

**PETER STUART
BISHOP OF THE DIOCESE OF NEWCASTLE
IN THE ANGLICAN CHURCH OF AUSTRALIA**

**PROFESSIONAL STANDARDS ORDINANCE 2012
CLERGY DISCIPLINE ORDINANCE 2019**

In the matter of the Reverend Douglas Vaughn Morrison-Cleary

**Announcement of Decision, Sentence and Short Reasons pursuant to section 83
of the Professional Standards Ordinance 2012 and clause 22 of the Clergy
Discipline Ordinance 2019**

1. My actions today are for two purposes:
 - (a) to convey my decision following due consideration of the recommendations notified to me in the determination of the Professional Standards Board (**PSB**) proceedings against Reverend Douglas Vaughn Morrison-Cleary (**Fr Morrison-Cleary**) issued on 24 September 2020 (**the Determination**) in light of Fr Morrison-Cleary's decision, communicated on 2 February 2021, to withdraw his review of the Determination; and
 - (b) to hand down my Sentence in relation to the Charge issued to Fr Morrison-Cleary, on 23 December 2020, in accordance with the Clergy Discipline Ordinance 2019 (**the CDO**) to which he submitted on 2 February 2021.
2. In dealing with these matters, I propose to deliver a short outline of my decision and then to formally publish my more comprehensive reasons on the Diocesan website.
3. The format of these proceedings may seem strange to a casual observer but must be conducted within the quasi-judicial framework provided by the Constitution of the Anglican Church of Australia and the Canons and Ordinances having force within the Diocese. It is further guided by the way in which key principles such as justice, mitigation and mercy are considered within

the secular courts which themselves have been guided by a long history of jurisprudence informed by Christian and Jewish principles. This framework provides the way for the Bishop, when exercising the formal function of discipline, to ‘watch over, protect and serve the people of God’¹ and, ensure that formal discipline within the Church is applied ‘justly, with mercy’².

4. I observe that the Cambridge English Dictionary defines scandal as:

“an action or event that causes a public feeling of shock and strong moral disapproval.”

5. The incomprehensible circumstances that I find myself in are:

- (a) that a priest in the diocese that I lead does not regard being seen naked by a vulnerable young person who is in his care as a cause of scandal;
- (b) that this priest has demonstrated unwillingness to be guided by persons with considerable experience about the practices and boundaries in relation to the care of vulnerable young people and has continued to make serious errors of judgement in his ministry to vulnerable young persons; and
- (c) that after being confronted about such conduct, that same priest again proceeds to make further contact with that vulnerable young person in flagrant disregard for the directions given to him to ensure he maintains ministry boundaries – which is a further cause of scandal.

6. These circumstances are accentuated because the priest has demonstrated a total lack of insight into the conduct that is expected of him and has, after being invited to do so, shown little contrition for his misconduct.

7. It is correct that Father Morrison-Cleary is not accused of direct physical or sexual abuse of another person, a charge which if sustained would require necessarily stronger, and appropriately criminal, sanctions.

8. However, Fr Morrison-Cleary has engaged in reckless and scandalous conduct which has caused considerable grief. He has put the Diocese and his parish to considerable expense. Despite his assurances to me, I am not convinced that he would not repeat his behaviour.

¹ From the charge to the Bishop at his/her ordination *A Prayer Book for Australia* p 802.

² From the charge to the Bishop at his/her ordination *A Prayer Book for Australia* p 802.

9. By his conduct the subject of the PSB proceedings and also the subject the Charge under the Clergy Discipline Ordinance, Fr Morrison-Cleary has deeply betrayed this Church and the people he was called to serve. He has shown profound disrespect by his behaviour. The young people and their family at the centre of the charge, his parish, his wife, and his sons were entitled to better conduct from him as a person, a disciple of Jesus and a priest in the Church of God. He has not demonstrated sufficient care or remorse for the impact of his behaviour on others. This set of circumstances is of his own making.
10. Had Fr Morrison-Cleary been an employee of the Diocese, it is clear that I could have moved to summarily terminate his employment for gross misconduct in February 2020, over 12 months ago. The laws of the Church in general and those in force in this Diocese in relation to clergy do not allow that course of action.
11. For Fr Morrison-Cleary to remain fit for ministry he would need to demonstrate an understanding of the boundaries which are created for the protection of people and demonstrate his willingness to abide by those boundaries. Whilst he has sought to assure me that he is capable of such an understanding, I remain unconvinced and so I concur with the President of the Professional Standards Board that he is unfit to exercise ministry as an Anglican priest.
12. The President of the Professional Standards Board made provision for Fr Morrison-Cleary to demonstrate that he had understood these expectations. However, even before the Board had handed down its decision about earlier conduct, he was again engaging in similar conduct in reckless disregard for the directions issued to him. It is simply impossible to identify a pathway by which any Bishop could have confidence that Fr Morrison-Cleary has a well-developed understanding of the requirements placed on him matched by a willingness to observe those requirements.
13. I have determined that Fr Morrison-Cleary should be permanently inhibited from undertaking ministry and therefore that he should be deposed from holy orders³.
14. I make that decision as a consequence of charges arising under the Clergy Discipline Ordinance 2019 and do so by way of sentence.
15. I am making immediate orders that:

³ Section 5(2) in the *Holy Orders (Removal from the Exercise of Ministry) Canon 2017*

- (a) **Fr Douglas Morrison Cleary is removed from the office of Incumbent of the Parish of Beresfield and Thornton with immediate effect;**
 - (b) **Fr Douglas Morrison Cleary's stipend and benefits conclude at 5pm today;**
 - (c) **Fr Douglas Morrison Cleary must vacate the Rectory by 5pm on 4 April 2021; and**
 - (d) **Fr Douglas Morrison Cleary is removed, with immediate effect, from any position of responsibility within the Diocese including his membership of the Synod and the Diocesan Council.**
 - (e) **I direct that the Diocese make payment of all entitlements to Fr Morrison-Cleary by 15 April 2021 less the cost of any amounts owing to the parish or to the Diocese and less any costs for rectifying the Rectory, if those costs are necessary.**
 - (f) **I hereby depose Fr Douglas Vaughn Morrison Cleary from Holy Orders.**
 - (g) **I direct that he is not to represent his engagement with the persons referred to as AA and AB and their family as a ministry of the Anglican Church.**
 - (h) **I prohibit Fr Douglas Morrison-Cleary 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.**
16. I hope that he and his close supporters understand that there is still a place for him in the church, but in order to take that place he must embrace a spirituality of restraint in which he demonstrates that he understands his conduct has caused harm to others and to the Body of Christ. A spirituality of restraint involves recognising people have been harmed and putting their needs first. It involves humility in not seeking roles or influence. It involves expression of genuine remorse which is matched by a willingness to follow the instructions of the Director of Professional Standards (**DPS**) and the counsel of the Bishop.
17. Regrettably, it is my experience that very few people are willing to embrace this spirituality or receive it as a genuine expression of care for them and for others. I pray that Mr Morrison-Cleary is one of the minority willing to do so.

18. It is not the role of the Bishop to make sentences which contain a deterrent function. The sentence of the Bishop is made public so that the Church can see the care and attention given to such matters by the Bishop and that the people of God, especially the clergy, might reflect on what is expected of them.
19. I do hope that clergy in the Diocese will carefully consider their responsibility to ensure the safety of people entrusted to their care.
20. I would remind clergy that the standard of behaviour we are prepared to walk past is the standard of behaviour we have chosen to accept. Our best friendship and best peer relationships emerge when we work together to ensure that our ministries are of the highest standard. Clergy need to mutually encourage one another in ministerial excellence. Each has a responsibility with compassion and care to call one another to the best practices in ministry and to name misconduct to the appropriate authorities when it is evident.

I now publish my reasons and adjourn this session.

**PETER STUART
BISHOP OF THE DIOCESE OF NEWCASTLE
IN THE ANGLICAN CHURCH OF AUSTRALIA**

**PROFESSIONAL STANDARDS ORDINANCE 2012
CLERGY DISCIPLINE ORDINANCE 2019**

In the matter of the Reverend Douglas Vaughn Morrison-Cleary

**REASONS FOR DECISION PURSUANT TO SECTION 83 OF THE PROFESSIONAL
STANDARDS ORDINANCE 2012**

**REASONS FOR DECISION AND SENTENCE PURSUANT TO CLAUSE 22 OF THE
CLERGY DISCIPLINE ORDINANCE 2019**

1. I formally adopt the Decision, Sentence and Short Reasons announced on 5 March 2021 as part of this Decision.
2. In its Determination issued on 24 September 2020, the Professional Standards Board (**PSB**) recommended that the Bishop of Newcastle, as the Church Authority:
 - (a) make an order prohibiting Father Morrison-Cleary from holding any licence or authority or office that he currently holds as a Church worker; and
 - (b) determine that the prohibition order remain in effect until such time as Father Morrison-Cleary establishes, to the satisfaction of the Director of Professional Standards (**DPS**), that:
 - (i) he recognises the objectives of protection of the vulnerable, of church workers, and of the Church itself, that are embedded in the rules and principles under which he would be required to operate; and
 - (ii) he was clearly and absolutely committed to the observation of those rules and principles.

3. As indicated, Fr Morrison-Cleary made application for a review of the Determination and the recommendation provided to the Church Authority.
4. The recommendations contained within the Determination were stayed during the review process.
5. On 2 February 2021, Fr Morrison-Cleary notified me, through his lawyers, that he formally withdrew the application for review. Accordingly, I now intend to issue a Decision to deal with the recommendations set out in the Determination.
6. On 18 December 2020, well after the issue of the Determination, and whilst the Determination was under review, the DPS was advised of allegations of further adverse conduct on the part of Fr Morrison-Cleary.
7. The DPS conducted an investigation and laid charges under the Clergy Discipline Ordinance 2019 (**the CDO**) alleging that Fr Morrison-Cleary engaged in conduct which:
 - (a) would be disgraceful if committed by a member of the clergy; and
 - (b) at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report (**the Charge**).
8. The alleged adverse conduct giving rise to the Charge was objectively serious and so the Charges were laid within 5 days of the alleged commission of the subject conduct. The notice of the Charge was served on Fr Morrison-Cleary on 23 December 2020.
9. On 2 February 2021, Fr Morrison-Cleary admitted the commission of offences under the CDO and submitted himself without further proceedings to such judgement and sentence that I, as Bishop, shall think fit to pronounce in accordance with clause 21 of the CDO.
10. The Secretary of the Diocesan Tribunal informed Fr Morrison-Cleary of his opportunity to provide written submissions, any evidence or submissions of excuse or mitigation to me as the Bishop. The final day for those submissions was 2 March 2021.
11. Submissions were received from Fr Morrison-Cleary and were able to be considered promptly.
12. Fr Morrison-Cleary was provided with notice of this hearing.

13. I am now required under the PSO to give effect to the recommendation of the PSB or take different action to that recommended by the PSB. I am also required under the CDO to pronounce judgement and Sentence.

Background

14. It is important to outline the context of the proceedings and processes that have examined Fr Morrison-Cleary's conduct.

15. [Redacted]

[Redacted]

[Redacted]

18. As a consequence of previous interactions, Fr Morrison-Cleary had a pastoral relationship with both AA and AB, and with other members of the family.

19. [Redacted]

[Redacted]

[Redacted]

[Redacted]

23. In order to deal with the concerns of the DPS, I met with Fr Morrison-Cleary with the DPS on 5 February 2020, in a pastoral capacity.

24. In the course of that pastoral meeting, Fr Morrison-Cleary confirmed that he had been seen naked by AB. As this admission constituted information giving rise to examinable conduct under the *Professional Standards Ordinance 2012*, the pastoral meeting ceased and all further engagement with Fr Morrison Cleary and the proper enquiries about the examinable conduct became the responsibility of the PSC.
25. Fr Morrison Cleary's conduct was examined by the PSC and on its advice, he was suspended and prohibited from engaging with AB and his family.
26. The PSC also referred Fr Morrison Cleary's conduct to the PSB which conducted its proceedings and issued the Determination and recommendations (as outlined earlier) on 24 September 2020.
27. In December 2020, while the review of the PSB decision was still underway, Fr Morrison-Cleary was seen driving with AB and accompanying AB to a tattoo parlour. By chance, he was observed by another member of the clergy. When that member of clergy engaged Fr Morrison-Cleary and enquired about who was in his company, Fr Morrison Cleary said words to the effect:

"...you do not want to know..."
28. Appropriately, the other member of clergy reported his observations to the DPS who initiated an investigation and laid charges on 23 December 2020.
29. At this point, I must pause to specifically reference certain conduct in which Fr Morrison-Cleary's engaged after the issue of the PSB recommendations. This conduct does not feature in my deliberations as to an appropriate sentence, but it is appropriate to detail this conduct and formally provide a response on behalf of the Diocese.
30. Since the issue of the recommendation of the PSB, Fr Morrison-Cleary has communicated with some of his peers and parishioners openly challenging the integrity of the President of the Professional Standards Board, the Professional Standards Committee, the Director of Professional Standards and, by inference, the Bishop and Diocesan Council.
31. Such conduct is probably unsurprising in view of the PSB's observations in the determination of 24 September 2020 that not only did Fr Morrison-Cleary lack any insight into the seriousness of his conduct or the legitimate concerns of the DPS, but that he also lacked any regret or contrition for that conduct.

32. Further, Fr Morrison-Cleary's characterisation of his problematic conduct as "Christ-like" represents a most serious theological misunderstanding and is an affront to other clergy and parishioners in the Diocese.
33. In those communications with his peers and parishioners, Fr Morrison Cleary has attempted to cast himself as a victim.
34. It is only after at the point, where Fr Morrison-Cleary was invited to make submissions of excuse or mitigation, that he stopped to critically reflect on the practice of his ministry and his misdirected efforts at providing the best care and outcomes for AA, AB and their family consistent with our mission to care for children and vulnerable people as is at the heart of Jesus' ministry.
35. Clergy by nature of their work are general practitioners undertaking a diverse range of roles. They will have specialist skills in specific areas but are regularly advised and encouraged to seek out specialist advice or refer parishioners to a person with specialist skills when necessary.
36. [REDACTED]
37. I am advised that there were clergy who received Fr Morrison-Cleary's communications and were so concerned that they contacted the Professional Standards Office.

Deliberations

38. Had Fr Morrison-Cleary been an employee of the Diocese, I would have moved to summarily terminate his employment for gross misconduct in February 2020, over 12 months ago. There cannot be any circumstance where it is acceptable, in the context of a proper pastoral relationship, for a member of clergy to allow themselves to be seen naked by a minor who is in their professional and ministerial care, and where that minor themselves is being investigated for child sex offences.
39. For over 12 months, the Diocesan processes have been engaged in a process directed at deciding two questions following on from the discovery of the relevant conduct:

- (a) should Fr Morrison-Cleary be removed from his office as Incumbent of the Parish of Beresfield and Thornton; and
 - (b) should Fr Morrison-Cleary be prohibited temporarily or permanently from undertaking ministry as a member of the Anglican Clergy.
40. During that process, Fr Morrison-Cleary has had the benefit of a full stipend and allowances. The Diocese has had to fund investigations and disciplinary processes. The Diocese will also conceivably be requested to provide financial assistance for Fr Morrison-Cleary's legal costs. The ministry of the Parish of Beresfield-Thornton has been impacted.
41. It is a matter of frustration that our current system does not enable these matters to be brought to a quicker conclusion.
42. It is important to distinguish the two pathways for regulating conduct within the Diocese. The PSO is framed around the fitness of a church worker with regard to the present and future ministry. The CDO is framed around discipline where the conduct is evaluated and discipline is exercised.
43. Fr Morrison-Cleary has now admitted scandalous conduct the subject of the Charge and he has withdrawn his request for review of the findings of the Professional Standards Board.
44. One inference that may be drawn from such a decision is that Fr Morrison-Cleary has finally appreciated the gravity of his misconduct for what it is. However, despite having been invited to specifically address me on that point, amongst others, I remained unconvinced that he is sufficiently contrite or reflective.
45. Despite any positive inference that may be drawn from such the decision to withdraw the request for review, I am compelled to observe that it was extraordinary that, presumably on instructions, Fr Morrison-Cleary's solicitors berated the Secretary of the Diocesan Tribunal for notifying them of the charges against him on 23 December 2020. My view is compounded when reflecting on the fact that the charges relate to the reckless disregard for expectations placed upon him by *Faithfulness in Service* and his expected behaviours during a period of suspension. If he had behaved within those frameworks, arguably there would be no need for the charges that were laid under the CDO.
46. It should offend all of us that Fr Morrison-Cleary offered ministry to AA and AB that was well below the standards clearly expected.

47. Then after that conduct was examined by the President of the PSB and found to be unacceptable, the terms of the PSB determination explicitly sought to provide Fr Morrison-Cleary with an opportunity to express contrition and seek to learn and develop.
48. Instead, Fr Morrison-Cleary proceeded to continue to conduct himself in a fashion that wilfully ignored not just the PSB findings about his conduct, but also the express directions of the DPS that underpin safe ministry within this Diocese.
49. So it also should offend us that continuing to repeat unacceptable conduct and seeking the review PSB determination, Fr Morrison-Cleary continued to draw on the financial resources of the parish for an extended period rather than moving promptly to contrition and seeking support to modify his behaviour.
50. Within the mechanism for reviewing conduct within the Diocese, the Bishop is the chief pastor to both complainants and respondents. In this invidious position and with the responsibility of ensuring fairness, the considered advice is that the Bishop can and should delegate the delivery of direct pastoral care to others.
51. The Diocese accepts the administrative law responsibility of ensuring procedural fairness to those bringing allegations or preferring charges as well as to Fr Morrison-Cleary. This means that at crucial points, there are delays in which those involved can obtain and consider professional advice.
52. In ensuring the fairness to all parties, the Bishop and others are constrained from commenting upon the proceedings while they are underway. This means that key stakeholders, such as parishioners, continue without crucial information for extended periods.
53. The Diocesan processes that examine clergy conduct afford respondents with considerable opportunity to support the prompt resolution of such processes. This opportunity is rarely grasped by respondents.
54. I observe the cost of Fr Morrison-Cleary's conduct on his family, his parish, the bodies on which he served, his peers and this church.
55. I observe the significant financial costs to the Diocese in supporting the processes to examine the conduct in question.

56. The processes that were initiated to examine the conduct that was the subject of the Determination and the current charge under the PSO were promoted by the PSC and the DPS based on an assessment of the conduct of Fr Morrison-Cleary against the standards and guidelines outlined in *Faithfulness in Service*.
57. Whilst I acknowledge that neither AA nor AB nor their family have brought a complaint against Fr Morrison-Cleary about the conduct under examination, this fact has no bearing on the appropriateness or integrity of the Determination or the current CDO charges to which Fr Morrison-Cleary has submitted.
58. Fr Morrison-Cleary's failure to seek and/or consider expert professional advice about the care of AA and AB was a failure.
59. The attention shown by Fr Morrison-Cleary to AB as outlined in the PSB proceedings and the particulars of the Charge cannot be reasonably categorised as acts of care. Whilst such attention has left Fr Morrison-Cleary open to allegations, rightly or wrongly, of grooming behaviour (a matter that I do not intend to address here), the fact that any member of clergy could find themselves in such a position, not once, but on several occasions, is an absolute failure in the discharge of the duties as a priest.
60. The lack of attention to ensuring that AB was reunited with his family in December and January represent significant failures.
61. The lack of insight into the expected in the standards of conduct was disgraceful.
62. The conduct the subject of the Charge represents a complete disregard for the terms of his suspension, based on the care of AB, and represent a failure. This view is compounded by the fact that Fr Morrison-Cleary was well aware of what he was doing when he was confronted by his fellow member of clergy.

DECISION AND SENTENCE

63. I now proceed to make my decision under the PSO following from the PSB determination and also my Sentence under the CDO.

The Decision under the PSB Determination

64. The PSB recommendations that I am now required to consider were as follows:

- (a) An order be made prohibiting the Respondent from holding any licence or authority or office that he currently holds as a Church worker; **(Recommendation 1)** and
- (b) The prohibition order remain in effect until such time as the Respondent establishes, to the satisfaction of the Acting Director of Professional Standards, that:
 - (i) he recognises the objectives of protection of the vulnerable, of church workers, and of the Church itself, that are embedded in the rules and principles under which he would be required to operate; and
 - (ii) he was clearly and absolutely committed to the observation of those rules and principles.**(Recommendation 2)**

65. I accept Recommendation 1.

66. I am not required to provide any reasons for my decision. It is sufficient to observe that I consider the entirety of the Determination and Recommendation 1 to be appropriate and well considered.

67. **Accordingly:**

- (a) Fr Douglas Vaughn Morrison Cleary is removed from the office of Incumbent of the Parish of Beresfield and Thornton with immediate effect;**
- (b) Fr Douglas Vaughn Morrison Cleary's stipend and benefits conclude at 5pm today;**
- (c) Fr Douglas Vaughn Morrison Cleary must vacate the Rectory by 5pm on 4 April 2021; and**
- (d) Fr Douglas Vaughn Morrison Cleary is removed, with immediate effect, from any position of responsibility within the Diocese including his membership of the Synod and the Diocesan Council.**
- (e) The Diocese will ensure the payment of all entitlements to Mr Morrison-Cleary by 15 April 2021 less the cost of any amounts owing to the parish or to the Diocese and less any costs for rectifying the Rectory, if those costs are necessary.**

(f) Fr Douglas Vaughn Morrison-Cleary must not represent his engagement with the persons referred to as AA and AB and their family as a ministry of the Anglican Church.

68. In relation to Recommendation 2, the PSB imagined, with due reflection, that Fr Morrison-Cleary would be in a position to satisfy the DPS of the relevant matters that are set out in that recommendation.
69. Fr Morrison-Cleary's conduct after the issue of the Determination and for which the CDO Charge has been laid represents a wilful disregard for the objectives of protection of the vulnerable, of church workers, and of the Church itself, that are embedded in the rules and principles under which he would be required to operate; and has demonstrated that he is not committed to observing those rules and principles.
70. In the light of Fr Morrison-Cleary's admissions, I am unable to accept Recommendation 2. However, for the reasons now advanced in my consideration of the PSO finding, it will not be necessary for me to deal with the consequences of declining to accept Recommendation 2 under s83 of the PSO at this time.

The Decision and Sentence for the CDO Charge

71. At the outset, I acknowledge that Fr Morrison-Cleary has submitted to an offence under the *Offences Canon 1961*:
- (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
72. The offence related to the following conduct:
- (a) in August 2020, Fr Morrison-Cleary purchased a gift voucher at the Honey Ink Tattoo Studio at Stockland Green Hills in favour of AB in the sum of \$300.00;
 - (b) on 18 December 2020, Fr Morrison-Cleary supervised AB as a learner driver in the operation of Rev Morrison-Cleary's motor vehicle in a journey to Stockland Green Hills Shopping Centre without another adult being present;
 - (c) on 18 December 2020, Fr Morrison-Cleary accompanied AB to the

Honey Ink Tattoo Studio at Stockland Green Hills Shopping Centre to support him in obtaining a tattoo,

73. At all times, Fr Morrison-Cleary was prohibited from having contact with AB.
74. By admitting to the offence, Fr Morrison-Cleary has admitted this conduct.
75. He has made submissions that he did not understand that the prohibition order remained in place while the review of the Professional Standards Board decision was underway. He acknowledges that he failed to check the status of this order with his legal advisors. I cannot accept this as an excuse or explanation for his conduct. The PSO has always been accessible to him and at all times Fr Morrison-Cleary's legal advisors have adopted a robust position indicating an awareness of the framework in which they were operating. Section 40(c) of the PSO states:

“A suspension or prohibition order made by a Church authority pursuant to a recommendation under section 37 shall be terminated by the Church authority:

...

(c) *upon the Church authority giving effect to a recommendation of the Board.”*

76. In making a determination under the Clergy Discipline Ordinance 2019 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.
77. The only published reasons in the Anglican Church of Australia for consideration of matters under a Clergy Discipline Ordinance are my own reasons in the matter of *Battrick*.
78. In that matter, I observed that the Church of England operates a similar disciplinary system to the 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 priest back into ministry because the misconduct is so grave; and
- (b) misconduct where there is a realistic prospect that the priest, 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.

- 79. In approaching the determination of the appropriate sentence, I am assisted by the considered approach within the Church of England.
- 80. I am also able to be informed by previous decisions of the Professional Standards Board of the Diocese of Newcastle. However, I note there have been no decisions of that Board that engage with matters directly similar to those to be considered here.
- 81. 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

- 82. In his submissions of excuse or mitigation, Fr Morrison-Cleary has stated:

“concepts like scandal are simply not part of my calculus of life and ministry. I struggle to understand the how or the why of such notions.”

- 83. Every member of the clergy hears the charge at an ordination:

“Remember that you will be called to give account before Jesus Christ: if it should come about that the Church, or any of its members, is hurt or hindered as a result of your negligence, you know the greatness of the fault and the judgement that will follow.”⁴

⁴ A Prayer Book for Australia p 794

84. I have given detailed consideration to Fr Morrison-Cleary's submissions of excuse or mitigation but observe that actions or events giving rise to shock and disapproval are significant considerations for any priest exercising their ministry as they care for the people entrusted to them.
85. I note that the PSB did receive and assess submissions by Fr Morrison-Cleary in the PSB proceedings.
86. I am aware that Fr Morrison-Cleary was subject to a ministry issues process while he was the Incumbent of the Parish of New Lambton. However, the findings of that process were not considered in making my determination here.
87. I observe that, in general, prior to the conduct being considered in relation to the Charges, Fr Morrison-Cleary was of good character and respected by his parishioners.

Early submission

88. I take into account the fact that Fr Morrison-Cleary has submitted to the CDO charge at the earliest opportunity.

Mitigation

89. This is not a matter where Fr Morrison-Cleary's conduct can be considered in the light of youth or inexperience. Fr Morrison-Cleary is a senior and experienced member of the clergy in the Diocese of Newcastle.
90. Fr Morrison-Cleary did raise a 2013 diagnosis of ADHD in the PSB proceedings. The PSB considered a report from his treating psychiatrist at that time tendered on his behalf. There was no evidence of ongoing treatment.
91. Fr Morrison-Cleary has submitted to me that I should have regard for his ADHD and also for situational depression.
92. No medical evidence was offered to me and Fr Morrison-Cleary did not advise me that he require further time to obtain such evidence.
93. I note that Fr Morrison-Cleary has had an opportunity to provide such evidence and has been legally represented during this period. I am entitled to infer that had he considered such evidence was useful, it would have been provided to me.

94. In seeking to comprehend the approach I should take in considering this matter, I have regard for the view of the President of the PSB, a distinguished judicial officer with considerably more experience in adjudicating matters. The President expressed a view that she did not believe the ADHD diagnosis was relevant.
95. I have noted that Fr Morrison-Cleary was outraged by the view of the President of the PSB in relation to the relevance, or otherwise, of his ADHD condition, a condition for which, on the evidence provided during the PSB proceedings, he sought no medical treatment between 2013 and 2020.
96. To have any material relevance, Fr Morrison-Cleary is required to establish a causal link or a link of a relevant kind between his ADHD and the subject behaviour, which as I have indicated has not occurred. The same expectation would arise in relation to a proposition of situational depression.
97. For completeness, I refer to *Paparone -v- The Queen* [2000] WASCA 127. For the submissions to have weight, it would be necessary for Fr Morrison-Cleary to demonstrate a causal link:

“...of the required kind between his ADHD and his misconduct. He would have needed to demonstrate how the ADHD impacted his choices, his capacity to seek treatment and his capacity to obtain appropriate medication”⁵.

98. In sentencing for criminal matters, respected jurist Dr Ian Freckelton QC observes that:

“without expert evidence about the ramifications of ADHD for an offender’s criminal conduct, it will generally not be accorded particular significance at sentencing. For the opinions of mental health practitioners about persons having ADHD to be considered helpful by the courts, though, expert witnesses will generally both need to have the requisite diagnostic expertise and to have examined the individual. ... A key issue is the extent to which the symptomatology of ADHD played a causative or at least contributing role to the commission of a criminal offence. If there is clear evidence of premeditation and planning, that will go a considerable distance to negating the relevance of an ADHD diagnosis.”⁶

⁵ *Paparone v The Queen* [2000] WASCA 127

⁶ Freckelton, I - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7033699/>

99. Therefore, in the absence of any evidence to enable such an exercise, I cannot meaningfully consider Fr Morrison-Cleary's ADHD condition or situational depression in my deliberations here.
100. Fr Morrison-Cleary did also make other submissions in mitigation to the effect that he erroneously believed that the Prohibition Order somehow expired once the Determination of the PSB had been delivered. This again demonstrates Fr Morrison-Cleary's misconception about the process. The issue of the Prohibition Order had no direct relationship to the PSB Proceedings at all.
101. I acknowledge his enrolment in an education course for which he has completed half the course work. It does concern me that this study was quite likely to have been undertaken at around the time of his conduct the subject of the Charge.
102. Overall, his submissions of excuse or mitigation left me with an overwhelming impression that, whilst he may have acknowledged fault, he still remains unable to fully embrace the magnitude of the adverse consequences of his conduct upon those around him.

Aggravating Factors

103. I also observe that the conduct that supported the Charge was in clear breach of a current Prohibition Order and represented the continuation of a pastoral relationship with AB that the PSB had already found to be manifestly unacceptable and worthy of serious sanctions.
104. Despite such compelling deterrents, Fr Morrison Cleary proceeded to conduct himself in the manner that has resulted in the laying of the Charges in question.
105. Further, the comment to his fellow clergy member ("you do not want to know") when confronted with the discovery of his attendance with AB at the tattoo parlour objectively demonstrates a high level of awareness of the gravity of his conduct and an appreciation of the consequences of his actions.
106. In such circumstances, the conduct flagrantly disregarded protocols that are designed to protect and support the mission of clergy within the Diocese. The conduct is to be properly considered inexcusable, wilful and reckless.

Remorse and Prospect for Rehabilitation

107. The findings and recommendation set out in the Determination would, objectively, have been confronting to most members of the clergy and church workers.
108. The PSB President, in her recommendations, provided for the prospect of rehabilitation on the part of Fr Morrison-Cleary.
109. Subsequent to the findings of the PSB, Fr Morrison-Cleary continued on a course of behaviour for which he was charged with conduct that would be 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.
110. The PSB noted that there was no remorse to the original conduct.
111. On the contrary, there is now evidence and admissions of wilful disregard by Fr Morrison-Cleary of the orders of suspension and prohibition, and of the findings of the PSB.
112. Fr Morrison-Cleary has offered no apology to AA or AB or their family, the Bishop, the Diocese of Newcastle, his peers or to the Parish of Beresfield-Thornton.
113. There is evidence of Fr Morrison-Cleary seeking to inveigle his parishioners and peers to show disregard for the professional standards processes of the Diocese, its officers, the PSC and the PSB.
114. There is no evidence indicating that Fr Morrison-Cleary has demonstrated a desire for rehabilitation. In light of this, I do not consider that there is any prospect for rehabilitation.
115. Fr Morrison-Cleary has admitted to scandalous conduct.
116. I have taken into account the previous good ministry in which Fr Morrison-Cleary engaged, the seriousness of the misconduct, the lack of remorse, the lack of any mitigating factors and the absence of any prospect of rehabilitation.
117. I cannot identify any reason for the sentence to be suspended.

Mercy

118. In keeping with the quasi-judicial approach to clergy discipline outlined in the Constitution of the Anglican Church of Australia, the principle of mercy enshrined in the Constitution is to be applied within established legal principles.

119. In approaching this issue, I have considered the observations of Justice Gray of the South Australian Supreme Court in the matter of *Morrison -v- Behrooz*:

“The discretion to adopt a merciful approach to sentencing should only be used in circumstances where weight should be given to factors which are ordinarily regarded as relevant mitigating circumstances. For example, the principle of mercy is often sought to relieve or compensate for hardship which resulted either from the offence or from the sentence that would be imposed. In order to demonstrate sufficient hardship in this context, there is a need to identify a significant burden to be borne in addition to punishment – for example, a substantial economic, social or other disability.”⁷

120. It is evident to me that my decision may result in Fr Morrison-Cleary being never being able to work or minister within his chosen vocation again.

121. The responsibility of identifying the burden that may arise because of that decision rests with Fr Morrison-Cleary and his advisors. I was provided no assistance to assess such matters and there is no responsibility on me to speculate about his financial circumstances, his capacity to gain alternative employment or make assumptions about the impact of any decision I make on his family’s circumstances.

122. Fr Morrison-Cleary has made no submissions on this matter.

123. Whilst I have no doubt that any Sentence I determine will have serious consequences for him and his family, I have no information before me that would appropriately permit the exercise of a prerogative of mercy as recognised in this context.

124. I should add that even if such information was before me, given the gravity and recklessness of the misconduct, there is no pathway open to me to ameliorate my decision with alternative sentences that would allow for any meaningful and/or remunerated work within the Church.

⁷ In *Morrison -v- Behrooz* [2005] SASC 146, Gray J at 49

DECISION

125. Taking all matters into consideration, I am of the view that the only realistic course of action open to me is that Fr Morrison-Cleary be deposed from holy orders. That the sentence cannot be suspended and that there is no proper basis to exercise the prerogative of mercy.
126. **I therefore pronounce that the appropriate sentence is:**

THAT upon the entry of Judgment as against the Reverend Douglas Vaughn Morrison Cleary 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 2019*, I determine that the said Reverend Douglas Vaughn Morrison-Cleary shall be deposed from holy orders with immediate effect.

I further direct that the Douglas Vaughn Morrison-Cleary 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.

127. The effect of my sentence is that Douglas Vaughn Cleary:
- (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 of the Anglican Church which may be held by a lay person without the consent of the bishop of that diocese;

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

128. This decision will be communicated to the Diocese of Minnesota in the Episcopal Church in which Mr Morrison-Cleary was ordained, published in full on the Diocesan Website and referred to on the General Synod website. It will also be communicated to the Uniting Church in which Mr Morrison Cleary previously served.