

**IN THE MATTER OF A COMPLAINT UNDER THE CLERGY DISCIPLINE MEASURE 2003
BEFORE THE BISHOP'S DISCIPLINARY TRIBUNAL FOR THE DIOCESE OF ROCHESTER**

Complainant: THE VENERABLE ANDREW WOODING JONES

Respondent: THE REVEREND ROBERT LLOYD RYAN

**Constitution of the Tribunal: HHJ Heather Norton (Chair)
The Reverend Canon Kathryn Percival
The Reverend Canon Peter Walley
Mr Richard Hill
Prebendary Sue Lloyd**

**Appearances: Mr Edward Dobson, Designated Officer
Ms Katherine Apps KC, Counsel for the Respondent**

DETERMINATION OF THE TRIBUNAL

1. Following a hearing heard over several days in December 2021, the Panel found that the Respondent was guilty of, *inter alia*, charge 1b: namely that he, knowing that Person A was a married woman, had sexual intercourse with her. The Panel further found that his conduct in this regard was unbecoming or inappropriate to the office and work of a clerk in Holy Orders.
2. The Panel set out their reasons for reaching that decision in a written determination handed down on 29 December 2021.
3. The Respondent subsequently sought, and was granted, leave to appeal our findings to the Court of Arches, which determined – for the reasons set out in their written judgment dated 12

December 2022 – that this Panel had been wrong to disregard evidence (in particular a doctor’s report), about the appearance of the Respondent’s genitalia when reaching conclusions about the respective veracity and credibility of the Respondent and Complainant.

4. Following a Relief Hearing in May 2023, the Court of Arches directed, at paragraph 3.11 of their written ruling dated 17 May 2023, that:

Pursuant to Rule 27(b) of the Clergy Discipline Appeal Rules 2005 we decide and order that there should be referred back to the Tribunal the issue of the finding that the Appellant was guilty of conduct unbecoming in that he had sexual intercourse with Person A knowing that she was a married woman on 5th June 2015 with the following directions:

- 1) *That the Tribunal shall take into account the report of Dr Hartmann dated 13 December 2021;*
- 2) *That the Tribunal shall require Dr Hartmann to attend to give oral evidence pursuant to Rule 46 of the Clergy Discipline Rules 2005;*
- 3) *That none of the witnesses who gave evidence before the Tribunal shall give or be required to give further evidence;*
- 4) *That there shall be no further witnesses called by either party*

5. At paragraph 3.8 of their judgment, the Court of Arches stated that:

‘Our Ruling and Directions give [the Tribunal] the opportunity to consider the doctor’s evidence fully and then conscientiously to deliberate on its significance for the case.’

6. Each member of the Panel had access to the original hearing bundle, as well as their own notes, and therefore had the opportunity to refresh their memory of the relevant facts and issues in this case prior to the referred hearing. The Panel was also provided with a new hearing bundle for the purposes of the referred hearing, which included both the Judgment on appeal and the Judgment

on Relief from the Court of Arches, and a written skeleton argument from Katherine Apps KC on behalf of the Respondent. In advance of the hearing, on application on behalf of the Respondent, the Chair of the Panel gave consent for Dr Hartmann to re-examine the Respondent in order to refresh his memory. In accordance with the directions of the Court of Arches, no additional evidence was tabled or relied upon and no witnesses were called save for Dr Hartmann. Ms Apps KC on behalf of the Respondent and the Designated Officer, Mr Dobson, have had the opportunity to ask questions of Dr Hartmann as has the Panel. The Panel also heard submissions from Mr Dobson and Ms Apps KC about the significance and weight to be attached to this evidence and to the evidence on the issue that was given in the initial hearing. We are grateful to them for their submissions and record our thanks to Dr Hartmann for the assistance he has given us.

7. Having carefully considered the evidence, the Panel have concluded that, taken as a whole, the evidence of Dr Hartmann was consistent with the description given by Person A that the Respondent's [anatomy] was darker in colour than the rest of his body. We reach this conclusion for the following reasons:

- (i) Firstly, Dr Hartmann's evidence was clear that in his opinion the Respondent's [anatomy] was darker than, for example, his lower abdomen, albeit he stated that this was 'by a shade', and that the colour differentiation would not be noticeable 'at a distance';
- (ii) Secondly, in his written report he had stated that he, '*could not find that* [the Respondent's] [anatomy] was abnormally darker in colour than the rest of his body' (emphasis added). Dr Hartmann clarified that it is common for genitalia to be a darker skintone than other parts of the body, and that when he said that the colour of the Respondent's [anatomy] was not abnormally darker, he meant that the colour differentiation between the Respondent's [anatomy] and his body was not outside the range of colour differentiations that he as a medical practitioner has seen and might expect to see in the general populace; he was not referring to something 'abnormal' about

the Respondent's [anatomy] *per se*. The Tribunal note that Person A did not at any stage use the descriptor 'abnormal', she merely stated that it was darker in colour, and Dr Hartmann confirmed that it was;

(iii) The Tribunal further considered that any person's view about colour differentiation is liable to be, to a greater or lesser extent, subjective. This is especially the case for a lay person rather than a medically qualified practitioner who will have had greater experience of such matters as indeed Dr Hartman confirmed.

8. In the Panel's view the evidence of Dr Hartmann added weight to the evidence of Person A on this issue, and, having re-considered all the evidence received on this discrete issue we accept the evidence of Person A about the appearance of the Respondent's [anatomy] Further, we are satisfied, by a majority (4:1), that it is more likely than not that Person A was able to describe the Respondent's [anatomy] because she had seen his naked genitalia in the context of sexual intercourse as she stated.

9. Had we concluded that Person A's evidence about the Respondent's genitalia was, or may have been inaccurate (whether a deliberate falsehood or otherwise), we would then have had to go on to consider whether and to what extent such a conclusion affected our view of her credibility and reliability. If it did adversely affect her credibility and /or reliability, we would then have had to consider whether and to what extent that impacted upon our original findings. However, as our conclusion is that the medical evidence weighs against the Respondent and in favour of Person A, and having accepted her evidence about the appearance of the Respondent's genitalia, it follows that our view of her reliability and credibility is unaffected, and accordingly we find no basis upon which to alter our original determination, which stands unaltered.

30 June 2023