

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

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

**First Complainant: THE VENERABLE MOIRA ASTIN, ARCHDEACON
OF REIGATE**

Second Complainant: ELIZABETH POLLARD

Respondent: THE REVEREND CANON DAVID TUDOR

Constitution of the Tribunal: HHJ John Lodge (Chair)

The Revd Canon James Blandford-Baker

The Reverend Canon Douglas Machiridza

Mrs Anna Corbett

Mrs Caroline Kallipetis

Appearances: Mr Henry Gordon, Counsel for the Designated Officer

Mr Mark Ruffell, Counsel for the Respondent

DETERMINATION OF THE TRIBUNAL

**THIS DETERMINATION IS SUBJECT TO THE TRIBUNAL'S ORDERS FOR
ANONYMITY UNDER RULE 49 OF THE CLERGY DISCIPLINE RULES 2005**

1. Ruling.

- 1.1 This determination sets out the findings of the Bishop's Disciplinary Tribunal for the Diocese of Southwark in respect of the Reverend Canon David Tudor, following a hearing on the 28th of October 2024.

1.2 At the start of the hearing, we made an Order under Rule 49 of the Clergy Discipline Rules 2005 that there should be anonymity for the two underlying complainants in this case and so this determination reflects that both in anonymising their names and in excluding anything which might lead to their identification. They are referred to as X and Y. A similar Order was made relating to another woman, referred to in this determination as Z.

2. The allegation

2.1 The respondent faced the following allegation:

2.2 The conduct of the Respondent, THE REVD CANON DAVID ST CLAIR TUDOR was unbecoming or inappropriate to the office and work of a Clerk in Holy Orders within s.8(1)(d) of the Clergy Discipline Measure 2003 in that he, between about 1982 and 1989, formed relationships with (a) X, who at the time the relationship began was a child; and (b) Y, who at the time the relationship began was a child; and (c) engaged in sexual acts with both persons aforesaid; and (d) in his interactions with them failed to maintain appropriate professional boundaries.

3. Basis of plea

3.1 The matter had been set down for a contested hearing. However, following discussions between the parties, the respondent made an admission of misconduct as set out in a document headed “Basis of Plea” and dated the 14th of October 2024

3.2 The Basis of Plea is set out in full.

1. The Respondent accepts that his behaviour towards X and Y in the period 1983 to 1988 was unbecoming and inappropriate to the office and work of a Clerk in Holy Orders.

2. The Respondent has limited recollection of the events that are described in X’s ABE interview and in detail in X’s notebooks and diaries. From May-June 1983, there are no diary entries, or the diaries cannot be found, and consequently the Respondent is dependent on X’s recollection 40+ years later as to what took place.

a. The Respondent notes that most of the entries from June 1983 onwards speak of him with affection and show that he acted kindly towards her (even when acting inappropriately due to his office and work).

b. The Respondent does not challenge (due to his limited recollection) the Complainant’s later diary entries that he engaged in kissing with X when she was aged 15. The Respondent does not challenge (due to his limited recollection) the Complainant’s recollection 40 years later that there was oral sex when she was 16. The Respondent does not challenge the Complainant’s diary entries that there was attempted vaginal sex after she had turned 18.

c. The Respondent does not challenge (due to his limited recollection) the diary entries that in the period between June 1983 and October 1985, X recorded that there were occasional references to 'kissing' taking place or requests by the Respondent to be kissed which were refused.

d. X was in regular contact with the Respondent during the period June 1983 to October 1985, and her diaries and notebooks record that on nearly all of the occasions, she was the instigator of that contact.

e. The Respondent considers that X was correct to record in June 1984 that he had used the word infatuation when describing the level of interest that she had in him. The Respondent fully accepts that this was in part caused by his behaviour with X from April to June 1983.

f. The Respondent notes that X records that she was a virgin on 6 July 1985 (when aged 18). She gives a description of attempted sexual intercourse with the Respondent on 22 October 1985 that has all the hallmarks of it being their first attempt.

g. The Respondent considers that the Complainant's recollection some 40 years later in her ABE interview that their first attempt at sexual intercourse took place when she was 16 is mistaken, given the description of what took place on 22 October 1985 when she was 18. X self-reflected continually in her diaries and notebooks and did so after this day. The Respondent considers that if this had been a repeat of what had taken place when she was 16, then she would have written it down as such.

h. Likewise, the Respondent considers that X's recollection 40+ years later, (where there is no diary or notebook to refresh her memory,) of the type of sexual acts that took place when she was aged 16 (and he was aged 27) may be mistaken. The later entries in her diaries and notebooks only mention what happened in May-June 1983 (when she was 16) fondly and refer to their involvement beginning with 'kissing and going for a walk in a field and holding hands' and later involving her skiving off school and letting herself into his house and climbing into his bed. There is no subsequent mention of sexual acts (other than kissing) having taken place during this period nor her dislike of them. Nevertheless, the Respondent does not challenge the Complainant's account of what took place, all of which was inappropriate given his office and work.

i. X kept in touch with the Respondent by writing letters and sending cards from time to time until she was aged 29 (until 1996). After the Respondent was married in 1991, she kept in contact with him and his wife Sandra. She seemed happy in her role as an au pair, travelling around the world with the families of the children that she cared for.

3. The Respondent offers a full apology to X for his behaviour.

4. The Respondent accepts that he engaged in sexual acts with Y when she was 16 and 17, involving him kissing and touching her as described by her. The Respondent has no recollection of the events described.

5. The Respondent offers a full apology to Y for his behaviour.

3.3 The Basis of Plea details the allegations of X in full and what is admitted in respect of them.

3.4 In respect of Y, the admission as set out above is of kissing and touching as described by her. It is important to note that touching includes the touching of her naked buttocks inside her underwear, and the placing of her hand over clothing on the erect penis of the respondent. The allegations of Y started in 1985, ended in early 1987 and were taking place over a similar period of time to those relating to X.

3.5 Both complainants have been spoken to about the Basis of Plea. It is accepted by the Designated Officer.

3.6 The Tribunal therefore proceeds to penalty on the factual basis set out in the Basis of Plea document.

4. Chronology

4.1 This case cannot be looked at without consideration of the chronology of all matters relating to this respondent.

4.2 In 1988 the respondent was subject to criminal proceedings on two separate occasions.

4.3 In January 1988, he was acquitted in relation to an allegation of indecent assault upon a girl whom we shall refer to as Z. It appears as shall become relevant that the issues related to age and consent.

4.4 In February, 1988, he was convicted of indecent assault in relation to three complainants, none of whom were the complainants in the current case. He was sentenced to six months imprisonment which he served. In July 1988, those convictions were quashed by the Court of Appeal. Because the convictions were quashed, we do not treat them as an aggravating feature in the current case. We only refer to them because it is submitted on behalf of the respondent, as we will return to later, that the experience of custody forms part of the rehabilitation undergone by the respondent. Neither X nor Y were complainants in that trial. It was in evidence that Y had been spoken to by the police. She was unsure whether she had given a formal statement but was told that “what had happened to me was not criminal”.

4.5 In November of 1988, proceedings under the Ecclesiastical Jurisdiction Measure were brought against the respondent, in respect of his accepted misconduct (albeit non-

criminal) relating to the complainant in the first trial, Z. The admission was on the basis of sexual intercourse with Z when she was 16. He had met her when she was a pupil at a school where he was chaplain, and she attended the church where he served. The proceedings covered, in addition a second girl.

- 4.6 He was suspended from exercising his ministry for a period of 5 years. He returned to ministry in the 1990s, was appointed Team Vicar of Canvey Island in 1997 and Team Rector in 2000. He has (subject to two periods of suspension) remained in that position ever since.
- 4.7 As set out above, the victims in this case are entitled to anonymity. For that reason, the parishes where this abuse took place have deliberately not been identified in this ruling. This misconduct, it should be made clear did not take place in Canvey Island or, in fact the Diocese of Chelmsford.
- 4.8 It would appear that around 2005, a complaint was made about his conduct relating to a time prior to his ordination in the 1970s. It did not involve either X or Y. No criminal proceedings were taken. The Diocese of Chelmsford engaged the Lucy Faithfull Foundation to carry out a risk assessment. As a result of that assessment, he was permitted to return to his position as Team Rector of Canvey Island.
- 4.9 In 2018 X reported the respondent to the police in respect of her current allegations. No criminal proceedings were taken. She then, in October 2021, made a complaint under the Clergy Discipline Measure 2003.
- 4.10 In December, 2022, Y made her complaint against the respondent under the Clergy Discipline Measure.
- 4.11 The Respondent has been suspended since 2019.

5. Character evidence.

- 5.1 Following the submission of the Basis of Plea, the Respondent submitted a bundle of character evidence, comprising evidence from 31 witnesses. These witnesses covered a number of areas.
- 5.2 Some witnesses spoke of seeing nothing of concern at the time of the Respondent's ministry in the 1980s, whether as teenagers themselves or as parents. Such evidence is of limited value in the light of the accepted misconduct both in earlier proceedings and in these proceedings.
- 5.3 Some witnesses speak of the investigation in the 1980s and the return to ministry in the 1990s. This is of historic interest. However, it is common ground that the current allegations, now admitted, did not form any part of that investigation and decision making. To that extent the evidence is of limited value.

- 5.4 The bulk of the character evidence relates to the Respondent's ministry on Canvey Island. It would be wrong not to acknowledge that a large number of people speak to the nature of the Respondent's ministry, relating to his success in invigorating the church, leading its growth and presenting a flourishing message.
- 5.5 Equally it must be said that there is no evidence, direct or inferential, which could cause the Tribunal to consider that there had been any misconduct during this period of the Respondent's service.
- 5.6 We gave leave for evidence to be given orally, and we heard from six witnesses who each, in their various ways, spoke of the ministry of the Respondent and the impact it had upon them. We had sympathy for a number of those witnesses who, it appeared to us, had not been made aware of the facts of the Respondent's admissions, as set out in the basis of plea document. We equally felt that at least one of the witnesses was under the misapprehension that these proceedings were simply a re-run of already determined allegations, such that the Respondent was being "hounded". Each witness was sincere and doing the best to assist the tribunal but the qualifications we outline affects the weight we give to this evidence. We should also add that in so far as some of these witnesses sought to speak to safeguarding procedures and principles, that there was a lack of understanding about the core responsibility of the Church in this regard and too much emphasis on the protection of the Respondent from further accusations and insufficient concern for potential victims.

6. Victim Impact Statements

- 6.1 X in her Victim Impact Statement outlines the difficulties that she had as a teenager dealing with her first sexual relationship in circumstances where that was a secret relationship, causing difficulties in her dealings with her mother, and causing her to cut herself off from her friends. The nature of the sexual acts at a young age has had a lasting impact on her consensual relationships moving forward. She moved into adulthood with a confused idea of what a consensual and respectful relationship should look like.
- 6.2 Y was left confused and in turmoil by the relationship. Memories of that relationship act as triggers which prevent her moving onwards. Her ongoing family relationships continue to be impacted.

7. Submissions

- 7.1 We heard submissions as to penalty from counsel, Henry Gordon, on behalf of the Designated Officer, and Mark Ruffell, counsel for the Respondent. We are grateful for the clear and cogent manner in which both written and oral submissions were presented.
- 7.2 Those submissions were understandably and properly directed to the "Guidance on Penalties" issued by the Clergy Discipline Commission.

- 7.3 Mr. Gordon submits that it is necessary to start from the current and admitted misconduct. He highlights the following factors.
- 7.4 We are dealing with two separate victims, each of whom makes complaint of sexual misconduct in a similar timeframe.
- 7.5 The relationship with each victim was an abuse of a position of trust. The Respondent was both priest and teacher. The victims were vulnerable and were abused by someone whom they ought to have been able to trust.
- 7.6 There was an escalation in the sexual behaviour such that it is proper to categorise the behaviour as grooming.
- 7.7 The victims have carried the burden of abuse for many years. It is common for victims not to come forward for many years until a trigger event occurs. The Respondent should not be entitled to benefit from their inability to raise what are now accepted as legitimate complaints.
- 7.8 These allegations must be looked at in the context of someone who has accepted sexual misconduct in respect of at least one other young woman in the same time frame.
- 7.9 Taking all those factors into account, it is submitted that this case comes within Paragraph 2.1 of The Guidance on Penalties. As set out therein, sexual assault on children is a gross violation and causes lasting trauma. In almost all cases removal from office and prohibition for life are appropriate. That is the approach this tribunal should take.
- 7.10 Mr. Ruffell, on behalf of the Respondent, makes the following submissions.
- 7.11 It is dangerous to take paragraph 2.1 of the guidance as a starting point. To categorise the misconduct as sexual assault is wrong. Although there may have been some minor transgressions before the victims were 16, the majority of the sexual activity came when the victim were 16, able to consent and who did consent.
- 7.12 The Respondent himself was vulnerable. He was young and alone. He was looking for a soulmate and engaged in relationships with young women not that much younger than himself, those relationships being consensual.
- 7.13 The position of the Respondent should be looked at holistically. Since this misconduct occurred, the defendant has been tried and acquitted of criminal offences. He has been wrongly convicted of criminal offences and had those convictions overturned but not before the trauma of serving his sentence as a convicted sex offender with all that entails. He has been suspended by the Church and re-admitted to ministry. He has been suspended twice since, first in 2005 with allegations where he was found fit to continue in ministry, and since 2018, whilst these matters are investigated.

7.14 His late admission is not something for which he can be criticised. He pushed the detail of his past life to the back of his mind. It was not until he was able to see the detail contained in X's diaries that he could make proper admissions.

7.15 All this must be looked at in the light of the Respondent's faithful and successful ministry on Canvey Island. He can demonstrate rehabilitation and an absence of risk.

8. Discussion

8.1 We have considered the above submissions with care. We came to the following conclusions.

8.2 The behaviour towards X and Y is properly characterised as sexual abuse. There is a difficulty in seeking, in proceedings such as these, to draw a distinction between conduct that is criminal and conduct that is not. In both instances, the Respondent was in a position of trust, both as a teacher at a school which they attended and as a priest at a church where they worshipped. They were young when the interaction started, and in addition to the position of trust, there was a substantial disparity in age. Each of X and Y were vulnerable. They are properly described as victims.

8.3 These were not isolated incidents. Each of the complainants was the subject of behaviour which could properly be classed as grooming behaviour. The nature of the sexual activity developed. That activity was instigated by the Respondent. In the case of X, it progressed to oral sex and attempted penetrative vaginal intercourse. In the case of Y, it involved touching her inside her underwear and placing her hand over clothing on his erect penis.

8.4 The Respondent at the time of his involvement with both X and Y recognised that what he was doing was wrong. In the case of X, he told her to keep the relationship a secret. When he learnt that she kept a diary, he asked her not to refer to him by name and eventually asked her to destroy the diaries. She records that she did so in part and, whilst the diaries have formed a substantial part of the evidence, it is clear there are gaps. In the case of Y, upon discovering that she had discussed the position with friends, he brought his involvement with her to an immediate end.

8.5 X did not make complaint until 2018. Although Y was spoken to by the police at the time, she was not a complainant in previous proceedings and did not make a complaint under the Clergy Discipline Measure until 2022. X and Y cannot be criticised for this. It is the experience of those involved in whatever jurisdiction with allegations of sexual abuse that there cannot be said to be a typical victim. Whilst some come forward immediately, others do not, through shame, fear or immaturity. The understanding that what happened to them was abuse may not be ascertained by them until much later.

8.6 It can properly be said that the Respondent himself made no acknowledgment of his involvement with X and Y until his Basis of Plea was submitted. Whilst he could not be said to be under any obligation to make disclosure, it weakens his submissions about repentance and rehabilitation. A distinction can be drawn between criminal and

church proceedings. He had the opportunity when admitting misconduct under the Ecclesiastical Jurisdiction Measure to accept that there were other girls, X and Y, with whom there had been misconduct. Likewise fuller disclosure could have been made to the Lucy Faithfull Foundation when they were considering the risks posed in 2005/6.

- 8.7 Although this misconduct was a considerable time ago, we cannot accept the submission that the Respondent's recollection of it was so limited that, until he saw the diaries of X, he could not accept misconduct in her case and that in the case of Y his admission is framed in the terms that, if she says it happened it must have happened, and for that I am sorry.
- 8.8 We accept from the Victim Personal Statements of both X and Y that the abuse which they suffered at the hands of the Respondent has a lasting effect.
- 8.9 Using those findings, we address the Guidance on Penalties issued by the Clergy Discipline Commission.
- 8.10 We consider, as we have set out above that the behaviour of the Respondent clearly amounted to Sexual Misconduct as detailed in paragraph 2 of the Guidance. We consider the conduct amounted to an abuse because of the abuse of trust, the disparity in age and the nature and duration of the conduct.
- 8.11 We take the approach to penalty from paragraph 6 of the Guidance. We recognise, as set out therein that we should approach the issue of harm, not simply from the perspective of the victims, although they must be at the forefront of our deliberations, but also to take into account that harm is not only suffered by individuals and all clerical misconduct harms wider confidence in the church.
- 8.12 Applying the Guideline in respect of harm, we are satisfied that each of the victims, and we note that there are two victims, itself a harm factor, was vulnerable and has suffered continuing psychological harm from the abuse.
- 8.13 The Guideline in respect of Culpability raises the issue of planning. It cannot be said that this was planned abuse to the extent that the Respondent initiated contact in order to abuse, and the nature of the Respondent's conduct is perhaps best dealt with by looking at the aggravating factors set out within the Guideline.
- 8.14 This was clearly misconduct committed over a prolonged period of time and demonstrated a pattern of behaviour. There was a breach of a position of trust and power as we have already set out above. There was an attempt to conceal the misconduct by seeking to persuade the victims to maintain secrecy about the relationships.
- 8.15 The extent to which previous findings of misconduct can be said to be an aggravating feature is limited. This misconduct predates any criminal trial, none of which, in fact, ended in conviction. It predates the determination under the Ecclesiastical Jurisdiction

Measure although the misconduct accepted then took place at the same time as the current misconduct. We have already observed that the Respondent chose not to take the opportunity in those proceedings to present the Bishop with a complete picture of his misconduct in respect of X and Y.

- 8.16 We have considered the mitigating factors outlined in the Guidance.
- 8.17 There was not an early admission of misconduct. It came shortly before the Tribunal hearing. Each complainant had to prepare themselves for the ordeal of giving evidence. We cannot accept that it would not have been possible for the Respondent to accept misconduct until he had seen the evidence of the diaries. He knew the nature of the allegations made against him and would have been able to make admissions as to that misconduct. The late acceptance of responsibility must, of itself, call into question the genuineness of any expressed remorse.
- 8.18 We accept there is no evidence of continuing misconduct of this kind, and we accept that many witnesses have spoken of his strengths in ministry and their observations as to continuing risk. We acknowledge the impact that the period in prison, albeit a long time ago, would have had on the Respondent.
- 8.19 Taking all of these factors into account we address the issue of penalty, starting, as we are required to do, at the lowest penalty and working upwards.
- 8.20 The circumstances of this misconduct drive us to the conclusion that a conditional deferment of penalty, a conditional discharge or a rebuke would fall well short of the penalty required for offending of this type. We return to the guidance in respect of sexual misconduct. It is impossible to say that this misconduct does not cross the prohibition threshold.
- 8.21 We have considered whether a Limited Prohibition would be appropriate. We cannot accept that it would. We do not consider that there is a realistic prospect that the Respondent, with the appropriate pastoral training and other necessary support could resume public ministry in the future. Whilst recognising that there have been many years of public ministry since this misconduct occurred, we are obliged to look at the position in the light of that accepted misconduct.
- 8.22 We are driven to the conclusion, adopting the wording of the Guideline that this is a case of the utmost seriousness that only a prohibition for life is appropriate.

9. Penalty

- 9.1 The appropriate penalty is Prohibition for Life. The penalty of Removal from Office is an inevitable consequence of that finding. We, therefore, impose both penalties.

29 October 2024