

**THE BISHOP'S DISCIPLINARY TRIBUNAL FOR THE DIOCESE
OF WINCHESTER**

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

**COMPLAINANT: THE VENERABLE PETER ROUCH, ARCHDEACON OF
BOURNEMOUTH**

RESPONDENT: THE REVEREND DOCTOR ANDREW HAWTHORNE

THIS MATTER having come before the Tribunal on the 15 October 2014

AND the Complainant's case having been found proved by the Tribunal for the reasons set out in their Judgment dated 26 November 2014 and the Tribunal having considered the submissions before it with regard to appropriate penalty

IT IS ORDERED (for the reasons set out in the Appendix to this Order) that:

- (1) The Respondent be prohibited for life from the exercise of any of the functions of his Orders in accordance with Section 24(1)(a) of the Measure; and
- (2) His name be entered on the Archbishops' List in accordance with Section 38 of the Measure.

Dated this 16th day of January 2015


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The Reverend Doctor Rupert Bursell QC (Chair)


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The Reverend Charlotte Gale


.....
Mr Martin Mitchell


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Mrs Heather Morgan


.....
The Reverend Canon Mark Roberts

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

Complainant: The Venerable Peter Rouch

Respondent: The Reverend Dr Andrew Hawthorne

Decision on Penalty

1. On the 26th November 2014 the Chair of this tribunal handed down its decision in relation to the complaint of the Venerable Peter Rouch against the Reverend Dr Andrew Hawthorne.
2. We regret that due to the intervention of Christmas and the New Year we have been unable to reconvene until today in order to consider the appropriate penalty in the light of our findings against Dr Hawthorne.
3. In addition to his written submissions dated January 2015 the Designated Officer, Mr Adrian Iles, once again appears on behalf of the complainant. Once again the Respondent and his solicitor have failed to appear to make any representations on his own behalf.
4. The Respondent's solicitor has sent a letter dated the 12th January 2015. That letter argues either that this Tribunal should consider the matters against the Repondent at a rehearing or that a different Tribunal should consider them at such a rehearing. As far as the former argument is concerned we are satisfied that we have no jurisdiction to rehear the matter save and in so far as the Court of Arches might direct us to do so; equally, any rehearing by another Tribunal could only be at the direction of that Court. The Tribunal therefore proceeded

to the penalty hearing.

5. In addition to the arguments as to rehearing the solicitor's letter requests that the Respondent's witness statement which the Chair of this Tribunal previously ordered should not be admitted into evidence at the substantive hearing should now be considered at the penalty hearing. In our written decision dated the 26th November 2014 the Chair set out the provisions of Rule 35 of the Clergy Discipline Rules 2005. He has now revisited that decision in relation to the penalty hearing. By reason of the overriding objective the Chair regarded it as immaterial that the Statement of Truth appended to the Respondent's statement is not strictly in accordance with Rule 35(3). He also took the view, by reason of the heading to Rule 35, that the provisions of Rule 35(4) applied to a statement sought to be introduced at a penalty hearing. On this occasion, too, the Designated Officer declined to agree to the Respondent's statement being put into evidence. The Chair reconsidered the matter of the statement's introduction in the light of the three medical reports which the Designated Officer has at the Respondent's request disclosed to the Tribunal. Those reports are dated the 27th April 2011, the 16th May 2011 and the 27th February 2012 (although the latest report has only one page) and state that the Respondent was then fit to return to work. In the view of the Chair, even bearing in mind that mental difficulties may fluctuate, these Reports give little, or no, support to the suggestion that the Respondent is today unfit to attend to give evidence; there is certainly no current medical report supporting such a contention. In these circumstances the Chair declined to admit the statement into evidence on this occasion also.
6. The solicitor's letter also puts forward a number of arguments in relation to the Decision that this Tribunal has already reached but in our view those matters are matters to be considered, if at all, by the Court of Arches on appeal.

7. The Designated Officer did not seek to add to the written submissions on penalty that he had placed before the Tribunal. In those submissions he drew our attention to paragraph 4 of the revised Code of Practice issued by the Clergy Discipline Commission which states:

'The purpose of the administration of discipline is to deal with clergy who are found to have fallen below the very high standards required and expected of them. For the individual member of the clergy who is subject to discipline, this involves:

- the imposition of an appropriate penalty
- pastoral support
- encouraging repentance and forgiveness
- whenever possible putting right that which is wrong
- attempting reconciliation
- moving on constructively from the past

There is also a wider picture in that 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 serve in the ordained ministry
- ensure the clergy continue to be worthy of the great trust that is put in them as ordained ministers by both the Church and the public.'

8. The Designated Officer also drew our attention to the decision of the Chancery Court of York in *Re the Reverend David King* (2008) in relation to a sexual matter. In that case the Court drew attention to the case of *Bolton v Law Society* [1994] 1 WLR 512 at 519 where the Court of Appeal observed that _

'the reputation of the profession is more important than the fortunes of any individual member.'

The Chancery Court added:

'The same principle is true of the clergy as otherwise the reputation of the church community ... would be taking second place to the personal interests of the members of the clergy on whom a penalty is to be imposed.'

In addition the Court of Arches said in *Re the Reverend David Gilmore* (2011) at paragraph 42:

'In its Remarks on Issuing Penalty, the Tribunal rightly said that the clergy of the Church of England are called upon to set a high standard of moral behaviour, and that the reputation of the Church in the community depends to a great extent on the example of the clergy, who should recognize their role as public representatives of the Church, and whose lives should enhance and embody the communication of the gospel. We agree.'

In our view none of this is affected by the fact that, since the commission of the matters complained of, the Respondent has become a member of the Personal Ordinariate of Our Lady of Walsingham established by Pope Benedict XVI. In reaching our decision we bear in mind that in the *Introduction to the Guidance on Penalties* issued by the Clergy Discipline Commission the Commission emphasises that _

'Any penalty imposed should be in due proportion to the misconduct,

having taken into account and given due weight to all material circumstances including the particular facts of the misconduct.'

We would also stress that we ignore the fact that the Respondent apparently regards the disciplinary hearing as a 'farce', save in so far as that comment throws light upon his attitude towards the behaviour of which complaint has been made.

9. In reaching our decision on penalty we bear in mind that the matters complained of were persistent and covered a considerable period of time, namely, from September 2010 to April 2012. We also bear in mind that the Respondent's behaviour was dishonest and deprived the Winchester Diocesan Board of Finance of approximately £26,000 and the relevant PCC of £135. In so doing he fell very far short of the high standard of behaviour expected of the clergy. We also bear in mind that he has at no stage shown any remorse nor, as far as we are aware, made any attempt to repay any of the money. Indeed, bearing in mind the Respondent's description of the disciplinary hearing as 'a farce' (in spite of the fact that he himself made no attempt to co-operate save to appear at the Directions Hearing), we find on a balance of probabilities that he has no remorse and that there is little, if any, likelihood of his repenting of what he has done. In these circumstances, even if the Respondent had not in practice joined the Ordinariate, we see no realistic possibility of the Respondent being able to resume normal duties of ministry even with appropriate pastoral and other support. Indeed, this conclusion also gains some support from the tone of the letters he has recently sent to the Bishop of Southampton, former clergy colleagues and some parishioners, although we bear in mind that tone may be affected by the matters referred to in the medical reports. (These letters are appended to the Designated Officer's Submissions on Penalty.)

10. In these circumstances, and with great regret, we have concluded that the

proper penalty in this case is one of prohibition for life.