

**In the Complaint of the Venerable Annette Cooper against the Reverend**

**Andrew Gair**

**Penalty**

1. I have just handed down the determination of the tribunal in relation to the above complaint. A draft of the determination was sent in advance both to the designated officer and the respondent and both have expressed their agreement to our deciding upon the relevant penalty on the basis of the written representations that each of them has sent to us.
2. In his submission the respondent has for the first time expressed remorse and repentance for his behaviour. Although no statement of truth was appended to that submission, having discussed it with all members of the tribunal I waive that irregularity under rule 103(a) of the Clergy Discipline Rules 2005 in so far as the submission amounts to an evidential statement: see rule 35(3) of the 2005 Rules.
3. Although we have not found that any act of adultery took place we have found that the respondent on many occasions “kissed and touched Mrs X intimately in a sexual manner”. This was clearly conduct unbecoming and inappropriate to the office and work of a clerk in Holy Orders and took place when the respondent was counselling Mrs X, a parishioner, about the difficulties in her marriage. The only mitigating factors in this case are that (a) albeit at the very last minute, the respondent admitted the complaint against him; and (b) after receiving our draft determination and for the first time, the respondent expressed remorse and repentance.
4. As far as aggravating factors are concerned, the unbecoming conduct was in relation to (i) a parishioner who (ii) sought his pastoral counselling about the state of her marriage. In addition, in our view it is a very serious aggravating factor (iii) that, while purporting to counsel Mr X about his marital difficulties, the respondent was duplicitously engaged in a sexual relationship with Mrs X. As to this the respondent has shown no insight and expressed no remorse. Indeed we note that all the respondent has said in this regard is that the situation was “a little awkward” and that he felt “uncomfortable” about it.

5. In reaching our decision about the appropriate penalty we have taken into consideration the submissions made to us and the original evidence. We have also borne in mind the determination as to penalty and the judgment on appeal in the *Complaint of Mr Byrne against the Reverend David King (2007-2008)*.
6. The penalty that we impose upon the respondent is one of prohibition from exercising any of the functions of his Holy Orders for a period of seven years from today. We also express the hope that, if the respondent at any time in the future seeks once more to exercise those functions, he first undertakes a suitable course to help him gain a greater insight and understanding into the complexity of marital interaction, breakdown and its consequences.

11<sup>th</sup> November 2008