

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

Complainant: The Venerable Ian Gregory Bishop

Respondent: The Reverend Simon Robert Marsh

Appearances:

For the Complainant: the Designated Officer, Mr Adrian Iles

For the Respondent: Mr Mark Hill QC

Decision on Penalty

1. Earlier today, the Bishop of Chester's Disciplinary Tribunal pronounced its decision on which all members were agreed. There were serious and grave allegations of sexual misconduct and of an inappropriate relationship between the Respondent and Ms XY, as we have called her in our decision. Our decision was that the allegations were all proved for the reasons set out in our written determination.
2. The parties have now made representations on penalty. Mr. Iles, the Designated Officer, pointed out to us that even the commission of adultery, as occurred here, merits the most serious penalty. There were, however, a number of aggravating features in this case, he submitted, including the following:
 - Ms XY was a teenager at the time of the misconduct;
 - She was a child under the age of 18 when the relationship first began;
 - The sexual relationship was not totally consensual, involving the use of force, so there was an element of sexual abuse in the relationship;
 - There is no sign that the Respondent accepted Ms XY's evidence. The Tribunal was asked to assume Ms XY was making it up;
 - The emotional damage to Ms XY must have been enormous having regard to her age and the fact that she was cross-examined in intimate detail;
 - There has been gross pastoral abuse, which is disgraceful and a disgrace to the profession.

3. In all of these circumstances, Mr. Iles invited the Tribunal to consider the Clergy Discipline Commission Guidance on Penalties and conclude that removal from office and a prohibition for life was the appropriate penalty.
4. Mr Hill QC, on behalf of the Respondent, recognised that a potential penalty of removal from office and prohibition was likely to be imposed and, in our view, quite rightly conceded that this would be appropriate in the circumstances. The question was for how long should the prohibition should be? He sought to persuade the Tribunal that the prohibition should not be for life.
5. The Clergy Discipline Commission Guidance on Penalties says this as to a prohibition for life:

"This is the most serious penalty that can be imposed. It prevents the respondent without limit of time from exercising any functions as a member of the Church of England clergy. It should be imposed only where there appears to be no realistic prospect of rehabilitating the respondent back into ministry because the misconduct is so grave."

On limited prohibition the Guidance says:

"This prevents the respondent from exercising any functions as a member of the clergy for a specific period of time. It is suitable for serious cases where there is a realistic prospect that the respondent, with appropriate pastoral and other support, could in the future resume normal duties of ministry."

On the subject of removal from office, the Guidance says:

"This penalty removes the respondent from the preferment held at the time, but does not prevent him or her from serving as a clerk in Holy Orders in another post. In serious cases, removal could be combined with prohibition for life or limited prohibition."

6. Both sides recognise that removal from office ought, in this case, to be combined with prohibition.
7. Mr Hill's submission was that the Respondent did not intend to return to ministry whatever the outcome of these proceedings. He has found the stress to be of great concern and with, no doubt, added mental and emotional impact upon him. Mr Hill conceded, however, that no offer to resign has been made by the Respondent to the Bishop. With respect, we did not quite understand why, then, if he did not wish to return to ministry, we were being urged to

keep the door open in case the Respondent wanted to return. No evidence that there was a realistic prospect that the Respondent could resume ministry was put forward, nor was there any evidence of what appropriate or other pastoral support would be likely to be offered or in place. The Tribunal must, as Mr Hill submitted, and we, in principle, accept, act compassionately; but this compassion must be for both the Respondent and Ms XY and her feelings. The Tribunal must also consider wider factors: the reputation of the profession and the impact on those who are in the pastoral care of the Respondent and the impact on the wider church.

8. Mr Hill told us that the Respondent has a deep sense of remorse for the failings in his conduct, although he persists in denying sexual impropriety. His admission that his conduct fell short of what was acceptable was not given until he gave evidence in the course of proceedings, despite the length of time this case has taken to come to a hearing. Mr Hill asked us to consider a lengthy time for prohibition taking into account the fact that the Respondent was well thought of, the length of these proceedings, which began in 2015 with the Archdeacon's complaint, the fact that he has lost his wife and that he has also lost his father. He accepts the reputational damage caused to the church.
9. The Tribunal must, therefore, consider not only the circumstances as proved, and the position of the Respondent but also that of Ms XY, the impact on the wider church and congregation and those for whom the Respondent might be expected to have pastoral care if he returned to ministry. We must also note the clear breach, in this case, of the Respondent's duties in respect of pastoral care.
10. We take the view that the only right course of action and the appropriate penalty in this case in all the circumstances, having particular regard to the gravity of the proven allegations as well as the aggravating features above-mentioned, is removal from office and prohibition for life. This is the most serious penalty and has regard to the whole of the evidence before us. We consider that there is no realistic prospect of rehabilitation on the evidence and not least because the allegations are so grave. We say this to make the position clear, notwithstanding the statement that the Respondent has no intention of returning to ministry. We have recognised the pressure on the Respondent and have granted the Respondent's application to exclude the reference to his home address from our written decision.
11. We wish to thank Counsel and all those appearing before us and all witnesses in this sad and regrettable case.

12. The penalty will apply from today.

Members of the Tribunal:



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His Honour Judge Roger Kaye QC



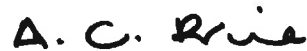
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The Revd Canon Rachel Harrison
Tribunal Member



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The Revd Canon Paul Tudge
Tribunal Member



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Mrs Glenna Briggs
Tribunal Member



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Mr Colin Price
Tribunal Member

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Mrs Caroline F Mockford
Registrar of Tribunals

Dated