

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

**Complainant: The Venerable Vernon Ross
 Archdeacon of Westmorland and Furness**

Respondent: The Reverend Canon Cameron Butland

JUDGMENT

1. Overview

- 1.1 On the 14th of May, 2019, the Tribunal heard a complaint made against the Respondent, the Reverend Canon Cameron Butland by the Archdeacon of Westmorland and Furness, alleging, as it set out in more detail below, that the Respondent had been neglectful or inefficient in the performance of his duties. This misconduct was admitted. The only issue before the Tribunal was therefore that of penalty. The Tribunal determined that the appropriate penalty was one of rebuke. This judgment sets out the basis for that finding.

2. Reference from the President of Tribunals

- 2.1 The President of Tribunals referred the following matter to the Tribunal:

“The conduct of the Respondent, the Reverend Cameron Butland, was neglectful or inefficient in the performance of the duties of his office as Rector of St Oswald’s Church, Grasmere, contrary to section 8(1)(c) of the Clergy Discipline Measure 2003, in that, having been notified by a solicitor that St Oswald’s Church Grasmere was a residuary beneficiary of the estate of the late Mrs Alene Hackett, and having been requested by the solicitor to disclose the registered charity number for the church:

- (i) on 6th September 2011 when replying to the solicitor he failed to disclose the registered charity number of St Oswald’s PCC, but instead provided the name and registered charity number of the Grasmere Church of England School Trust of which he was a trustee;*
- (ii) on subsequently receiving a letter from the solicitor dated 9 May 2012 referring to the bequest to St Oswald’s Church and enclosing a cheque for*

£338,823.80 made payable to "The Grasmere Church of England School", he neglectfully accepted the cheque so that the bequest monies were paid to the Grasmere Church of England School Trust instead of to the PCC;

(iii) through such neglect or inefficiency, St Oswald's PCC was permanently deprived of a sum totalling about £70,000, which was spent by the Grasmere Church of England School Trust for the benefit of the school before the Respondent's error was discovered and rectified."

- 2.2 The reference was made on the 30th of June of 2018. The complaint had been made on the 22nd of January, 2018, and the Respondent admitted the misconduct thereafter. An extension of time had been sought for the bringing of the complaint, which the Respondent did not oppose. It did however mean that the Tribunal was dealing with misconduct which had taken place many years previously.

3. The Facts

- 3.1 At all relevant times, the Respondent held office as Rector of St Oswald, Grasmere. By the date of the Tribunal, he had taken up his current position as Chaplain to the Bishop of Carlisle.
- 3.2 In addition to his position as Rector, he was an ex officio member of the governing body of Grasmere Church of England Primary School (and at the relevant time in 2011/12 was Chair of Governors). He was also an ex officio trustee of the Grasmere Church of England School Trust ("the School Trust"). The other two trustees of the School Trust were the churchwardens of St Oswald's Church. It was established in the hearing that the School Trust had been in existence for many years with very wide objectives.
- 3.3 In August of 2011, the Respondent was visited by a relative of Alene Hackett along with her neighbour. The Respondent had not met, nor did he know of Alene Hackett who had left the parish many years previously. The Respondent was told that the connection which Alene Hackett had with Grasmere was that she had attended the church school as a child. He was also told that Alene Hackett had a love of children. In this conversation the Respondent was told that Alene Hackett had left a bequest. We accept that he formed, at this early stage, a belief that the bequest was somehow related to her time at the church school and her love of children.
- 3.4 Upon his return from holiday at the end of August 2011, the Respondent found a letter dated 10 August 2011 from a solicitor from Garratts Solicitors, based in Manchester, on behalf of the estate of Alene May Hackett. The letter informed

him that Mrs Hackett had died, and that “St Oswald’s Church, Grasmere is a residuary beneficiary” of her estate. The solicitor’s letter asked Canon Butland to confirm whether St Oswald’s had charitable status and to supply the solicitor with details of any registered charity number. The letter was silent as to the size of the bequest, which is not surprising as it was a residuary gift. The letter did not set out the terms of the bequest.

- 3.5 Those relevant terms were as follows: *...as to a half share for St. Oswald’s Church, Grasmere, Cumbria...to be used for the maintenance, repair or improvement of the Church and churchyard.*
- 3.6 The Respondent replied on the 6th of September 2011. He informed the solicitor that he already knew of Mrs Hackett’s death, and commented that *“We are surprised but delighted to have been named in her will”*. He continued: *“The Charitable Number is 526919 as registered with the Charity Commissioners. This Charity is actually related to the Grasmere School Church Trust of which myself and the Wardens are the only trustees. We feel that this would be the most appropriate way to remember her and for her bequest to do the most good for the Church and village community.”*
- 3.7 There is no evidence that this matter was considered by the PCC. It would seem that the “we” referred to the trustees of the trust, namely the Respondent and the Wardens.
- 3.8 By a letter, dated 9 May 2012, the same solicitor wrote enclosing a cheque in the sum of £338,823.80 *“representing the gift due to St Oswald’s Church from the estate of the late Alene May Hackett”*. The cheque was not made out to St Oswald’s Church but to *“The Grasmere Church of England School”*. It was not made out to the Grasmere School Church Trust.
- 3.9 This substantial sum of money was paid into the School Trust account. About £70,000 of the money was spent on building works at the school. There is no suggestion of any misuse or misappropriation of the funds.
- 3.10 In due course the School Trust accounts for the year ending 2012 were prepared, and independently examined by a firm of accountants, Saint & Co. The accountants made enquiries about the bequest and realised that the money should not have been paid to the School Trust but should have gone instead to St Oswald’s Church.
- 3.11 Once this fact had been noted, the Diocese and the Charity Commission were informed. Both carried out investigations. As set out in the statement of facts

prepared by the Complainant, the Diocese concluded that there had been no loss of charitable funds, because at all times the monies had been held within church funds. The Charity Commission decided to take no action, having reached the conclusion that it had no specific concerns that funds had been misapplied, and that although the trustees had acted in error they had done so in good faith.

- 3.12 Within the parish, St Oswald's PCC held an Extraordinary Meeting on 19th June 2014. The meeting was chaired by an independent Chair and the Respondent was not present for any part of the discussion where there may have been a potential conflict of issues. The situation as it had developed was rectified by the PCC resolving to make a gift to the school of those monies which had already been spent. The balance of the residuary bequest was subsequently transferred back to the PCC.
- 3.13 The Respondent subsequently left the parish to take up the position he currently holds. In due course this complaint was made, in January of 2018. The Respondent has co-operated fully with the Tribunal process and took no issue with the fact that the proceedings were out of time, and that an extension should be granted.

4. Findings

- 4.1 Misconduct was admitted. The Tribunal made the following findings in coming to its conclusions on penalty.
- 4.2 It formed no part of the allegation that the Respondent had acted dishonestly or other than in good faith. The Tribunal did not consider there could be any basis for such a suggestion.
- 4.3 The Respondent's belief that Alene Hackett wished her gift to be used for the benefit of the children of Grasmere was a genuinely held belief, although the evidential basis for the belief was limited and could not excuse the subsequent errors of the Respondent.
- 4.4 The Respondent's response to the letter from Garratts Solicitors of the 10th of August 2011 was wrong. The letter made it clear the St. Oswald's Church was the residuary beneficiary of the estate of Alene Hackett. The Respondent should either have supplied the details of St. Oswald's Church or sought to ascertain the precise nature of the bequest. An incumbent should have been aware that the terms of a will would set out the wishes of the testator, including any restrictions on the gift. It was not for the Respondent to make assumptions as to

the wishes of the testator as he did by nominating the Grasmere School Church Trust.

- 4.5 The Respondent compounded his error in his response to the payment of the bequest in May of 2012. The letter enclosing the cheque repeated the assertion that the gift was due to St. Oswald's Church. The cheque was not made out to St. Oswald's Church, nor in fact was it made out to the Grasmere School Church Trust but to the Grasmere Church of England School.
- 4.6 Whilst the Respondent should have taken steps to confirm the nature of the bequest at this stage in any event, the need to do so was emphasised by the size of the bequest. Such a substantial sum should have put the Respondent on notice that it was necessary to ensure that matters were dealt with appropriately. The Tribunal concluded the Respondent simply permitted matters to proceed based upon his earlier mistake.
- 4.7 It forms no part of the remit of the Tribunal to determine whether or not the Solicitors should have done more to deal with the apparent conflict between the terms of the will and the body to whom they were asked to make payment and the Tribunal makes no findings in relation to that. In simple terms, in the two letters that were sent to the Respondent, the solicitors set out that the gift was to St. Oswald's Church. It was the Respondent who determined the money should go elsewhere.
- 4.8 The PCC were able to rectify the situation by making a gift to the school trust but £70,000 had by that stage been spent by the Trust from money to which they were not entitled. It was however clear that the issue has caused some upset within the community and it was certainly suggested in submissions before the Tribunal that these errors have given rise to difficulties in fund raising since this time.
- 4.9 There is a wider issue about reputational damage to the Church. Legacy giving is a vital resource in church funding Testators must feel confident that the church will respect and adhere to their wishes and errors such as that with which this Tribunal was concerned must inevitably diminish such confidence.

5. Penalty

- 5.1 The Tribunal, in the light of those findings considered that the appropriate penalty was a rebuke.

- 5.2 The facts of this case were unusual and there are no specific Guidelines or decided cases which assist.
- 5.3 The Tribunal noted that the misconduct took place on two separate occasions but was now of some age. The misconduct neither involved any dishonesty or any gain for the Respondent of any kind.
- 5.4 Whilst the Respondent initially sought to attach some blame to the solicitors, he has always accepted his misconduct before the Tribunal, and we are satisfied the remorse is genuine.
- 5.5 The misconduct, in the judgment of the Tribunal did not merit prohibition whether for life or limited prohibition. There is no basis for removal from office.
- 5.6 The Tribunal considered, with some care, the issue of any injunction. The Designated Officer, in submissions, had originally argued that an injunction was appropriate but withdrew that submission at the hearing, certainly with regards to any restrictions on the work the Respondent might carry out. In any event the Tribunal concluded that an injunction either preventing the Respondent from carrying out particular tasks or requiring him to carry out additional training was unnecessary. The Respondent argued that since these events he had changed his working patterns, checking all legal and financial matters before responding and discussing with others anything to do with charities and finance. He indicated that this change had been positively commented upon in his annual reviews. When asked in the course of the hearing whether there was any evidence to suggest that was not the case, the Complainant conceded there was not.
- 5.7 The Tribunal concluded that the misconduct of the Respondent was worthy of penalty and determined that the appropriate penalty was a Rebuke.

17 June 2019

.....
HHJ John Lodge
Chair

P.T.O

..... Keith P. Addenbrooke
The Revd Keith Addenbrooke

..... Sharron Arnold
Canon Sharron Arnold

..... Alison Ballie
The Revd Alison Ballie

..... Nigel Spiggins
Canon Nigel Spiggins

I, LIONEL P M LENNOX, NOTARY
PUBLIC, CERTIFY THAT THIS IS A
TRUE COPY OF THE ORIGINAL
JUDGMENT dated 17.06.19
STAMFORD HOUSE, PICCADILLY,
YORK, ENGLAND
THIS 11th DAY July 2019

L.P.M. Lennox
Registrar of Tribunals.