomach'*/ *'will not be able to walk due to pressure on her brain'*/ *'struggling to breathe'*/ *'unable to speak for more than a few moments without stopping or choking'*). He concludes by asking R how he feels AB is coping as she approaches her death (*'death is close'*).

36. R's response of 18/12/16 (p254) states that it has been an *'eventful and challenging few weeks'*: AB is close to death, unable to walk or talk very much. Home is where she seems most comfortable and *'where I can best support her in a limited way of course'*. He states he is in contact by phone and visits for a few hours each day. He will *'ask her often'* if she wants to be in hospital but *'she is very stubborn as we know'*. 'Julian' replies that she is settled at home and she needs people around her who *'love her'* and we should not make her go to hospital: she prefers to be at home in the *'build up to her death'*.
37. On 19/12/16 (p255) R writes that he is seeing her *'every day for a few hours'* and speaks to her on the phone 4-5 times day: she remains determined not to see the children again. He does not know *'how she is coping or still with us'* (sic): she is very strong but these characteristics will mean that she suffers *'the full extent of the awful death her illness will lead to'*. A email from 'Julian' 22/12/16 (p255) states that he has cleared it so that the children can be with her at Christmas but she is reluctant to agree to this : he asks for R to speak to AB about this to get her to agree. The email speaks of the upset he(Julian) has caused AB by the messages he has left and the conversations he has had with her that she will die *'a slow and most painful death'*. He leaves *'your good self father'* to look after AB. He acknowledges that this is a lot of pressure for R and asks *'are you able to be so dedicated to her'*. He asks if she is going to be alone on Christmas day or *'are there plans in place for her to be with people or yourself, is this something you have discussed, have you spoken to [AB] about dying..'* He asks R to confirm by Friday 4pm (ie the next day) whether AB will see the children or not. 'Julian' follows this email up with a morning email the next day with times for the children to visit AB (24/12 early evening and 25/12 11-6pm). He asks R to continue to support her and if R is finding it difficult to *'please let me know and I will have a discreet chat with [AB]'*.
38. R's response (p257) is that AB has made it clear she does not want to see the children and *' I do not know how much clearer she could be'*. R would be unable to support any such visits. He repeats that we must respect her decisions not to go to hospital or a hospice and her decision not to see her children should also be respected. In a response 'Julian' (p259) asks R directly where will AB be spending Christmas if not with the children – she should not be alone. He concludes that her blood pressure is dropping and she needs to be kept warm: he asks *'has she got heating now?'* The emails continue over this period

concerning the children with R emphasising how AB does not want to see them, her condition and the temperature of her house. 'Julian' at p262 on 24/12/16 states that he is *'unable to cancel the plans in place for the children to visit'* and *'there is little I can do now because I am now away for the Christmas week'*: he apologises for the awful position. R's response (p262) is to say that this is *'unacceptable'* and it is not too late to stop the children coming. R cannot help with this problem. 'Julian' responds that day (p263) asking how was AB today and apologising again for the children coming. More emails pass between them on Christmas eve in which R emphasises his opposition to the children visiting. At 1540 on 24/12/16 he emails (p264) to 'Julian' that he had telephone messages from AB and her 18 year old son who were upset at the bowls of blood next to AB that she had 'thrown up'. Her daughter (aged 7) is also reported by AB and her son to be upset.

39. The next email from 'Julian' is 28/12/16 who asks if R is *'well and rested'*. He asks that R rings AB to get her to ring 'Julian'. On 28/12 R reports he has spent an afternoon with AB with the children there and it was *'an awful time'*. R told AB that you (ie 'Julian') wanted her to ring urgently but *'she laughed still a beautiful yet heart breaking sight and asked where you were in the midst of the mess you left her in before Christmas. A question I had no reasonable answer to.'* (p267)
40. These emails continue until 21/1/17 when AB is seen to be walking in the hospital by R's wife and daughter and runs off when seen. We will analyse this part of the narrative further on in this determination. We have analysed the emails up to the end of the year because it is AB's case that the sexual conduct in particular the sexual intercourse took place in the period after AB had returned to her own home after the period when she had been at R's vicarage with his family.
41. AB was cross examined about the 'Julian' emails over this period. Her case was that they were written by her 18 year old son because he had seen a sexually compromising situation between AB and R through a hatch at her home and wanted to know more about the relationship. Since the first 'Julian' mail is 17/11/16 this would mean that AB's son must have seen this before that date which is before the time she goes to live at the vicarage at the end of November 2016 and then returns home in December and the sexual conduct is alleged to have occurred. In respect of C's involvement with these emails her evidence is that she had no knowledge of them being written and the psychiatrist 'Julian Barton' does not exist. In cross-examination she said that *'Julian Barton'* is another name for Julian Hayes her counsellor (who does exist). He attended 2 meetings with the Complainant -on 19/7/17 and 14/9/17: p13/14. This, she states in cross examination, is the 'Julian' she is referring to in recorded conversation 3 with R p 397 (dated 23/3/17): in referring to 'Julian' in that conversation she denies that she is maintaining the pretence that she is speaking to 'Julian Barton' because she was in fact

speaking to the real Julian Hayes. She accepted in cross examination that she never told R that the 'Julian' she was referring to was Julian Hayes and not 'Julian Barton'.

42. AB's evidence in cross examination was that her son had written a 'note' confirming that he had seen the sexually compromising situation involving AB and R at her home. This note, she said, had been seen by the Complainant. In a later witness statement from the Complainant put in after this evidence was given (p 382B) he confirmed that he had not seen any such 'note' from AB's son although AB had spoken of her son seeing a sexually compromising situation between AB and R. AB also gave evidence that she had the note from her son with her at the hearing: no such note was ever produced. No witness statement had been taken from AB's son at any time. There is no evidence that he had ever been spoken to about these matters on behalf of the Complainant.
43. AB also gave evidence that at a meeting with the Complainant and Danielle Law and the counsellor (Julian Hayes) about these 'Julian' emails a letter from AB's son was handed round in which he admitted to having written the 'Julian' emails. A further witness statement was submitted by the Complainant at p382A after she gave this evidence stating that no such letter from AB's son was ever passed round in a meeting he had attended.
44. In cross examination she accepted that 'Julian' was unavailable when 'I moved to the Rectory' at the end of November 2016. She also states that she only came to realise that her son was impersonating 'Julian' in late December 2016. However we note that in the meeting between the Complainant, Revd Tinning and AB on 27/4/17 (see Complainants notes p7-11 at p8; some 4 months later) AB states that she had a counsellor called 'Justin' who 'sent a few emails to the priest about AB's children and support needed 2016. Originally sent through GP surgery and then paid privately- still in contact-not regular'.
45. The Tribunal considers that if AB knew by December 2016 that her son was impersonating a psychiatrist in sending the 'Julian' emails to R, she has plainly chosen not to disclose this to the Complainant in April 2017. She has referred instead to her counsellor called 'Justin' sending emails to R: none have been disclosed and R did not tell us that he received any. AB did have a counsellor but he was called Julian Hayes (ie neither 'Julian Barton' nor 'Justin').
46. In further cross examination about the identity of 'Julian' (as noted above at para 41) she said that '*Julian Barton's other name is Julian Hayes*'. At the meeting with the Complainant and DL, Julian Hayes was present (the evidence was that he was present at meetings on 19/7/17 and 14/9/17 when R's name was first disclosed to the Complainant). AB stated in evidence that Julian Hayes is aware of the 'Julian' emails and 'understands that his name was used with a different surname'. She said in cross examination that she had 'taken the blame' for writing the 'Julian' emails in 2017 but the true position was that her 18 year son had written them.

47. It remains unclear to the Tribunal when the Complainant and the DO first knew that AB was conceding that the 'Julian' emails were false and written by her son. The Tribunal was unable to find in the disclosed material or the written evidence any indication that AB had disclosed to the Complainant that the 'Julian' emails were not genuine before AB's first witness statement dated 16/4/19 (para 76 p473). We understand that it remains the DO's case that the 'Julian' emails were all written by AB as part of some 'game' with R, but if it was known to the DO and the Complainant that AB was conceding before 16/4/19 and w/s 1 that the emails had been written by her son, this should have been disclosed to the R and made clear as soon as possible.

Emails from 'Dr Khokhar' and the ending of pastoral contact with R

48. At paragraph 59 w/s 1 AB states that R *'became angry because he said he was only coming to see me as I was going to die. He was so angry that I was at hospital and his wife saw me walking. He had told his wife he was only coming daily as I'm not walking. She saw me and he went mad and said I now caused trouble and he hadn't wanted me at hospital because doctors would know that sexual things were going on'*.
49. In cross examination it was put to her that the last email ever sent to R from 'Julian' was on 21/1/17 (p339) which was shortly before Lisa Bulloch had seen AB in hospital walking and when she realised she had been seen then running away. R in his w/s para 24 (p490) states that his wife told him that she had seen AB walking and running in the hospital. By this time his suspicion about AB *'had been growing'* and his wife did not believe that she was being honest about dying. R then confronted AB in person with this and she became distressed and hysterical: she said that there was pressure on the nerves and she had to go to London to see a specialist.
50. This was then immediately followed by the emails from 'Dr Khokhar'. AB's case on these emails is that they are not from Dr Khokhar but were written by a nurse called Claire who was very supportive to her and was aware of her relationship with R. AB's case is that she did not know that these emails were being written by her and only learnt about it afterwards. Thus on her case this is now the second author of fake emails written without her knowledge because someone was shocked about what was happening with R.
51. The first email received by R was on 27/1/16 from 'Mr JS Khokhar' asking R to confirm that he was next of kin to AB which R confirmed. This was followed at 2004 on that day (p 340) by a long email from 'Dr Khokhar' explaining how it could be that AB could have been seen walking in the hospital. It contains a long account of her condition (severe imbalances in the blood/ damage to lower ventricles of the heart which required an ECG at Basildon Hospital). The tests showed fluid on the lungs and she saw *'numerous consultants'* to see how they could prevent further damage: she had had numerous further

neurological tests. He confirmed her diagnosis which involved brain swelling *'as a result [AB] has been unable to walk or function as normally as she would of (sic) done so 12 months ago'*. She had been told that she was 'terminal' and is listed *'as DNR do not resuscitate'*. She has no bowel/kidney function as well as problems with her bladder. Her blood vessels are ruptured but *'she remains very brave and continues to try and be positive'*. 'Dr Khokhar' explains that AB needs to attend the ward to draw blood from her which can only be done slowly but she *'copes with the pain it causes her'*. He asks that R attends the hospital as next of kin at AB's next consultation with him.

52. 'Dr Khokhar' then goes on to deal with the events of 26/1/16 when Mrs Bulloch saw AB in the hospital walking and running. 'He' explains that she had attended for an appointment that day and was walking but her blood pressure was very low and she would have collapsed because she should not be walking. She is being seen by Queens Hospital as an urgent case because of the build up of fluid behind her eyes. He has explained that she should not leave the house again because she may have *'a fatal heart attack'*. 'He' knows how much support R gives her: and speaks of her Christian faith with 'Dr Khokhar'. He concludes that she should only receive fluids at home when someone else is present and *'remember to smile and do what makes you happy, You may want to remind [AB] of this'*. R responded on 28/1/17 (p345) saying he had some questions which he would ask when he attends on Monday with AB.
53. On 2/2/17 R emailed the real Dr Khokhar, consultant cardiologist at Southend Hospital responding to 'his' email to which the real Dr Khokhar responded asking for the details of AB. Later that morning R forwarded the email he had received from 'Dr Khokhar' to which the real Dr Khokhar responded at 1220 that he had not sent the email (p344).
54. At 1329 R then sent the email to AB at p 155 that he now knows that the email received from 'Dr Khokhar' was false. He states that as a result of her response to his earlier phone call about what his wife and daughter had seen, and what he now knows about the 'Dr Khokhar' emails he cannot see her or be in contact with her *'until these issues are fully explained'*. He asks who sent him the 'Khokhar' email? Does 'Julian' really exist? What is the state of AB's health? He tells her he now finds it difficult to believe any of the other things that he has been told particularly since she has been seen walking unaided. He states that whilst he still believes she is dying but *'nowhere near [as close] to it as you have alleged or made out to me'*. He cannot believe she is not dying because AB had got him to explain to her 7 year old daughter that her mother was about to die: he cannot believe that she would lie about something like that.
55. At 1641 R send a further email to AB (p154) noting there is no response to his questions: he will call round to drop off her keys and collect his daughter's wheelchair which *'I am guessing you have not been needing'*. R and his wife went to AB's house. Mrs Bulloch's evidence (para 21 w/s p 538) was that as soon as R went in AB said she could make trouble for him and tell people that

they had had sex if he did not continue to be her priest. She heard these threats from the doorway. When she and her husband were in the car R told her what she said and she told R what she had heard. In R's w/s p 494 para 31 R states that it was as he picked up the wheelchair AB said to him that she could get him into trouble and say that they had sex. Mrs Bulloch's w/s states that they were both shaken by her *'angry, threatening behaviour, in comparison to the sweet, vulnerable person we had been led to believe she was'*.

56. The tone of the emails from AB at 1952 on 2/2/17 (p154) reflect the tone of the threats that Mrs Bulloch heard. This email contains the first allegation of a sexual relationship and so I set it out as typed

'you can ignore me thts fine, but I am pregnant and tht is a serious problem because I am dying. I doo NOT want to CAUSE YOU TROUBLE OR YA WIFE but you are a priest and have slept with me several times allowed me to fall in love with you and have sex and as a result this terrible awful thing has happewed I cnt have babys I wnt be here long enough. This is the worst. I do have a video and have given u blow jobs. I no your body. I no every bit and could say so with out a video tht is us talking and fucking over the sofa.

I am nt going to be here. I have nothing to lose nothing at all. You need to speak to me before 0pm tonight about this u can ignore me after but I need you to listen to me'

57. At 1955 R responds (p154) *'you are threatening me with blackmail over something that is impossible. I have been nothing but kind you and do not know why you would treat me this way. If you have anything to say, say it now, I will not be speaking to you again after tonight'*.

58. 1 minute later at 1956 AB responds (p154): *'ok you made your choice im really sorry'*. R responds 1 minute later at 1957 (p153) *' I too am sorry that you have lied to me and now are going to do so again to hurt me and my family after all I have done for you.'*

59. There are then a series of emails from AB at 2011 and 2030 where she asks R to talk to her, inferring that she is suicidal (*'goodbye special friend'*). At 2228 that night she sends an email alleging a sexual relationship and asking to talk to R before *'it is too late'*. She says she will not tell anyone about the pregnancy result and the video or the picture: she will destroy a blanket. She continues to infer that she is suicidal. At 2241 she states that *'she did not want R to know about the pregnancy test because it would be sad'*. She also says that she did not mean for the 'cam' to record it but R can have it. A final email at 0044 on 4/2/17 continues with the threat of suicide and that she will not tell anyone about the pregnancy.

Aftermath – the recordings

60. The R's case is that there now commenced a campaign against him by AB involving many phone calls, pleading and abuse. At para 29 (w/s p 492) he recalls AB ringing him saying that she had 'Julian' with her: he could hear a man in the background with an Essex accent asking why R did not believe AB. R had been told previously by AB that 'Julian *'spoke like had had a plumb in his mouth'*: he regarded this as further attempt at manipulation.
61. R's w/s para 32 onwards (p493) explains that things would be quiet for a week or so and then she would come to the church with flowers and candles and on one occasion a tiny urn: she left flowers at his house for the baby and used 'other people's phones to leave messages for R. By now R had blocked her number. She would send crude and abusive emails alleging things that they had done in graphic detail.
62. At paragraph 66 w/s 1 AB explains how when she had become pregnant she shared the test result with R and he became angry. This appears to conflict with her email at 2241 on 2/2/17 that she had not told R about the pregnancy because it would be sad. She states that her doctor filled in an Abortion Act certificate for her (such a certificate was produced as an exhibit p160 which appears to be dated 7/3/17) but she *'lost my baby'*. She states that R ripped up the scan picture (para 69 w/s 1) alongside other notes. The Tribunal notes that AB provided us as an exhibit a copy of what she said was the scan of the baby at p 161 but we noted that the picture of the scan did not have the date and was cropped with what appeared to be a photocopy of the picture frame in which the scan was held: although it said 'baby [name redacted]' we note that AB has other children. However, this picture had certainly not been 'ripped up'.
63. AB states that she felt blame for not being able to save the baby and hurt by R's response to this wanting her silence. She complained that R's wife called her 'vile names' when she had written a letter to R: she states that R *'allowed me to become very distressed'* (para 71 w/s 1).
64. R's account of this period is from para 32 w/s p 494 where AB would come to church on Wednesday in a wheelchair sometimes with someone called 'Nigel'. There were conversations between them where he let her know that her threats would not work and he had done nothing wrong. He denies ever speaking to her about a sexual relationship rather than the pastoral relationship they had. He accepts that when he could not avoid seeing her and after her campaign against him he did not always respond in a manner becoming to his office. He felt ashamed at having been so *'comprehensively taken in'* and this added to his anger at the situation. All he had done was to grant her dying wish of being part of a family, and yet now she was trying to destroy his family. He blamed himself for not being more discerning and questioning of the whole situation earlier. At para 33 he refers to his lack of

professional detachment arising possibly because of issues confronting one of his own children and fears that he had that one day that child might find herself alone. He hoped that his child would find someone to help them in that situation, just as he was helping AB. His conversations with her often were at the church at service times when she would be very distressed with her sunglasses and hood up: she would have her scarf on and the phone in the other hand. He may have misheard her on occasions. He was at times angry and stressed. He recalled at least 2 occasions when she threatened him with ruinous accusations but these do not appear on the transcripts of the recordings. He does not accept that these are recordings of all their conversations including where he made clear denials of what she was alleging. He notes that in none of the conversations does he ever accept a sexual relationship.

65. A number of recordings have been disclosed by AB of conversations she has had with R in which R accepts it is his voice speaking. These conversations appear to have been recorded from possibly February 2017 ('clip 42' p 462) through March and April 2017 with a final recording on 1/9/17 just before she discloses R's name to the Complainant on 14/9/17. R does not accept that these recordings reflect all the conversations that they have had over this period. He did not know he was being recorded.
66. If 'clip 42' p 462 is the first recording then this is the recording that she says she made when speaking to R on the telephone. In the statement at p 90 (dated 31/10/17) she states that she became upset by what R was saying and then *'picked up the camera and put it to the phone and recorded the rest of the conversation with him'*. In cross examination AB said that the reason for the recordings was because he said that she had begged him to have sex which she did not: *'that was when I started to record him'*: the recording started a few moments before he said that AB begged him. The Tribunal sees this at page 463 transcript where AB is recorded as saying *'you had sex with me because of that?'* And R replies *'No! because you begged me'*. When R was cross examined about this answer he explained that he was saying that he came to see her because she was dying: he was not referring to sex.
67. In her evidence AB said that she thinks she took the recordings from her phone and copied them over onto a USB stick. As has already been noted AB produced the recordings on a USB stick to DL on 18/10/17 (p14: 4 days after she had given R's name to the Complainant) which would have been of recordings taken in March and April. The first recording 'clip 42' p 462 was given to DL on 31/10/17 with the note at p 91. DL's evidence was that AB had created the file titles for each of the recordings.
68. We note that she states that the recordings began in February 2017 when she spoke to him on the phone and recorded it on her camera: this must be the recording at p 462 (the so-called 'clip 42'). However it is also clear that this was only supplied to Danielle Law 8 months later on 31/10/17 and after

other, later, recordings purportedly made in March-April and September 2017 were supplied to her on a memory stick on 18/10/17. It is clear that the recordings took place once the process of disclosure was underway and were completed just 2 weeks before R's name was disclosed to the Archdeacon, after many months when she had denied the name of R when it was put to her. In considering whether there is any significance to this delay, it is a fact that once AB had disclosed the name of the priest then the Complainant would need to speak to that priest, and that would then mean the priest would know he was under suspicion and investigation. Until the name of the priest was given, AB would know that the diocesan authorities would not approach R and put him on notice of the allegations she was making against him. This would permit her to speak with R for longer before he was put on notice of being investigated for this matter, when the chances of further conversations would end. The Tribunal thinks that what she has written in her notes dated 31/10/17 p 90-91 that *'she did not record R for any other purpose than for my own to listen to alone and try and understand..'* is unlikely to be true. The Tribunal is satisfied the greater likelihood is that she was recording him to strengthen her case. This would have been at a time when he did not know he was under suspicion.

69. R was extensively cross examined about each recorded conversation and we set out below parts of these conversations about which he was cross examined and his answers. However, the Tribunal has considered all the transcripts and listened to the recordings and has in mind all that was recorded as set out in the agreed transcripts.

70. Recording 2 (p390-402):

- (i) when he says at p 391 *'I'm the one who has done the wrong thing'* what he is referring to is that he had not handled the relationship with her correctly- because of the imminence of her death(as he then believed) he went beyond the bounds of what was professional and that was wrong – he was in the wrong.
- (ii) when he says at p 390 *'can you remember how many times I tried not to...'* R is there referring to the number of times he wanted her to be independent and not to be too dependent on him: he wanted her to see the doctor but instead she placed herself entirely in his trust.
- (iii) When he says at p 393 *'I have'*; in answer to AB saying *'there's a baby but you don't acknowledge your part'*, what he is saying is that he has denied she is pregnant by him (ie he is not acknowledging his part)
- (iv) At p 394 the answers to her saying *'I didn't chose to fall in love with a priest'* he is saying that he did not realise that she was in love with him until the pastoral relationship was over. He did not hear

her use the word 'sex'. When she says '*I thought it was something special*' he replied 'yes' because he was referring to the pastoral relationship not having heard her say the word 'sex'.

- (v) At page 397 when he says '*I am asking you to stop okay..I have no right to ask you anything..*', what R means is that he was so distressed and felt absolutely responsible for the way the pastoral relationship had gone: he had been an idiot and listened to her.
- (vi) At p 398 when R says '*should I go home and tell her?*' he is referring to his wife. AB wanted R to admit to a sexual relationship to his wife (which had not occurred) He was willing to walk off into the sea 'reggie perrin style'.
- (vii) At p 399 he did not hear AB say the word '*sexual*': he was referring to the activities they did together in that period- hospice visiting and visiting the beach etc.. He was not referring to sexual activity. When AB said they were '*both willing*' and he replied 'yes' he was saying that the pastoral care had been offered willingly and in good faith. He does not remember any mention of 'sex'. The conversations were in the open with other things happening around. She was often upset and he was trying to calm her.
- (viii) At p 400 when he says '*it was my fault as much as yours*' he is referring to going beyond professional boundaries: he should have insisted on speaking to doctors or Fr McCluskey and questioned more than he did.

71. Recording 3 (p 403-420)

- (i) At p 407 the reference to '*no fairy tale endings*' he is referring to the fact that she told him that her death was imminent but often looked for a miracle even when she told R that there was no hope of recovery.
- (ii) At p 411 when he says '*It happened. Its over. We need to move on... no fairy tale endings. No happy ever after*' he is referring to the pastoral ministry being over but she wanted that pastoral relationship to continue: that was why she was threatening R with this false accusation.
- (iii) At pages 416-418 when he refers to her proving herself to be a liar, she has shown herself to be that in respect of what she said about her own death, the sexual relationship and the baby. She had lied about not being able to conceive.

72. Recording 4 (p420-429).

- (i) R did not want her telling people that the baby was his which was not true: she had told R that she had put his name on various

documents and an urn. When he says *'it wasn't wrong when we did it'* etc he is referring to when they went to the beach or the hospice. The 'it' in that sentence is all the things they did together as part of that pastoral relationship.

- (ii) P 426: *'listen to what the doctors are telling you. This is a mistake and not a problem. Not a joy'* is a reference to her telling R that she was dying not being pregnant

73. Recording 5 (p430-437)

- (i) Page 431 when R says *'you did not think it was immoral when you were doing it did you [AB]? And I didn't either'* is a reference to the lies she told which at the time she did it she did not think was immoral. R says he was taken in by her lies.
- (ii) Page 431 when R says *'what do I want done with it.. did I want it?'* he is saying the foetus has nothing to do with him.
- (iii) Through p 433 what he is referring to is the pastoral relationship
- (iv) P 435 *'the foetus is not something I wanted. I didn't even think it was possible'*: R explains he said this because she was trying to make the foetus into something to do with him. She was trying to get back into a pastoral relationship but there was such a relationship on the basis that she was dying. R was conflicted because he was not sure whether she was infact still dying and he had made a terrible mistake in ending the pastoral relationship.

74. Recording 6 (p438-455)

- (i) At p 445 when R says there *'can be no peace...by getting pregnant when you said it was fucking impossible for you to get pregnant. By not dying when you said you were going to die'*, R means that there is no peace because she has made everything so difficult. There is no peace because she has tried to blame the pregnancy on me.
- (ii) At p 448 *'my wife knows everything'* means that R's wife knows everything that AB is saying about these false allegations
- (iii) P 455 when he says he is sorry he means that he felt responsible for the way it had gone. He felt guilt and shame about the way he had handled it but not guilt about a sexual relationship.

75. Recording 7 (p456-461)- the September 2017 recording when R says that AB came in a car with her 18 year old son and her 7 year old daughter : this had made him *'livid'*. He was *'pretty sure'* the conversation was a lot longer than what is recorded

- (i) R repeats the phrase '*your last dying wish*' which is a reference to her wish to be part of R's family.
- (ii) P 457 where R says that she stole his life by lying about dying, it has nothing to do with a sexual relationship
- (iii) P 460: '*stop mentioning it.. you were quite fucking happy to do it*' means that she was happy to make the allegations and use the ending of the pastoral relationship to torture me.

76. During the evidence given by AB she said that she had a sexually compromising video recording of her and R, which she had passed over to the Complainant. None had been served or disclosed on the R's legal team at that stage. Upon enquiry, the DO confirmed that a video had been provided by AB to the Complainant and the DO was aware of it but having seen it, he could state that nothing was audible or visible on it. The Tribunal required this tape to be produced so that R's legal team could view it and consider it. This was done and the agreed evidence is that the tape is 2 minutes long and it is inaudible and nothing can be seen. It had been received by post from AB on 16 or 17/5/18 by DL. The fact that AB produced a video to the Complainant/DO which she said supported her allegations, even if in fact nothing was on that recording, was a fact that should have been disclosed to the R's legal team at an earlier state in the proceedings: it was plainly relevant.

77. On day 2 of the hearing on 3/10/19 the R's legal team submitted in evidence a video which had been uploaded onto a publicly accessible Instagram account called [email account name redacted] who is another daughter of AB. The video was uploaded to Instagram on 10/5/18 and shows AB on a bouncy castle with another female adult and a child engaging in horseplay. The caption for the video read " My crazy fam [crying laughing emoji] this time last year roughly at my mothers. Was so funny!!". (evidence: E Henderson 8/10/19; page 541-542). This piece of evidence was discovered on or about 4/10/19 when a trainee solicitor at Lee Bolton Monier-Williams (R's solicitor) went onto the publicly accessible Instagram account and found it.

78. The Tribunal viewed the video which shows AB on the bouncy castle enjoying herself in a way completely inconsistent with her claimed physical incapacity either in 2017 or in 2018 (or 2019). We note that May 2017 (when it is said this video was taken) AB was sending emails to R about ' your baby is going to be here by Monday its almost certain'(p127), and a photograph of AB with a baby was sent to Revd Tinning (its 'properties' showing that it was generated on 25/5/17 p12). It is also the month after many of the recordings have been taken when she presented at R's church in a wheelchair and in a state of distress. Her presentation to us in October 2019 when giving evidence was of extreme frailty with difficulty in walking.

The disclosure by AB of the allegation that there was a sexual relationship.

79. For obvious reasons in any consideration of an allegation of sexual misconduct the circumstances in which the disclosure of that allegation is made is of importance when seeking to establish what happened. We consider below how this complaint was disclosed to the Complainant and others.
80. It was not until 9/3/17 that the Complainant became first aware that an allegation had been made through a local Baptist minister, Revd Steve Tinning that a vulnerable adult female (who was later confirmed to be AB) had made a disclosure to Revd Tinning that she had been in a sexual relationship with a married Anglian priest and that she was now pregnant. The Revd Tinning's statement is at (p164-167) and he explains that having spoken to his Regional Minister and his denomination's safeguarding officer he had decided to bring to the attention of the Chelmsford Diocesan safeguarding team what he had been told by AB. He met Danielle Law, the deputy safeguarding officer on 27 March 2017.
81. The Revd Tinning's statement (he was not called) sets out the history of his involvement with AB. He had met her first on 21/12/16 in a shopping centre exhibition where she approached him asking to speak to a minister (so well before the events of February 2017 and the 'Khokhar' emails). There was some telephone contact between them in January 2017 but nothing was disclosed to him at that stage: he notes that she seemed upset. He offered to meet her at home but he would have to bring a female colleague with him or they could meet in a public space. She was not comfortable, according to Revd. Tinning, with either option and eventually they met at his church one to one in a glass fronted prayer room. He then met her on other occasions in this room.
82. Her first disclosure to him was on 28/2/17 (ie 26 days after the 'Khokhar' emails): she had explained that she had been part of St Luke's Church, Prittlewell where Fr James McCluskey was Vicar. He had advised AB, she said, that it was not appropriate for her to volunteer anymore at St Luke's because she was not practicing her faith in the right way by not praying properly. Fr James then introduced her to another priest in Southend whom she did not at that stage wish to identify.
83. AB disclosed to Revd Tinning ' *slowly and with some caution and evident sadness*' that this second priest had become '*intimate*' with her : this was later clarified as having had sexual intercourse with her on numerous occasions. It was at this point that Revd Tinning contacted Danielle Law having taken advice from within his own denomination. Revd Tinning states that from what AB has told him '*her infatuation with him*' (ie the priest) developed quite quickly and intensely. In his statement 6/11/17 Revd Tinning states that he believes that this relationship has not diminished '*to this day*' although AB acknowledges that it has not been healthy and needs to be investigated. During Revd Tinning's meetings with AB she has played him recordings of the priest and

her speaking. AB has claimed to Revd Tinning that she became pregnant by the priest but Revd Tinning states he has '*seen no indisputable evidence that this is true*'. He notes that an ultra sound image he was shown had been cropped to exclude the name of the patient (we assume this was the same ultrasound picture p161 exhibited in the Tribunal hearing). He had also been shown a picture of AB in hospital with a baby which she stated was the baby from this relationship who died almost immediately: however, he noted that the 'date stamp does not match her time line'. This photograph (which was never submitted before us in the hearing) was sent to Revd Tinning and the complainant by AB on 25/5/17 after Revd Tinning had suggested to her that she should send additional information to support what she was saying (like a photograph). However Revd Tinning noted that looking at the photograph 'properties' showed that it had been produced at 0512 that morning: and he had now concluded that there was no baby. AB was cross examined about this: she agreed that she had sent such a photograph to the complainant and Revd Tinning because they had asked for one. She said that '*the photograph was created that day. I changed the colouring of the photo. This might have been done on a computer*'. She could not remember the date the photograph had been taken in the hospital.

84. In meetings between March – August 2017 Revd Tinning was seeking the name of the priest concerned. Likewise, the Complainant in his meetings with AB was seeking the name. On 27/4/17 AB gave a lot of detail of the relationship with the priest but would not name him. On 2/5/17 there were further attempts to encourage her to name the priest involved: the Complainant wrote the name 'William' on a piece of paper because he suspected it might be the R from her description of the priest as a married Anglo-Catholic from Southend who led Walsingham pilgrimages. She denied that it was the right name. The name ' Bill Bulloch' was then written and she said it was '*not him*'. She said she wasn't sure if it was a C of E priest. The complainant then wrote the name 'James': she replied that '*she did not want to talk about him – he had a lot to answer for*'. The reference to 'James' was to Fr McCluskey the Vicar of St Luke's referred to above.
85. In May 2017 Fr McCluskey is recorded as having gone to visit AB: (the note is by the Complainant who was rung up by AB to tell him of this visit by Fr McCluskey: p10) and on 23/5/17 the Complainant made a note of a telephone call with Fr McLuskey (see p 11) who had rung him to tell him of
- (i) AB's disclosure to him of a sexual relationship and pregnancy by another Anglican priest and
 - (ii) the history of AB's contact with St Luke's and his ministry. He had been sent a picture of AB and a 24 week baby in hospital but as a hospital chaplain he did not recognise such an image from his experience. He also gave an account of earlier relationships she had claimed, and claims of pregnancy which were not substantiated. Further details of this are set

out in a note of a meeting between R and Fr McCluskey (written by Fr McCluskey) dated 5/1/18 after the diocesan investigation into the allegation had been made known to R at the meeting on 20/11/17 with the complainant.

86. Fr McCluskey was never called before us but we have considered his note of the 5/1/18 meeting with R (p 197-200) in which he sets out his knowledge of her disclosure of a sexual relationship with an Anglican priest. Fr McCluskey explains his continuing limited sacramental involvement with AB in 2015 and into 2016. In autumn 2016 she had attended St Luke's after Mass had started in a wheelchair looking very unwell. After Christmas 2016 and in the early weeks of January/February 2017 she presented as unwell and disclosed that she had had a relationship with a 'minister of the Gospel': she said it was not someone from the C of E and said on occasions that it was from another church area/ someone who wore clergy wear/was an Anglo-Catholic priest. She disclosed to Fr McCluskey that she was pregnant but it was not viable: he sought to persuade her to reveal the name of the priest who was the father mentioning a number of names to her of hospital chaplains or clergy who did home visits. Once AB said that the priest who had the sexual relationship with her was a C of E priest Fr McCluskey contacted the Complainant (p 11 shows Fr McCluskey call to the complaint on 23/5/17).
87. Fr McCluskey notes that when he visited AB he found a shocking scene of vials of blood, needles, tubes and bowls of sick *'yet was sexually active and fertile. To me this was confusing given the state and condition of her health/sickbed'* (p198). Shortly after this he saw her ably walking with her daughter towards her car parked in Shelley Square and as a result he began to doubt that she was unable to walk. In Autumn 2017 he became aware that AB had sought guidance from Roman Catholic clergy under the name 'Janet'. In cross examination AB agreed that she had contacted Fr Geoff at the RC church under that name and that her middle name was Janet: she did not think she had told the Complainant about this but she went for pastoral support.
88. We noted that Fr McCluskey concluded his note of the meeting
- " I think I have covered most [of what] we discussed and answers the questions you posed. There is a great deal more to the above should you or the Archdeacon or Safeguarding Team need any clarification."
89. It was only on 31/8/17 that AB confirmed R's name to Revd Tinning and then repeated this name to the Complainant and Danielle Law on 14/9/17.
90. It is seldom the case that the first time a victim complains about sexual misconduct against them is when they make the statement to the authorities. The complaint may be made immediately to a member of the family (that is not said to have happened here), or it can be to a friend or a neighbour or someone trusted by them. What is said here is that AB made gradual disclosures to Revd Tinning and the Complainant (and perhaps to others

including an RC priest) and also at around this same time to Fr McCluskey. Most of the disclosure seems to have taken place to Revd Tinning and Fr McCluskey and yet we have not heard from either of them although we can consider their statements and a note. We regret that no detailed statement was taken from Fr McCluskey in particular nor indeed was he or Revd Tinning called to deal with AB's disclosure to them of these allegations.

91. What AB may have disclosed, in what terms and when, is an essential part of the narrative in a case of this kind. We would want to know how these matters first came to light, the circumstances in which the complaints were made, and the terms in which what she said were expressed. All of this may have assisted us to a conclusion not just whether the complaints that AB makes to these people are consistent but also whether what AB said was true. The evidence of Revd Tinning, Fr McCluskey and Complainant gives support for the fact that a complaint was made by AB of sexual misconduct with an Anglican priest (eventually naming him to Revd Tinning and the Complainant as R in August and September 2017). We would have been assisted to have heard from these additional witnesses directly: we are particularly concerned that no statement has been taken from Fr McCluskey who seems to have a good knowledge of AB from his ministry over some time and seems to have more to say (see page 200).
92. In our consideration of the written evidence of these witnesses we remind ourselves that in what AB said to them, the source of the complaint on each occasion was AB herself. None of these witnesses can confirm that what AB was telling them was true. In the end we are having to decide whether AB has given a truthful account of her relationship with R. We do that without hearing from 2 important witnesses of her disclosure of the complaint. We note however, our consideration of this case would have been even more difficult if the Complainant's case had proceeded as originally planned without even calling AB who is the primary source of the complaint against R.
93. AB explains that she did not give R's name to the Complainant until September 2017 because '*I was protecting him blaming me, and feeling so dirty. He said I was causing trouble and I was convinced this was true*' (para 78 w/s 1).
94. At the end of AB's evidence the Tribunal was concerned that no medical records of AB had been placed before us, in particular confirming whether she was on a palliative care pathway or had undergone a termination to her pregnancy. On 8 October the Tribunal was adjourned part heard and made an Order under Rule 33(1) (i) (ii) of the CDR 2005 the terms of which were that Dr Azeem, being AB's GP of Queensway Surgery, 75 Queens Way, Southend on Sea, was required (subject to AB's consent) to attend the adjourned hearing for the purpose of producing the following documents for inspection:
 - (i) GP records of AB's palliative care between October 2016 and May 2017, and

(ii) GP notes relating to certificate A under the Abortion Act 1967 dated 7/3/17.

95. In the event only on 27/11/19 was a letter received by the Registry from Dr Azeem which did not produce the records required but was a letter about AB. The Chair ruled the letter inadmissible for the reasons given in the ruling on 9/12/19. Thus the Tribunal had no records beyond that which was provided by AB that were in the original hearing bundle.

Submissions

On behalf of the Complainant

96. The factual matrix in support of allegation (ii) (a) and (b) which R has admitted may be taken into account when considering allegation (i):

- (i) Foul language in conversations 6 and 7 are incompatible with a purely professional and pastoral relationship and 'indicates a more emotional and personal relationship'
- (ii) R accepts the lack of proper professional boundaries
- (iii) R accepts naivety on his part: but the Complainant and DL note he has expressed views on earlier Diocesan occasions about the importance of maintaining professional boundaries
- (iv) He did not seek help or support notwithstanding that he accepts he was out of his depth. The Tribunal may infer that the true reason for not telling the Diocese was because it would alert them to the true nature of the relationship.

97. The recorded conversations: he accepts it is his voice speaking but that there were other conversations which AB has chosen not to produce to the Complainant which if produced would be exculpatory. However it is submitted that:

- (i) He appears to have accepted the allegations being made in the conversations recorded which if true would end his marriage and ministry
- (ii) R states at p 436 recording 5 that he had spoken to AB 4 or 5 times. This tallies with this being the 6th recorded conversation (conversation 8 was recorded first)
- (iii) R states at p 446 recording 6 that AB has been to church 4 times and spoken each time, and that they had spoken on the phone. This tallies with the number of recordings.
- (iv) In none of the recordings does he deny a sexual relationship

98. The DO submits that the recordings prove the sexual relationship did happen, that he believed she was dying at the time, he justified his actions by saying it was her dying wish that he had sex with her, he did not believe she could become pregnant, he wanted her to have an abortion and he knew he risked his marriage and his job.

99. R's credibility:

- (i) His case that there was no sexual relationship and only a pastoral relationship does not stand scrutiny with the recordings
- (ii) The campaign of harassment and stalking after he ended the pastoral relationship is inconsistent with what he told the Complainant at November 2017 meeting that there had been little contact since February and quiet since May.
- (iii) It must have been obvious to him that 'Julian's' emails were not genuine because of the way they were written (spelling/grammar, volume of them, breach of patient confidentiality)

On behalf of R

100. There has been an inadequate, if any, investigation into the credibility of AB by the Complainant notwithstanding warnings from 2 ordained ministers. She has lied and manipulated evidence as well as R.

101. Her methodology: she has a history of making false allegations against people involved with churches: a '*worrying pattern*' (Complainant p11). No statement taken from Fr McCluskey. She has lied about her involvement in other churches.

102. The creation of evidence:

- (i) she was never receiving palliative care and has lied about this. The evidence of her frailty and ill health (bowls of blood/sick etc) seen by Fr McCluskey on 2 occasions as well as R. The visits to hospice in a wheelchair she did not need. Seen to be walking after being too ill to walk: seen by Fr McCluskey and Mrs Bulloch on separate occasions. The May 2017 Instagram 'bouncy castle' video shows she was showing no ill health then. She played the role of a dying woman to manipulate R.
- (ii) 'Julian' emails: the DO submission that R knew that they were NOT coming from 'Julian' but from AB and they were a 'game' they were playing, is not supported by the evidence. She was

the author (misspelling 'know' by 'no'; lack of 'Julian' emails when staying at the Vicarage; requiring R to leave the room when she takes a call from 'Julian'). She lies when she says that her son wrote them

- (iii) 'Mr Khokhar' emails: also written by AB: she lies about 'Claire'.
- (iv) evidence of pregnancy: first claim of pregnancy when found out walking in hospital and R ends pastoral relationship. The lack of documentation from GP. The scan was cropped of any date. The photograph of her and a baby (never produced to Tribunal) was generated on the day it was asked for (see Tinning evidence)
- (v) use of the urn at church with R's name on it: to cause him to lose control.
- (vi) the recordings:
 - they have been manipulated/created. No originals ever produced. They were produced on a USB stick to DL. AB said that putting them on a USB stick had been done by Revd Tinning but he does not mention this. Complainant heard short extracts only on 2/5/17. Only later 'all' the recordings disclosed
 - Hard to hear/ overspeaking
 - AB had motive/opportunity, ability and 'brass neck' to produce these false recordings.

103. AB's dishonest manipulative behaviour: manipulation of R in speaking to daughter about her mother's death, acceptance of R's daughters' wheelchair when she did not require it. No GP records ever provided.

104. R's evidence: he is a well-respected priest of many years standing with a pastoral heart. When cross-examined he admitted his mistakes in his handling of AB. There was a 'clash of culture' between DO and R. in DO's criticisms of R in overstepping professional boundaries. Mrs Bulloch explained why they did not go to the diocesan authorities about AB from February 2017 onwards : they thought if they ignored her it would stop: *they 'felt shaken, used, hurt, and very foolish and just wanted to put it behind us..'(p539 w/s)*

Findings of the Tribunal

105. The Tribunal has found this a deeply disturbing case to adjudicate upon. We remind ourselves at all times of the burden and standard of proof set out at

para 7 – 9 of this determination and unanimously make the following findings of fact:

- (i) AB was the author of the 'Julian' and 'Dr Khokhar' emails which were designed to manipulate R into doing what she wanted which was to embark upon/maintain a pastoral relationship in the context of someone who was about to die a particularly difficult and lonely death. The evidence that she wrote them is overwhelming and includes
 - (a) the misspelling of 'know' by 'no' in her own emails consistent with 'Julian' emails,
 - (b) the unprofessional language and content and presentation of the emails, the lack of patient confidentiality,
 - (c) the reduction in emails from 'Julian' when he was allegedly on a '2 week break' which coincided when AB was at the Vicarage, with reduced opportunities to send the emails without being discovered (1/12/16 p 251)
 - (d) requiring R to leave the room when she received 'calls' from Julian (1/12/16 p 251)
 - (e) the lack of any contact with nurses or doctors involved with her care notwithstanding that 'Julian' gave telephone numbers for such persons to R and he tried to contact them.
 - (f) 'Julian' emails support AB's pretence that she is seriously unwell particularly when R and his family may have reason to doubt it; for example when AB has been staying at Vicarage for some days in an apparently desperate state, she gets a call to go to the police station about her child. She makes a call and someone comes to collect her and she goes saying that she is going to the police station: R doubts that she is fit enough to go in her frail state. Lisa Bulloch states (w/s para 17 p 536) '*we were totally puzzled as to how she'd manage*'. A few hours later she rang from home where she had been for some time and asked to be brought back to the Vicarage: they decided to leave her at home with heaters and their wheelchair because she did not seem to be in the active stage of dying as they had been led to believe before agreeing to let her stay at the Vicarage.

Following this on 18/12/16 (p252) 'Julian' says he has a social services report about the children and AB has told 'him' that she went to a police station to support a son. He also refers to the report from the 'lead consultant' with an account of *'huge*

internal bleeding and that *'death is close'*. R never meets a nurse notwithstanding his clear efforts to contact them and his desire to get her to hospital when she is staying at the Vicarage: she refuses such help. We find she does not want any medical/independent therapeutic involvement because otherwise her pretence will be exposed.

- (g) AB was not honest with the Complainant about the authorship of the emails. In her evidence in cross examination she accepted that by December 2016 she came to realise that her son had been impersonating 'Julian' in emails. However, on 24/4/17 in the meeting with Complainant, Revd Tinning and AB, she said that she had a counsellor called 'Justin' who *'sent a few emails to the priest about AB's children and support needed-2016. Originally sent through GP surgery and then paid privately- still in contact- not regular'* (p8). We refer to paragraph 45 of this determination above: she had chosen not to disclose what she knows, which is that her son had been sending the 'Julian' (not 'Justin') emails. Danielle Law's evidence was that there came a time when she did say that her son was responsible for some of the emails (but no note was ever produced to that effect), but Ms Law told us that she was led to believe it was only '5-10 emails': in fact there were approximately 130 sent by 'Julian' alone.
- (ii) AB was never on a palliative care pathway. She could walk. The descriptions of her medical condition in 'Julian' and 'Khokhar' emails are bogus and designed to manipulate those reading them into believing her and caring for her in the way she wanted. We accept the evidence of Mrs Bulloch seeing her walk/run in February 2017 in the hospital – which led to the ending of the pastoral relationship when R realised he was being lied to. Additionally, Fr McCluskey has seen her walking shortly after visiting her in a high degree of frailty in her home with oxygen tanks, bowls of sick/ blood visible having visited her at home in early 2017 (see para 23 and 87 above)
- (iii) It follows from the above that we reject the submission of the DO that R knew that these 'Julian' emails were from AB and he was engaged in a 'game' with her. We accept that R was duped by the 'Julian' emails and what he was told by AB about her condition: he acted extremely naively in our judgement and without an appropriate sense of boundaries, as he now accepts. We believe R may have felt flattered to be taken into the apparent confidence of a professional person with the care of someone who was at the end of their life. The author of the 'Julian' emails was playing to R's

sense of professional pride that he could deal with this exacting end of life ministry to someone living in such apparently catastrophic circumstances. The apparent mismanagement of visits from her children by social services through the 'Julian' emails, when R is being asked to provide the only support (see 24/12/16 p 262) all played to R's sense of being an indispensable priest coping with every situation thrown at him. (For example: *'Father this is a lot of pressure for you- are you able to be so dedicated to her?'* and Julian *'leaves your good self father to look after AB'*: email 22/12/16 p 255) We believe that AB deliberately played to those aspects of R's character by manipulating him in this way to get him to do what she wanted. She manipulated him into getting him to take her into his home (see the emails 25/11/16 after being allegedly taken into hospital with seizures and death being apparently imminent and no hospice place available summarised at para 29 above) when R had initially been opposed to having her in his home. He now agrees to her coming because he believes that she is in the active stage of dying. She also manipulated R to visit places with her and, astonishingly, manipulated R to tell her 7 year daughter that her mother was dying and would soon be in heaven. We found this manipulation of R a particularly chilling aspect of this case.

- (iv) We agree with the DO that these emails do not look like a medical professional's emails. However, we are conscious that we should not assume that everyone has the professional acuity of the DO or another professional person: someone (however experienced as a priest) who has not had that professional background may not analyse the emails in the same way as the DO or another professional may have done in similar circumstances.
- (v) It follows from this that we find that AB was also the author of the 'Dr Khokhar' emails. She wrote these in a desperate attempt to keep R from ending the contact having been seen walking (and running away) in the hospital by Mrs Bulloch and her daughter.

106. We can only describe the dishonesty and manipulation by AB of R (and through him, his family too) that we have set out above as egregious. Against that background the Tribunal now consider the central allegation in this case whether the Complainant has proved his case that R was engaged in a sexual relationship with AB whilst in a pastoral relationship with her.

107. The DO relied upon the recordings of R in his conversations with AB between February – September 2017. We remind ourselves that the DO originally planned to prove the case simply by placing these recordings before us and not calling AB thereby preventing any cross examination of her. The Complainant's case has always rested almost exclusively upon these

recordings. The Tribunal has listened to the recordings and considered the transcripts with great care and concluded, by a majority, that the Complainant has not proved that a sexual relationship took place as alleged (2 members of the Tribunal dissented). By CDM s 18 (3) (b) the Determination shall be according to the opinion of the majority.

108. The reasons for the majority view are as follows:

- (i) We continue to remind ourselves of the burden and standard of proof required as set out at para 7-9 above.
- (ii) We assess the Complainant's case on all the evidence, not just the recordings. We have made significant findings against AB on her credibility and we consider her evidence about the recordings and how they were made, with that in mind.
- (iii) The recordings have been provided by AB in October 2017 to Danielle Law having been recorded primarily in March/April but with 1 recording in February and one in September 2017. We are troubled that the delay in naming the priest involved (and at one time even denying it was R) was during the time when these recordings were apparently being made. Once she named R as the priest involved she would know that the Complainant would need to speak to him and R would know the allegation had been made about him by AB. Whilst she did not name him she could continue to record him in conversations without him knowing she had started a process of disclosure about him. The longer the delay in naming the priest the more time she had to record him. There is a significant gap in recordings from 26/4/17 (recording 6) and 1/9/17 (recording 7). The DO in his final submissions calculated the number of 'past conversations' R refers to in recording 6 (at p446) and submits that is consistent with the number of recordings up to recording 6. However, that does not deal with the 4 month gap between recording 6 and recording 7. There is no explanation for that gap until the final recording on 1/9/17 which happens 2 weeks before AB gives the name to the Complainant. As we have already stated at para 68 above, we do not accept AB's evidence (notes 31/10/17 p90-91) that '*she did not record R for any other purpose than my own to alone and try and understand*' (sic). We bear in mind that it is R's case that there are other conversations which she has not produced where he made clear exculpatory denials: his case is that she has chosen selectively in what she has placed before the Tribunal. We are satisfied that there is an obvious gap in the chronology when such conversation could have taken place and not been provided to us.
- (iv) We were not satisfied that there was clarity about who was involved in these recordings: in her evidence (in re-examination) she said that she '*did have some help in taking the recording from my phone onto the MP3*'

She said that Steve (ie Revd Tinning) was *'helping with things'* and it went onto his USB stick. That stick was given to Danielle Law and then returned to Revd Tinning. *'They were not played from a lap top'*. We accept the complete integrity of Revd Tinning and the role he has played in bringing this matter to light, but we note that Revd Tinning makes no mention of having done this: he speaks only of having listened to some recordings.

- (v) we note that Danielle Law said that AB had provided the 'titles' to each recording: she was therefore presenting this material which suggests a reviewing process has taken place
- (vi) we accept that the recordings sound un-doctored (ie background noise does not suddenly change) but there are parts of the conversation which are difficult to decipher. We note that R states that AB had a scarf on at all times and he did not always hear what she was saying.
- (vii) we have considered the responses of R and some are undoubtedly ambiguous. However we remind ourselves that by this stage R knows that AB has duped him into believing her to be mortally ill when she was not and on that false basis he had gone to great lengths to minister to her imposing great burdens on himself and his family. He now knows that 'Julian' and 'Dr Khokhar' do not exist and are part of this deception. We find that R must have been angry and humiliated with his own naivety in being used in this way even to the extent of being manipulated to speak to a 7 year old about her mother's impending death. On top of this he now knows that AB is alleging that he has had a sexual relationship with him (this was raised for the first time on 2/2/17 in the exchange of emails after 'Dr Khokhar' was exposed) and that she is now alleging that she is pregnant bringing an urn with his name on it to his church. The desperation and exasperation in his voice can be attributed equally to all these things, as much as the DO's submission that he is guilty of what she alleges. For the same reasons we reject the submission of the DO that the only proper inference to draw from R's failure to report to the diocesan authorities AB's conduct and allegations is that the allegations she was making were true.
- (viii) we also consider the opportunity that he had to have the sexual relationship that is alleged. It is alleged that the sexual touching occurred first at the Vicarage. However, it is clear from the emails to 'Julian' that R is extremely reluctant to have AB at his house in this period and resists it for a period. It is also clear that even when she at his house he wants to call an ambulance and get in touch with nurses for her. We also accept his evidence, and that of his wife, that they were both involved with her care whilst she was at the Vicarage with Mrs Bulloch helping her with personal care. It is also instructive to consider the family members of R who lived at the Vicarage at that time (see Mrs Bulloch's statement para

15: their daughter ['V'] who is a wheelchair user and who does not leave the house without someone, nor can she remain in the house without someone from her immediate family, ['W'] and ['X'] were commuting to university once or twice a week on different days and '*were about most of the time*', ['Y'] lived at home but went to live at her boyfriend's whilst AB was in the Vicarage and '*popped in and out to visit between work for lunch, tea, breaks*' and ['Z'] who did not live at home but also called in from time to time). We find that this was a very busy household. R and his wife tended to AB's needs during the night and according to Mrs Bulloch '*they were all exhausted*'. We are satisfied that the allegation of sexual touching in the Vicarage is unlikely and is not established on the evidence.

- (ix) the allegation is that sexual intercourse took place at AB's house after her return from the Vicarage. The emails from R to 'Julian' during this period indicate how keen he was that AB saw a nurse or a doctor and was seeking to persuade her to go to a hospice: 'Julian' was telling him that she did not want to do this and wanted to die at home. The evidence is of being unable to walk, being unable to open eyes without dark glasses, oxygen tanks to breathe, canula and pipes, bowls of blood and sick being present (see email 24/12/16 p 264 from R and para 20 w/s p488) which is consistent with the picture painted by Fr McCluskey when he visits her during this period. We do not find that this was a setting in which sexual activity would be likely to occur. Additionally, AB's children were there for periods according to the emails from 'Julian' on 24/12 and 25/12 and R refers to telephone calls from her 18 year old son about the unsatisfactory visit. R states that AB's father with whom AB's daughter aged 7 lived, would visit the house. This also makes the likelihood of sexual activity of the type described by AB and the frequency unlikely in our judgement and is not established on the evidence.
- (x) we also note that part of AB's allegations of the sexual misconduct involve an allegation involving hands around her throat and she states she was 'scared' (para 33 w/s). This is completely inconsistent with the tone of the 'Julian' emails which we find were being written by AB. We note that AB does not make this allegation in the recorded conversations. This allegation is not established either.
- (xi) we are not satisfied that AB was ever pregnant: the scan appears to have been photocopied whilst still in a picture frame and the date is cropped from it. No better photocopy has ever been provided. We have the Abortion Act document produced by AB, but we have asked for the GP records relating to this and none has been provided. Without the records we sought from the GP we are not prepared to accept that this document alone can establish that AB was pregnant at the time in question. We

note that no picture of AB and the baby has ever been provided to us. This may be because Revd Tinning expressed his doubt about its provenance when he found it had been produced shortly after the time she had been asked for such a picture. We note Revd Tinning's doubts about whether AB was ever pregnant. Fr McCluskey also recorded his own doubts about the photograph he was sent on 22/5 (p11) just 3 days before Revd Tinning was sent a photograph. We are satisfied that it is not proved that she was ever pregnant.

(xii) we have also considered how these matters were disclosed by AB. We have set out at para 90-92 above how we approach this issue and how we would have been assisted by evidence from Revd Tinning and Fr McCluskey (at least). We are not satisfied that the manner of the disclosure of the sexual relationship supports the truth of the allegation. In particular we note that the allegation is first made in the angry and bitter emails on 2/2/17 when AB realised that the 'Khokhar' emails had been discovered to be false and her whole pretence with R had collapsed. She must have realised at that stage that she could not retain the pastoral relationship any longer by pretence and it is at this point AB threatens R with the allegation in the hope, we find, that she can still exert some control over him. We are not satisfied that there was any good reason why AB had to wait until September 14th before telling the Complainant the name of the priest involved. We accept of course that disclosure of genuine complaints can be slow and incremental, often for good reason, but on the facts of this case giving the egregious deceptions that had been directed at R, we find the delay in naming him (=and the denial of his name on one occasion) does not support the genuineness of the allegation.

(xiii) Good character of R: we have set out at para 11 how we approach this issue. We give the evidence of the parishioners some weight of course, but given the nature of the allegation, such evidence is of limited weight. The case must be analysed forensically on the evidence.

109. On behalf of R it was submitted that we should take into account AB's past false allegations against other people associated with the church. We have set out how we approach this issue at para 10 above. We would have been greatly assisted in assessing this aspect of the case if we had heard from Fr McCluskey with a bit more information than what is contained in the Complainant's notes of his conversation with him, and Fr McCluskey's notes of a meeting with R. We have set out at para 15 the evidence of AB about previous allegations of pregnancy in which she refers to a relationship with someone where no protection was used and '*the last thing she wanted to be was pregnant*'. The Complainant's note of Fr McCluskey's call on 23 May 2017 is that she had relationships with members of =St Luke's and claimed she was pregnant but was not. There is also a reference to a married man from Tiptree who

constructed the church website and the inference is that he was one of the persons with whom there had been a relationship. From this material the Tribunal is satisfied (by a majority; 2 dissenting) on the balance of probabilities that at St Luke's after a relationship with someone associated with the church she alleged she was pregnant when she was not. The Complainant records his own note '*worrying pattern. Concerns re mental health*' and Fr McCluskey's earlier noted comment '*AB has a manipulative streak*'. In these circumstances the Tribunal is satisfied (by a majority; 2 dissenting) on this material that AB has a tendency to make an allegation of pregnancy from a relationship when she is not pregnant. Applying the evidence of that tendency to the facts of this case, this also assists us reaching the conclusion that she was not pregnant in this case when she said that she was. This also supports our view that the Complainant has not proven his case that there was a sexual relationship between R and AB.

110. The Tribunal has made an Order under CDR 2005 Rule 49 that the name and other identifying details of AB and her family should not be published or otherwise be made public. We have used letters or in 1 instance redacted an email address. A Schedule is held by the Registry which identifies who the family members are but that Schedule does not form part of the Determination.

111. The finding of the Tribunal (by a majority with 2 dissenting) is that the Complainant has not proved paragraph (i) of the allegation.

112. This means that the Tribunal will proceed to hear submissions on penalty arising from R's admission of allegation (ii) (a) and (b). The Tribunal invites the parties to make written submissions for the consideration of the Tribunal and invites the parties to consider whether an oral hearing will be required. Submissions on that can be made when this determination is delivered.

113. Before concluding the principal part of this case, we would like to add our concerns about how a case of this kind is to be dealt with under the current CDM procedure. As is clear from this Determination, this was a case with a great amount of complex detail which required careful analysis. The allegations were extremely serious for anyone but particularly a priest. The unanimous findings we have made about the deception that has been practiced in this case by AB give rise to grave concerns.

114. A case of this kind requires :

(i) investigation of all lines of enquiry that point towards the potential Respondent, but also point away from him, and

(ii) a proper disclosure exercise by the DO who prosecutes the complaint.

115. We do not wish to criticise the DO, the Complainant or the diocesan safeguarding team who when presented with a case of this kind face a

particularly difficult task. As Danielle Law said to us in her evidence, she is not there to be an investigator. We are sure that is right. But the problem in a case such as this is that no one is appointed to investigate the case in a professional manner. We note that the Complainant took legal advice on 26/4/17 where he was advised to '*gather as much information as possible*' and use open questions etc. , but the Complainant, nor any other Archdeacon, is not a professional investigator of complaints of this kind and cannot be expected to engage in a forensic investigation process. The problem in a case such as this is that the Complainant receives much of the material from the principals involved, and then hands it over to the DO for processing. However, in our judgement, cases such as this require much more investigative work before being prosecuted. We have set out at para 90 and 91 our regret that Revd Tinning was not called nor that Fr McCluskey did not have a statement taken from him about the past at his church and AB's disclosure of her allegations to him. Any investigator would want to look carefully at how the allegation was disclosed, to whom and in what terms. There may have been others an investigator would have wished to speak to. An investigator may have wanted to further analyse the recordings and the devices used.

116. A case involving such allegations as this can seldom be disposed of simply on one part of the evidence such as in this case the recordings. It would never have been fair to hold a tribunal hearing into these matters without giving the R an opportunity for cross examination of the principal complainant who is of course not the Archdeacon of Southend, but AB. This is even more the case where the Complainant's case is that AB is not truthful when she says that her son wrote the 'Julian' emails (DO's submission being that they were written by AB as R well knew as part of a 'game'). If those who prosecute a claim like this cannot put forward their principal witness as truthful on an important matter, great caution must be taken before embarking upon such a complaint based on what that witness says about other matters. 'Great caution' requires a full investigation in a troubling case such as this.
117. The Tribunal is not the place for the investigation to be carried out: because we are not an inquisitorial Tribunal, but adjudicate instead on the competing claims applying the burden and standard of proof.
118. Once there has been a full investigation it would be much easier for the DO to conduct a proper disclosure exercise so that matters which were relevant and which could assist the Respondent or undermine the Complainant's case were disclosed. In a case such as this it might have been helpful to have an 'unused schedule' similar to a criminal case so that all knew what material the DO had seen and whether it was his view that it was disclosable or not. The issues that arose on disclosure might then have been avoided.
119. We acknowledge that the issues raised in these concluding remarks go to the structure of CDM proceedings and no doubt also to the question of

resources provided by the Church to investigate matters of this kind. We repeat that the Tribunal does not criticise the DO, the Complainant or the safeguarding team who were dealing with an evidentially complex case without an investigative framework.

120. We consider that it would be helpful for those who reflect on these matters to know the views of a Tribunal that has heard a case such as this.

Date of delivery: 20 January 2020

The Revd HH Judge Mark Bishop, Chair

The Revd Dr Helen Dawes

Mrs Deborah Inskip DL

Canon Richard Price

The Reverend Prebendary Henry Pryse