

## CLERGY DISCIPLINE MEASURE 2003

### IN THE COURT OF ARCHES ON APPEAL FROM THE BISHOP'S DISCIPLINARY TRIBUNAL RE THE REVEREND WILLIAM BULLOCH (THE APPELLANT)

#### JUDGMENT

##### 1. INTRODUCTION

1.1 This is an extraordinary case which is troubling for many reasons. We are grateful to Counsel for the Appellant, Mr Justin Gau, and the Designated Officer ("DO"), Mr Edward Dobson, for their submissions and assistance at the hearing of this Appeal against Penalty which took place at the Church of St Mary-le-Bow on 29<sup>th</sup> March 2021. This is the unanimous Judgment of the Court.

1.2 By a complaint dated 22<sup>nd</sup> November 2017, the Complainant, the Archdeacon of Southend, brought proceedings against the Appellant for misconduct under Section 8(1) (d) of the Clergy Discipline Measure 2003. He alleged that the Appellant 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.

1.3 The complaint was considered by the then Deputy President, who, having concluded that there was a sufficient case to answer before a Tribunal, formulated the allegation 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 at 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".*

1.4 The Appellant had admitted the matters which later came to comprise paragraphs (ii) (a) and (b) in his formal answer to the complaint, which the DO accepts was the earliest opportunity. He denied the matters contained in paragraph (i).

1.5 The Appellant's Statement of Case repeated the admissions and the denial. Consequently, there was a hearing before a Clergy Discipline Tribunal which took place on 2<sup>nd</sup> - 4<sup>th</sup> October 2019. One of the reasons for the delay was the need for an interlocutory hearing to consider the Appellant's application for AB to be called as a witness before the Tribunal so that she might be cross examined. It is one of the extraordinary features of this case that this ostensibly basic element of bringing a complaint was established only after a disputed application.

1.6 In the result, the Tribunal held, by a majority, that the disputed part of the complaint (paragraph (i)) was not established. They unanimously found that AB's "*dishonesty and manipulation*" of the Appellant and his family had been "*egregious*". The Tribunal's determination of liability deals exhaustively with the details of the pastoral relationship which forms the backdrop to the admitted elements of misconduct with which we are primarily concerned. It is, however, impossible to understand that misconduct without a proper appreciation of the Tribunal's findings as to what went before. This

Judgment, in which we state our conclusions and reasons on the disposal of the Appeal on penalty, does not rehearse the full history of the matter. We gratefully accept the Tribunal's summary of the evidence and the conclusions of the majority on it, not as a mere matter of convenience but because it is fundamental to the proper understanding of the approach which the Court must take on appeal. It is not for us to re-try the first paragraph of the complaint or to review the conduct of the investigation or the prosecution of the complaint before the Tribunal. We have not heard any witnesses; the Tribunal did. Those who read this Judgment should bear in mind that the starting point for our deliberations has necessarily been the Tribunal's determination on liability.

1.7 We make this preliminary point because there has been a great deal of focus on the conduct of AB and of the Diocesan and other officials who brought the Complaint. These are important matters of context, but they do not detract from the gravity of the wrongdoing which the Appellant properly admitted. The fact that he was acquitted of the first allegation should not obscure the serious causes for concern which arise from consideration of the admitted matters in context. As Mr Dobson said in his thoughtful and appropriately restrained submissions, *"The nature of the misconduct is one of pastoral failure. This goes to the very heart of a parish priest's ministry and is serious. It is not a technical breach of policy."* By the same token, when coming to consider the effect of the admitted wrongdoing on others, including AB, we must approach matters on the basis of the Tribunal's findings rather than speculation. In particular, there was no medical evidence before the Tribunal, partly because when it was requested, AB's GP did not attend the hearing as the Tribunal had required (subject to AB's consent) and the amended letter, which was all that was proffered in place of the records sought, was ruled inadmissible.

## 2. SUMMARY OF THE HISTORY

2.1 In August 2015, after encountering difficulties at a neighbouring church, the priest of that parish suggested to AB that she might prefer to talk to another priest. Accordingly, she was referred to the Appellant and met him at the parish church of St. James the Great, Leigh-on-Sea. They talked and he heard her confession. A pastoral relationship developed, comprising the Appellant's wife and family as well as himself. AB seemingly valued being welcomed into the family at the vicarage and she reciprocated with gifts which became, in Mrs Bulloch's phrase, *"uncomfortable....too generous or too strange... One such gift was a whole pig's head"*<sup>1</sup>.

2.2 During 2016, AB appeared to be in declining health and in November she told the Appellant that she was dying. There followed a period until 21<sup>st</sup> January 2017 when the Appellant genuinely believed that AB was close to death, almost unable to walk and in a very weak physical condition. The Tribunal's determination goes into great detail about events at this period, but, in summary, there were two weeks when AB was accommodated at the vicarage because of the Bullochs' concern about her physical state, the seeming lack of practical care from other agencies and the fact that the heating in her flat had, apparently, broken. During this period, an email correspondence started with someone styled "Julian", who was supposed to be a counsellor of AB. There was much evidence about these emails during the Tribunal hearing, but the conclusion which they reached, unanimously, was that the emails were sent by AB, posing as Julian. The emails were highly manipulative, making demands upon the Appellant, apparently coming from another person properly concerned with AB's care. The Appellant repeatedly asked about care for AB from other agencies, including medical staff but "Julian", effectively, fielded these enquiries.

2.3 AB's physical circumstances were, ostensibly, shocking, involving bowls of vomit, blood and urine and the paraphernalia of a terminally ill person struggling without proper care. "Julian" and AB would ask the Appellant to take her out on "final visits" to favourite places, which he did on occasions, accompanied by his wife and / or one of his daughters. The nadir was reached when, on 8<sup>th</sup> January 2017, the Appellant was asked by AB to explain to her young child that she was dying and would soon be in

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<sup>1</sup> Tribunal Determination [16]

Heaven and that this was the last time when the child would see its mother. The Appellant described this event as “*harrowing*”; the Tribunal’s word was “*chilling*”<sup>2</sup>.

2.4 On 21st January 2017, Mrs Bulloch was visiting the outpatients’ department of the local hospital when, by chance, she saw AB, walking normally. When AB realised that she had been spotted, she ran away. This sequence of events was fundamentally in conflict with the picture painted in the Bullochs’ minds of a person so close to death that she could not walk unaided. The Appellant confronted AB about the incident, but her response was hysterical. On the same day, emails started coming from a “Dr. Khokar”, seeking to explain the apparent inconsistency. The Appellant traced and contacted the real Dr Khokar who denied having sent the emails. The Appellant emailed AB informing her of this discovery on 2<sup>nd</sup> February and said that he could not see her or be in contact with her, effectively terminating the pastoral relationship. He did not inform the diocesan safeguarding team or senior clergy of any of the facts set out above, including, pertinently, the fact that AB was no longer receiving any form of pastoral care or support. That omission forms the basis of the first admitted element of the complaint.

2.5 There then followed a campaign by AB who was begging the Appellant to re-establish pastoral contact. The campaign took the form of emails, telephone calls and visits in person to the church. These communications were abusive and threatening and, in particular, alleged that the Appellant had had sexual relations with AB and that she was, as a result, pregnant. The pregnancy allegation then gave way to a claim that she had had an abortion. At one point, in April, AB turned up at the Appellant’s church with an urn, labelled to suggest that it contained the remains of the Appellant’s baby. During this period, there were many angry telephone exchanges and, probably between February and April, AB made secret recordings of at least some of them. A final secretly recorded face to face conversation occurred in church on 1<sup>st</sup> September 2017, when AB appeared and confronted the Appellant with her accusations. There was much discussion about the details of the recordings and how they came to be conveyed to the Archdeacon Complainant before the Tribunal, but those details do not matter for our purposes. What is important is that they form the basis of the second admitted element of the complaint.

2.6 The language used by the Appellant in the recorded extracts was, at times, extreme. As the DO reminded us, it was noted in submissions on penalty before the Tribunal that the Appellant used the word “fuck” 28 times in April and 13 times in the one conversation in September. The latter conversation took place in church, at a time when the building was open and anyone might have entered. One of the April conversations also took place in church, spilling out into the church car park. Again, Mr Gau accepted that that conversation could have been overheard by anybody coming to church for prayer or quiet, although evidently AB had sought out the Appellant at a time when he was alone in the building.

2.7 The Appellant had begun a lengthy process of disclosure to a number of different clergy, starting with a disclosure to a local Baptist Minister, who alerted his superior and safeguarding officer and then informed the Diocesan Safeguarding Adviser. He continued to have some involvement with AB, as did the priest from her former parish and a Roman Catholic priest, as well as Diocesan safeguarding staff. It was not until the very end of August / mid September that AB gave the Appellant’s name, first to the Baptist minister, then to the Diocesan Safeguarding Adviser. The Tribunal dealt with this period from February to autumn 2017 at paragraphs 60 to 95 of their Determination. In their Determination on Penalty, they noted the Appellant’s acceptance that he did not report “*the consequences of ending the pastoral relationship to the diocese.*” They continued, stating that they had, in those paragraphs, set out “*the evidence of what those consequences were and her actions towards*” the Appellant.

### 3. THE TRIBUNAL’S DETERMINATION ON PENALTY

3.1 The Tribunal said, in their statement of reasons:

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<sup>2</sup> Op.cit. [24], [105 (iii)]

“2. ....The essence of the misconduct that he has admitted is that once the pastoral relationship was at an end he failed to seek any advice from the diocesan safeguarding team or senior clergy as to how AB could be helped and/or how he should respond to AB, and that in his interaction with her ( as recorded by her ) he was rude and abusive and used foul and obscene language.

3. The end of the pastoral relationship was towards the end of January 2017 and the Respondent accepts that he did not report the consequences of ending the pastoral relationship to the diocese. We have set out in the Determination at paragraph 60 onwards the evidence of what those consequences were and her actions towards the Respondent, which involved visiting his church, telephoning and emailing him.

4. The Archdeacon first spoke to the Respondent about these matters in November 2017 in which we find that he said that there had been little contact with AB since February 2017 and it had been quiet since May 2017. We find that was not true. The recorded conversations are from February but primarily between March/April with a final recording in September. He responded with hostility to her as we can hear on many of the recordings. There was no excuse in our judgement for a priest to speak in that way to anyone, even in the circumstances which we unanimously found had occurred in this case .....

9. The misconduct which was ‘unbecoming or inappropriate’ was (i) The Respondent had acted extremely naively and without an appropriate sense of boundaries in the pastoral relationship whilst it subsisted. This was something the Respondent accepted in his evidence, and about which we made findings ..... For a priest to act without a proper sense of boundaries in a pastoral relationship amounts to misconduct. (ii) Once the pastoral relationship was ended and he realised he had been duped, the use of the foul and abusive language and shouting as recorded in the taped conversations amounts to misconduct, as he has admitted. By that time, notwithstanding his realisation that he had been duped, any priest should have realised that the use of such language was both unbecoming and inappropriate. (iii) That misconduct becomes more serious when the Respondent realised the extent of the deception (that we unanimously found was present), and what her response to the ending of the pastoral relationship was. He should have involved the diocesan authorities in her care and fully disclosed what had happened. Instead, he did not tell the diocesan authorities, and when they did ask him about it, he minimised the contact that he had with her and did not tell the truth to the Archdeacon in November 2017. Such behaviour was clearly serious misconduct. In our Determination the majority were not satisfied that it was safe to draw the inference from this failure that the Designated Officer urged upon us. However, it was in our unanimous judgement, serious misconduct for a parish priest not to involve fully the diocesan authorities in the situation that had arisen, to provide assistance to AB and advice to the Respondent.”

3.2 They concluded:

“15. The penalty that we impose for this serious misconduct is as follows:

- (i) removal from office: it is impossible for the Respondent to continue with a priestly ministry in this parish. The misconduct has fundamentally undermined his work as a priest in this parish.
- (ii) an injunction to undertake and complete within 6 months of returning to ministry (a) an anger management course approved by the appropriate diocesan bishop and (b) a course relating to the safeguarding of children and vulnerable adults as approved by the appropriate diocesan bishop and (c) training in appropriate working, supervision and external relationships approved by the appropriate diocesan bishop.
- (iii) a rebuke for this misconduct.”

3.3 The Tribunal made reference to the length of time during which the misconduct lasted, describing this as being from February to November 2017 and accepted the then DO's submission to the effect that *"the misconduct is serious in part because of the damage that has been done to his own credibility as a conscientious and responsible minister within his own parish."*<sup>3</sup> They agreed with the DO *"that the Respondent's conduct showed a detachment from the diocese at a time when he needed to involve others in the situation which then existed."* Although they gave credit for the prompt admissions and took into account the period of suspension (which occurred on 6 January 2018), the Tribunal noted that they were *"not persuaded that there is any evidence of remorse for this misconduct, nor any evidence of any insight into the possible effect of this admitted misconduct upon AB. We acknowledge that the continuing effects of the deception practiced upon him and his family by AB will not assist in the development of this, but we would expect more of a priest in this regard."*

#### 4. THE APPEAL

4.1 The Appeal was made on the basis that the penalty was *"disproportionate"* to the admitted offences. In his Grounds of Appeal, Mr Gau submitted, on instructions, that a rebuke would sufficiently deal with the case. At the outset of the hearing, he modified this submission, stating that his client did not wish to pursue the Appeal with regard to paragraphs (b) and (c) of part (ii) of the Penalty, but that the Appeal stood with regard to part (a) - undertaking an anger management course - as well as removal from office. The Dean explored this element of the Appeal during Mr Gau's oral submissions and, over the midday adjournment, he took instructions on paragraph (a) which enabled him to say that the Appellant, although initially opposed to such a course, was now prepared to undertake it. Therefore, the Appeal proceeded against paragraph (i) alone.

4.2 Mr Gau pleaded that there had been no evidence to support the then DO's submissions, which the Tribunal accepted, to the effect that it was *"impossible for the Respondent to continue with a priestly ministry in this parish."* The Appellant's legal advisors had not been forewarned of this submission and therefore had not led evidence to address it. Accordingly, the Dean gave permission for fresh evidence to be admitted comprising letters from a variety of people with knowledge of the Appellant's ministry.

4.3 In her Order of 3 December 2020, the Dean also directed that, pursuant to Rule 28 of the Clergy Discipline (Appeals) Rules, the acting diocesan bishop be invited to write to the Court expressing his views on penalty. As the parish of St. James, Leigh-on-Sea is one which enjoys the alternative episcopal oversight of the Bishop of Richborough, the Dean requested that the Acting Diocesan Bishop consult him in the preparation of the response, as well as the Suffragan Bishop of Bradwell.

4.4 The then Acting Bishop of Chelmsford, the Bishop of Barking, wrote to the Deputy Provincial Registrar on 3 February 2021. He said:

*".....In considering this response I confirm that I have reviewed the essential documentation and evidence submitted in this case, including the supportive letters for Fr Bulloch from congregation members and the input of the Archdeacon of Southend as complainant. As required I have also consulted both the Bishops of Bradwell and Richborough\* on the matter.*

*My strong and clear conclusion in reviewing all that has been placed before me is that Removal from Office is an appropriate penalty and is neither disproportionate nor excessive.*

*I do not express this view lightly, knowing the effect removal from office would have on Fr Bulloch and his family. I also acknowledge that he has loyal support from within his small, gathered church congregation. However, I believe there are other considerations that outweigh allowing him to continue priestly ministry in his current parish, and in particular I would highlight the following:*

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<sup>3</sup> Determination on Penalty [11]

- *The effect that Fr Bulloch remaining in office would have on the mental health of the alleged victim, who still lives in close proximity to the parish.*
- *His credibility as a priest in the community is seriously diminished, evidenced by the adverse local publicity. It would be impossible to recover that credibility, wholly or even partly outside that very small group of empathetic and loyal church members.*
- *The consequent disabling of the mission of the church and the work of the Gospel in the parish and wider community.*
- *The reputational damage and risk to the church, again locally but also in the wider diocese and nationally, were he to remain in office.*
- *It would be extremely difficult for us to rehabilitate and support Fr Bulloch's priestly ministry to the level needed were he to remain in his current parish in the context of the above four points. The fact that the alleged victim is extremely likely to pursue her grievances with strong local and national support for some time to come would add to that difficulty.*

*As his bishop I would be committed, with colleagues, to ensuring that we as a diocese offer the significant retraining, mentoring and support that Fr Bulloch would require, whatever the outcome of this appeal. However, in offering this view, I would also want to draw your attention to the range of work that would be required, with hopefully his full co-operation. I do so with reference to the numbered sections of the Guidelines for the Professional Conduct of the Clergy (2015), all of which reference the serious misconduct and major weaknesses in Fr Bulloch's priestly ministry illustrated by this case:*

*2.3 Acknowledgement of priestly limitations, of time, competence and skill ...*

*2.4 & 12.2 Acknowledgement of power dynamics involved in pastoral care...*

*2.8 Essential understanding of appropriate physical, sexual and pastoral boundaries...*

*2.9 Awareness of the dangers of dependency in pastoral relationships including the possibility of manipulation on either side...*

*10.1 Exemplary moral behaviour, beyond what is legally acceptable...*

*10.10 Avoidance of intemperate, angry language and behaviour*

*11.4 Participation in collegiate clergy activity, mutual support and avoidance of isolation...*

*11.9 The highest standards of pastoral conduct, especially in respect of avoidance of inappropriate relationships with vulnerable adults...*

*All the above guidelines are germane to the serious priestly misconduct and pastoral weaknesses in Fr Bulloch's ministry and will need significant and long-term attention, support and monitoring.*

*I believe they can only be fully and successfully addressed outside the context of his current parish. In effect he needs a new start. In saying this I acknowledge the family difficulties and logistics that would then ensue, but I honestly believe it would be for the better well-being and health of both Fr Bulloch, his family, the alleged victim and the parish of St James the Great, Leigh on Sea.*

*With much regret, and for the reasons above, I am convicted that Removal from Office remains an appropriate penalty for Fr Bulloch at this time and is neither disproportionate nor excessive.*

*\* I wish to acknowledge that The Bishop of Richborough, would offer a different view to my conclusion.”*

4.5 The Appellant applied for the admission of a letter dated 1<sup>st</sup> March 2021 from the Bishop of Richborough, which was not opposed by the DO. This letter is in the following terms:

*“The solicitors acting for The Reverend Bill Bulloch supplied me with a copy of the Bishop of Barking, the Right Reverend Peter Hill’s letter of 3 February by e-mail on Friday 26 February. This letter sets out the bishop’s reasons, in consultation with his senior colleagues, for why he agrees with the Tribunal’s decision that Father Bill should be removed from office. For the record I was invited for a zoom meeting by the Bishop of Barking to offer my reflection on the case on 22 January. The letter referred to above simply states that I ‘would offer a different view’.*

*..... I believe it is incumbent upon me to address some of the issues raised by the Bishop of Barking, particularly since I have been in regular contact with Father Bill and his congregation over the past three years. As Bishop of Richborough I have designated pastoral and sacramental oversight for Saint James Leigh on Sea.....*

*The archdeacon of Southend, the Venerable Mike Lodge, appointed in 2017, as complainant was unable to have contact with the priest and parish and so the then Bishop of Chelmsford, the Right Reverend Stephen Cottrell suggested that it would be appropriate that I offer ongoing pastoral care. The Bishop of Barking acknowledges that he has not met the priest or visited the parish while the Bishop of Bradwell, as far as I know, has made no contact either over the past three years.*

*I am aware that being so closely involved in the life of the parish, in regular contact with the churchwardens and in leading worship, of the necessity to address any conscious or unconscious personal bias when offering a view to the conclusion respecting the decision to uphold the severe penalty to be imposed on Fr Bill by his diocese.*

*Pertaining to the Bishop of Barking’s letter concerning my view expressed to him verbally by zoom on 3 February I offered the following reflections. Fr Bill Bulloch was not found guilty by the Tribunal of the charge of sexual misconduct. He did cross a pastoral boundary and he did fail to call in the diocese for help. Equally he shouted and used abusive language towards the witness.*

*Recognising that this is inappropriate for a minister of religion I still question the statement that his credibility as a priest among his own people, the local community and the wider church is therefore irretrievable.*

*The evidence on the ground points in a very different direction. The support for Father Bill by the churchwardens and the congregation is undiminished. Not only evidenced by their letters of support but by the fact that the worshipping numbers have remained steady over the past three years. On my visits to the church parishioners seek me out to tell me how much they are missing Father Bill and Lisa and to give them their love. The churchwardens’ loyalty and support is undiminished.*

*There is no evidence that Fr Bill is alienated from the local community. My observation is that after a three year suspension, the local community would find it inexplicable and unfair for him to be removed from office at this late stage, especially since he was not found guilty of the most serious allegation. There does not seem to be any evidence of the apparent support nationally or locally for the witness whose mental health issues are well known nor is there any evidence that Father Bill’s removal would prevent her from doing similar to another priest. My reading of the article in the Church Times was rather that both the Diocese of Chelmsford and the present national CDM process were found wanting.*

*I also question the assertion that the diocese would find it difficult to provide the significant re-training, mentoring and support necessary to re-habilitate Fr Bill to full time ministry in the*

*diocese. After a suspension of over three years together with the ensuing trauma experienced by Fr Bill and his family, I agree it would demand a carefully nuanced professional programme of counselling and training. Surely after such an ordeal, both the National Church and the Diocese, both of which have the necessary resources, have an obligation to Fr Bill and his family to offer such a programme. I would be happy to assist in any way with his rehabilitation and to help him to become more collaborative in his ministry in the Church and local community.*

*Considering the genuine support Fr Bill has received from his parish and my own personal knowledge of the situation, a more appropriate and just way forward would be to re-instate him together with a programme of professional and personal support.*

*I firmly believe that a formal rebuke along with a programme of training and supervision would not only be appropriate but recognised by the church and the wider community as a fair and measured conclusion to all he has been through over the past three years.*

*And finally a pastoral reflection. Fr Bill and Lisa have brought up a large family and one of their daughters, diagnosed with autism, still lives with them and rarely leaves the house. They have no financial resources to fall back on and Lisa has been a full-time wife and mother throughout their marriage. Whatever reassurances might be given, removing Father Bill from office will effectively end his ministry and in practical terms make him both unemployable in the Church and effectively homeless. A committed priest and pastor to his people, Fr Bill has so much to give, and I earnestly hope he will be given the opportunity to move forward and to exercise his priesthood once again among the people and community of Saint James, Leigh-on-Sea.”*

## DISCUSSION AND DETERMINATION

4.6 The Court was assisted by the newly reissued Guidance on Penalties issued by the Clergy Discipline Commission in January 2021, although we accept Mr Gau’s submission reminding us that Guidance is just that – guidelines rather than tramlines. In that spirit, we made use of the Approach to Penalties section and checklist as a framework for our deliberations and we commend this section of the document in particular to others involved in administering clergy discipline.

4.7 We deal briefly with two points of law.

4.8 We accept the DO’s submission that the correct test on appeal is whether or not the penalty imposed by the Tribunal was excessive. This was the approach adopted by the Chancery Court of York in the case of Huntley (4 August 2016), the first decision on permission to appeal under the current legislation. Although both the 2021 Guidance and its predecessor (updated 2016) refer to proportionality as a sentencing principle, it is correct that the court on appeal should not simply impose a different penalty if the case happens to strike it differently from the impression made upon the tribunal. We bear in mind that the tribunal in such cases will have seen the witnesses, whereas the appeal court will not; what is required to found a successful appeal is something more, akin to the test in other jurisdictions of legal error and/or the imposition of a penalty which no reasonable tribunal could have imposed.

4.9 Secondly, we bear in mind S.1 of the Clergy Discipline Measure 2003, which provides as follows:

*“1. Duty to have regard to bishop’s role*

*Any body or person on whom functions in connection with the discipline of persons in Holy Orders are conferred by this Measure shall, in exercising those functions, have due regard to the role in that connection of the bishop or archbishop who, by virtue of his office and consecration, is required to administer discipline.”*

4.10 This provision reflects the underlying principle of the current arrangements for clergy discipline which recognises the role of the diocesan bishop in oversight of the clergy with whom he or she shares the cure of souls in the diocese. Disciplinary responsibility is, in appropriate cases such as this one, mediated



through and shared with the tribunal and the court, but the diocesan bishop's role is very important, hence the general statutory duty in the Measure and the particular duty in relation to expressions of view set out in the Rules. The duty of regard relates to the diocesan bishop (or acting diocesan bishop) not, in a case where there is alternative episcopal oversight, that bishop. In this case, the statutory position and the evidential position operate somewhat in tension. This is because the acting Diocesan Bishop has never had cause to visit the parish and has not met the Appellant, whereas the Bishop of Richborough knows the parish and the Appellant and has been helping to lead worship during the three year period of suspension. Both advocates agreed that the Acting Bishop's letter attracts the statutory duty articulated in Rule 28 whereas the Bishop of Richborough's letter does not, but that the latter is material to our determination. Accordingly, we have taken both into account and have paid due regard to the Acting Diocesan Bishop's letter. We have analysed its reasoning carefully but ultimately, as we are permitted to do, we have decided to depart from the Acting Bishop's conclusion on the question of removal, although we have sought to develop appropriate injunctions from the thinking rehearsed in his letter.

4.11 We turn now to the matter of the penalty itself.

4.12 Applying the approach set out at paragraph 4.8 above, we find that the Tribunal's determination was excessive. We therefore have jurisdiction to set aside all or part of the penalty which they imposed and to impose a penalty which we consider, having regard to all the circumstances, to be just. We set out in the remainder of this Section of the Judgment our reasons for reaching these conclusions and for the penalty we impose.

4.13 Firstly, as the Bishop of Richborough points out, it is important to remember, not only the gravity of the misconduct which was admitted, but also the fact that the most serious part of the complaint was not established, after a full hearing at which the central people gave evidence. We note and endorse the criticisms made in the Determination on liability of the way in which the matter was investigated and prosecuted before the Tribunal. There were marked deficiencies in clarity, fairness and completeness which were, in part, due to the structural weaknesses of the system identified by the Tribunal and, in part, doubtless due to the extraordinary circumstances of this case.

4.14 Nevertheless, we do not accept submissions advanced in the Grounds of Appeal and, to some degree in oral argument, inviting us, effectively, to consider this matter as though the most serious charge had not been brought and there had not been a Tribunal. We must determine this appeal on actualities, not hypotheses. But we do accept Mr Gau's submissions to the effect that the Acting Diocesan Bishop's letter at least appears to have had regard to conversations and "*publicity*" to which the Court has not been made privy. Parts of the letter, especially those points made about AB, seem not to proceed from full acceptance of the Tribunal's decision on the sexual misconduct charge. The Archdeacon was the Complainant, that is, one of the Parties to the hearing below, and he appears to have had "*input*" into the letter, which, without further explanation, gives rise to procedural concerns from a legal perspective. The Court is in no way suggesting that the Acting Bishop behaved improperly; it is simply that we must adopt a standard of procedural fairness and openness which is particular, but also fundamental, to legal proceedings. For similar reasons, although we recognise and have borne in mind the fact that the admitted misconduct will have caused harm, we cannot enter into speculation about the effect of setting aside the penalty of removal from office upon AB's mental health. As Mr Gau rightly said, there is no evidence about her health.

4.15 In their Determination on Penalty, the Tribunal noted the Appellant's acceptance that he did not report "*the consequences of ending the pastoral relationship to the diocese.*" They continued, stating that they had, in those paragraphs, set out "*the evidence of what those consequences were and her actions towards*" the Appellant. At paragraph 10, the Tribunal said:

*"In assessing the culpability of the Respondent we consider the length of time this misconduct lasted which was from February – November 2017. It was therefore a course of conduct. We have also assessed the harm that would have been suffered by AB who was clearly a very troubled person in need of significant support. By his failure to act between February-November 2017 she was deprived of an opportunity for such support. This must have been obvious to the Respondent*

*by February 2017 notwithstanding his realisation of the extent of the deception.”* (Emphasis added)

During the Appeal hearing, in answer to the Dean, the DO said that the “*assessment*” referred to there had been undertaken in paragraphs 60 to 95 of the earlier Determination. He submitted that this narrative of AB’s bizarre behaviour evidenced the harm caused to her because of lack of pastoral support.

4.16 We have considered these points and paragraphs 60 – 95 very carefully. They comprise a narration of events from February to November 2017, then deal with the attempts by the Tribunal to receive evidence of AB’s medical condition. Those attempts failed, Mr Gau reminded us, because the Chairman ruled the GP’s letter inadmissible as it had been amended by AB. We cannot find any “*assessment*” of harm in these paragraphs of the Determination on liability and we consider that the Tribunal erred in so describing them in its Determination on Penalty. Effectively, they were placed in a position where it was impossible to undertake such “*assessment*” because of the findings on veracity and the lack of medical evidence. Similarly, the Acting Bishop’s letter, whilst making an assumption about the effect upon AB of not removing the Appellant from office, offers no evidence in this regard, nor could it properly have done so. The fact is that AB made serious allegations against the Appellant, which were progressed through the processes of clergy discipline by the Archdeacon. The Appellant was acquitted of the only matter which he contested, the very serious charge of sexual misconduct. In considering whether or not the penalty for the admitted elements of misconduct was excessive, we must take that acquittal and the admissions of pastoral failure as our baseline and not speculate about wider reactions.

4.17 We have also considered whether or not the events of February to Autumn 2017 should properly be regarded as a “*course of conduct*” on the Appellant’s part. The Tribunal so described them in paragraph 10 and it is an issue to which the current Guidelines also direct the Court; they evidently treated this as an aggravating feature when assessing culpability. Given that the Tribunal rejected any implication of deliberate concealment, it seems to us that, in reality, matters simply unfolded. AB was in receipt of pastoral support from the Baptist Minister, from her former parish priest and from Diocesan safeguarding staff throughout this time; the Archdeacon also became involved at some point over the summer. Therefore we do not accept the DO’s submission or the Tribunal’s apparent approach to causation, linking the absence of a proper pastoral relationship with bizarre behaviour. Events were dictated by AB’s various attempts to contact the Appellant and to restart the pastoral relationship with him. These attempts took extreme forms and we do accept the DO’s point, to some extent, that they were indicative of a person in a state of turmoil who needed support; but she was, in fact, receiving the support described above. On the face of it, the attempts at contact stopped from early May, subject to AB’s final attempt at “*confrontation*” in church on 1<sup>st</sup> September. We therefore consider that the Tribunal’s finding in the Determination on Penalty - that the Appellant had not told the Archdeacon the truth when he said in November 2017 that things had been “*quiet since May 2017*” - requires qualification. Undoubtedly, the Appellant should have given the Archdeacon chapter and verse and he did not mention the incident on 1<sup>st</sup> September. We do, however, accept Mr Gau’s submission that, generally speaking, it was fair to say that contact quietened down from May and we do not consider that the Appellant’s behaviour in reaction to AB’s approaches during that period should be characterised as a “*course of conduct*” such as to aggravate culpability.

4.18 We fully agree with the Tribunal that there was “*no excuse*” for the terms in which the Appellant spoke to AB. Clearly, he had been provoked beyond the limit of his personal endurance, but that is precisely why he should have involved others in this appalling situation, rather than continuing to try and go it alone. We do regard the use of such language in and around the church on two occasions as aggravating the already disgraceful terms in which he was conversing with AB on at least some occasions. This is not only because of the sanctity of the building, but also because of the risk (fortunately not realised) of parishioners and other members of the public entering the church and encountering such scenes. For the avoidance of doubt, we are not saying that it was acceptable for the Appellant to use such language to AB on the phone in other locations. All of that misconduct is very serious and, as we have said, although we recognise the extremely stressful nature of AB’s attentions, that element of mitigation is diminished by the long term mishandling of the pastoral relationship which ended in such damaging breakdown. That is the root cause of the problems in this case.

4.19 We agree with the Tribunal's characterisation of the Appellant's conduct of the pastoral relationship with AB as naïve in the extreme and lacking an appropriate sense of boundaries. These failings were serious and harmful - to AB, to the Appellant's work as a parish priest, consequently to his parishioners and to his family and himself. We also have grave concerns about the effects of events on AB's children. Much of this harm might have been prevented if the Appellant had recognised the warning signs and involved diocesan colleagues. The adoption of so risky an approach in such a complex situation was inexcusable in a minister of some 15 years' experience. It showed ignorance or disregard of important sections of the Guidelines for the Professional Conduct of the Clergy, enumerated in the Acting Bishop's letter, although we bear in mind, in applying those passages, that they do not apply in their entirety because of the failure to establish the most serious complaint. We seek to reflect the admitted misconduct in the injunctions concerning anger management, pastoral relationships and safeguarding, which are the areas where the Appellant showed serious weaknesses in this case.

4.20 At paragraph 11 of their Determination on Penalty, the Tribunal said: *"We accept the submission of the Designated Officer that the misconduct is serious in part because of the damage that has been done to his own credibility as a conscientious and responsible minister within his own parish. We agree that the Respondent's conduct showed a detachment from the diocese at a time when he needed to involve others in the situation which then existed."*

4.21 Mr Gau submitted that the first part of this finding, which was based on a submission of the then DO, was not based upon evidence. Rather, he said, the Tribunal had accepted the evidence of the churchwardens, put in during the hearing on liability, that the Appellant was well respected and much loved in the parish. Those statements had been adduced on the question of character, in the context of a dispute on credibility of the witnesses on the main charge, rather than continuing credibility as a minister who has admitted serious misconduct. We agree about the absence of evidence before the Tribunal to support this finding, which was central to the decision to remove from office.

4.22 More weighty than the letters on credibility which were before the Tribunal, in our opinion, are the letters which were admitted on appeal to address the question of credibility to continue in office. Before turning to those letters, we should note that the Archdeacon properly brought to the Court's notice, in view of the Appellant's claim never to have been the subject of prior complaints, two previous matters, both more than 10 years old, neither of which proceeded. We are grateful that full information has been brought to the Court's attention, but we have decided not to give those matters any weight in our determination. No criticism attaches to the Appellant's legal advisors in this respect as they were unaware of these matters.

4.23 Some 35 letters from lay people were submitted to refute the suggestion that the Appellant has lost credibility to minister within the parish. The Dean had directed that there be only one representative letter per family and certain press articles which some of the authors had submitted in further support were excluded because they commented on the judgment which was, by then, under appeal. The letter writers included the two churchwardens, who have been in post throughout the events summarised above and during the Appellant's three year suspension, and the PCC Secretary. These officers are unanimous that the worshipping congregation wish to see him return; the Secretary states: *"The congregation of the church at St James the Great have at all times since January 2018 remained supportive of Fr Bill and to see that the ruling states 'It is impossible for the Respondent to continue with priestly ministry in this parish. The misconduct has fundamentally undermined his work as a priest in this parish', is simply untrue....there is not one person that is active within the church community that I can think of that is against his return."* Many of the letters were signed by more than one person – a couple or a family. The Bishop of Barking spoke in his letter of a *"very small group of empathetic and loyal church members"* wanting his return and of a *"small, gathered church congregation."* The Parish is a Society one, therefore the church will, to some extent, be gathered, but most of the addresses on these letters are from the same Leigh-on-Sea postcode. Two letters from non churchgoers are noticeable, one from the proprietor of an old people's home in nearby Westcliff on Sea, where the Appellant had been visiting to minister to one of his

parishioners. That gentleman spoke appreciatively of the Appellant as standing out amongst other Christians whom he had met as someone who cares deeply about people and has “*an incredible personal faith*”. Another letter, from a St. James couple, one of whom is a PCC member, Eucharistic minister and Deanery Synod representative, says that the Appellant “*fosters community outreach by ensuring that our church and its halls are available to all for a wide range of worship, social and family activities.*” Another couple write of the Appellant’s support and guidance in their work of running the Parent and Toddler group on behalf of the church, even though they do not regularly attend St. James’ Church. These letters speak to us of a priest who has taken his ministry outside the immediate church sphere and whose contributions in the wider environment have been found to be valuable. It is clear from the terms and addressee of these letters that they were written with knowledge of the fact of the Tribunal, although we accept the Bishop of Barking’s point that not all of them showed awareness of the full relevant facts. Having said that, the Acting Bishop’s letter, whilst referring to “*adverse publicity*”, did not evidence this.

4.24 Other letters – about eight – come from clergy, some of whom have helped to minister to the Church during the period of suspension. There is, additionally, a letter from the local Roman Catholic priest, evidencing ecumenical collaboration. All speak of the affection in which the Appellant is held by his congregation and are unanimously of the opinion that his credibility as a minister remains. The Reverend Canon Peter Walker SSC’s letter of 25<sup>th</sup> April 2020 is representative: “*I only have slight personal knowledge of Fr Bill but I have been offering cover to his parish on a regular basis for almost two years. During that time I have been impressed with several things. The first is the resilience of the parish church and its members, it is only a small church but it is strong, faithful and diverse in all aspects of its membership. Secondly it has maintained its membership during this difficult and uncertain time well..... Thirdly, the church appears to be in good heart and the building in good order. These things all point to a church which has enjoyed good leadership over Fr Bill’s time.*”

4.25 The Bishop of Richborough’s letter makes similar points, he having rightly recognised the risk of conscious or unconscious personal bias because of his involvement with the parish. His letter is balanced, evidence based and helpful and we give it considerable weight. Like others, he notes the resilience of worshipping numbers and the many who seek him out to say how much they are missing the Appellant and his wife. He has found no evidence of alienation from the local community.

4.26 In addition to the reasons set out at paragraphs 4.15-4.17, we also find the penalty of removal to have been excessive on the basis of the lack of evidential basis for the Tribunal’s finding that his work as a priest in the parish had been “*fundamentally undermined*” by his misconduct. That finding was based upon a submission made by the then DO, of which no advance warning was given and which was unsupported by any evidence. In future, if it is to be suggested on behalf of complainants that removal or prohibition is appropriate, then notice should be given in advance to the tribunal and the respondent to ensure that such serious penalties are considered on the basis of appropriate evidence, especially where, as here, a more serious allegation has not been found proved. We give weight to the evidence which has now been submitted and cannot support the Tribunal’s finding on this point.

4.27 The Bishop of Barking refers to reputational damage and risk to the church, locally, across the diocese and nationally, stating that it would be “*extremely difficult*” for the diocese to rehabilitate the Appellant’s ministry were he to be reinstated to the parish, in the light of the effect on the mental health of the alleged victim, the Appellant’s credibility and the consequent disabling effect on the mission of the Church and the work of the gospel in the parish and wider community. We have considered these points very carefully. The Guidance rightly refers in a general way to the harm done to wider confidence in the Church. It also counsels against “*double counting*” features of aggravation or mitigation but, as we have explained, we find no evidence to support the suggestion of specific loss of credibility locally. The arguments about mission and reputation are, essentially, part of the local credibility point; again, they are not supported by evidence. Generally, we note that is just as likely that the reputation of the Church might be harmed by an excessive penalty being allowed to stand. Finally, there is a suggestion that AB may “*pursue her grievances;*” a letter of claim from solicitors for AB seeking damages, dated 3<sup>rd</sup> February 2020, was put before the Tribunal, but we give this matter no weight as it is not relevant to the question of removal from office.

4.28 We note the Bishop of Barking's belief that it would be extremely difficult to rehabilitate the Appellant into ministry within the parish of St James, but welcome his assurance that the Diocese will offer "*the significant retraining, mentoring and support*" that he would require. The Court agrees that, after everything that has happened, including 3 years of suspension from ministry, the Appellant will need to receive such support. As the Bishop rightly observes, he needs to co-operate fully but we have no evidence to suggest that this would be more difficult in situ than in a new parish. Several of the letter writers deal with this matter specifically, agreeing that training is required and offering to support the Appellant in it; such prayerful support from the congregation will be very important and will, we hope, help the Appellant to engage fully in the work which the injunctions require. We have reframed injunction (ii) in order to give the potential for a longer period of training in the fundamental matter of relationship management, at the Diocesan Bishop's discretion, and added a further injunction (iii) requiring the Appellant, for the remainder of his incumbency at St James the Great Leigh-on-Sea, of which he has the freehold, to participate in the Ministerial Development Review which is required of clergy who serve on non freehold terms. In reframing the injunctions, the Court was mindful of the need to avoid over-prescription and to allow the diocese to take its proper role as the source of support and direction for the Appellant. The injunctions therefore all make provision for the Appellant to receive training and direction as determined by the diocesan bishop, and are intended to focus on his need to seek appropriate support in all the challenges of his ministry. Noting the willingness of the Bishop of Richborough to assist in the Appellant's return to ministry, we are confident that the Bishop of Chelmsford will liaise appropriately with him to the better supporting of the Appellant. It is fundamentally important for the Appellant's future ministry that he fully complies with these injunctions. Failure to do so would constitute further misconduct under the Measure.

4.29 Finally, we turn to the issue of remorse, to which the Guidelines refer as a possible mitigating factor. The Tribunal found no evidence of remorse and the DO addressed us on the same basis. Written submissions for the Appellant were silent on this issue, so the Court raised it with Mr Gau during his oral submissions. He was able to point to the early admission of the misconduct which we are considering and said that his client bitterly regrets all that has happened. It is clear that his instructions did not permit him to go further. It is also clear, from this exchange and from the submissions overall, that the Appellant feels considerable resentment towards AB for all that has happened. The Court appreciates why this might be but is concerned about the apparent lack of remorse and repentance on the Appellant's part. We have considered this aspect very carefully but do not think that it should lead the Appeal to fail. For everyone's sakes, however, we want to stress how important it is for the Appellant to face his misconduct and its consequences and fully embrace the opportunities for improvement which are offered by the injunctions. We strongly feel that it is essential for the Appellant to learn and reflect deeply on the shared nature of ministry in the understanding of the Church of England: shared with the Diocesan Bishop as well as with the Provincial Episcopal Visitor and shared with other ordained and lay ministers both within the parish and the Diocese. On balance, we disagree with the Acting Bishop's assessment that this work of repentance, penance and restoration is best done away from the parish but we agree that it is, nevertheless, essential that the Appellant recognises the need for full engagement with the guidance and support which are to be found in the wider Church.

## 5. DETERMINATION

5.1 Taking all these matters into account, we decide as follows:

- (1) The Appeal is allowed as to paragraph (i) of the penalty imposed by the Tribunal. The penalty of removal from office is set aside with effect from the date of this Judgment.
- (2) The Court imposes the following penalty for the Appellant's misconduct:
  - (i) An injunction to undertake and complete within 6 months of the date of this Judgment:

- (a) an anger management course approved by the Bishop of Chelmsford;  
and
  - (b) a course relating to the safeguarding of children and vulnerable adults as approved by the Bishop of Chelmsford.
- (ii) An injunction to undertake within the period of 2 years of the date of this Judgment such training in appropriate working, supervision and external relationships as the Bishop of Chelmsford shall, in her absolute discretion, direct.
  - (iii) An injunction that for the remainder of his incumbency he participate fully in the scheme of Ministerial Development Review prescribed by the Bishop of Chelmsford under Regulation 18(1) of the Clergy Terms of Service Regulations 2009.
  - (iv) A rebuke for this misconduct.

5.2 The Court continues permanently the order for anonymity of AB which was made by the Tribunal.

9 April 2021

Morag Ellis QC, Dean of the Arches  
Gabrielle Higgins  
The Revd Neil Patterson  
John Pitt-Brooke  
The Revd Caroline Ralph