

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

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

COMPLAINANT: PETER ARMSTRONG

RESPONDENT: THE REVD PAUL ROBINSON

NOTICE OF PENALTY IMPOSED BY THE TRIBUNAL

We order that:

- (1) You stand formally rebuked for the misconduct, consisting of neglect in performance of the duties of your office, identified in the Tribunal's Decision; and
- (2) You be restrained with immediate effect for a period of five years from making, or sharing in the making of, any appointment involving direct or regular contact with children in respect of which enhanced or standard disclosure from the Criminal Records Bureau is required pursuant to any relevant House of Bishops', or diocesan policy document, in any parish of which you are the incumbent or priest-in-charge.

The reasons for imposing this penalty are set out in the Appendix to this Notice

CHANCELLOR CHARLES GEORGE QC (Chairman)

THE REVEREND CANON DAVID HODGSON

MRS ELIZABETH PAVER

THE REVEREND VALERIE SHEDDEN

MR COLIN SLATER

Certified copy of the Penalty pronounced on 4 August 2008



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Provincial Registrar

APPENDIX TO NOTICE OF PENALTY

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Having heard submissions at a hearing in private by the Designated Officer and by the Respondent, and having considered written submissions from the *amicus curiae*, and the Diocesan Bishop having indicated that he did not wish to express any views as to penalty if invited to do so under s.19(2) of the Clergy Discipline Measure 2003 ("the Measure"), and the Panel having retired to consider the imposition of penalty, the hearing was resumed in public for the pronouncement of penalty:

1. Whilst any finding of neglect in the performance of duties is a serious matter, there could hardly be an area where greater care is needed by the clergy in the performance of their duties than in relation to employment policies where the well-being of young people and other youth workers is involved. Hence the laying down of procedures by the House of Bishops which in three respects we have found that you recklessly breached. Although the Respondent suggested that there was no reference in the diocesan Guidelines to the principle of the paramountcy of the welfare of children, the Tribunal draws attention to paragraph 3 on page 1 of the document which states that:

"[The Church of England] fully accepts and will implement the principle enshrined in the Children Act 1989 that the welfare of the child is paramount".

2. We take into account that in respect of the second and third allegations we have accepted that the Respondent honestly believed he was following the relevant procedure, but the Tribunal has categorized the Respondent's conduct as arrogant and imprudent, whilst in respect of the first allegation the Tribunal has found that the Respondent well knew he was breaking the requirements of the relevant policies and simply believed he could get away with it. The Tribunal readily accepts that no actual harm was suffered in the result by anyone. Nonetheless there was manifest potential for harm, which the Respondent ought to have appreciated, and the penalty has to take that potential for harm into account.

3. Three other factors were identified to the Tribunal by the *amicus* and the Respondent, but the Tribunal does not consider that they constitute mitigating circumstances. First it is nothing in point that Z was in any event subject to other control mechanisms under the terms of his Licence. These controls would have been of little use in protecting the public from an unwise and premature exposure of Z to youth work. Second, it is also nothing in point that CRB disclosure would merely have revealed a

conviction that was already known. There might have been other matters, and in any event the Respondent's deliberate failure to await CRB disclosure pre-empted the risk assessment that would have followed. Third, the fact that some time later, following checks and assessment, Z was allowed to engage in youth work cannot of itself justify the Respondent's reckless short-circuiting of the procedures, although it provides some support for the Respondent's own assessment of the level of risk.

4. In its determination the Tribunal identified some shortcomings in both the National and the Diocesan Guidelines; but these shortcomings are of no relevance to the first allegation, and of little relevance to the third allegation. As to the second allegation, the Tribunal described the need for risk assessment at Step 3 as obvious, including diocesan involvement. Accordingly the shortcomings, though real and regrettable, do not mitigate the seriousness of what the Respondent did.

5. The Tribunal accepts that Canon Pawley's incorrectly categorized the nature of Z's previous relationship, and that this affected the Respondent's willingness to accept advice from the Complainant. But the weight we can attach to that matter is small. Reference was also made to the diocese's own delay in following up matters between late 2004 and June 2005, but this is irrelevant to penalty.

6. Both the *amicus* and the Respondent refer to the missed potential for conciliation. The Tribunal accepts that the Complainant indicated under cross-examination by the Respondent that, had he been aware of it, he would have been willing to engage in conciliation; and the Tribunal accepts also that had conciliation been successful, no penalty would have been imposed. On the other hand the Tribunal has heard absolutely nothing to suggest that the Respondent was ever himself prepared to submit to conciliation, or that he would ever have been prepared to show that "give and take" that is an essential part of conciliation.

7. Various other matters were raised by the *amicus* and by the Respondent. The Tribunal readily accepts that there was no element of personal gain to the Respondent; and that his misconduct could be described as an error of judgment (though the Tribunal does not understand the *amicus*' phrase "At worst an error of judgment"). The Tribunal accepts that there was no intention to cause harm to others, and that there was an element of compassion for Z in the Respondent's motivation, namely that the Respondent was seeking to assist in Z's rehabilitation.

8. The Tribunal unhesitatingly accords weight to the Respondent's long and, so far as the Tribunal is aware, previously unblemished record of parochial ministry and community work. Nevertheless, given the nature of the community work in which the Respondent has been involved, it seems to the Tribunal that this should have made the Respondent the more aware of the need to follow procedures and to seek advice from those whose task it is to formulate and enforce the procedures.

9. We note that no word of apology has been offered by the Respondent at any stage. That was perhaps understandable prior to the Tribunal determination, because it was the

Respondent's case that he was following the relevant policies. At the hearing on sentence, whilst there was a single admission of some fault, and a statement that he would act differently were the circumstances to be repeated, there was still no apology, particularly to those whose conduct, motives and integrity the Respondent has so readily criticized, and scant evidence of remorse. In this context there is useful guidance in paragraph 32 of a recent determination by the Chancery Court of York (Appeal from Bishop's Disciplinary Tribunal for the Diocese of York: the Reverend David Charles King, 7 April 2008, unreported), headed "Remorse".

"Important mitigating factors in relation to penalty are 'whether a respondent has readily admitted the misconduct and demonstrated repentance, remorse and willingness to learn from past errors' (Introduction to Guidance on Penalties)...Repentance and forgiveness are basic Christian tenets, and due credit should always be given by a Tribunal, and an Appellate Court, to genuine expressions of repentance and remorse."

10. So what is the appropriate penalty? Clearly, since the Respondent is Rector of a parish, the penalty of revocation of licence (s.24(1)(d)) is inapplicable. Of the six other courses under ss.24 and 25 of the Measure, the Tribunal unhesitatingly rejects the penalties of prohibition for life (s.24(1)(a)) and removal from office (s.24(1)(c)). What the Respondent has done is insufficiently serious for those penalties. On the other hand the course urged by the *amicus* of a conditional discharge strikes the Tribunal as being too lenient, since this is not a case where "it is inexpedient to impose a penalty" (the phrase in s.25(1)). Nor does the Tribunal consider that a rebuke alone, under s.24(1)(f), would be sufficient.

11. That then leaves three possible penalties. These are:

- (1) a limited prohibition for a specific period from exercising any of the functions of office (s.24(1)(b)). The period would necessarily have to be quite short, for reasons explained to the Tribunal by the Designated Officer, which we accept;
- (2) an injunction by which the Respondent would be ordered to do or to refrain from doing a specified act (s.24(1)(e), possibly coupled with a rebuke under s.24(1)(e));
- (3) a combination of (1) and (2).

The question, about which the Tribunal has engaged in considerable discussion, is which of these is appropriate and proportionate in the present case, seeking to balance all relevant circumstances including what are termed in various documents as "the wider picture".

12. In reaching its unanimous determination on penalty, the Tribunal has been influenced by the observation in the Guidance on Penalties (paragraph 2(d), repeated in 3(e)) that:

"an injunction may be appropriate for cases where a respondent is generally capable of performing his normal duties but ought to be stopped from dealing with a particular aspect of those duties".

Since the Tribunal considers that the Respondent is “generally capable of performing his normal duties”, the Tribunal has decided that it is not necessary to prohibit him for a time from continuing to act as Rector, and that an appropriate injunction can be framed. Accordingly the penalty will consist of a rebuke and an injunction in the terms set out in the Order handed down.