

**In the matter of a Complaint under the Clergy Discipline Measure 2003
Before the Bishop's Disciplinary Tribunal for the Diocese in Europe**

Complainant: **The Venerable Jonathan Wilford LLoyd**

Respondent: **The Reverend Professor James Meredith Day**

DETERMINATION

1. The Reverend Professor James Meredith Day is a citizen of the United States of America. He was ordained into the Church of England and was at the relevant time ministering in the Diocese in Europe.
2. He now faces a tribunal constituted under the provisions of the Clergy Discipline Measure 2003 ("CDM"). The allegations against him are:

"that the conduct of the respondent, the Rev Dr James Meredith Day, former assistant curate at Holy Trinity Church Brussels, 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, whilst married to his wife:

- 1. during a period prior to 25 March 2012, for his own sexual gratification, he stored and kept on his computers at home a substantial amount of pornographic and indecent images; and*
- 2. in or about 2007 to 2009 he used the false identity and name of Henry Olsen to seek sexual relations with other persons namely*
 - a female prostitute in Etterbeek known as Amanda,*
 - a man known as Frederic,*
 - an unnamed man with whom he corresponded at "just...@hotmail.com"; and*
- 3. in or about 2010 and 2011 he engaged in sexual relations with a man known as Kris; and*
- 4. he assaulted his wife at their home:*
 - in or about November 2010 by seizing her arm, twisting it, and biting her on the hand;*
 - on or about 25 January 2012 by pulling her towards him by the scarf around her neck and tightening the scarf causing her difficulty in breathing.*
 - on or about 8 January 2012 by pulling her scarf tightly around her neck causing her difficulty in breathing, and by spitting in her face".*

3. The background to the matter is as follows.
4. Professor Day married his second wife in 1999 at Holy Trinity Brussels. Between 2001 and 2003 they were in Cambridge while he undertook ordination training at Westcott House. Following his ordination Professor Day, who is a clinical psychologist and who also holds a position at the University of Louvain, was a curate at St Boniface Antwerp and assistant chaplain at the English Church Ostend. The family moved to Brussels in May 2005 and Professor Day became an assistant chaplain at Holy Trinity in that city.
5. Before we turn to the evidence we have to consider how we should proceed with the hearing of this tribunal. A preliminary investigation was conducted by the Designated Officer, Mr Adrian Iles, and his report dated 24th of April 2015 was provided to the Deputy President of Tribunals, Sir Mark Hedley. Sir Mark in his decision dated 1st May 2015 referred the matters we have outlined above to the tribunal.
6. Following that reference the tribunal gave directions dated 2nd September 2015, *firstly* that the hearing would take place on the 26th and 27th of November 2015, *secondly* that the Designated Officer was to lodge his statement of case and supporting witness statements by 2nd October 2015 and serve copies on Professor Day and his then solicitor, Mr Edward Henderson of Lee Bolton Monier Williams. Professor Day or his solicitor were then directed to lodge their statement of case and witness statements by 30th October 2015.
7. The hearing did not take place in November 2015. A very short medical certificate certifying that Professor Day was unfit for work up until 31st January 2016 was submitted, dated 14th of September 2015.
8. Subsequently in a letter dated 6th November 2015 Mr Henderson asked that the hearing be adjourned until the spring of 2016, and included in his letter a further letter from Professor Day's general practitioner in Brussels which said, in summary, that Professor Day was suffering from severe prolonged exhaustion and was not fit to take part in the hearing until the latter part of the spring of 2016 and preferably a full calendar year from his letter.
9. As a result of that submission the hearing was adjourned and further directions were given on 20th of January 2016. Under these directions the hearing was to take place on the 26th and 27th of April 2016, Professor Day or his solicitor were to lodge a full statement of their case by 10th of February 2016 and to lodge his witness statements by 24th February 2016. The Designated Officer was then at liberty to file a response by 23rd March 2016.
10. No response was received from Professor Day. The last communication of any substance which was received by the Acting Registrar, Mr Darren Oliver, was a letter from Professor Day dated 4th November 2015 in reply to one from Mr Oliver dated 29th October 2015. Professor Day's answers to Mr Oliver's questions, in summary, were: that he did intend to contest the proceedings, that

he hoped to be represented although there were difficulties over funding, that he had collected several dozen letters of support which among other things would cast serious doubt on the credibility of his wife, that he did intend to provide further medical evidence.

11. Mr Oliver's last question was to ask whether Professor Day intended to attend the hearing which at that time the set for the 26th and 27th of November. We quote Professor Day's reply dated 4th November almost in full "*I do not have the health to support travel, stay, and participation in the hearing on the 26th and 27th of November in London. Should the trial proceed it is possible that charges will be filed under Belgian law against those responsible. On this note my legal counsel in Belgium, have duly informed the Church of England that given the investigations that already occurred in Belgium, and judgements in the criminal and civil courts regarding these, where the same charges were made against me as are made under the CDM, it is wholly improper and illegal for the Church of England to have allowed the charges and the trial go forward. Criminal charges have been filed in Belgium against the complainants. These charges do not include the ongoing investigation on criminal charges of other conduct in which (my wife) has engaged.*"
12. Although we have taken that letter out of order it is important because it is the only response to the allegations which we have before us.
13. Professor Day did not attend the hearing on 26th April 2016. We therefore had to consider whether we should proceed in his absence or whether we should adjourn with further efforts to be made to contact him and ensure his attendance.
14. Rule 42 of the Rules made under the CDM provides that a hearing may take place in a respondent's absence provided that the tribunal is satisfied that he has been properly notified of the date and place of that hearing.
15. We are so satisfied. The directions dated 20th of January 2016 which, among other things, set the hearing date, we were told by Mr Oliver were sent by first class post and email to both Professor Day and Mr Henderson.
16. Mr Oliver also told us that a further letter was sent on 11th April 2016 by post and email to both Mr Henderson and to Professor Day at his Brussels address reminding them of the date of the hearing and enclosing to Professor Day a bundle of documents which would be presented to the hearing. That is the bundle from which we have worked in the course of the tribunal and is the only material to which we have had access. It includes the witness statements of the four witnesses Mr Iles sought to rely upon.
17. Mr Iles was naturally concerned to know what Professor Day's case was and how he might if necessary answer it and he applied on 11th February 2016 for an order debarring Professor Day from adducing either written or oral evidence before the tribunal unless he submitted his full case and witness statements by 24th February.

18. The tribunal could understand Mr Iles' concerns but nonetheless felt constrained by the principles of natural justice. The tribunal therefore made the order sought by Mr Iles but added that no such evidence could be adduced without the leave of the tribunal. This direction was given on 10th March 2016. Had Professor Day either made written application to adduce evidence after the giving of that direction or had he attended the hearing and sought to give or adduce evidence either on that date or on an adjourned date it is most unlikely that the tribunal would have prevented him from giving or adducing such evidence.
19. Professor Day made no such application either in writing or orally.
20. As we have already noted, on 26th April Professor Day did not attend. The tribunal had already been notified by Mr Henderson that he no longer represented Professor Day.
21. The tribunal then ascertained that Professor Day had been properly notified of the hearing is set out above, and allowed an extra half-hour in case Professor Day had been delayed. Professor Day did not then attend and the hearing proceeded.
22. Mr Iles' four witnesses attended. They were Mrs Day, Canon Jonathan Lloyd, who was at the relevant time the Archdeacon of Germany and Northern Europe and who originally presented the complaint, Mr Andrew Tank who was at the relevant time a churchwarden at Holy Trinity Brussels, and Mr Christopher Lees who is the safeguarding adviser for the diocese of St Alban's and who at the relevant time was also the safeguarding adviser for the Diocese in Europe.
23. The rules provide that witness statements are to stand as evidence in chief unless the tribunal gives leave for further questions to be asked. The tribunal took the view that because Professor Day was not present it was extremely important that we should not go beyond the material in the witness statements and the bundle provided to Professor Day, and no further questions were asked of any witness. All four witnesses took the oath and swore that their witness statements were true - there was of course a declaration of truth on statements themselves.
24. In the absence of Professor Day or anybody representing him, there was of course no cross-examination or challenge to any of these witnesses.
25. Despite this we of course have to be satisfied that we can rely upon the accuracy of the evidence of the witnesses. It appears to us that in reality the only witness who might have been challenged as to accuracy and truth was Mrs Day. The evidence of the other three witnesses was largely

of a formal nature.

26. The evidence concerning the allegation of the possession of pornographic material on Professor Day's home computer was extracted from the computer by Mrs Day and was given eventually to Mr Lees.
27. The evidence concerning the allegation of sexual relations with a man known as Kris comes from email traffic in the name of Professor Day himself.
28. The evidence concerning the use of a false identity to seek sexual relations with other persons comes from email traffic, much of which emanated from Professor Day himself.
29. The evidence in relation to the allegations of assault comes from Mrs Day herself.
30. There are suggestions from Professor Day in the papers that Mrs Day is a partial witness in the context of an acrimonious divorce. There is however no challenge from Professor Day to any particular part of her evidence and we find no reason not to accept it.
31. Although it is not impossible for email traffic to be manipulated this has never been suggested by Professor Day and we are satisfied that this can properly be discounted.
32. Having been satisfied about the accuracy of Mrs Day's evidence in the production of emails and other material from computers, we find ourselves also able to be satisfied of the accuracy of her evidence in relation to assaults and all other matters. We are also assisted in coming to this conclusion by the content of her statement.
33. It follows therefore that we are satisfied of the accuracy of the entirety of Mrs Day's evidence. We announced at the end of the hearing on 26th April that we were satisfied upon the balance of probabilities that the evidence was true and accurate and that it did amount to proof of conduct unbecoming or inappropriate to the office and work of a clerk in holy orders.
34. We took note of the "Guidelines for the professional conduct of the clergy" which were in force at the relevant time and which provide *inter alia* that in their personal life the clergy should set an example of integrity in relationships and faithfulness in marriage, that they are called to a high standard of moral behaviour, and that the reputation of the church and community depends to a great extent on the example of its clergy, who should recognise their role as public representatives of the

church. Their lives should enhance and embody the communication of the gospel.

35. We were invited by Mr Iles to consider revised guidelines entitled “Protecting all God’s Children”. These were promulgated in 2015 and we did not think it appropriate to take them into account.

36. We did however take note of Canon C2(2) which reads “a clerk in holy orders should not give himself to such occupations, habits, or recreations as do not reflect the sacred calling, or may be detrimental to the performance of the duties of his office, or tend to be a just cause offence to others; and at all times he shall be diligent to frame and fashion his life and that of his family according to the doctrine of Christ, and to make himself and them, as much as in him lies, wholesome examples and patterns to the flock of Christ.”.

37. We turn to the evidence. It is appropriate to deal with that of Mrs Day first. We have altered the descriptions of websites and email addresses to make them as far as possible untraceable.

38. Mrs Day’s statement is dated 25th September 2015 and we include substantial portions of it in this judgement, as follows.

I was the second wife of the respondent, Dr James Day. We were married in Holy Trinity Church, Brussels on 9 September 1999. We separated in March 2012 and are currently going through divorce proceedings.

In 2001 we moved to Cambridge where James did his theological training at Westcott House. He was ordained deacon in 2003 and then became a curate at St Boniface Antwerp and assistant chaplain in the English Church Ostend. He was ordained priest in 2004. We moved to our current home in May 2005 and James became assistant chaplain at Holy Trinity in Brussels whilst being professor at the University of Louvain.

Looking back, I observed three phases in the relationship with James. For the first couple of years James pampered me. It was as if I was put on a pedestal by him.

The second phase of our relationship was characterised by the ‘condition’: everything was done under a contract and condition where James was always right.

The last phase was the abandoning, where James neglected me, told me I was ill and needed to see a specialist and used to speak badly of me. This is when I started to collect material to testify of some of what was happening to me.....

Indecent images and films

James had a dedicated office in our home in Brussels. He said he needed to spend a lot of time working at home, preparing lectures for international conferences (he travelled to the United States every March and sometimes in November too) and also sermons. Instead he was often busy on the internet and on Facebook.

James used to use a Dell lap top and then got a Toshiba lap top. I did not have a computer of my own and used his for my e-mails and studies. I knew the password for the Toshiba and James did not stop me from using it. The Dell was not in regular use.

The second phase of our relationship was also characterised when James started to stay in his study more and more with the door closed, and when I went to bed he would stay up in the study with the door closed. He wanted me to knock before I went in. If I knocked and opened the door quickly he would look guilty. The computer screen was sideways to the door, and I could see what was on it before he could hide what was on the screen. Although I could see unpleasant things on the screen I did not question him about these things. Instead I wondered what I should do next.

I realised that there was material on the Toshiba computer that could not possibly be connected with his work. James had huge files on the computer, including images of modern art, but they were mixed up with pornographic images. I began to copy some of the pornography off the computer and store it on to memory sticks. I had to protect myself by gathering evidence to show that he was not normal, because to others outside the marriage he projected himself to be a successful and respectable person.

I collected evidence material of different kinds and I copied the pornographic material onto four different memory sticks, over a period of time in about 2010 and 2011

There were about 50 short films of men and women in scenes of sexual pleasure and orgies, at least 100 sketches of naked women being tortured and burned, a scene of a gladiator being hit and tortured, many images of naked young men, images of young Asian women in sexually provocative poses, and other sexually explicit material.

One image I downloaded on 4 May 2011 was saved on his computer as 'Gang bang J..... - jmd'. A copy, which I have certified, is attached to the Archdeacon's complaint. The 'gang bang' picture was on his private file but did not easily show up because there were so many images of naked men and women, pictures of friends and lots of poetry, and art. The 'gang bang' picture shows a woman and two men engaging in sexual activity. On the computer screen the image was much clearer so that I could readily recognise James as the person on the left hand side in a kneeling position, and J..... was a woman with blond hair and a pony tail.

This may be the 'gang bang' he referred to at page 5 of an email he sent to his friend RN on 7th April 2009 when he wrote: "You must never desist on account of my priesthood...It has nothing to do with my perfection and all to do with vocation...what I couldn't not be...I cast no judgment...Perhaps I should send you photos from a gangbang I participated in ... to assuage your guilt". This particular passage is at page 48 in the documents attached to a statement of Andrew Tank dated 6 June 2012.

(We pause to note that there is in the complaint before us no allegation of taking part in a "gang bang". We do however find discussion and pictorial material of such matters to be relevant background and to be generally supportive of Mrs Day's evidence. The same applies to the following section about gay saunas.)

Gay saunas

We were burgled on 11 February 2011. The drawers were open and things were all over the place. I saw some business cards on the floor and picked them up – there were two cards for a male gay sauna club in Brussels. Later I spoke to him about it. I said that I had found the cards and I asked him why he went to a gay sauna. He said: "am I not allowed to go to the sauna and do something for myself and be a free man?" James was also a member of the Millennium in Bari, Italy. At page 24 in the documents attached to the statement of Andrew Tank dated 6 June 2012 there is a copy of a receipt for James' subscription to the Millennium, together at page 25 with

an excerpt from an online guide to bathhouses and other sexy places I downloaded from the internet showing that the Millennium in Bari is listed as a gay bathhouse. He had an ArciGay UNO Club Card which is required for admission to gay clubs in Italy – at 'BMD 1' I exhibit a copy of the front and back of an ArciGay UNO Club Card in his name.

He must have gone to saunas in other places because I found a card from New York, also.

Emails and sexual relations

I would describe James as a very complex man who has sexual feelings for both men and women. He often said that the two most important elements in his life were God and sex. When I look back I see that he wanted to impress me and state that he was religious but that sex was very important, also. Therefore I should respect him.

He sent me an email on 25 August 2009 when he was away in Vienna at a conference. The email is at pages 17 to 21 in the documents attached to the statement of Andrew Tank dated 6 June 2012. James said at page 2 of the email that he has a 'sexual addiction' and a dependency on sex. He referred to being bisexual and to engaging in sexual activity in gay saunas. At page 5 of the email he admitted having an appetite for sex and of having contacts with other people.

He created email addresses for himself under different names and identities, so that he could lead a double life for sexual purposes. One of these false identities was 'Henry Olsen'. At pages 27 to 36 in the documents attached to the statement of Andrew Tank dated 6 June 2012 are copies I printed off of some emails James sent under the name of Henry Olsen. They were sent in November and December 2007, then in March and April 2009, and also in July 2009. The first set of emails were sent to a man at just...@hotmail.com, and entitled 'sauna meet?' They are sexually explicit. It seems from the emails that James met the man on 29 November 2007, and they then arranged to meet again for another sexual encounter.

The second set of emails, in March and April 2009 were between James pretending to be Henry Olsen and a man called 'Frédéric'. James sent pictures of himself and indicated he would like to meet the man, together with the man's boyfriend.

The third set of emails, sent in July 2009, were between James as Henry Olsen and a woman known as Amanda whose email address was a....sexy@..... The email chain shows that the woman was based in Etterbeek, which is in Brussels and that she charged 130 Euros for one hour. She described herself as very beautiful, sensuous and without any taboos, and she sent pictures of herself to 'Henry Olsen'. In reply James, as 'Henry Olsen', asked the woman if she did certain sexual practices. They arranged to meet on Thursday 30 July at 3 pm at (a named address) in Etterbeek.

When I asked James about 'Henry Olsen' he admitted he had been using the name as an identity, but said he would stop and close down the hotmail account. He confirmed this on the third page of his email to me from Vienna dated 25 August 2009.

I saw and printed off an email James sent to MB in Cambridge dated 12 January 2011, which is at page 26 in the documents attached to the statement of Andrew Tank dated 6 June 2012. M is a close gay friend of James and a confidante. In the email James writes about a man called Kris and describes being 'sexual' with him. James had gone away to Paris on 22 December 2010 to meet up with Kris and stay overnight. He left me a typed hard copy of a letter on the computer in which he said that he had left, that I was not supposed to contact him or search for him, and that it was entirely my fault that he had gone. The letter continued saying I was supposed to sit in front of the computer and watch a video of a couple bickering and at the end separating. If I would not change my behaviour towards him he wrote we would be like this couple and separate, too.

I asked James what had happened in Paris and what he had done there because he had not been accessible. He said he had had an appointment with a colleague and a meeting at the Catholic Faculty. I told him I knew about Kris. James said that it was not my business; he said 'he was a free man and I was no Christian'. In addition, he said Kris was a nice respectable guy and I should not have anything against Kris after the way I had treated him. At 'BMD 2' I exhibit a copy of an email James sent to Kris, which I discovered and forwarded to my own Hotmail account.

I think James wanted to hurt me with his sexual activities and was making me feel guilty as I was just 'not good enough'. He did not seem to take much care to conceal

them from me in any case – he almost expected me to notice them and get involved which I did not like. In any case he was trying to make it appear that his sexual practices and behaviour were normal. Sometimes he did not close off websites that he had visited, so I was able to see what those websites were – some were of gay clubs. As can be seen from his email to me from Vienna he was not embarrassed that I knew about his sexual activities outside our marriage, and he readily admitted to them. He admitted to them so that he could legitimise his behaviour, because by now he had created a situation that he was in charge and dictated how things went at home without me noticing.

Violence

The character of James was that he was normally extremely composed (reflective) and appearing never at fault. There were moments, however, when James could suddenly show his temper and he became violent.

The worst incident happened on Sunday evening, 8 January 2012. We had a long manipulative conversation without end. We were standing in the hall of our home. He hit me on my side which threw me off balance physically. I was shocked by his behaviour. Then he came closer towards me and grasped the grey scarf that I was wearing round my neck because it was wintertime. The grasp was strong, powerful and menacing. He tried to pull the ends close together to the point where I had difficulties breathing. While he was holding the ends of the scarf he pulled me close and spat in my face. I tried to free myself, which was difficult. Eventually I lost my balance and fell to the ground next to the basement door by the credenza. I fell on a hard surface and was in pain. Although he hurt me on my throat and neck, and when I fell down, there were no immediate signs of injury.

On 25 February 2012, a Saturday afternoon, James and I had another long manipulative conversation. We were standing on either side of a window. He was in the conservatory and I was in the living room. He reached through the open window towards me and grasped the green scarf I was wearing. He pulled me with the scarf closer towards the window and then crossed one end over the other, narrowing the space between the scarf and my neck, which temporarily stopped me from breathing. I was standing by the sofa, and managed to resist him by leaning on the sofa. I pulled

back with all the strength I had left until he let go of the scarf and of me. I lost my balance and fell on the floor next to a stool and a table end. I lay on the ground for about a minute, gasping for breath and in pain.

The other time he hurt me was when he was holding my arm in the course of one of these long never ending conversations which he carried out on purpose to test me and to make me feel guilty. He twisted my arm, and he bit my hand. This was in the bedroom, and I fell down between the bed and the chest of drawers, landing on my arm and shoulder giving me much pain. The children came into the room and were very concerned. This was in about November 2010.

(The next two paragraphs refer to incidents which are not part of the matters formally before the tribunal but we have taken them into account as part of the background).

He also assaulted me on one occasion when he grabbed my leg with his hand and I fell to the ground by the bed. I think he wanted to pick me up and throw me, but he just got hold of my leg, I lost balance and went down. This was some time in 2010.

On Sunday 14 August 2011 he spanked me on the bottom and denigrated me. I was working in the garden quickly trying to finish up for the pick-up truck to come collect garden trash. I worked alone because there was no help. I was dressed in shorts and a T-shirt and I was hot from the work and summer weather. When the official van for the pick-up came I quickly finished the bags and carried them to the street for the men to take them on the truck. At this moment James rushed out of the house and held me and spanked me on the bottom. He said that I had not to wear indecent clothes, in particular not in front of these men who would be looking at me.

We separated at Easter time in 2012 after he returned from a trip to the United States.

Reporting

In March 2012 I gave the four memory sticks, containing the material I had downloaded, to Andrew Tank and the Reverend Robert Innes together with hard copies of some of the material. We visited the police and they took the USB sticks. The police later went to our home and took possession of the Toshiba computer.

The police returned the memory sticks, and the Toshiba computer which James needed for his work. I gave the memory sticks to Robert Innes to keep together with the Dell lap top because there were indecent images on there as well.

39. Mr Tank's statement is dated 11th September 2015. In that statement he describes his friendship with Professor and Mrs Day, having been at their wedding in 1999. He was told by Professor Day that the marriage was in difficulties in 2010, and in 2011 Professor Day was in considerable distress because of what he thought was the imminent breakup of his marriage. Mr Tank offered support to Professor Day in the course of 2011.
40. On 18th March of 2012 Mrs Day asked to see Mr Tank and his wife to discuss her marriage. She spoke of Professor Day's active bisexual lifestyle and the fact that he spent much time watching pornographic movies on his home computer. A week later Mrs Day produced a substantial dossier to Mr Tank and also gave him four USB memory sticks and a few weeks later a laptop which contained the name of James Day.
41. This material was provided to the Belgian police but it appears that a decision was made that none of it was illegal under Belgian law and that no charges will be made against Professor Day. We interpose here to note that we have decided that the fact that there have been no criminal proceedings concerning the pornographic material is no bar to our considering that same material in the course of this hearing.
42. Mr Tank wanted the diocesan safeguarding adviser Mr Lees to see the material but because he was unhappy about transporting it between countries he asked Mr Lees to come to Brussels which he did in May 2012.
43. Mr Tank made a formal complaint to the Archdeacon on 6 June of 2012.
44. We cannot avoid quoting relatively extensively from Mr Lees' review of the images found on the memory sticks and the computer in the course of this judgement.

"On 9th May 2012 I visited Brussels at the invitation of Canon Robert Innes, the Senior Chaplain at Holy Trinity, to view images on USB memory sticks in his office. I was told that the images had been downloaded from the computer of the Reverend James Day by his wife. I was asked by Robert Innes to advise whether in

my opinion any of the images were illegal under UK legislation. I was told that the Brussels Police had deemed nothing in the material to be illegal.

I made a note of the contents of what I viewed, not intended to be a full and definitive description but to serve as a description of the general nature of the contents of the USB modules. Below is a summary from the notes I made which describes the images captured on the USB sticks.

USB 1 depicted 90 separate adult comic book type sketched images of females being burned at the stake, one of which was a female partly dismembered. This file was marked as being modified on the 27/09/2005 at 17.36 hrs.

A second file of 214 KB showing a further 79 similar comic book images.

USB 2 depicted a further 23 comic book images different to the above but the same subject matter, women being burned at the stake. They were dated from 18/11/200029/09/05.

USB 2 also contained an index of James Day's published work and his CV. There were further images of a girl, perhaps aged between 15-17yrs, appearing to be forcibly engaged in oral sex with a male, and to the point of ejaculation. It showed the date modified as 20/05/2008 10.53 hrs. It is not possible to be definitive as to whether the girl was being forced to perform the act or whether it was 'staged' as part of the gratification element of such images. Neither is it possible to be definitive about her age - she could well have been 17 or even older, hence I concluded it was not an illegal image.

On the same USB stick was a web site address www.....com. It depicted an act of buggery, the 'patient' was a young looking teenager. The dominant male looked to be between 16-18yrs old. It showed a date modified as 11/03/2008 at 15.19hrs. Again it is not possible to be definitive about the ages - both of them could have been 16 or over, and therefore above the age of consent. There was nothing to suggest the younger looking teenager was not consenting.

A further file on the same USB showed a young teenage boy, naked and bent over, with him pulling the cheeks of his backside apart and showing the anus.

On the same USB there had been downloaded material from a website entitled

.....blogspot.com, depicting a girl, aged around 17-19 indulging in group sex with several adult males. The sex acts depicted normal vaginal intercourse, anal sex, and mixed oral sex. It showed the date modified as 19/02/2008 at 13.36 hrs. There was a further file showing the same girl as described above indulging in oral sex with 4 males and showing ejaculation shots.

A file marked "My Received Files" depicted an unknown adult male face shot and another scene depicted 2 adult males dressed in bondage clothing, one bent over exposing his anus and a further scene of a young adult male at a poolside wearing shorts and holding his crotch.

A further image download showed a young teenage male aged approximately 15-17 bent over with his underpants down to his knees exposing his backside and part of his genitalia.

One particular file entitled "Training" depicted adult women being caned. There were further comic book sketched type images of Oriental women being burned at the stake.

Having viewed theses various images, I would describe them as depraved and perverted but probably not illegal under UK legislation."

45. We have set out this material because although there is no clear evidence that its possession was contrary to the criminal laws of either Belgium (indeed as noted above no action has been taken about it by the Belgian authorities) or the United Kingdom we have no doubt that having it in one's possession is clear evidence of conduct unbecoming and inappropriate to the office and work of a Clerk in Holy Orders.

46. Having reviewed all the evidence, and having noted both the Guidelines for the Professional Conduct of the Clergy and Canon C26(2) which we have referred to above, we are satisfied that the totality of the evidence proves to the necessary standard that Professor Day's conduct was, within the relevant period, unbecoming *and* (we find both) inappropriate to the office and work of a Clerk in Holy Orders.

47. We accept that much of the conduct, such as the possession of pornography which is not criminally unlawful and the seeking of sexual relations with others while himself being married would not in many professions or walks of life be unacceptable. Standards for the clergy are however and must be different. We note the references in the "Guidelines" to the need for integrity in relationships, faithfulness in marriage and the calling for high moral standards. We also note that it is said, as must be the case, that the reputation of the Church depends to a great extent on the example of its clergy.

48. We are satisfied that the possession of the material which Professor Day had on his computers and the seeking of or taking part in sexual relations with others while married was conduct unbecoming and inappropriate. We make that finding without taking into account the assaults on his wife.

49. In addition however we are, as we have recorded, satisfied that the assaults took place as described by Mrs Day. We regard these assaults as conduct unbecoming and inappropriate in themselves.


50. It follows that we find the allegation, of conduct both unbecoming and inappropriate, proved in its entirety.

20 May 2016


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His Honour Samuel Wiggs


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The Reverend Canon Nicholas Ralph


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The Venerable Fiona Windsor


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Dr Neil Jones


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Mrs Claire McArthur