

**THE RIGHT REVEREND DOCTOR PETER STUART
BISHOP OF NEWCASTLE**

CLERGY DISCIPLINE ORDINANCE 1966

In the matter of the Venerable David John Batrick

4 December

Basis of this hearing

1. This proceeding is convened pursuant to notice provided to the accused, Venerable David John Batrick, under clause 16(2)(a) of the Clergy Discipline Ordinance 1966 (hereafter referred to as the Ordinance).
2. Fr Batrick, was originally charged with an offence of conduct disgraceful in a member of the clergy and productive or likely to be productive of scandal or evil report under the Ordinance on 26 September 2018.
3. After notifying Fr Batrick of that offence, I became aware of further facts and particulars of conduct on the part of Fr Batrick that I considered should be notified to him as supporting the offence.
4. Whilst Fr Batrick did submit to the original form of charge by email on 15 October 2018, I directed that an amended Charge be issued to Fr Batrick by letter dated 19 October 2018 that set out the same offence of conduct disgraceful in a member of the clergy and productive or likely to be productive of scandal or evil report, but with substantially more particulars in support.
5. By email dated 9 November 2018, Fr Batrick admitted to the commission of the offence contained in the amended Charge issued on 15 November 2018 as prescribed in accordance with clause 15(1). In so doing, Fr Batrick submitted to the issue of the amended Charge, but did not consent to certain particulars in support.
6. By letter dated 16 November 2018, I informed Fr Batrick that I accepted his admission and the submission to certain particulars of the offence and proceeded to provide him with written notice under clause 16(2)(a) of the Ordinance that I intended to pronounce Judgement and Sentence here today.

7. As required under clause 16(2)(c) of the Ordinance, I provided Fr Battrick with an opportunity to provide written material to me for consideration by Thursday 29 November 2018.
8. I have not received any written material from Fr Battrick in response to this invitation.
9. I note that Fr Battrick is not present today and I am satisfied that Fr Battrick has been made aware of this proceeding and my invitation to provide written submissions.
10. In the present matter, clause 16(3) requires me as Bishop to pronounce Judgment and Sentence without reference to a Diocesan Tribunal. I now proceed to pronounce Judgment and Sentence.

FORMAL ENTRY OF JUDGMENT

11. **Having received notice from Fr Battrick that he submits to the offence as notified to him by email dated 9 November 2018 I now formally enter the following Judgment:**

In accordance with the Notice of Charge (as amended) issued to the Reverend David John Battrick on 19 October 2018 and having received his submission to that offence in writing, I DETERMINE that the Reverend David John Battrick is guilty of the offence of conduct disgraceful in a member of the clergy and productive or likely to be productive of scandal or evil report under the *Clergy Discipline Ordinance 1966*.

SENTENCE

12. I now proceed to pronounce Sentence.
13. In making a determination under the Clergy Discipline Ordinance 1966 it is incumbent upon me to pronounce sentence in proportion to the misconduct, having taken into account and given due weight to all material circumstances including the particular facts of the misconduct. I must also take into account any personal or other mitigating circumstances including any admission about the misconduct, any demonstrated repentance, remorse or willingness to learn from past error, and any proper attempt to put right, in so far as is possible, the consequences of the misconduct.
14. I have not been able to identify any published reasons for consideration of similar matters by a diocesan bishop with the Anglican Church of Australia. The Church of England operates a similar disciplinary system to system in place in this Church. The

Archbishops' Council of that Church has provided penalty guidelines in disciplinary matters. In those guidelines, it draws a distinction between:

- (a) misconduct where there appears to be no realistic prospect of rehabilitating the respondent back into ministry because the misconduct is so grave; and
- (b) misconduct where there is a realistic prospect that the respondent, with appropriate pastoral and other support, could in the future resume normal duties of ministry.

The former results in a sentence of prohibition from ministry for life whereas the latter results in a sentence where the period of prohibition is limited.

- 15. In those guidelines, inappropriate relationships with people in the pastoral care of clergy are described as relationships which include close emotional or intimate relationships falling short of sexual misconduct. In that church, where there are serious pastoral abuses, removal from office and limited prohibition will usually be appropriate.
- 16. Again, in those guideline, adultery is named as being destructive of marriages, and hurtful and disturbing for the children of the families affected. If the adultery is with a person within the cleric's area of pastoral responsibility, that can be an aggravating factor because issues of vulnerability, exploitation and abuse of position arise. Removal from office and prohibition, either for life or for a limited time, are usually appropriate sentences.
- 17. In approaching the determination of the appropriate sentence, I am assisted by the considered approach within the Church of England.
- 18. I am also informed by previous decisions of the Professional Standards Board of the Diocese of Newcastle. In the last decade there have been four significant matters of adult misconduct by clergy considered by the Professional Standards Board of the Diocese of Newcastle. In two cases the outcome of the Board was the recommendation that a priest be deposed from holy orders and in two cases alternative protective measures were adopted. On those occasions the Board took into account the seriousness of the conduct and the impact of the conduct on those affected by the conduct. A decision of the Professional Standards Board is focussed on an assessment of the fitness of the member of the clergy or church worker and is aimed at the present and future protection of parishioners and the church as a whole.
- 19. In proceeding to pronounce Sentence, I acknowledge that:

- (a) the Ordinance allows for a sentence to be suspended; and
- (b) the Constitution of the Anglican Church of Australia allows a Bishop to exercise a prerogative of mercy.

Good character

- 20. Fr Battrick has not submitted any matter in writing with respect to his good character.
- 21. I take into account the positive attributes of Fr Battrick's character and his good ministry. For the record I note that he was made deacon by the Archbishop of Perth in 2003 and ordained as a priest in 2004. In the course of those ministries he has served in the Dioceses of Perth and Newcastle in parish and education ministries. As a matter of record Fr Battrick's energy and commitment were instrumental in the establishment of the Newcastle School of Theology for Ministry and the development of the process called Ministering Communities in Mission. Until the circumstances leading to the Charge, Fr Battrick was held in high esteem by the parishioners of the Parish of East Maitland. He was recognised as good contributor in the governance of the Anglican Board of Mission Australia Limited and Bishop Tyrrell Anglican College and in various roles of governance within the Diocese of Newcastle of the Anglican Church of Australia. Fr Battrick has held the role of Canon of Christ Church Cathedral Newcastle and an Archdeacon within the Diocese of Newcastle.

Early submission

- 22. I take into account the fact that Fr Battrick has submitted to the charge at the earliest opportunity. Fr Battrick has not put others through an ordeal of giving testimony to a Tribunal. Fr Battrick has not caused the Diocese to incur additional expenditure in convening a tribunal.

Mitigation

- 23. Fr Battrick was afforded the opportunity to submit written material setting out any excuse or mitigating factors by 5pm on 29 November 2018 but did not submit any material.
- 24. Fr Battrick was offered the opportunity to attend today to provide an oral statement in excuse or mitigation. He has not taken up that opportunity.

25. This is not a matter where Fr Battrick's conduct the subject of the Charge can be considered in the light of youth or inexperience. Fr Battrick is a senior and experienced member of the clergy in the Diocese of Newcastle who has exercised a responsibility for supervising and guiding other clergy.
26. In the absence of any material from Fr Battrick, I cannot identify any excuse or mitigating factors.

Remorse and Prospect for Rehabilitation

27. Fr Battrick was charged with conduct which would be disgraceful if committed by a member of the clergy, and which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report. Fr Battrick was served with a statement of particulars in relation to that charge.
28. Subsequent to being charged with the original offence, Fr Battrick has continued on a course of behaviour which was disgraceful if committed by a member of the clergy, and which was productive, or if known publicly would be productive, of scandal or evil report.
29. When the original charge was withdrawn and replaced with an amended Charge with expanded particulars, Fr Battrick chose not to modify his behaviour or indicate any intention of changing that behaviour.
30. There is no evidence of remorse on the part of Fr Battrick for the conduct that relates to the Charge.
31. Fr Battrick has offered no apology to the Bishop, the Diocese of Newcastle, his peers or to the Parish of East Maitland.
32. There is no evidence before me indicating that Fr Battrick has demonstrated a desire for rehabilitation. I do not consider that there is any prospect for rehabilitation.

Other matters

33. I also take into account that:
 - (a) the woman with whom Fr Battrick is involved (SF) met him whilst she was a former parishioner of the Parish of East Maitland;

- (b) SF has not complained of the behaviour of Fr Battrick. On the contrary, she has been supportive of Fr Battrick;
 - (c) SF's spouse was at various times a parishioner of the Parish of East Maitland. SF's spouse has expressed dismay at the conduct of Fr Battrick; and
 - (d) at the time of the misconduct Fr Battrick was married (although separated) with five children.
34. I am not aware that Fr Battrick has taken the steps necessary to put in place satisfactory arrangements for the care of his wife and children. However, these matters have not been put to Fr Battrick, so accordingly, I have not taken them into account in this determination.

Determination

35. **Fr Battrick has admitted to scandalous conduct involving a woman who had not separated from her spouse and who was, at various times, a parishioner and church worker within the Parish of East Maitland where Fr Battrick was the incumbent.**
36. **On the basis of his admission I have also concluded that Fr Battrick commenced a romantic and then sexual relationship with SF while he was still married and ministering as the Rector of East Maitland, a Canon of the Cathedral and an Archdeacon.**
37. Fr Battrick has deeply betrayed this Church and the people he was called to serve. He has shown profound disrespect by his behaviour. By his conduct, he has seriously undermined the catholic expression of Anglicanism. His parish, his wife, and his children were entitled to better conduct from him as a person, a disciple of Jesus and a priest in the Church of God. He has shown no care or remorse for the impact of his behaviour on others. This set of circumstances is of his own making.
38. I have taken into account the good ministry in which Fr Battrick engaged and Fr Battrick's early submission, the seriousness of the misconduct, the lack of remorse, the lack of any mitigating factors and the absence of any prospect of rehabilitation.
39. In the absence of remorse and the prospect of rehabilitation, I am of the view that the only realistic course of action open to me is that Fr Battrick be deposed from holy orders.
40. I cannot identify that any reason for the sentence to be suspended.

41. I have no information before me that would appropriately permit the exercise of a prerogative of mercy.

42. **I therefore pronounce that the appropriate sentence is:**

THAT upon the entry of Judgment as against the Reverend David John Battrick to the offence of conduct disgraceful in a member of the clergy and productive or likely to be productive of scandal or evil report under the *Clergy Discipline Ordinance 1966*, I determine that the said Reverend David John Battrick shall be deposed of holy orders with immediate effect.

I further direct that David John Battrick is prohibited from seeking paid or voluntary work or role in any parish or institution or agency or school within the Diocese without the written permission of the Bishop of Newcastle.

I further direct that details of the misconduct be entered on the National Register of the Anglican Church of Australia.

I further direct that the Office of the Archbishop of Canterbury be advised of this determination.

43. The effect of these orders is that

David John Battrick

(a) may not:

(i) officiate or act in any manner as a priest or deacon of this Church; or

(ii) accept or hold any office in this Church capable of being held only by a person in Holy Orders;

(b) ceases to have any right, privilege or advantage attached to the office of priest or deacon;

(c) shall not hold himself or herself out to be a member of the clergy;

(d) may not hold an office in a diocese which may be held by a lay person without the consent of the bishop of the diocese.

(e) shall be considered to be a lay person for the purposes of all laws, canons, rules, ordinances and regulations of the Church except for any provision enacted under Chapter IX of the Constitution.

44. I direct that the Diocesan Solicitor notify Mr Battrick of these orders in writing and ensure that the other directions are implemented.

45. I observe the cost of Mr Battrick's conduct on his family, his parish, the bodies on which he served and this church.
46. I observe the significant financial costs to the Diocese in attending to these matters.
47. **I urge on clergy and church workers faithfulness in their relationships with others and professionalism in their ministry**
48. There being no other matters to consider, I adjourn this proceeding.