

**In the matter of a Complaint under the Clergy Discipline Measure 2003
Before the Bishops' Disciplinary Tribunal for the Dioceses of Sheffield**

Complainant: **The Venerable Robert Aidan Fitzharris**

Respondent: **The Revd Robert Landall**

Reasons for the Determination of Penalty

1. The President of Tribunals referred the following complaint for adjudication by this disciplinary Tribunal:

"That the respondent, the Rector of Armthorpe, with the care of souls for that parish, is guilty of neglect or inefficiency in the performance of the duties of his office, contrary to section 8(1)(c) of the Clergy Discipline Measure 2003, in that at all material times since 3 December 2010, he has been included by the Independent Safeguarding Authority on the Children's Barred List (under paragraph 3 of Schedule 3 of the Safeguarding Vulnerable Groups Act 2006) and the Adult's Barred List (under paragraph 11 of Schedule 3 of that Act) and has thereby been and continues to be barred from carrying out or engaging in regulated activity relating to children and vulnerable adults and will be committing an offence if he engages, or seeks or offers to engage in activity from which he is barred and others will be committing an offence if they knowingly permit him to engage in activity from which he is barred."

2. The Revd Richard Landall has admitted the charge referred to the Tribunal by the President in the following terms:

"I am forced to the conclusion that my barring will prevent me from pursuing parochial ministry as a consequence of which this must represent neglect and inefficiency. In the circumstances I withdraw my defence and ask the Tribunal to accept my admission of the allegation certified by the President. I would therefore concede that the Tribunal should deal with me on that basis."

Mr Landall resigned as Rector of Armthorpe with effect from 30 April 2013.

The Process

3. The Tribunal convened at the St George's Centre, Leeds, on the 16th May last. Mr Landall had made it clear well in advance of the hearing that he proposed to admit the charge and that he would prefer not to attend, but rather to present his written representations to the Tribunal. That course of action was acceptable.

4. The hearing was attended by the complainant the Venerable Robert Fitzharris formerly Archdeacon of Doncaster. The Revd Canon Geoffrey Harbord was present being the nominated representative of the Bishop of Sheffield. The Designated Officer, Mr Adrian Iles, presented the complaint. Mr Landall did not appear and was not represented at the hearing and his written representations were considered by the Tribunal members. Nevertheless, it is clear from case management hearings that he has had sound representation and advice throughout.
5. As Mr Landall accepted in his representations the issue in respect of the appropriate penalty lay between a determinate prohibition and a prohibition for life. He made it clear that from his point of view the issue was academic since he regarded his ministry as at an end. Nevertheless, it was necessary for us to consider the 'Guide to the Clergy Discipline Measure as to the functions, procedures and powers of disciplinary tribunals' (the Guide includes the current Guidance on Penalties published by the Clergy Discipline Commission) and the effect of the Barring in law.
6. In the event, our decision was that Mr Landall be the subject of a prohibition for life. These are our written reasons.

The background

7. The Independent Safeguarding Authority ("ISA") (now the Disclosure and Barring Service ("DBS")), made its determination that Mr Landall be placed on both barring lists in December 2010. He exercised his right of appeal to the Upper Tribunal, which he initially withdrew and later reinstated. The appeal was heard in September 2012 with its decision on the 13 November. The Upper Tribunal heard evidence and made certain findings of fact. It upheld the decision that he be placed on the Children's Barring List and the Adult's Barring List. It referred one of the children's complaints (the most recent) back to the DBS for further investigation and determination. In the event, the DBS confirmed its barring order on the 13th March of this year. I wish to record my gratitude to the DBS for dealing with this matter expeditiously against the background of delay which was the inevitable result of Mr Landall exercising his rights of appeal. He indicated, after receiving the most recent 'minded to bar' letter from the DBS, that he was not appealing. We are sure that neither he nor his parish would have wished for the uncertainty that has existed now for some time; that the strain on him has been significant.

Discussion

8. The effect of the barring order is that he remains permanently on the Children's Barring List and the Adult's Barred List, but with the right to request a review after 10 years subject to the DBS granting him permission to proceed with such review. It is important to note that a review after 10 years is only possible with the permission of the DBS and would require demonstration of a sufficient change in circumstances to justify review.

9. We remind ourselves that we do not have the responsibility to determine punishment in respect of the matters for which, in particular, he has been placed on the Children's Barring List. Rather, we have to impose a penalty that simply reflects the fact that his being on the list renders him incapable of carrying out his duties as a priest without being neglectful and inefficient in doing so. The converse of this is that, if he were ever removed from the List, then he might become capable of resuming those duties.
10. The responsibility for determining risk to children was and remains solely within the remit of the DBS so far as the Barring Lists are concerned. However, particularly in the light of the need for safeguarding in general terms and of the document 'Protecting All God's Children 'Our Theological approach'', we endorse the Church's ongoing commitment to the safeguarding of children. A secondary but not unimportant consideration is that the Church's reputation in safeguarding children should be preserved.
11. We considered whether, in the light of the possibility that Mr Landall could have a successful review in about 10 years time, a determinate prohibition might be appropriate. It is only at this stage that we can consider the relevance of the matters for which he was barred. They are relevant solely for the purpose of considering the chance of the DBS ultimately removing his name from the Barring Lists.
12. Once we attempted to assess this chance it became apparent that it was an impossible task even to begin to predict whether there might be a sufficient change in circumstances for the DBS to give permission for a review and what, even if they did, would be their attitude to future risk. It is of interest to note that the ISA now the DBS sought to make no distinction between the historic incidents and the more recent. It is likely, therefore, that there would have to be a fundamental change in Mr Landall's personal circumstances for there to be any chance of his being removed from the Lists. Even then that fundamental change would have to be such that could coincide with a resumed permission to officiate. In this regard, the test is whether there would be a realistic prospect of rehabilitation. In Mr Landall's case his own realistic submission shows clearly that there is no such prospect.

Conclusion

13. Our conclusion is clear and would have been the same, even if Mr Landall had not himself helpfully indicated that so far as he was concerned his ministry was permanently at an end. It would be pure speculation without any base for this Tribunal to make an assessment of the chance of his being removed from the Lists at a point in time some 10 years or more into the future. This is also the effect of the Designated Officer's submission to us. We note that the circumstances of this case indicate a different approach to that of the guidance on penalties within the Guide, in that in this instance, prohibition for life is not reserved only for the most serious of cases. However, because it is clear that there is no realistic prospect of rehabilitation, a prohibition for life in the circumstances is nonetheless proportionate. Our conclusion,

therefore, is that for the purpose of determining penalty for the complaint which results from the DBS barring order only a prohibition for life is appropriate.

14. These then are our reasons for determining the penalty of prohibition for life.

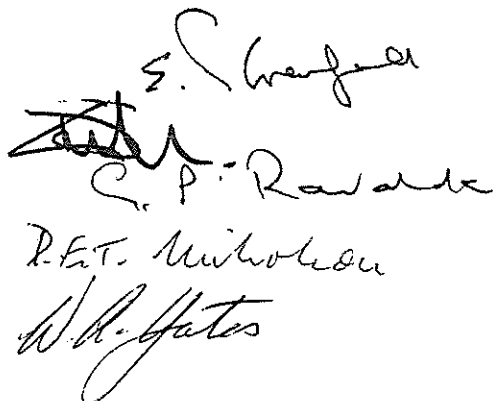
Simon Grenfell

Karen Smeeton

Geoffrey Ravalde

Derek Nicholson

Wendy Yates



The image shows five handwritten signatures in black ink, arranged vertically. From top to bottom: 1. A signature that appears to be 'S. Grenfell'. 2. A signature that appears to be 'K. Smeeton'. 3. A signature that appears to be 'G. P. Ravalde'. 4. A signature that appears to be 'D. E. T. Nicholson'. 5. A signature that appears to be 'W. H. Yates'.

12th June 2013