

**IN THE MATTER OF A COMPLAINT UNDER THE CLERGY DISCIPLINE MEASURE  
2003**

**BEFORE THE BISHOP'S DISCIPLINARY TRIBUNAL FOR THE DIOCESE OF  
HEREFORD**

**Complainant: THE VENERABLE DEREK CHRISTOPHER CHEDZEY**

**Respondent: THE REVEREND CLIVE ROGER EVANS**

**Constitution of the Tribunal: The Worshipful Lyndsey de Mestre QC (Chair)**  
**The Revd Canon Dr Anthony Rustell**  
**The Reverend Canon Jeremy Stephen Thorold**  
**Mr Robert Paul Needle**  
**Mrs Patricia Anne Sykes**

**Appearances: Mr Edward Dobson, Designated Officer**  
**Mr Justin Gau, Counsel for the Respondent**

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**DECISION OF THE TRIBUNAL ON PENALTY**

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Anonymity application – r49 Clergy Discipline Rules 2005

1. At the commencement of the hearing on penalty, and before turning to the substance of the hearing, the Designated Officer applied for an order that the name or other identifying details of three key witnesses who feature in this case should not be published or otherwise made public under r49 of the Clergy Discipline Rules 2005. Mr Gau, on behalf of Reverend Evans, did not oppose such an order being made. The application was granted and the relevant witnesses have, accordingly, been ascribed the cyphers “Person 1”, “Person 2” and “Person 3” throughout this decision and the decision on facts and misconduct.

## Decision on Penalty

2. The hearing and decision on penalty was held over the course of one day, on 23 February 2022. The Panel was grateful for the helpful assistance provided by both counsel, Mr Dobson (the Designated Officer) and Mr Gau, appearing on behalf of Reverend Evans.

## The Bishop of Hereford's letter

3. Having concluded that the allegations against the Respondent were made out at the conclusion of the facts and misconduct stage (heard over four days between 6 and 9 December 2021) the Panel adjourned the penalty stage of the hearing in order to invite the Bishop of Hereford to express views about the appropriate penalty. These were received in the form of a letter dated 16 December 2021 and the Panel is grateful to the bishop for providing them.

4. During our deliberations the Panel has borne 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.”*

5. This provision reflects the underlying principle of clergy discipline recognising the role the diocesan bishop has in oversight of the clergy with whom he or she shares the cure of souls in the diocese. Disciplinary responsibility is shared with the tribunal, 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 the bishop's view set out in the Rules.
6. Although we note that the bishop says that his role in this matter has been peripheral (in part by reason of his taking up his office after the matter was already in progress), and that he initially delegated judgment to the Bishop of Shrewsbury in relation to the early stages of his involvement, he reports that he has, since then, read the Tribunal's decision on facts and misconduct. He has also visited the parish on four or five occasions over the course

of the past two years. He concludes that these factors enable him to provide objective input for the Tribunal's consideration. The Panel accepts the bishop's observation that discussions he has conducted regarding the progress of the case have been conducted "*within the bounds of confidentiality*".

7. The Panel was particularly assisted by the first-hand information and observations provided in the bishop's letter. In particular those concerning the interactions and state of the relationship between Reverend Evans, the bishop and archdeacon. Also those reporting the current state of the parish (the Panel noted in particular the fact that a substantial number of the congregation have left, but that there is currently stability in the parish under the ministry of Reverend Kina Robertshaw in Reverend Evans' absence).
8. Although the Panel noted the importance of the bishop's role and his views in the context of the CDM process, it noted that it was not under any duty to receive the bishop's views with an uncritical eye, or to proceed as though bound by them.
9. Mr Gau strongly criticises the bishop's letter in his submissions. The Panel acknowledges the force of some of Mr Gau's criticisms and also noted some other areas which we have approached with caution. In particular:
  - 9.1. The bishop's letter appears to proceed in part by having regard to or drawing conclusions from conversations to which the Tribunal was not privy (where for example the bishop states (i) "*...much about the case seemed widely known amongst the parishioners. I have good reasons to believe that this was due to Rev. Evans sharing information*"; (ii) that a significant number of the congregation had left the parish "*...in large part due to a conviction that Clive was innocent of the charges....It is clear...that they were unaware of the accusation of touching [Person 2] inappropriately, nor the video of the baptism*" and (iii) at numbered paragraph 5 where he concludes that "*Kina's failure to pass on [Person 2's] disclosure of the incident was in part due to Clive's intimidating manner as her training incumbent*"). These parts of the bishop's letter are unsupported by evidence. We have, accordingly, disregarded these points in our deliberations as to appropriate penalty;

9.2. Some parts of the letter seem to proceed from a misunderstanding of the limits of the Panel's decision in relation to the touching which we have found occurred in allegations (b) and (c). In particular the bishop's conclusion at numbered paragraph 2 - that the Panel's findings would be considered a sexual assault - goes further than any finding of or conclusion actually reached by the Panel. The Panel found that the events of touching occurred as set out in the decision on facts and conduct (in summary that it was inappropriate, non-consensual touching in both cases) but we have made no further findings as to the nature of the touching or Reverend Evans' motive for doing so, nor were we invited to.

9.3. The Panel has carefully considered the extent to which the bishop's view as expressed in his numbered paragraph 2 (and the Panel takes full account of the fact that the bishop writes as a non-lawyer) affects the conclusion he reaches as to the appropriate penalty in this case. We noted his later, accurately limited, account of Reverend Evans' touching of Person 2 and the number and range of other matters which the bishop refers to in his observations and has plainly considered with care. The Panel concluded that his view in numbered paragraph 2 formed a strand of his thinking, but was not the dominant reason for his overall conclusions. This Panel is not, in any event, bound by the bishop's views. As we are a panel with a legally qualified chair, we are able to assess the impact of such misunderstanding by the bishop and factor this into the weight we place on his views. We have adopted this approach during our deliberations.

#### Penalty Guidance staged assessment

10. The Panel had careful regard to the Guidance on Penalties issued by the Clergy Discipline Commission (the "Penalty Guidance") and took the approach of staged assessment of sanction that guidance sets out.

#### Harm

11. In accordance with the Penalty Guidance the Panel first assessed the harm caused by the misconduct in this case.

12. The Penalty Guidance directs us to note, in relation to harm, whether there are multiple victims. Harm has been caused to two individuals in this case, Person 1 and Person 2. The

Panel received evidence in writing and orally during the first stage of these proceedings, which dealt, as part of its content, with the impact that the misconduct has had on both of them. Both referred to feelings of discomfort, anger, upset and identified periods when they had ceased attending church (and the church group in the case of Person 2.) Person 1 described feelings of embarrassment and Person 2's evidence reported disgust (“ew” and “gross”) and also revealed understandable confusion in her feelings about what had taken place.

13. The Penalty Guidance also identify that the vulnerability of the victims should be considered in the context of harm.
14. The Panel was satisfied that Person 2 was vulnerable by reason of her age at the time of the misconduct (Person 2 was a child, aged 15 at the relevant time).
15. Person 1 had had a very difficult and traumatic background and, when she met Reverend Evans, was newly grieving over the death of her partner in traumatic and distressing circumstances. Although the Panel recognises that Person 1 is a strong woman, well able to hold her own in many respects, and that she is not a vulnerable adult in any safeguarding sense, the Panel noted that the family history, Person 1's continued interaction with courts for which she received assistance from Reverend Evans, the great effort required of her to rebuild a new life as a single mother in a new area coupled with her distress at the tragic circumstances of her partner's death meant that she and her family group had a greater than average dependency on the support of the church and Reverend Evans in particular. This amplified the position of trust that Reverend Evans occupied in their lives and rendered them vulnerable to harm in circumstances where that trust was breached.
16. Reverend Evans was aware of all of the factors identified above. The inappropriate and non-consensual touching of Persons 1 and 2 in intimate areas of their bodies, whatever the motivation, caused distress and was harmful. In the Panel's view, the vulnerability of Person 2 on account of her young age meant that the harm caused by inappropriate touching by a person in a position of trust was particularly impactful.
17. Taking all of these matters together the Panel found that the harm inflicted was serious.

18. It is also the case that misconduct in ministry harms society and the wider church. It undermines public confidence in public ministry. On the facts of this case the Panel found harm in this regard as a result of Reverend Evans' conduct in respect of each of allegations (a), (b) and (c).

### Culpability

19. In so far as the Respondent's culpability is concerned, the Panel concluded that none of the factors specified in the Penalty Guidance were present in this case.

20. We considered that there were two unlisted factors, pointing in opposite directions in the consideration of culpability, which were relevant and ought to be taken into account in this case, namely:

20.1. In relation to allegations (b) and (c) the Panel found Reverend Evans' actions to be examples of deliberate choice on the part of Reverend Evans (as contrasted with, for example, merely neglectful behaviour);

20.2. In relation to allegation (a) the Panel noted that Reverend Evans was under some pressure from Person 1 to attend her home and undertake the baptism of Person 3 as a matter of urgency. The anxiety she conveyed during her request of him, on her own behalf and that of Person 3, contributed to Reverend Evans' conclusion that it was appropriate to undertake the baptism in the unusual circumstances which unfolded. The Panel also noted that he was in the middle of preparations to leave on holiday. These factors lessen culpability in respect of allegation (a) to a degree, although in the Panel's view, the effect is limited because the Panel has nonetheless found there was ample time for him to pack a change of clothes and appear appropriately dressed at what he knew was to be a full immersion baptism.

### Aggravating factors

21. There are some aggravating factors in this case:

- 21.1. The Panel was satisfied that there was a pattern of behaviour in this case. There were three instances of misconduct in a three year period. Their commonality is a loss of boundaries on the part of Reverend Evans in his relationship with Person 1 and her family;
- 21.2. Reverend Evans is an experienced clergyman, a long-serving parish priest, a cathedral canon and Area Dean. He was a training incumbent with oversight of other clergy and was able to draw on experience of having also worked in another diocese before his appointment in Hereford. His age and experience<sup>1</sup> in Holy Orders at the time of the facts underlying this case meant that he would have been respected and looked to for advice by others. He ought, in the Panel's view, to have known better, acted more responsibly and with far greater restraint, insight and self-control than he did in relation to each charge;
- 21.3. Reverend Evans was in a pastoral relationship with the members of the family and was undertaking a pastoral role at the time of each of the three events of misconduct which occurred. The family reposed considerable trust in him (in its earlier decision the Panel noted the fact that Person 3 considered Reverend Evans a "*trusted person*" and "*almost a father figure*"). The misconduct events in allegations (b) and (c), in particular as regards inappropriate touching of Person 2, were significant breaches of this trust;
- 21.4. The Panel made a number of findings regarding untrue answers given by Reverend Evans under cross-examination. In particular we found that he sought to offer a false account of having inadvertently touched Person 1's thigh whilst pointing and commenting on her clothing by way of providing a less serious explanation for his conduct. He also gave a false account of what Person 1 told him at their meeting on 6 March 2019, as well as in relation to the key fact of having touched both Person 1 and Person 2. These, in the Panel's view, amounted to "*attempts to conceal misconduct*" per the list of aggravating factors;

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<sup>1</sup> Reverend Evans is 62 years old. He was priested in 1994 and instituted and licensed as Vicar of Bromyard and Stoke Lacy in 2013.

21.5. Although not identified on the list of aggravating factors contained in the Penalty Guidance, the Panel were struck, in this case, by a notable lack of insight and remorse exhibited by Reverend Evans throughout the hearing. In considering these matters, the Panel was conscious that the list of aggravating factors is intended as a “guideline”, rather than rigid “tramlines” and therefore considered it open to it to consider these absences as examples of further aggravation on the facts of this case, and did so.

### Mitigating factors

22. None of the mitigating factors identified in the Guidance were present in this case. Nonetheless, the Panel considered there to be some mitigation in this case as follows:

22.1. Reverend Evans was of good character and had no previous record of misconduct, There were six character references provided specifically for this penalty stage of the hearing. The Panel also reviewed and reflected upon the supportive evidence of Reverend Evans’ good character and skill in office provided in written witness evidence and orally at the facts and misconduct stage of the proceedings from witnesses called on his behalf;

22.2. He had clearly undertaken faithful ministry for many years to good effect.

### Consideration of Penalty

23. The Panel considers the misconduct it has found in this case to be serious. It involves the non-consensual touching of a child’s bottom, inappropriate touching of her mother on her bottom and an unjustified state of undress during the conduct of a baptism in the family’s private home. Each of these are significant departures from the very high standards expected and required of the clergy.

24. The Panel has taken this into account, along with each of the factors identified above under the approach set out in the Penalty Guidance and the contents of the Bishop’s letter as appraised above, in reaching our decision as to penalty.



25. Any penalty we impose must be proportionate. In order to achieve this we began our consideration by looking at the lowest available penalty, considering the potential applicability of each level of penalty in order of seriousness and only moving into a more serious category if satisfied that the misconduct crossed the threshold to justify it.
26. It was universally agreed that a conditional deferment would be inappropriate in respect of what we have found to be serious misconduct in this case.
27. A failure of boundaries with members of a family presenting with some vulnerabilities characterises the misconduct in relation to all three allegations. The Panel had regard to the Penalty Guidance, in particular at paragraph 3.4 relating to misconduct in public ministry. The relevant parts of that paragraph state:

*“3.4 Clergy will meet parishioners in need of pastoral support who are...vulnerable. There is an intrinsic imbalance in relationships between clergy, who are in a position of trust and responsibility, and those who turn to them for help. Consequently it is a serious matter if clergy exploit the trust placed in them...Where there are serious pastoral abuses, removal from office and limited prohibition will usually be appropriate. For less serious cases, a rebuke and injunction requiring training on pastoral boundaries may be appropriate.”*

28. Paragraph 3.4 contains high level and general advice, plainly not intended to envisage the particulars of every type of relevant misconduct. The Panel noted that it refers specifically to abuses such as financial exploitation or those arising through inappropriate relationships, which are plainly not in issue in this case. However abuses in the context of pastoral relationships may be conceived of in a very wide variety of factual scenarios and the Panel considered it necessary to assess whether the factual matrix before it was suitable for it to safely draw across, with care and caution, the advice in the paragraph and apply it to the specific facts presented. In this case we considered that we could do so because the advice is framed by reference to, and is plainly directed to addressing, a variety of substantially different circumstances where pastoral boundaries have been exceeded. The fact that it envisages that these may fall within a spectrum of seriousness indicates that a range of conduct is envisaged as being covered by the guidance in the paragraph. The Panel therefore considered that we were not limited to the specific examples given in the framing of the examples in paragraph 3.4. We were satisfied that the relevant parallels drawn from

the section indicated it was appropriate to conclude that the misconduct under allegation 1 amounted to pastoral abuse and to take note of the guidance in this case.

29. Working through the sanctions in the manner indicated, the Panel concluded from this that the deliberate and serious conduct we have found satisfies, in the first instance, the requirements for a rebuke (the Panel having first rejected conditional deferment or discharge as inappropriately lenient in this case, as noted above).
30. The Panel also concluded that the conduct in question warrants the imposition of appropriately tailored injunctions. These will, in the Panel's view, perform an important restorative function and aid in developing understanding. The Panel has noted elsewhere that there has been a striking lack of remorse and insight in this case. The Panel wishes to emphasise the importance for Reverend Evans to face his misconduct and its consequences and fully embrace opportunities for deep reflection, learning and improvement which are offered by the imposition of injunctions, including an injunction requiring a limited period of supervision of ministry and appropriate pastoral support.
31. However, as already noted, the penalty must be proportionate to the misconduct and in this case the Panel are satisfied that some of the failings revealed are serious ones. The language of "less serious" in relation to rebuke and injunction in relation to pastoral abuses led the Panel to consider whether these alone were the appropriate and proportionate sanctions for the instances of misconduct found proven or whether more serious sanctions were warranted here. We reviewed all of the factors before us to assess whether, when considered fairly and proportionately, there were matters which took this out of the category of rebuke and injunction and crossed the threshold into consideration of limited prohibition and potentially removal from office.
32. The Panel unanimously considered that in this case the matter did warrant the crossing of that threshold. In particular, the Panel considers that the non-consensual touching of a child on an intimate part of her body must be responded to in a way which clearly indicates that any such violation will not be tolerated by the church. Furthermore, the facts of allegation (a) displayed a loss of dignity during the sacrament of baptism. The Panel also considered that these points are likely to repercuss as damage to the wider church by potentially

diminishing the respect the public has for parochial clergy and eroding the trust and confidence that the public should be able to place in them.

33. These factors informed our conclusion that Reverend Evans' misconduct in this case was of greater degree of concern than the sorts of "less serious" failures which the Panel concluded the Guidance is aiming at when referring to the use of rebuke and injunction alone in the context of pastoral ministry and safeguarding misconduct. The Panel also noted (to the extent indicated in our earlier discussion of the bishop's letter) the bishop's views as to penalty. It agreed with his conclusion that the conduct in this case is too serious to warrant merely a rebuke and injunction and that to impose too lenient a sanction would risk being seen to trivialise serious failings.
34. For these reasons the Panel came to the conclusion that the misconduct in this case is sufficiently serious to warrant the imposition of a limited prohibition.
35. Furthermore, it concluded that circumstances in the benefice and the diocese mean that removal from office is also appropriate in this case.
36. These conclusions were reached as follows:

36.1. In concluding that the imposition of a limited prohibition is appropriate the Panel considered the Bishop's letter and his expressed view that a prohibition for a period of one to two years - in addition to the period of time for which Reverend Evans has already been suspended (almost three years, since 29 March 2019) - would be appropriate. The Panel considered that the recommendation of up to a further two years prohibition was likely to have reflected, in part, the Bishop's erroneous conclusion that the Panel's findings amounted to findings of a sexual aspect to the misconduct. The Panel concluded that a further one to two years was a disproportionately long period to impose on top of the time Reverend Evans has already been suspended for. Instead the Panel took account of the existing length of time that Reverend Evans has been unable to exercise his ministry under his current suspension, whilst also considering that that period has not yet provided an opportunity for the sort of deep and considered reflection on the misconduct and its consequences which a period of limited prohibition will provide. Taking these factors into account the Panel concluded that a limited period of prohibition from ministry of a further six months on top of that

already served will allow time for deep reflection and development of insight in the light of these proceedings and the Panel's findings, as well as providing time to undertake the important training that the Panel directs by way of injunction;

36.2. The Panel regards removal from office as also being justified in this case. Not only does it send a clear message that the Respondent's failings were serious and are treated as such by the Church, but also it appears to us to be justified in light of information contained in the bishop's letter. In particular he refers to the negative nature of the contact he has had with Reverend Evans when offering meetings and pastoral support. The bishop states: "*I consider an ongoing pastoral relationship with Rev. Evans by myself or the Archdeacon untenable...*". Reverend Evans did not gainsay this conclusion, despite extensive criticism of the bishop's letter in other respects. Where the working relationship between the senior diocesan staff and the Respondent has broken down irretrievably, the Panel concludes that removal from office is for the benefit of all concerned by providing an opportunity for a fresh start with the benefit of reflection, training and support for Reverend Evans as well as a chance for continued healing and growth in the parish. The bishop's letter also makes clear both that the Person 1 and her family still live in the area and it is likely that they would be negatively impacted by Reverend Evans' reinstatement to the benefice, which the Panel considered relevant in reaching its decision as to the appropriateness of removal from office. The letter also refers to the fact that the congregation profile of the benefice has changed appreciably during the period of Reverend Evans' suspension. This is not a case where there is strong support from a faithful, intact congregation for Reverend Evans' return to the parishes in the benefice (and in this regard the Panel observed that of the six letters of support provided for this stage of the proceedings, there were none from the church wardens, PCC members or others in respected positions, and only one was from an existing member of the congregation wishing for his return (Alma Westwood)).

37. In light of all of the above we impose the following penalty in relation to the misconduct found in this matter:

37.1. Removal from office;

- 37.2. A prohibition from exercising any of the functions of his Orders for a period of 6 months from the date of this decision;
- 37.3. An injunction that the Respondent undertakes and completes, prior to the recommencement of ministry, training courses relating to (i) safeguarding of children and vulnerable adults; (ii) pastoral boundaries; (iii) appropriate working, diversity and inclusion and external relationships as directed by the Diocesan Bishop of the area where he is to exercise ministry having regard to the findings and concerns set out in the Panel's decisions;
- 37.4. A separate and further injunction that the Respondent is to cooperate with the supervision of his ministry and with appropriate pastoral support. The supervision and support is to be provided by such person and in such respects as the Diocesan Bishop of the area where he is to exercise ministry may determine, for a period of 1 year from the recommencement of his ministry;
- 37.5. A rebuke for misconduct.

23 February 2022