

In the matter of a complaint under the CDM 2003

Before the Bishop's Disciplinary Tribunal for the Diocese of Oxford

The Venerable Judith French Complainant

and

The Reverend Timothy Davis Respondent

Determination of the Complaint

Preliminary

1. The Tribunal omits from this written determination the name of the 'W1' and 'W2' pursuant to CDR 50(4) (a) and (c). The Tribunal also makes an Order that the identity of the 2 witnesses referred to in this decision as 'W1' and 'W2' should not be identified by anyone pursuant to CDR 49 (a) and (c).

Introduction

2. The Archdeacon of Dorchester has submitted a complaint pursuant to Rule 4 of the CDM dated 22/1/16 against Reverend Timothy Davis ('TD'), Vicar of Christ Church Abingdon, in respect of the mentoring he provided to a 15/16 year old school boy ('W1') whose family were members of his congregation. The complaint is that from the end of 2011/beginning of 2012 TD began to mentor W1 with such intensity and in such a manner that he was in breach of safeguarding procedures both of the national Church but also of the parish and that this amounted to spiritual abuse and thereby he is guilty of misconduct.
3. The complaint was reviewed by Sir Mark Hedley, Deputy President of the Tribunal. He decided on 23/1/17 to refer to the Tribunal the allegation of abuse of spiritual power or authority in relation to W1. He sets out his reasons at p 1-5 of the bundle. The charge is at p 6. and is as follows:

" The Respondent Timothy Davis was between January 2012 and September 2013 guilty of conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders through the abuse of spiritual power and authority over W1 then a person aged 15-16 in that:

1. throughout the said period being engaged in a mentoring so intense that W1 was put under unacceptable pressure having regard to his age and maturity and was deprived of his freedom of choice as to whether to continue with the same

2. on occasions too numerous to particularise during the said period was in breach of the safeguarding requirements by being alone with W1 whether in his house or in the vicarage or other places and on occasions deliberately touching him albeit not in a sexual manner

3. under the guise of his authority sought to control by the use of admonition, Scripture, prayer and revealed prophecy the life of W1 and /or his relationship with his girlfriend

4. under the guise of his authority procured and retained the consent of W1's parents to this relationship

5. throughout the said period failed to have any regard to the propriety of the said conduct and/or its effect on others and in particular on W1.'

4. We heard the complaint at Southwark Cathedral between 13/12-15/12/17 and received the following evidence in support of the complaint:

(i) the Archdeacon of Dorchester

(ii) Bishop of Dorchester,

(iii) W1

(iv) W2 (W1's mother)

(v) Revd Jitesh Patel, who had been the curate at Christ Church during the relevant period .

5. The Respondent (TD) gave evidence having lodged a witness statement 13/10/17 p247-255 and by his response on 30/6/16 p 121-141. Additionally, we received character references from Dr James Annis dated 27/6/2016, Revd Graham Shaw dated 26/6/16. There were additional references submitted from Janice Gordon 26/6/16 and Revd Dr Peter Walker 23/6/16 all of which we have considered.

6. TD has also submitted 1 report and some written answers to questions from a psychologist Mr Stephen Bushell dated 12/10/17 and 9/11/17. Mr Bushell is treating the Respondent. No other medical evidence was submitted. After final submissions the Tribunal received at 1430 on 15/12/17 2 medical notes signed by a GP dated 31/1/17 and 23/11/17. This was the only medical material submitted by TD in this case.

Legal framework.

7. By s 8(1) of the Clergy Discipline Measure 2003 (CDM) as amended disciplinary proceedings may be instituted against a clergyperson in respect of an allegation of any act or omission which includes

"(d) conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders"

At s 43 of the CDM, 'misconduct' is defined to be any act or omission referred to in Section 8(1) of the CDM. A 'child' is defined as a person under 18.

8. By Clergy Discipline Rules 2005 (CDR) rule 35 a party may submit witness statements. By s 18 of the CDM the standard of proof is to be the same as operated in the High Court to the civil standard.

Professional Framework

9. The Guidelines for the Professional Conduct of Clergy (divider 4 materials bundle) set out the proper approach of clergy to pastoral care. At para 2.8 the place of the meeting and the appropriateness of visiting or being visited alone at night needs to be assessed with special care. It goes on:

“ the clergy should recognise the importance of knowing themselves and their own emotional needs”

10. Para 2.9 notes that it is essential that appropriate physical, sexual, emotional and psychological boundaries are acknowledged. 'Inappropriate touching or gestures of affection are to be avoided'. At para 3.2 the power of clergy over others is identified and it is noted that this power must not be used to bully, manipulate or denigrate. Para 3.3 requires the clergy to be sensitive to situations in which they are placed especially with regard to pastoral care of children, young people and vulnerable adults.

11. At paragraph 3.6 it is noted that spiritual authority must always be exercised with gentleness and sensitivity and the minister should be aware of the possibility of spiritual abuse. In para 3.7 and 3.8 pastoral care by the clergy should never seek to remove autonomy from a person nor should power be exercised inappropriately.

12. The Cof E Policy for Safeguarding Children 4th edition 2010 'Protecting All God's Children' (divider 5 materials bundle) discusses spiritual abuse at para 3.34-3.36. Although there is no statutory definition of the term, it states that within faith communities harm can be caused by inappropriate use of religious belief or practice which can include the misuse of authority of leadership, penitential discipline, oppressive teaching or intrusive healing and deliverance ministries.

What is alleged.

13. W1 was born on 13/10/96 and was aged 15/16 during the period of the complaint. TD is in his 50's and has been a priest for over 25 years and before that a teacher and youth worker. In September 2011 the youth pastor, Matt Luscombe at Christ Church Abingdon set up a mentoring scheme and the TD accepts that he mentored W1 from January 2012 to September 2013. During that period he moved into W1's family home from March (TD says April) to September 2013 before moving out after being asked to do so by the Bishop of Reading following concerns from parishioners.

14. The parish mentoring scheme documentation is at p 49-68 which included the following:

(i) all mentors must abide by 'our Safeguarding or Child Protection Policy' at all times when meeting with young people

(ii) each mentor has been given a copy of the CPP which states 'please read this important document'

(iii) the mentor should meet with mentee at least once a month for 1 hour although 'you can do more'

(iv) the mentor team should be told if and when the mentor is meeting the mentee and to keep records of the meetings.

(v) an adult should not be left alone with a child/young person where there is little or no opportunity of the activity being observed by others

(v) avoid if possible being alone in a room with a child/young person without another adult nearby: doors should be left open. It is better to meet in a public space like a coffee shop/Mcdonalds/park bench. 'Caution is always required'

(vi) avoid counselling via text/email or Instant Messaging or phone.

15. The parish had Guidelines for Working with Children and Young People (p 83-86) which set out the safeguarding requirements which are reproduced in the mentoring documents. TD confirmed in his evidence to us that he was aware of this document. Additionally he told us he was aware of the terms of the Church annual report at page 176 where safeguarding was discussed in these terms:

" Safeguarding is not just about paperwork and processes, but it is an attitude of mind which seeks always to be on the look out for the very best prospects for all the children, young people and vulnerable adults who come into contact with church activities"

16. He agreed he was sometimes Chair of the PCC and he was aware of the policies which were to be applied. He agreed that p 84 (guidelines for safer working practice) were the practical application of the Safeguarding policies.

17. In January 2012 W1 told us that he met TD at his home at first in the living room but TD told him that they could do without the formal mentoring book and instructions because he wanted to be more friends than mentor/mentee with W1. TD told W1 that the mentoring should increase to every other Tuesday. They met in the living room for a couple of times, but TD then suggested that the room was not suitable because it was too public and if they wanted to share things they ought to go to W1's room. This is what happened. The meetings lasted 2 hours or so. During the meetings they studied the Bible and prayed for each other. During prayer they laid hands on each other's head, shoulders, chest and back. They also played a 'trust' game whereby one of them would fall backwards to be caught by the other. W1 said that before TD moved in with them in March 2013 he spoke to W1 on the phone every Sunday evening after Youth Group and the contact grew further until it was daily contact studying the Bible, praying for each other for up to 1.5 hours per day.

18. W1 told us that he found this too intense but he found it impossible to tell TD that he wanted less contact. He told us that TD became angry if W1 did not ring him or respond to his texts and he would say that this is not what friends did. At times TD was in tears in the presence of W1 who told us that TD was ill.

19. By March 2013 TD had moved in with the family. W1's mother (W2) worked at the church and was a new member of the congregation and appears to have welcomed the opportunity to support TD whom she believed to be lonely and unwell. W1 told us that once TD had moved in the daily phone calls stopped. However the pressure remained intense. TD came on holiday with the family to Crete in July 2013. After concerns had been raised by church members about the intensity of the contact between W1 and TD which led to the involvement of the Bishop of Reading, TD moved out of the family home in September 2013 (the end of the complaint period). W1 and his mother W2 told us that when this happened they were very angry at other members of the church making these complaints and bringing this situation about. W2 agreed she had sent the email which was written with her husband (p119-120) on 19/10/13 and W1 also told us he became aware of it. W2 told us that TD himself had suggested that it would be helpful if this email was sent to the Bishop. This email from W2 and her husband is very supportive of TD and protests about the unjustified complaints made by others in the church about TD's contact with their son: they supported the contact TD had with W1. In the email she accepts that TD prayed with W1 in his bedroom but that because of the configuration of the house 'everyone passes by and the door is open'. She repeatedly refers to TD as their friend.

20. This email was put by Mr Gau on behalf of TD to W2 as well as W1 in part. Mr Gau asked whether this indicated that she supported TD mentoring her son and that there was nothing wrong with what was happening. W2 explained to us that at that time she felt trapped in a situation in supporting TD. She knew he was ill and had noted that he had said that he was worried about what he would do. She felt it difficult to challenge him for a number of reasons: (i) he was her boss (ii) he would back up everything he said with Scripture and (iii) he made it clear that God wanted his relationship with the family and the mentoring of W1 to continue. She explained that at the time *'she was scared of going against God and not supporting TD'*. At the time they spoke to another clergy person in the

church who said that he was unable to speak to them about TD- we understood that to mean that the other clergy person did not want to get involved in something which might lead to conflict with TD. W1 told us when asked about this email that *'it was how we felt we needed to portray it'*. He referred to a fear of *'retribution'* and an angry response if he crossed TD. This was the environment they were in with TD, he said.

21. W1 states (para 26 of his statement p222) that his experience in being mentored by TD was *'awful'* as it was all consuming and *'I felt I could not challenge it'*. W1 stated that TD said to him (at para 15 p220) that he wanted a *'friendship'* with him. He would tell W1 that he would tell W1 everything because *'we were friends'* (para 27 p223). In his evidence he said that he felt TD was always pushing for more with conversations about *'layers of friendship'* and W1 did not want to give that level of friendship. In evidence W1 told us that TD told him that he was unwell and ill and felt very lonely and that W1 was one of the few proper friends that he had.

22. There were a number of specific aspects of the mentoring which W1 and W2 dealt with and which were referred to by others:

(i) the use of the bedroom for prayer and worship and being on his own with W1:

W1 was emphatic in his evidence that the door of his bedroom was always shut when they were in the room together and that the configuration for the house was that the living room was not beneath his bedroom and therefore no one would be close by outside or downstairs. He told us that sound could not travel elsewhere through the closed door. The living room was a separate room elsewhere. He said that time was always found by TD for the mentoring whatever else was happening in W1's life. So when he returned home at 11pm and had school next day there would be prayer with TD before going to bed and also prayer in the morning. No exception was permitted because TD told him that *'God was saying that is what I should do'*. There were hugs which W1 denied initiating : he said that he found them uncomfortable. They were prolonged and occurred when TD was emotional and crying. In prayer there was a laying on of hands by TD (hand on chest and shoulder and then hugs). During his revision for GCSE's TD insisted on being in the bedroom with W1 and at times sat on the floor. At the time W1 thought this was strange but he did not challenge it and TD did not disturb him. W1 told us of the time when he and TD were in his bedroom *'before the parents were home'* looking at exhibitions to see on a trip to London on W1's computer. TD suggested doing something else in London and W1 suggested the theatre: before W1 knew it, he told us, TD had booked and paid for 2 tickets for Les Miserables noting 2 seats were left in the front row which indicated that God approved of this. W1 told us that TD would play snooker and table tennis alone with him in the basement of the house.

(ii) TD would get angry and would use references to God's will being done to reinforce the mentoring : when W2 had agreed to take TD to the airport at 5am he wanted W1 to come too. After his mother said that it was ridiculous for him to come too that early in the morning and he said that he was not going, TD was angry with

W1 and 'had a go at me' and asked him 'what are friends for?' He would be angry if W1 did not come to an evening service because of being with his girlfriend. W1 said in evidence that TD asked him for feedback about the mentoring and he told him he was happy with it but 'I was too scared to give any other answer'. TD had made it clear to W1 that his belief was that God wanted this mentoring to continue and therefore W1 told us if he said he did not want it then he would feel he was going against God. W2 told us that TD asked for feedback from her and W1 about mentoring and she agreed that she did ask W1 about the mentoring. However she told us

" there was no way I could have told him that the mentoring should stop. We were frightened of the consequences to Tim and what God would do..... Tim was saying things that were scaring me. It was not the God I knew"

She told us that TD would say that he was God's anointed and a person had died because he did not do something that TD wanted. She said that if you did not get the right present for TD he would take it as an affront: W2 told us that he would say that it was clear that they had not involved God properly in their decision because the present was wrong. She gave an example that TD told her concerning someone giving him some wine which he did not like and saying that if they had prayed to God they would have got the right wine. TD denied that he had ever received a gift of that kind in his ministry. W2 was emphatic that he said this to her and when challenged about it she said that if what he said to her was not correct (in that he had never received such a gift) then he must have said that to emphasise God's closeness to TD as part of his control of W2.

(iii) TD did not approve of W1's relationship with his girlfriend and with her family: W1 states in his statement (para 21 p221) that TD was negative about his girlfriend seeking to limit the time they saw each other. He would pick W1 up from her house to take him back to the Vicarage for bible study and discussion. W1 told us that TD described the family of his W1's girlfriend as 'evil' and his girl friend as 'bad seed' quoting passages from Matthew's Gospel about bad fruit. W2 referred to a text she received from TD referring to the family as 'evil poisoners': this was at New Wine Festival in August 2014 which falls outside the period of the complaint. However we can take this evidence into account as capable of corroboration of the evidence of the tone and content of what TD was saying about the girlfriend's family between January 2012-September 2013.

23. Revd Patel was the Curate from 2010- 2014 and thereafter an associate priest until 29/9/15. Following the raising of concerns about the relationship between TD and W1 and TD leaving the home of W1 and W2 in September 2013 (which is the end of the period of the complaint), a group was set up in the church that met TD twice a month to 'support and challenge' TD about the events that had happened with that family and where he could pray. Rev Patel stated in his statement (para 10 p 233) that during those meetings TD stated (i) during the time he was living at their home he spent time alone with W1 in his bedroom

every night engaged in bible study and discipleship (ii) before moving in with the family there was a period when he rang W1 every night for up to an hour at a time (iii) he had daily personal discipleship time with W1 at New Wine August 2013 in his caravan with another person present.

24. Revd Patel also gave evidence of how TD could '*explode with anger*' with him about issues unrelated to W1/W2. However as a result of these responses Rev Patel chose not to risk situations which might cause an angry reaction: he described himself in his evidence as someone with a 'victim' reaction to TD. Although what happened between TD and Revd Patel in respect of the evidence of 'anger explosions' does not form part of the terms of the complaint before us, the evidence of TD's anger and the fear that his curate felt as a result, is capable of corroborating what W2 (and to a certain extent W1) speak of in their evidence of TD in the period of the complaint, in terms of his anger if crossed and their fear of him.

25. Following what had been disclosed by TD in the meetings (set out at para 23 above) Revd Patel went to see the Bishop of Dorchester. This must have been at some point after TD went on sabbatical in January 2015. Bishop Colin Fletcher's witness statement (p 285) explains that after these matters were drawn to his attention he asked TD (with a friend) to meet him with the diocesan safeguarding adviser to discuss these matters, which they did. Following the meeting Bishop Colin sent the email 26/5/15 (p142) for wide circulation to the Christchurch clergy and churchwardens. By that email Bishop Colin told us he wanted to confirm that TD could continue to function as Vicar but that he wanted a careful investigation without prejudging the result. He told us that both TD and his friend (Mark Withers) were aware that the matter was being considered by him in this way. Having considered it further he decided to ask the Archdeacon to investigate and decide whether a formal complaint should be taken forward. He explained that his email p 288 dated 13/8/15 makes clear that the matter was now under investigation by the Archdeacon and that his email 26/5/15 was not as described by TD at para 4 p248 of his witness statement. In that paragraph TD states that this email of 26/5/15 followed the Bishop's examination of the mentoring and staying with W1's family '*with the conclusion being that I had not done anything wrong*'. Bishop Colin told us that it was made clear at that meeting that this was not correct and this is confirmed by the email 13/8/15.

The Respondent's case

26. TD states at p1 of his witness statement that he is '*shocked and confused*' about the allegations and expresses his view that he had '*no idea of the effect that I was apparently having – there was simply no suggestion of it at the time*'. He accepts that '*with the benefit of hindsight*' that he had made errors of judgement in relation to current safeguarding protocols. He relied upon the positive feedback that he was getting for his mentoring of W1. Elsewhere in his witness statement he states in all his ministry since ordination in 1991 there has never been any allegation or concern of the type alleged in this case. He relies upon the email 26/5/15(p142) from Bishop of Dorchester as indicating that he was happy for him to

return to his work in the parish with self imposed boundaries, and that the outcome of his meeting with the Bishop was that he had done nothing wrong.

27. He explained that in February 2012 (ie a relatively short time after the mentoring with W1 began) he became unwell: he kept bursting into tears. He was given the name of a counsellor and he saw a Baptist minister with a healing ministry because he '*was floundering and did not know what was going on*'. In his evidence he told us that he saw the counsellors in November 2012. He told us that he had been diagnosed with PTSD arising from the circumstances in which his mother was nearly killed in car accident which he witnessed when he was 7, and the effect of the stillbirth of his elder brother has had upon him. We note that no medical report has ever been submitted by TD from a psychiatrist with any psychiatric diagnosis. Reports from the treating psychologist Mr Bushell are included within the papers but he is not a doctor and cannot make a medical diagnosis and does not purport to do so. The 2 medical certificates TD submitted at the end of the hearing were from his GP

(i) dated 31/1/17 : off work from 31/1/17-31/5/17 for 'intensive counselling for PTSD type symptoms'

(ii) dated 23/11/17: off work from 23/11/17 – 1/3/18 for 'PTSD'.

This is the limit of the medical evidence served by TD in this case. We note that TD states at para 6 of his statement (p 248) that he was diagnosed with PTSD in September 2016 but that diagnosis, and who made it, and in what terms has not been shared with us. We cannot accept these GP notes as replacement for a psychiatric opinion and diagnosis.

28. TD accepts that the mentoring of W1 took place in his bedroom which was more suitable than the living room '*which was not within earshot of anyone in the house*'. They used the bedroom '*because it was closer to the centre of the house*' and '*more visible to the rest of the family than the living room*'. He states that the door was always open. They either sat on the floor or stood and prayed together. TD states (p126) that the youth pastor and the parish assistant had visited W1 and been in his bedroom (to see his football poster collection) and so TD did not think that the '*bedroom was out of bounds*'.

29. TD's evidence (p 126) was that the mentoring settled down to fortnightly pattern meeting on Tuesday afternoons after which W2 would then invite TD to stay for supper. He states (p131) that he had stayed at the family house for 3 or 4 nights during snow in January and February and thereafter W2 invited him to move in. He states that he '*resisted*' the invitation and then accepted it in April '*as the company was welcome*'. He believes that the PTSD was '*overwhelming*' at this point. He accepts that he was concerned about the propriety of living at W2 family home and asked Matt Luscombe the youth pastor, whether '*I should continue to mentor W1 in these circumstances*'. He says that he did not receive a reply and '*if he had done so, perhaps some of this [ie this case] would have been avoided*'. TD states that this confirms that he was aware of '*the possibility of a blurring of lines*' but all he had to go on was the encouragement of W1's parents to carry on with the mentoring.

30. In his evidence to us he was questioned about the detail of the mentoring he was providing to W1 at this stage. He denied having a special relationship with W1. He accepts there were daily phone calls for a 'short time' in which they read Scripture and tried to memorise a verse. He identified a convenient time for bible study (5.50 pm just before supper) but W1 kept forgetting and so TD would text him with reminders but eventually in December 2012 TD states they 'rang each other up' when school was ending. The telephone calls lasted 5-10 minutes but were sometimes longer. He did not remember telling Rev Patel that the conversations could last 1 hour (Patel p 234 para 10): he must have misheard or misinterpreted what TD said. TD was asked about Rev Patel's recollection that TD had said that he went to W1's bedroom every night and TD denied this was the case. He also denied W1's evidence was correct when he said there were long sessions of mentoring every night in his bedroom with the door closed.

31. However what TD said to us was this:

“ W1 was engaged in revision for GCSE's. We stopped every night bible study when he was revising'.

By this answer TD appears to accept that there had been a period when the bible study in the bedroom was nightly and only stopped during the revision period (which would have been May/June). Thus if he moved in in March (or April as he says) he was undertaking nightly mentoring for that period. TD accepts that he was in W1's bedroom when he was revising in May/June when there was no bible study/mentoring happening – TD says he was helping with revision. W1 states TD was in the bedroom too during this period whilst he was revising. We note that at p 250 of his statement TD says that W1 asked for the mentoring to stop in the summer holidays which according to TD it did: but TD says that it then restarted at the beginning of term (when TD asked him if he wanted to continue with it). However, according to TD, this was just before he moved out in September 2013 and the mentoring then stopped. The end of the period of complaint is September 2013. Thus even on an analysis of TD's own account (which we do not accept) he was spending a significant amount of time in W1's bedroom on his own with him either mentoring/Bible study or during revision.

32. We note that TD states in his statement that the mentoring stopped in the summer when 'I went away on holiday': in fact he joined the family of W1 on holiday in Crete in July. When pressed, TD accepted that ' it would not have been right to spend long sessions in the bedroom but it did not happen '. However, he did accept in re-examination that he had been helping W1 with is revision in his bedroom (at W2's encouragement): this was consistent with W1's evidence on this point.

33. He also accepted that he had been at the Vicarage with W1 alone to see 'Gladiator' on his Blu-ray and on another occasion when W1 helped him move some books; they went to London to see Les Miserables together and he went to the cinema with W1 twice in Didcot; he denied going to a restaurant with W1 in Oxford (something that W1 said happened). They had used the trust game (of falling backwards and being caught) when mentoring but he had

only done this once and he now understood that this should not have happened. He was asked why in his statement at p 129 he stated that he did not recall playing the trust game with W1 (whilst stating it was likely that he did). He told us that he now accepted that he did do this.

34. When asked about p 84 parish Safeguarding Guidelines for Safer Working Practice bullet point 5 *'in a counselling situation with a young person... avoid being in a room alone with a young person without an adult nearby..'* he stated that what he was doing with W1 was not a counselling situation but simply reading the bible – to see if W1 could get into the habit of reading it. When they were together in the bedroom they worshipped and prayed together where W1 would play his guitar. TD told us that when he and W1 prayed together they stood with their hands out and would say the Lord's Prayer. He would touch W1 during the prayer with his hand on his back/shoulder (as he demonstrated) *' a handful of times'*. He accepts hugging took place but only in the context of celebrating GCSE results and on one occasion when W1 hugged him and said thank you. It was not true that he gave W1 prolonged hugs and was in tears.

35. He told us that W2 knew that he was unwell and he was in tears with her on occasions but he was not in tears with W1. At para 10 (p249 statement) he states *' I did everything I could to shield W1 from my illness and trying my best to avoid him seeing me struggling to cope or breaking down in tears. I did not go through with him why I was ill'*. He remembers one occasion when he was so overcome with grief that he went outside into the garden shed *'to avoid his distress being seen by W1 and his sister'*. W2 had a recollection of this incident.

36. TD denied that there was an imbalance between him as a 50+ Vicar leading a large church and W1 a 15 /16 year old school boy: he said that he kept his role as minimal as possible and always asked for feedback. He denied expressing any negative view of W1's girl friend or her family. However he did accept to sending a text to W2 about the family of W1's girlfriend in which he had used the word *'poisonous'* but he said that it did not relate to the family in question but just to the surrounding circumstances. He denied sending a text describing them as *'evil poisoners'*. He accepted in evidence that at para 3 of his statement at p 137 he stated that he did send a text to W2 using the word *poisonous* which *'is a reference to Matthew 19'* (but this reference was not further explained).

37. In respect of Revd Patel's evidence about a conversation about whether persons were demonised in his congregation, he accepts that such conversations did take place but it was Rev Patel who raised this with him and not the other way round

Determination

38. In our analysis of the evidence we found W1 to be a truthful and reliable witness who was anxious to provide us with all relevant detail and did not exaggerate or seek to enhance his evidence. He felt strongly about what had happened to him and at times needed a moment to keep his emotions in check. W2 was also a credible and reliable witness who at times was

overcome by her emotion. TD also at times found it difficult to control his emotions. We regret to find that we found his evidence unreliable and where there was a conflict of fact between him and W1, W2 and Revd Patel, we preferred their evidence to his. We took regular breaks during the hearing to ensure that TD was able to participate and so that so far as was possible, he was not overcome by emotional feelings. We remind ourselves that it is important not to allow ourselves to be drawn into a sympathetic response to any witness who is having difficulty in recounting evidence through their emotion or upset. Our task is to analyse and judge the evidence dispassionately, whilst of course taking into account the emotions and responses of the witnesses as they give their evidence

Particular 1

Throughout the said period being engaged in a mentoring so intense that W1 was put under unacceptable pressure having regard to his age and maturity and was deprived of his freedom of choice as to whether to continue with the same.

39. We are satisfied that this has been proved on the balance of probabilities. We accept the evidence of W1 that the frequency of the ‘mentoring’ was never less than every 2 weeks and that TD said at the first meeting that once a month was not enough and that ‘*we did not need to follow the guidelines*’ (para 4 W1 statement). We do not accept TD’s evidence that the meetings only became fortnightly from March. We find that it took place almost immediately in the bedroom with the door shut as W1 told us. We found TD’s explanation for the use of the bedroom unpersuasive: he told us in his statement that it was chosen because it was nearer the centre of the house and more visible to the family than the living room (ie the use of the bedroom was to enhance contact with others). In fact we accept the evidence of W1 that the bedroom was more isolated and cut off from the rest of the house and that the living room was not immediately below the bedroom. Even if TD had heard (as he says) that 2 members of the ministry team had been into W1’s bedroom to look at his football posters he should not have regarded that as making it permissible for him to mentor/bible study/pray with W1 in the way he did so intensely and frequently in his bedroom alone. From his outline argument TD suggests that it was a spontaneous suggestion by W1 that they use the bedroom after W1 had showed TD his football posters. We do not accept TD’s evidence on this: we accept W1 evidence that it was TD who suggested the bedroom as a more private place than downstairs (para 5 W1 w/s). We accept the evidence of Revd Patel about what TD said about this in the meetings they had after September 2013: as noted above although this is outside the period of the complaint, it deals with what TD has said to others about what happened during the period of the complaint. We accept that TD said to Revd Patel that he would spend time alone in W1’s bedroom every night engaged in Bible study and we reject TD’s evidence that Revd Patel must have misheard or misinterpreted what TD said. The Revd Patel recollection of what TD said is consistent with what W1 says happened.

40. We accept the evidence of W1 of the intensity of the contact which grew until eventually there were daily telephone calls studying the bible and praying for each other for over an hour on the phone. The phone calls fell away when TD moved into the home in March/April because as W1 told us the need for the calls was no longer necessary because he

was always there. Again, we accept the evidence of Revd Patel that TD said this to him and others at meetings after September 2013 which corroborates W1's evidence.

41. The content of the sessions lasted up to 2 hours and involved prayer, bible study and worship (TD accepted this was the content but not the length). We have no doubt that TD made it clear that he believed that God wanted the mentoring relationship to continue and we accept what W1 told us that this made it impossible for him to say to TD that he wanted less contact. We remind ourselves that at this time W1 was 15/16 doing his GCSE's and TD was a Vicar in his 50's leading a very large and successful Church: the imbalance in the relationship is obvious and it is of grave concern that TD could not see that at the time, nor recognise it now. W2, W1's mother, also spoke of how TD invested the will of God in the relationship he had with the family in broad terms, and her fear of what would happen if she crossed TD and thereby, in her understanding at the time, crossed the will of God.

42. TD accepts that from February 2012 he was unwell with feelings of emotion and grief sometimes being overcome by tears. He accepts he talked to W2 about this. He told us that he never spoke to W1 about these emotional feelings although he accepts that W1 and his sister '*would have known I wasn't very well*' (p.259 para 1). He told us that he had left the house when all the family were there and broke down in a garden shed so that W1 and his sister would not see him upset. In our judgement W1 knew at the time that TD was unwell because it would have been quite obvious to him living in the house with him and spending so much time with him. W1 explained that his illness was one of the reasons why he felt unable to risk upsetting him by telling him he wanted less contact. It would have been obvious to W1 that TD was in a state of emotional turmoil and we have no doubt that this turmoil was displayed during the lengthy prayer sessions that TD had with W1 in his bedroom. We do not believe that TD would have been able to constrain his emotions at this time. We accept the evidence of W1 that at times TD was in tears during prayers and that he hugged W1. Both W1 and TD spoke of prayer involving physical contact: we are satisfied that physical contact during prayer in the way described by W1 was regarded as normal in this charismatic tradition. However, what is normal in prayer with groups of people or within church worship, is a clear breach of safeguarding when carried between W1 and TD in a bedroom in the circumstances that we have found existed. We find that the 'trust' game of falling backwards into the arms of someone else was played: we accept the evidence of W1 that TD told him that this illustrated how they should trust each other. TD accepted this game was played once. We are satisfied it was played more than once. We note that at para 26(vi) p 265 TD accepts there were '*occasional hugs which came about naturally*'. We are satisfied that TD is minimising the level of physical contact that took place in these prayer/praise sessions.

43. In making these findings we want to make it clear that there has been no suggestion at any time that there was any sexual touching and we are satisfied that none took place at any time.

44. The mentoring relationship involving prayer, and exploration of W1's faith were intense. TD accepts this :see p 263 para 2: '*No doubts periods of prayer and exploration of W1's faith were intense but he is a bright questioning person who welcomed this*'. We are satisfied that

W1 was overcome by the intensity of what TD was doing who was dominating W1. We are satisfied that given the imbalance of ages and the spiritual authority used by TD to promote their relationship, W1 was inhibited in the exercise of his freedom of choice as to whether or not this relationship should continue in this way. We accept that W1 was a bright and articulate 15/16 year old who felt able to deflect TD's arguments that he tithe £100 to the church and was able to give it to another charity of his choice, and he also maintained his relationship with his girlfriend notwithstanding disapproval from TD about that, but he was plainly inhibited from saying that he did not want the mentoring to continue as it had done. W1 told us that he found it all too intense and '*found it impossible to tell TD that he would like less contact*'. The fact that he could not tell TD this is evidence of the domination of TD over W1 at this stage.

45. The reaction of W1 and his family to TD leaving the family home in September 2013, as shown by the email written by his parents on 19/10/13 (p119-120) is evidence of the power that he was exerting over the family. W2 explained how TD had said that it would help if such an email was sent. W2 explained her email by telling us how difficult it was to challenge TD: he was their Vicar and they trusted him. She explained how they felt trapped as a family although she accepted that when she wrote the email she was very angry at people who had complained to the Bishop about TD living with them. It was only after TD had moved out and a year had passed that she realised '*that his behaviour was not right*' (para 19 p228). This also coincided with her better understanding of how W1 had struggled with the intensity of the mentoring between January 2012 -September 2013. This evidence corroborates that W1 had his freedom of choice up to September 2013 inhibited in the way that we have found.

Particular 2

On occasions too numerous to particularise during the said period was in breach of the safeguarding requirements by being alone with W1 whether in his house or in the vicarage or other places and on occasions deliberately touching him albeit not in a sexual manner

46. The findings we have made of Particular 1 above and the accepted visits of W1 to the Vicarage and the trips to the cinema and to London are proof of this. We accept that W1 was taken to a restaurant in Oxford called 'Mission Burrito' by TD, which he denied. We think that W1's recollection of the name of restaurant he was taken to by TD is powerful evidence that this happened.

47. The relevant parts of the parish safeguarding policy were breached (not being alone/wherever possible have 2 adults present/ avoid being in a room alone with a young person without another adult nearby/ doors should always be left open/avoid counselling over the telephone) and the Model Code of safer working practice A5 Protecting All God's Children (p63 tab 5 materials bundle).

48. We do not accept that any lack of training in safeguarding by TD could justify breaches of these guidelines/code for the following reasons.

(i) we note TD is an experienced pastor in his 50's: he is not someone without experience of pastoral care.

(ii) he appears to have been concerned about what he was doing and raised it with others thereby indicating awareness of the issue: In his evidence he refers to a conversation he had with the youth pastor after he moved in to the family home questioning whether he should continue to mentor W1 being '*aware of the possibility of blurring the lines*' (para 29 p 267). He seems to blame Mr Luscombe for not responding to him about this and suggests that if he had '*some of this could have been avoided*'. We are satisfied that any experienced pastor would understand the inappropriateness of the mentoring that he was undertaking in terms of content and location, and the terms in which he refers to Mr Luscombe's failure to respond to him is an attempt to minimise his own culpability.

(iii) the Church of England safeguarding materials are widely available and the lack of compulsory training at that time cannot justify a clear breach of safeguarding in the context of this case. Voluntary training was available and widely undertaken as the Archdeacon told us: she said that the Oxford diocesan training was '*fit for purpose*' at that time having undertaken a course herself .

(iv) TD told us that he had been appointed to the Board of Mission for the Diocese as a Bishop's appointee: this Board had responsibility for safeguarding. He explains at para 52 p 275 how keen he was for clergy to be trained in safeguarding. With this alertness to the importance of safeguarding we cannot accept his arguments about his lack of safeguarding training as an explanation for what happened.

Particular 3.

Under the guise of his authority sought to control by the use of admonition, Scripture, prayer and revealed prophecy the life of W1 and /or his relationship with his girlfriend

49. We are satisfied from the evidence of W1 and W2 that TD did use Scripture to support his viewpoint in conversation with others. He told us that if people ask him if the Bible has something to say '*I try and remember what it says and say that I will come back to them*'. He will respond if someone asks them something as Vicar, but everyday conversation is '*just ordinary conversation*'. In evidence to us he denied using Scriptural references in normal conversation. However we note at p273 para55 his statement reads '*Whilst I do make biblical references in conversation with people sometimes, I have never done so in an attempt at manipulating or intimidating people*'. We note at p 137 para 3 he accepts the use of the word '*poisonous*' which '*takes into account*' Matthew ch.19 (this chapter deals with Jesus' teachings on divorce, the children coming to Him and the question from the rich young man). He denied ever saying that he was God's anointed.

50. The evidence of W1 and W2 was that TD did say that God was saying that contact should increase and that God had put them on a fast track to '*have a special relationship and so they had to prioritise it*' (W1: para 24 p 222). We accept that W1's recollection is right about

this and TD was minimising his use of Scripture and divine revelation in his evidence to us. In particular we accept that he disapproved of the relationship that W1 had with his girlfriend and did use the language of ‘bad seed/bad fruit’ that W1 remembers. TD has accepted sending a text to W2 in which the word ‘poisonous’ was used. We are satisfied that this was not a description of background circumstances but a characterisation by him of the girlfriend’s family. We are satisfied that he spoke to W1 in these terms (as set out at W:para 24 p232) about his girlfriend and the need to disassociate from her: he used biblical language and theological arguments in this and sought to influence W1 in this way. We note that TD accepts that the topic of W1’s relationship with his girlfriend was something discussed between them (see TD statement p 251 para 14 bullet point 1) although he says that he supported the relationship and did not seek to undermine it. We accept the evidence on W1 on this topic. We are satisfied that Particular 3 is proved.

Particular 4

Under the guise of his authority procured and retained the consent of W1's parents to this relationship

51. It is clear from the evidence that W2 welcomed TD into their home to support him and also because she believed that he would be a good influence on her son. She was a new Christian and had recently started a job at the Church as the prayer co-ordinator. We accepted what W2 told us about the influence that TD brought to bear on her and how his use of his spiritual authority and scriptural references caused her to fall in with what he was saying. We also accept the evidence that she feared TD to some extent both in terms of his own anger but also in respect of how he depicted God might react if she and her family did not support him in the way he wanted. There was some disturbing evidence given by W2 about something said by TD about someone dying because they had crossed him. Revd Patel also gave evidence about things said by TD about people in the congregation possibly being demonised. TD agreed that there had been such a conversation with Revd Patel but told us that it was Revd Patel who initiated this, not him. We are satisfied that TD did say these things to W2 and Revd Patel as they state. A theme of Revd Patels’s evidence in his statement is how he felt manipulated by TD through his curacy. Although how TD and Revd Patel interacted falls outside the scope of this complaint, this is relevant background indicating how TD interacted with those around him, particularly W2 and provides context for the evidence about how she continued to support TD’s involvement with her son. We have already made findings about how she felt trapped (para 45 above) in her dealings with TD. We are satisfied that this occurred because of breach of Particular 4 above which is proved.

Particular 5

Throughout the said period failed to have any regard to the propriety of the said conduct and/or its effect on others and in particular on W1.'

52 . TD in his evidence appeared to accept that he may not have realised how his actions may have affected other people. At para 60 p 274 TD states that he wonders if his PTSD caused his communication skills to suffer. He states he is alarmed at ‘the number of things I have

said in this narrow period of time have been badly misunderstood. I do not have an answer for this'. However he also accepts that his presence on W1's bedroom and W1's visits to the Vicarage alone *'could be viewed as contravening normal safeguarding protocols'* although he states that he never viewed W1 as vulnerable' or unable to say if he was unhappy with the mentoring. W1 was of course only 15/16 and a child under the CDM so we find his current opinion that W1 was not vulnerable notwithstanding his age as indicating a very poor understanding of the vulnerability of young people and the reason that safeguarding is required.

53. It is clear that TD had his concerns at the time whether he was crossing a boundary and that is why he spoke to Matt Luscombe. In our judgement any clergy person should have understood that the intensity of this mentoring and its location coupled with the age of the W1 breached propriety and should have had regard to this and realised the effect that he was having on W1.

54 We have considered the extent to which TD was suffering from an illness may affect this. As noted at para 6 above TD has not submitted any independent psychiatric opinion with a diagnosis of his illness. The 2 GP notes and the treating psychologist's report do not fill that gap. TD accepts that he was overcome from emotional feelings in February 2012 which is at a time when he had just started mentoring W1. Rather than getting diagnosed and treated he proceeded with this risky mentoring programme where we believe he was placing his own emotional needs first. He did not get counselling until November 2012.

55. We regard the seriousness of the safeguarding breaches in the circumstances that they occurred, and the absence of any psychiatric diagnosis to explain why he may have acted in this way, are such that it must amount to a failure to have regard to the propriety of the conduct and/others effect on others and in particular W1.

56. The Tribunal asked TD whether he regarded W1 as a friend. He replied that he did not. But the evidence demonstrates that he did act as if W1 was his friend and sought such a friendship from him. We believe that TD did come to believe that W1 was his friend. This is what TD said was the aim at the first mentoring session with W1. We note that at para 23 p 255 he refers to earlier mentoring he did with others as *'(unofficial) friendships'*. We are satisfied that he saw successful mentoring as becoming a friend with the mentee. This has obvious dangers if safeguarding is not followed and there is an imbalance in the relationship as here and the mentor has his own emotional needs which he is seeking to have met through friendship with the mentee.

57. In considering this point (and all 5 Particulars) we have considered carefully the character evidence relied upon in support of TD which we have set out at para 4 above. It is clear that a number of those witnesses now adult have been greatly helped in their spiritual lives by the encouragement and support they received from TD at an early stage in their development as Christians. We take that evidence into account which speaks highly of the quality of TD's ministry and TD himself. However we also must judge what happened in this period January 2012 -September 2013 with W1 and the evidence both from TD and the other

witnesses. Notwithstanding the evidence from the character witnesses in support of TD we are compelled to make the findings that we have from the evidence that we have heard and read.

58. Mr Gau's closing submission to us included the point that unless TD had an intention to abuse spiritually he could not be guilty of doing it. We disagree. We are satisfied that someone can 'spiritually abuse' another (as defined at para 3.34-3.36 of the Protecting All Gods Children p 16) both if they intend to do it, but also if they do and say things not caring what the effect may have on the other person, because they have placed their own needs and interests first. We are satisfied that TD acted in the way he did with W1 in a way that lacked propriety and failed to heed the effect it was having on others and in particular W1.

Conclusion

59. In concluding that all 5 Particulars are proved we are satisfied that TD is guilty of abuse of spiritual power and authority over W1 and in so doing placed himself in breach of the Guidelines for professional conduct of clergy as set out at paras 9-12 above, and is guilty of misconduct which was unbecoming and inappropriate to the work and office of a Clerk in Holy Orders. He is therefore guilty of misconduct under S8 CDM.

60. In reaching this conclusion we emphasise again that there is no suggestion of any sexual touching by TD, nor do we find that any sexual touching took place. We acknowledge the powerful and successful ministry that TD has had in leading Christ Church Abingdon and earlier ministerial posts in which he has served. However, we are satisfied that he is guilty of the misconduct alleged.

61. The next stage will be to consider penalty and we invite the submissions of the Designated Officer and Mr Gau on that.

63. Directions will be given as to the date of the hearing to fix penalty.

Dated 28 December 2017

The Rev. and Worshipful HH Judge Mark Bishop, Chair

The Rev. Edward Bowes-Smith

The Rev. Canon Ann Philp

Prebendary Sue Lloyd

Dr Stephen Longden

