

**THE BISHOP'S DISCIPLINARY TRIBUNAL FOR THE DIOCESE
IN EUROPE**

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

COMPLAINANT: THE VENERABLE JONATHAN WILFORD LLOYD

RESPONDENT: THE REVEREND PROFESSOR JAMES MEREDITH DAY

PENALTY IMPOSED BY THE TRIBUNAL

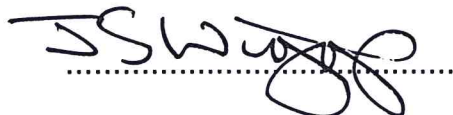
THIS MATTER having come before the Tribunal on the 26th April 2016

AND the Complainant's case having been found proved by the Tribunal

We order that:

1. The Respondent be prohibited for life (that is, without limit of time) from exercising any of the functions of his Orders, under s 24(1)(a) of the Measure; and
2. The Respondent's name be forwarded to the Archbishops of Canterbury and York for inclusion on the List maintained by them under s 38 of the Measure

Dated this 17th day of October 2016



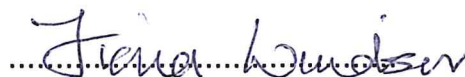
His Honour Samuel Wiggs
(Chairman)



The Reverend Canon Nicholas Ralph



Dr Neil Jones



The Venerable Fiona Windsor



Mrs Claire McArthur

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

Complainant: **The Venerable Jonathan Wilford LLoyd**

Respondent: **The Reverend Professor James Meredith Day**

DETERMINATION OF PENALTY

1. On 26th April 2016 a tribunal constituted under the provisions of the Clergy Discipline Measure 2003 sat to consider an allegation made against the Reverend Professor James Meredith Day.

2. The wording of that allegation was:

"that the conduct of the respondent, the Rev Dr James Meredith Day, former assistant curate at Holy Trinity Church Brussels, was unbecoming or inappropriate to the office and work of a Clerk in Holy Orders within section 8(1)(d) of the Clergy Discipline Measure 2003 in that, whilst married to his wife:

1. during a period prior to 25 March 2012, for his own sexual gratification, he stored and kept on his computers at home a substantial amount of pornographic and indecent images; and

2. in or about 2007 to 2009 he used the false identity and name of Henry Olsen to seek sexual relations with other persons namely

- a female prostitute in Etterbeek known as Amanda,*
- a man known as Frederic,*
- an unnamed man with whom he corresponded at "just...@hotmail.com" and*

3. in or about 2010 and 2011 he engaged in sexual relations with a man known as Kris; and

4. he assaulted his wife at their home:

- in or about November 2010 by seizing her arm, twisting it, and biting her on the hand;*
- on or about 25 January 2012 by pulling her towards him by the scarf around her neck and tightening the scarf causing her difficulty in breathing.*
- on or about 8 January 2012 by pulling her scarf tightly around her neck causing her difficulty in breathing, and by spitting in her face."*

3. Professor Day did not attend the hearing and we found the allegation proved in its entirety. Our reasons are set out in our Determination dated 20th May 2016.
4. We then set the date of 17th October 2016 for consideration of the appropriate penalty. Professor Day was notified of the date and was invited to make written submissions in mitigation. The Designated Officer was invited to make written submissions, which he did. Professor Day neither made his own submissions nor replied to those of Mr Iles.
5. We are satisfied from information given to us by the Acting Registrar that Professor Day had been told of the place, time and date of the penalty hearing and we are also satisfied that it was appropriate to proceed in his absence. The Venerable Fiona Windsor was unwell on the day of the hearing and unable to travel but took part in the entirety of the proceedings by telephone conference call.
6. We have been assisted by the written submissions of the Designated Officer, from which we make extracts as follows (we emphasise however that any findings or opinions are ours alone, and not those of the Designated Officer):
 - Paragraph 4 of the Code of Practice issued by the Clergy Discipline Commission provides that, apart from considering the position of the individual respondent, there is a wider picture to be considered. The administration of discipline must:
 - *have regard to the interests of justice for all who may be affected by the faults, failings or shortcomings of the clergy, including the complainant and the interests of the wider church,*
 - *support the collective good standing of all faithful men and women who are called to service in the ordained ministry,*
 - The Clergy Discipline Commission ("the Commission") issued guidance on penalties in March 2006 (last revised in April 2016). The Commission does not lay down prescribed penalties but seeks to provide guidance. Factors to be considered include:
 - (i) *The period of time the misconduct lasted; the longer the period of time during which the misconduct was committed, the more serious it becomes:*
 - In each matter of misconduct, the respondent's misconduct was not a one-off moment of aberration, but

extended over a period of time:-

Pornographic and indecent images: He was ordained deacon in 2003 and by 2005 was collecting graphic images of violence to women, and from 2008 onwards was collecting sexually explicit pornography - he was still in possession of this material in 2012.

Seeking sexual relations with others using a false identity: In the respondent's own words he had "*a sexual addiction, and a dependency in this regard*". From 2007 to 2009 he used the false identity of Henry Olsen to seek three illicit sexual relationships at a time when he was married.

Sexual relationship with a man known as Kris: He was in a sexual relationship with a man known as Kris from November 2010 until at least January 2011.

Violence in the home: There were three serious acts of violence on his wife - one in November 2010, and two in January 2012.

(ii) *Whether any harm has been caused; the greater the harm caused, the more serious the misconduct becomes:*

- Sexual impropriety outside marriage is destructive of marriages.
- His wife was physically hurt by his vicious assaults. His sons came into the room on one occasion and were very concerned at what they saw.
- Scandalous conduct like the respondent's seriously damages the reputation of clergy in general and of the Church.

(iii) *Whether a respondent has readily admitted the misconduct and demonstrated repentance, remorse and a willingness to learn from past errors. An important factor in mitigation is where there is a frank admission of misconduct at the earliest opportunity, and an attempt to put right, in so far as possible, the consequences of the misconduct:*

- The respondent has shown neither repentance or remorse, and has displayed no willingness to learn from his errors
- On the contrary, the respondent has displayed defiance. His response to these disciplinary proceedings has been to bluster, with intimidation aimed in particular

at Bishop Robert Innis, Lord Justice Mummery the former President of Tribunals, and those giving evidence against him, by threatening to bring criminal proceedings against them in Belgium.

Sexual misconduct

- The Commission advises on page 5 of its penalty guidance that sexual misconduct is usually a deliberate and damaging failure to comply with the high standards of Christian behaviour required of clergy, and that clergy who commit sexual misconduct should be dealt with "*firmly*". Furthermore:

"Adultery is destructive of marriages, and is hurtful and disturbing for the children of the families affected... ..Removal from office and prohibition, either for life or for a limited time, are usually appropriate in cases of adultery. It does not, however, follow, that sexual misconduct falling short of adultery should automatically attract a lesser penalty."

- The Commission has not given guidance on the appropriate penalty for possessing pornography, other than child pornography.

Violence in the home

- On page 6 of its guidance the Commission states:

"The penalty for violence in the home will depend on the nature of the violence, and all the surrounding circumstances. Violence in the home is destructive of family life and damaging to the victims. It should not be tolerated, and removal from office and prohibition for a specific period of time or for life should normally follow."

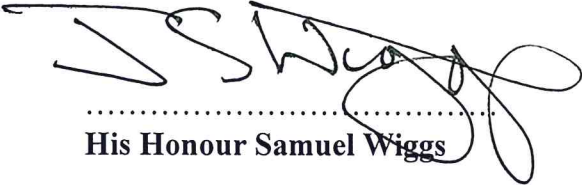
Penalties

- The Commission gives guidance about specific penalties:
 - 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."*
 - Limited prohibition: *"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.”

7. We find that the conduct proved was of great gravity. We also find that Professor Day has shown neither repentance nor remorse nor willingness to learn from his errors but has shown defiance.
8. It follows that we find that Prohibition for Life is appropriate as there is, as we find, no realistic prospect of rehabilitating Professor Day back into ministry because his misconduct was so grave. We also find that the lack of remorse or repentance contributes towards our decision that only Prohibition for Life is appropriate.

24 NOVEMBER 2016


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His Honour Samuel Wiggs


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The Reverend Canon Nicholas Ralph


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The Venerable Fiona Windsor


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Dr Neil Jones


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Mrs Claire McArthur