

THE PUBLICATION OF ANY MATERIAL THAT IDENTIFIES OR LEADS TO THE IDENTIFICATION OF WITNESSES A, B, OR C IS PROHIBITED.

DETERMINATION

- 1 This matter arises out of a Referral to the Professional Standards Board dated 4 February 2021 (the Referral), pursuant to s 64 of the Professional Standards Ordinance 2012 (the Ordinance).
- 2 The Referral followed two investigations by the Professional Standards Office of the Anglican Diocese of Newcastle into certain conduct of the Reverend Christopher Charles Bird, Incumbent of the Parish of St Stephen's, Adamstown.
- 3 On 1 April 2021, the Respondent, as provided for in r 2, Appendix 1 of the Ordinance, consented to the President of the Board sitting alone to hear and determine the issues raised by the Referral.
- 4 The questions referred to the Board, were:
 - A Whether, temporarily or permanently, the Respondent is fit to hold a particular or any office, licence or position of responsibility in the Anglican Church or to be or remain in Holy Orders or in the employment of a Church body; OR alternatively
 - B Whether in the exercise of the Respondent's ministry or employment, or in the performance of any function the Respondent should be subject to certain conditions or restrictions.
- 5 In reaching its determination, it will be necessary for the Board to be comfortably satisfied on the balance of probabilities that the allegations set out in the Referral are established, having regard to the serious nature of the

allegations and the gravity of the consequences flowing from a particular finding: *Briginshaw v Briginshaw* [1938] HCA 34; (1938) 60 CLR 336.

Background Facts

- 6 The Respondent is a member of the clergy within the meaning of s 3 of the Professional Standards Ordinance 2021 (as amended) in that at all times he has been engaged as a priest of the Anglican Church – Newcastle Diocese.
- 7 Between 1986 and 1989 the Respondent held the position of Minor Canon-in-Residence at Christ Church Cathedral, Newcastle. From 1989 until 14 August 2020 the Respondent was the Incumbent of the Parish of St Stephen’s, Adamstown. At all material times the Respondent was engaged and resided within the Diocese of Newcastle.
- 8 On 14 August 2020, following an investigation by the Professional Standards Office, the Respondent was suspended from all duties associated with or arising from his office as the Incumbent of the Parish, from his membership of the Synod and from any role or ministry in the Parish or Diocese which arose from the Respondent’s office or ministry as a priest.
- 9 After certain further information was received, the Professional Standards Office conducted a further investigation. The Applicant relied on the two investigations in referring to the Board:
 - (1) Allegations involving Mr Graeme Lawrence and Witness A;
 - (2) Allegations of disparagement of Bishop Peter Stuart;
 - (3) Allegations of disparagement of the Professional Standards Office and its work;
 - (4) Allegations of common assault, intimidation, threats and bullying;

(5) Allegations of failure to adhere to the Faithfulness in Service Code (as amended from time to time).

10 Upon receipt of the Referral, directions hearings were held on 18 March 2021, 7 April 2021 and 18 June 2021 with a view to preparing the matter for hearing. On 18 June 2021, a hearing date was fixed for 6 September 2021 for an estimated duration of five days.

11 The Respondent was represented by solicitors and counsel until 6 August 2021. On that date, the Board was advised that their retainers had been terminated. On 17 August 2021, the Respondent was requested to advise if he proposed to engage alternative representation and he was informed of the directions hearing listed for 20 August 2021. He replied on 19 August 2021 that:

I am not engaging any legal representation and on medical advice I am not participating in the proceedings.

12 The Board continued to inform the Respondent of steps taken in an attempt to bring the Referral to a conclusion. The Respondent maintained the position that, based on medical advice, he did not propose to participate in the proceedings.

13 The hearing date of 6 September 2021, and that subsequently fixed for 18 October 2021, were vacated, and the proceedings were delayed while inquiries were made to ascertain the nature of the Respondent's illness and the prognosis for recovery to the point where the Respondent might be in a position to participate. Efforts to secure independent expert opinion were abandoned when it became apparent that extensive delays would be encountered by reason of the additional pressures and disruptions placed on the medical profession by the Covid-19 epidemic.

14 The Board turned to the Respondent's general practitioner, Dr Tang, for his opinion.

- 15 On 5 October 2021, Dr Tang provided a report confirming the diagnosis he provided in medical certificates of *acute anxiety and psychological trauma – causing depression*. Dr Tang gave details of the treatment provided. His opinion at that time was that the Respondent was unfit for any work duties or to appear before the Board. He said that any such appearance might exacerbate the Respondent's condition. The Respondent had been treated by a psychologist and had been referred to a psychiatrist. Dr Tang offered to arrange for them to provide reports that, he believed, would confirm his opinion.
- 16 It was a matter of regret that Dr Tang's report contained a substantial amount of comment concerning the circumstances that he believed lead to the development of the Respondent's illness. Much of this commentary was in the nature of hearsay or advocacy on the part of the Respondent. Many of the factual allegations raised in the report were disputed by the Applicant. In the circumstances, the Board was concerned about the extent of Dr Tang's objectivity in providing his diagnosis and prognosis. With the Respondent's consent, the Board sought reports from the treating psychiatrist and psychologist.
- 17 In the meantime, the parties were asked to consider consenting to the President's proceeding to determine the issues raised in the Reference on the papers before the Board. On 27 October 2021, the Respondent informed the Board that he left to the President the question of whether to proceed on the papers. On 1 November 2021, the Applicant consented to the proposal to proceed on the papers.
- 18 On 29 November 2021, the Board received a report from Mr Stephen Peate, psychologist. He reported that he first treated the Respondent on 23 August 2019. He diagnosed an Adjustment Disorder with Depressed Mood and Anxiety and Episodic Suicidal Ideation. Treatment involved cognitive behavioural therapy, neuropsychotherapy and psychoeducation. Mr Peate agreed with Dr Tang that the Respondent was unfit to appear before the Board.

- 19 Mr Peate was unable to estimate the time required to allow the Respondent to recover. He said the Respondent was distressed by the matters before the Board and that the current situation was causing him psychological harm. He referred to research that indicated that adjustment disorders often resolved six months from the cessation of the distressing situation that was its cause. Having regard to the Respondent's history of two years of symptoms, he thought his recovery might take longer.
- 20 The Respondent's psychiatrist, Dr Robinson, did not provide the report requested because of the pressure of his practice. However, he provided a copy of his report to Dr Tang dated 11 October 2021, following his one consultation with the Respondent. Dr Robinson's diagnosis was Adjustment Disorder with depressed/anxious mood, to be managed by continuing medication. He noted in the report that there were no themes of harm to self or others and that no further appointment had been arranged.
- 21 By the time of the directions hearing of 6 December 2021, the medical material had not been of particular assistance. I took account of Mr Peate's opinion that the Respondent's recovery could be assisted if the situation causing his distress ceased. There were two options facing the Board in achieving this outcome. One was the permanent termination of the proceedings without hearing or determination of the issues. The other was to allow the Respondent and all other persons involved in the proceedings to have the certainty of an outcome of the inquiry before the Board.
- 22 I did not regard termination as an option. The Referral raised issues of serious concern that affected the lives and mental health of the witnesses who provided evidence to the Board as well as the Respondent. I decided that the preferred course was to proceed to determine the matters raised by the Referral.
- 23 In the absence of participation by the Respondent, I decided to proceed with my determination on the papers in the following two stages:

- (1) By determining the factual issues by reference to the papers and publishing my findings; and
- (2) By allowing the parties the opportunity to address the Board further on the answers it should provide to the questions posed by the Referral.

24 The Respondent was subsequently informed of this decision. On 11 January 2022, the Board Secretary received an email from the Respondent in which he stated:

As indicated to you earlier based on my medical advisors' opinions and ongoing treatment, I remind you that I will not be participating in the proceedings or engaging in any further correspondence with yourself or the board concerning the same.

25 The Referral dated 4 February 2021 is attached to this Determination as Annexure A. The papers to which I have had access in preparing this part of the Determination have been marked as exhibits and are listed in Annexure B.

Allegations involving Mr Lawrence and Witness A

26 Witness A is now 27 years old. He alleged that he was sexually assaulted by Mr Graeme Lawrence in mid-2018, when he was 23 years old.

27 It was not disputed that Mr Lawrence was a parishioner at St Stephen's Church for several years, that he was charged and convicted of serious sexual offences towards a young male during the period when he was the Dean of Newcastle, and that he continued to worship at St Stephen's Church while on bail, pending the hearing of the charges.

28 Witness A joined the Newcastle Diocese of the Anglican Church in August 2016, initially worshipping at Christ Church Cathedral where he was confirmed in September 2016. He transferred to St Stephen's Anglican Church in Adamstown, where the Respondent was the Rector, in early 2017.

29 Witness A developed a high level of respect for the Respondent, describing him as friendly, experienced and having influence and charisma within the

Parish. Witness A regarded the Respondent as a role model. He believed the Respondent valued him as a member of his congregation, a belief that was consolidated when he was offered the role of Altar Server which he readily accepted and enjoyed.

30 He said he rarely missed a Sunday service and his involvement within the Parish and the Respondent's influence on him reached the point where he decided that he wished to become a priest. He discussed theology with the Respondent.

31 At the time he joined the St Stephen's Parish, the Respondent introduced Witness A to Mr Lawrence. Witness A described Mr Lawrence as friendly and warm towards him, complimenting him on his appearance, his clothes and the work that he performed within the Parish. Witness A rejected a number of Mr Lawrence's invitations to his home for a drink.

32 At the end of 2017, Witness A became aware of the nature of the criminal charges pending against Mr Lawrence. He said that the Respondent took every opportunity to minimise or negate Mr Lawrence's part in crimes with which he was charged.

33 Witness A said the Respondent pressured him to meet with Mr Lawrence to discuss theology and his calling to ordination. He agreed and met with Mr Lawrence at the food court at Kotara in mid-2018. He took a bus to the meeting.

34 He described Mr Lawrence's conduct at the meeting as flirtatious with crude sexualisation of their conversation. Mr Lawrence showed no interest in discussing religion.

35 Witness A was at that time fulfilling the role of Parish secretary at St Stephen's. He intended to return to the Church after the meeting to carry out secretarial work. Mr Lawrence insisted on driving him there. Witness A's affidavit evidence of the events he claimed took place in the car was:

28 From the moment I got in the passenger seat of his car, it felt like he couldn't keep his hands off me. As he drove the car he continually reached across to the passenger seat where I was sitting and grabbed my right hand with his left hand and put it forcefully on his thigh and penis. He only let it go to use his left hand to grab my penis. This continued the whole way to Adamstown. He drove into Olney Road and parked the car just near Saint Stephens. He was talking sexy as in filthy talk about young boys what he liked to do to them and why he liked having sex with boys. For example, he said, "I like how their arses are nice and tight." "Boys are so fresh and youthful." "Come on this is what friends do with one another, we can keep it to ourselves and not tell anyone."

29 He accessed child pornography on his telephone and watched it. He put it in front of my face so that I had to watch it. I saw young boys with other young boys and old men having sex, oral, penetrative anal sex, the lot. I had never been exposed to child pornography before, so I felt frozen and sick. I found it repulsive, and I was scared stiff.

30 I could see and feel Graeme's penis became erect. Graeme remained fully clothed throughout the entire ordeal. He was wearing beige-coloured pants with a buttoned-up check shirt. I was wearing cargo pants and a jumper. Graeme tried on several occasions whilst we were parked to remove my pants at the front to expose my penis, but I managed to prevent that from happening by fighting against it.

31 I was constantly saying, "No stop this; please stop I feel sick and scared I need to go." I constantly felt like I was pushing him away.

32 At one stage towards the end of the ordeal he had managed to partially climb on top of me. I can recall when he did this, he forcefully stuck his tongue in my mouth and kissed me hard and passionately as he did this, he was masturbating himself with his right hand. He was rubbing his penis with his hand in a up and down, backwards forwards motion on the inside of his clothing. I can recall looking down toward his penis and seeing a wet spot on the outside of his beige coloured pants. I can recall thinking that he must have ejaculated in his pants.

33 I managed to get myself out of the car and I walked frantically to Saint Stephens. I went into the back of the hall area and tried to settle myself down. I had been there for what felt like ten minutes or so before Chris by chance came into the office.

36 Witness A said he told the Respondent of the assault by Mr Lawrence, giving him much of the detail of the event. He stated that in response the Respondent said: *'I'm sorry this happened to you.'*

37 Witness A said the Respondent showed no shock, surprise or indignation. He thought the Respondent appeared to accept too easily the distressing circumstances that he described.

38 Witness A ceased his work as Parish secretary that day. He said he struggled to attend meetings or continue involvement with the Parish. He resigned his role as Parish secretary. He ceased attending St Stephen's Church shortly thereafter.

39 Witness A said that the Respondent's attitude towards him changed from the day upon which he disclosed the assault. He was no longer approachable and open, he was cold towards him and kept his distance and avoided him. Witness A expressed disappointment, stating that the Respondent caused him to feel that he was at fault.

40 Late in 2018, Witness A attempted to return to St Stephen's. He attended a Sunday service where he felt nervous and uncomfortable because Mr Lawrence was present. He rebuffed Mr Lawrence's approach at the end of the service.

41 The Respondent was not the only person to whom the alleged assault was reported. Witness A said he spoke to the following:

(1) some months later, a friend who was a lawyer in Sydney;

(2) in late 2018, a fellow parishioner;

(3) in March 2019, Reverend Andrew Eaton;

(4) in July 2019, Mr Benjamin Giggins;

(5) in early 2020, Father Zebulan McKrell;

(6) in August 2020, Ms Cathy Rose.

42 The lawyer confirmed that he had spoken with Witness A. He relied on client confidentiality in declining to provide details of the conversation in the event that Witness A required legal representation.

- 43 The parishioner was unwilling to provide information to Ms Rose.
- 44 Reverend Andrew Eaton was first contacted by Witness A in April 2018. Their next contact was in March 2019 when Witness A requested a meeting to give confession and seek guidance in respect of *'really horrible experiences'* at another parish. They met on 23 March 2019 when Reverend Eaton took Witness A's confession. Reverend Eaton said that he was bound by canon law not to reveal any of the information received during the course of this discussion. He provided copies of his communications with Witness A leading up to their meeting together with a copy of his diary for 23 March 2019.
- 45 Witness A said that he contacted Mr Giggins after the media attention at the time of Mr Lawrence's trial. Mr Giggins confirmed that he had been contacted by Witness A. He attached to his affidavit screen shots of the communications between himself and Witness A in which Witness A informed him of the fact but not details of the alleged assault. Mr Giggins did not state the date of these communications although it appears from the discussion evidenced by the screen shots that they took place between the date of Mr Lawrence's conviction in July 2019 and his sentencing in September 2019.
- 46 In early 2020, Witness A disclosed to Father McKrell that something involving Mr Lawrence had occurred. At a meeting in July 2020, Father McKrell encouraged Witness A to contact the Director of Professional Standards, Ms Rose. Father McKrell himself reported the matter to Ms Rose
- 47 Ms Rose contacted Witness A. He subsequently spoke with Father McKrell, telling him he was upset by the contact because he would have to relive the experience.
- 48 Father McKrell's affidavit provided details of his own friendship with the Respondent and of a dinner party that he and his wife attended at the Respondent's home on 29 July 2020. He asked the Respondent why Witness A had left St Stephen's. The response, he said, was:

...Chris replied something like, "Graeme showed him some gay pornography at a cafe." I can recall [his wife] said something like, "Graeme was probably pushing boundaries to see if [Witness A] was interested."

49 Witness A agreed to meet with Ms Rose on 11 August 2020. At that meeting he provided a full account of the alleged assault that Ms Rose handwrote, and Witness A signed.

50 Ms Rose reported the information provided by Witness A to the NSW Police Force, the Professional Standards Office, Ms Barry, Chair of the Professional Standards Committee, and Bishop Peter Stuart. She also obtained two further typed, signed statements from Witness A dated 13 August 2020 and 14 August 2020.

51 On 14 August 2020, a member of the Police Force advised Ms Rose that Witness A had lodged a complaint but did not wish to proceed with formal action.

52 On 14 August 2020, Bishop Stuart and Ms Rose met with the Respondent in the Diocesan Office at Newcastle. At that meeting, the Respondent was handed a letter from Bishop Peter (following the recommendation of the Professional Standards Committee) suspending him from all duties associated with, or arising from, his office as incumbent of the Parish of St Stephen's, Adamstown. Ms Rose took notes of some of the conversation that took place in the course of that meeting, including the following response by the Respondent:

[Witness A] told [the Respondent's wife] and I that Graeme Lawrence had shown him something on the phone when he had a coffee with him and I just said don't go near him.

53 Ms Jeanette Clarke has been a member of the congregation of St Stephen's, as well as engaging in many activities involved in its administration. She held the position of secretary to the Parish Council from a date prior to 2014 until March 2021, with the exception of the months of May and June 2018. She

relinquished this for personal reasons but recommenced after having been informed by the Respondent that Witness A was unable to continue.

54 The duties of the Parish secretary included the production of the minutes of the monthly meetings of the Parish Council. Ms Clarke said there were no minutes for the June 2018 meeting.

55 Ms Margaret Thornton was also an active member of the St Stephen's congregation having, amongst other roles, that of Rector's Warden. Ms Thornton produced documentation that confirmed that Witness A first attended St Stephen's in mid-2017. She said his attendance ceased in mid 2018. She did not know the reason for this.

56 Both Ms Clarke and Ms Thornton were aware of the circumstances in which Mr Lawrence was subject to a Safety Plan. Ms Thornton was appointed one of the supervisors under the Plan. Ms Clarke stated that she had never seen Mr Lawrence breach the conditions of the plan. Ms Thornton said that, to her knowledge, the Respondent always adhered to the Safety Plan.

57 Both Ms Clarke and Ms Thornton stated that the Respondent consistently stated his position of ensuring that victims of abuse reported their complaints to police.

58 On 11 September 2020, Ms Rose forwarded to the Respondent a letter setting out allegations relating to these incidents. The responses provided by the Respondent on 8 October 2020, with some modifications in the Respondent's table of pleadings dated 14 April 2021, are set out below.

(1) The Respondent denied that during the time Witness A was the Parish Secretary, he encouraged him to meet with Mr Lawrence to discuss theology.

(2) He agreed that he was aware of the sexual assault charges against Mr Lawrence. Initially the Respondent stated that he was only aware of

the charges to the extent of what he had seen in the media. This qualification was not repeated in the table of pleadings.

- (3) The Respondent admitted that he discussed those charges in the presence of Witness A and others at St Stephen's, but denied that he initiated those discussions.
- (4) The Respondent denied that he openly supported Mr Lawrence in his denial of child sexual assault charges.
- (5) In respect of the sexual assault allegations made by Witness A, the Respondent denied that:
 - (a) Witness A told him anything of any sexual assault upon him.
 - (b) In response to Witness A's report of sexual abuse he said the words: *I'm sorry this happened to you.*
 - (c) He failed to provide pastoral or any other form of support to Witness A in respect of any disclosure of sexual assault.
 - (d) He failed to report any allegations of that nature to the NSW Police Force, any other authority, or the Director of Professional Standards.
 - (e) He failed to seek advice concerning his legal obligations arising from Witness A's disclosure of sexual abuse when he was aware that it was a criminal offence.
 - (f) He believed that any conflict existed between his ministerial responsibility to Witness A and Mr Lawrence.
 - (g) He failed to seek advice in respect of any conflict.

- (h) He displayed the impression of favouritism towards, or inappropriate special relationship with, Mr Lawrence.

FINDINGS

59 The matters and facts alleged in paragraphs 1 – 17 inclusive of the Referral were not contested.

60 In respect of paragraphs 22 - 38 inclusive of the Referral, there was no witness who could corroborate Witness A's complaint of sexual abuse by Mr Lawrence. In the circumstances, I have considered the following:

- (1) Ms Thornton and Ms Clarke confirmed that Witness A was a regular and active member of the St Stephen's congregation between mid-2017 and mid-2018.
- (2) They confirmed that his participation ceased in mid 2018.
- (3) Parish records confirmed that Witness A took up the role of Parish secretary for the months of May and June 2018. Ms Clarke confirmed that she resumed the role after she was informed by the Respondent that Witness A was unable to continue. No reason was provided for his relinquishing the role.
- (4) The absence of minutes for the Parish Council meeting of June 2018 was supportive evidence of Witness A's sudden departure from the role.
- (5) I rejected the Respondent's denial of receiving a complaint of any kind from Witness A about the conduct of Mr Lawrence. I preferred the evidence of Father McKrell and Ms Rose that the Respondent told them that Witness A informed him that Mr Lawrence showed him pornography on his mobile telephone.

- (6) I accepted therefore that an incident involving Mr Lawrence and Witness A occurred in mid 2018. I further accepted that the Respondent was informed by Witness A of this incident.
- (7) It was not possible to conclude that the details of the incident were precisely as described by Witness A. However, the evidence of his reaction, including his abrupt and unexplained departure from St Stephen's, and his several reports of the incident was sufficient to allow me to conclude that it involved conduct of a sexual nature that was serious and that ought to have been taken seriously by the Respondent.
- (8) There was no evidence that the Respondent did anything other than either apologising to Witness A or advising him to stay away from Mr Lawrence.

61 In respect of paragraphs 22 – 33 inclusive of the Referral, I find that there was sufficient evidence to warrant a finding that an incident involving serious sexual misconduct on the part of Mr Lawrence occurred.

62 I find that the allegations set out in paragraphs 34 – 38 inclusive of the Referral have been proved to the required level of satisfaction and I find that, after Witness A disclosed information relating to sexual abuse by Mr Lawrence:

- (1) the Respondent failed to provide pastoral support to Witness A;
- (2) the Respondent provided no other form of support to Witness A;
- (3) the Respondent failed to report the disclosure of sexual abuse of Witness A to the NSW Police Force or to any other authority;
- (4) the Respondent failed to report the disclosure of sexual abuse of Witness A to the Director of Professional Standards as provided in the Professional Standards Protocol;

(5) the Respondent failed to seek advice in regard to his legal obligations relating to Witness A's disclosure of sexual abuse which the Respondent was aware were allegations of criminal offending.

63 In respect of paragraphs 19 – 21 inclusive of the Referral, the Respondent admitted that he was aware of the sexual abuse charges pending against Mr Lawrence at the relevant time, and that he discussed those charges with members of the St Stephen's congregation. It was also apparent from evidence provided in respect of the remaining allegations set out in the Referral that the Respondent firmly believed that Mr Lawrence was innocent of those charges.

64 In respect of paragraph 43 – 44 inclusive of the Referral, I find that the Respondent's firm belief in Mr Lawrence's innocence created a conflict between his ministry responsibility to Witness A that he failed to seek advice to address.

65 In respect of paragraph 45, I find that the Respondent's firm belief in Mr Lawrence's innocence created an impression of favouritism towards and an inappropriate special relationship with Mr Lawrence.

Allegations of Disparagement and Disrespect

Safety Agreements

66 Paragraph 39 of the Referral alleged that the Respondent told others at the Adamstown Parish that he believed Safety Agreements were unnecessary.

67 Risk management of Mr Lawrence's attendance at St Stephen's was governed by:

(1) Two documents, designated *Safe Ministry Practice*, authored by the Respondent. The first was signed by the Respondent on 10 November 2014, the second was signed on 2 August 2018. The following excerpts appeared in both documents:

We are committed to providing for all people a sanctuary for worship, education, fellowship and service.

...

.... To ensure that no-one within our Worship Community is put at risk by any behaviour, I, as Parish Priest, shall do all that I can to ensure that Graeme

...

1. Continues to demonstrate an attitude of respect to ALL those in attendance.

...

3. Avoids any situation where he is alone, or likely to be alone with children, young people or designated adults.

...

I will address any breach of this Safe Ministry Practice and refer such breach to the Director of Professional Standards for further action.

68 In the course of correspondence concerning the adoption of a *Person of Concern Safety Agreement*, the Respondent wrote to Ms Rose on 2 August 2018:

There have been no issues with ... Graeme Lawrence since they have attended at St Stephen's.

69 All safety agreements relating to Mr Lawrence were terminated on 26 July 2019.

70 Documentation contained in the brief of evidence indicated that there was considerable reluctance on the part of the Respondent to implement any measure of risk management of Mr Lawrence and other members of the St Stephen's congregation.

71 This documentation indicated that efforts to secure the Respondent's co-operation in the management of the activities of Mr Lawrence at St Stephen's Parish commenced in early 2013. A meeting was held on 22 May 2014, attended by the Respondent, Bishop Greg Thompson and Mr Michael Elliott, the then Director of Professional Standards. The file note of that meeting, prepared by the Director, reporting, amongst other things, that:

He believes holy orders are indelible and cannot be removed ...

...he ... allowed LAWRENCE to do readings at several funerals, not in official dress

72 The file note also recorded that the Respondent maintained that Mr Lawrence should be allowed a level of involvement within the Parish, including membership of the Parish Council and occasional funeral readings.

73 On 9 July 2014, the Director wrote to the Respondent reminding him that, notwithstanding the unwillingness of Mr Lawrence to consent to a risk management agreement, appropriate risk management practices should be implemented as a matter of priority. He again offered to assist the Respondent in this respect.

74 Further reminders were sent on 25 August 2014 and 12 September 2014. On 25 September 2014, the Director wrote to Bishop Thompson expressing his concerns at the continuing delay in implementing the required risk management procedures. He listed the correspondence referred to above and noted that, in a telephone conversation with the Respondent, he had received undertakings from the Respondent that had not been fulfilled.

75 The document titled 'Safe Ministry Practice' was signed by the Respondent on 10 November 2014 and subsequently by the Director and Bishop Thompson.

76 On 24 January 2017, a document signed by the Respondent, Margaret Thornton and Jeanette Clarke dealt with management of risks, in the main to children at the Parish. Specific reference was made to Mr Lawrence and his understanding of the restrictions placed upon him, including exclusion from any role involving children's ministry. The document concluded with:

Any breach of the Safe Ministry Practice shall be reported to the Director of Professional Standards for further action.

77 The document was accompanied by acknowledgements of Ms McNaughton and Ms Clarke in which each of them stated that they were unaware of any

breach of the Safe Ministry Practice agreement, or of conduct of concern, by Mr Lawrence.

78 In July 2018, the Respondent was advised by the Professional Standards Office of the adoption of a new policy in respect of the management of persons of concern with a view to developing Interim Safety Plans and Persons of Concern Safety Agreements. A copy of the policy was provided together with a letter from Ms Rose outlining the requirement that Mr Lawrence enter into a Safety Agreement. The Respondent was requested to prepare and implement an Interim Safety Plan pending completion of the Safety Plan.

79 I have assumed that the Safe Ministry Practice dated 2 August 2018 was adopted as the Interim Safety Plan. The document in evidence was signed by the Respondent. Provision was made for it to be signed by Ms Rose and Bishop Stuart, but it was not signed by them. The Safety Agreement was signed by Mr Lawrence on 13 November 2018. It was signed by a number of other parties, including the Respondent and Ms Rose.

80 Witness A claimed that the Respondent had little regard for Safety Agreements. In respect of Mr Lawrence, Witness A said that the Respondent stated that the plan was 'rubbish', and that Mr Lawrence could do as he pleased at St Stephen's. He detailed instances of conduct he claimed was allowed of Mr Lawrence that was in breach of the Safety Plan.

81 Witness A claimed that the Respondent refused to accept that Mr Lawrence could be removed from holy orders and that he said to him:

The Dean will hear your confession he is a fully functioning priest.

82 On 11 September 2020, Ms Rose forwarded to the Respondent a letter setting out allegations relating to these incidents. The responses provided by the Respondent on 8 October 2020, with some modifications in the Respondent's table of pleadings dated 14 April 2021, are set out below.

Disparaging Conduct

- 83 Paragraphs 40 and 41 of the Referral alleged that the Respondent often disparaged Bishop Peter Stuart to others and that he electronically recorded conversations with Bishop Stuart without his knowledge or permission. Paragraph 42 alleged that the Respondent disparaged the Professional Standards Office within the Diocese to others.
- 84 The evidence in support of these allegations came from the third of Witness A's affidavits of 3 August 2021.
- 85 Witness A said that he heard the Respondent disparage Bishop Peter Stuart at *every opportunity*. He said that, whenever the Bishop's name was mentioned, the Respondent reacted with words of a disparaging or disrespectful nature. This occurred in St Stephen's Church, during mass, in the Rectory and in the office area, in formal and informal settings, at Parish Council meetings and while the Bishop was delivering a sermon at Adamstown. Witness A alleged that the Respondent mocked the Bishop throughout the entirety of a sermon that he delivered at St Stephen's.
- 86 He alleged that the Respondent was critical of the Bishop's ordination of women, describing it as 'a heresy'.
- 87 Witness A further alleged that the Respondent audio recorded Bishop Peter Stuart by using his mobile telephone when he attended St Stephen's Church. He claimed that it was common knowledge among the members of the Parish Council that their meetings with the Bishop were recorded and that they were told not to tell the Bishop of this.
- 88 Witness A stated further that the Respondent was rebellious and that he openly disobeyed the instructions of the Bishop and the Professional Standards Office.
- 89 The Respondent denied that:

- (1) He told others at Adamstown Parish that he believed Safety Agreements were unnecessary.
- (2) He often disparaged Bishop Peter Stuart.
- (3) He electronically recorded conversations with Bishop Peter Stuart without his knowledge or permission.
- (4) He disparaged the Professional Standards Office within the Diocese to others.

Findings

90 The allegation that the Respondent considered safety agreements to be unnecessary was supported by evidence of:

- (1) his initial reluctance to implement any arrangement to manage the activity of Mr Lawrence and others while they continued to worship at St Stephen's;
- (2) his disregard of his obligations under the Safe Ministry Practice that applied at the time he learned in mid 2018 of the incident involving Witness A and Mr Lawrence. At that time the document governing the management of Mr Lawrence was the Safe Ministry Practice of 2014. At the very least, Witness A had reported to the Respondent that Mr Lawrence showed him pornography on his telephone. This alone, if the Safe Ministry Practice was regarded as worthy of respect, should have resulted in action by the Respondent that included a report to the Professional Standards Office.

91 I find the allegation contained in paragraph 39 of the Referral to be proved.

92 In the absence of corroborative evidence, I was unable to find that the allegations contained in paragraphs 40 and 41 of the Referral were proved.

93 There were two elements of the evidence that indicated that the Respondent had little respect for the Professional Standards Office. The Head Office incident referred to in paragraphs 122 - 129 of this Determination established that the Respondent had little respect for the work of the Professional Standards Office dating back to 2013. Taken into account with the Respondent's disregard of his obligations to report the incident involving Witness A and Mr Lawrence in mid 2018, I was satisfied that the allegation contained in paragraph 42 of the Referral was proved. I find that the Respondent disparaged the Professional Standards Office within the Diocese to others

Allegations of common assault, intimidation, threats and bullying

The incident at the Synod on 10 December 2016

94 Mr Steven Smith alleged that he was repeatedly sexually abused by a priest, Reverend George Parker as a child between 1971 and 1975. Criminal proceedings were instituted, and a trial commenced, but the charges were withdrawn after a church register was produced that provided Reverend Parker with an alibi.

95 Mr Smith stated that evidence was given to the Royal Commission that indicated that the register had been altered in order to provide the alibi. Further, his evidence to the Royal Commission was accepted as credible over the evidence of those who disputed it.

96 Reverend Parker was again charged with offences involving Mr Smith together with an additional 20 charges. He died before his trial on those charges could proceed.

97 Mr Smith detailed in his affidavit the devastating consequences to him of the abuse he suffered. In 2016 he was invited by Bishop Thompson to attend the Anglican Diocese of Newcastle Synod on 10 December 2018 at the Bishop Tyrell Anglican College School Hall. The purpose was to inform him of the

progress made by the Church in cultural reform. The Presidential Address at the Synod was given by Bishop Peter Stuart.

98 On arrival there were no available seats and Mr Smith stood at the back of the hall near the tea and coffee table. The Respondent sat at a table near the back of the hall. Mr Smith said that the Respondent stared at him for a lengthy period while the proceedings of the Synod continued. The Respondent then walked towards him and stood next to him. The following occurred:

32 As he was positioning himself so that he too was standing with his back against the wall, he deliberately, forcefully drove his left elbow into the side of my stomach. He used enough force to cause me to bend forward and quickly pull my arm across my body to protect myself from him. Then he just stood there. We didn't speak. I was unnerved, thrown. He stood there for a few minutes then walked back to his seat. He glared at me from his seat until the break.

99 Mr Smith said Ms Joanne McCarthy, a journalist with the Newcastle Herald, told him during the tea break that she witnessed the incident. Mr Michael Elliott was present but did not see the incident. Mr Smith reported it to him shortly after it occurred. Mr Smith also told Bishop Thompson that day or shortly after what had happened.

100 Bishop Thompson was interviewed by Ms Rose in November 2020 concerning this incident. He confirmed that Mr Smith reported the incident to him shortly after Synod 2016 and told him that Ms McCarthy witnessed it.

101 Mr Elliott confirmed that he attended Synod 2016 and that he spoke to Mr Smith during the morning tea break who told him of the incident and that it had been witnessed by Ms McCarthy.

102 There was no statement from Ms McCarthy.

103 The Respondent's replies to the second letter of allegations in respect of this incident was:

- (1) He admitted the date of the Synod and that Bishop Peter Stuart gave the Presidential Address.
- (2) He admitted that he was seated with persons from the Adamstown Parish, towards the rear of the school hall.
- (3) He initially denied any memory of whether Ms McCarthy or Mr Smith attended the Synod. In the table of pleadings, the Respondent admitted that they were both present at the Synod.
- (4) He admitted that he knew Mr Smith prior to the Synod but not that he had known him since 1996.
- (5) He denied that Mr Smith stood at the back of the hall.
- (6) He denied all allegations of assault or intimidation of Mr Smith, including those of staring or striking a blow.

Findings

- 104 The allegations concerning the 2016 Synod were set out in paragraphs 52 – 68 inclusive of the Referral.
- 105 Paragraphs 52 – 55 were admitted. I was persuaded by the evidence of contemporaneous reporting to Mr Elliott and Bishop Thompson that an incident of the nature described by Mr Smith did occur.
- 106 I find the allegations set out in paragraphs 56 – 68 inclusive to be proved and I find that the Respondent harassed and assaulted Mr Smith in the manner alleged.

Conduct when teaching Divinity at Newcastle Girls Grammar School (Hill Campus)

107 The Applicant alleged that the Respondent assaulted and intimidated Witness B when he taught Divinity to her as a Year 8 student at Newcastle Girls Grammar School in 1986. At the time, she was 13 years old.

108 Witness B stated that lessons in Divinity were compulsory at the school and the Respondent was her Divinity teacher. She claimed that the Respondent conducted himself in a way that made her feel uncomfortable. Her description of his conduct was:

He walked around the classroom and while I was sitting at my desk, Father Bird placed his hand on my shoulder on the outside of my school uniform. He pinched my bra strap and the skin of my shoulder with his fingers and held this for a while. He did this on more than one occasion. I think he may have made other girls in my class feel uncomfortable too.

109 Witness B said that she began to misbehave in the class to the point where, in July 1986, she was called to the office of the Head Mistress. Witness B attended the meeting with her mother. She reported the conduct of the Respondent and the discomfort that she suffered as a result. She recalled that she was upset and in tears at the meeting.

110 The result was that she was no longer required to attend Divinity lessons. In their place, she took music lessons.

111 A school mate of Witness B confirmed parts of her evidence. She said that she was a close friend of Witness B and that they were in separate classes in Divinity in 1986. She confirmed that the Respondent was the Divinity teacher for Witness B's class in 1986. Her observation of Witness B was that she became nervous and anxious during the year and that she displayed 'hatred' of the Respondent, telling her:

Father Chris was "creepy" and that he would hold her shoulder from behind for longer than she felt comfortable during divinity class.

112 Witness B's mother said three of her children attended Newcastle Grammar School and she attended meetings there from time to time, but she did not recall the meeting with Witness B's Head Mistress in 1986. She recalled that Witness B took private piano lessons in her early high school years.

113 Witness B's mother said that in 1999, after Mr Lawrence's conviction, Witness B told her that Father Chris 'fiddled with her bra straps during class'. She described her daughter as a person who conducted herself to a very high standard and that she was truthful and reliable.

114 Newcastle Grammar School Records confirmed that both Witness B and her school mate were students at the school in 1986. The school reports of 1986 produced by the school indicated that Witness B did not study music in the period to June 1986 but that she studied music with the nominated music teacher the period ending in December 1986.

115 Bishop Greg Thompson informed Ms Rose that in the course of an interview with Witness B's classmate, she told him that the Respondent was a Divinity teacher at the school and that she found him to be offensive. She told Bishop Thompson that:

... when she was in the middle years of high school Chris would wonder [sic] around the classroom and flick the girl's bra straps as they sat in class.

116 A further letter of allegations was forwarded to the Respondent on 2 December 2020. The following responses were provided on 22 December 2020 in respect of these allegations:

- (1) The Respondent denied the allegation that he was the Divinity Teacher at the School, in particular in 1986 for Year 8 female students. He conceded that he was the assistant to Mr Lawrence, who was then the School Chaplain.
- (2) The Respondent stated that he had no recollection of the incident or of the person (Witness B) referred to in the letter of further allegations.

- (3) The Respondent denied all other allegations of misconduct towards Witness B.

Findings

- 117 The allegations concerning this complaint were set out in paragraphs 69 – 79 of the Referral.
- 118 Allegations 69 and 70 were admitted. Allegations 71, 72 and 73 were conceded to the point of admitting that the Respondent taught Divinity at the Newcastle Girls Grammar School.
- 119 The evidence of the school mate confirmed that the Respondent taught Divinity to Witness B's Year 8 class in 1986 and that Witness B complained of and was affected by the manner in which the Respondent conducted himself in the courses of the classes.
- 120 The School records confirmed Witness B's assertion that she studied music in the second half of 1986, consistently with her evidence that she was excused from what was otherwise the compulsory Divinity class.
- 121 I was satisfied that the allegations contained in paragraphs 75 – 79 of the Referral were proved. I find that the Respondent assaulted Witness B in the manner described.

The Head Office Incident

- 122 Ms Torok was employed in various administrative positions by the Anglican Diocese of Newcastle between 2012 and 2019. She said that on 2 August 2013, she was working on an inquiry for the Office of Professional Standards. She started to clear the documents from view when she heard the Respondent in the reception area of the office. The following took place:

- 10 Chris approached me from behind, I was sitting. He stood behind me, standing over me and said in a firm tone, "What's that?" I reacted by turning over the documents that I was working on so that they were

face down on the desk and he couldn't see them. I then said, "Stuff I'm helping with downstairs" (referring to level 1 where the Professional Standards department is located, but not directly saying professional standards). Chris then said, "What are you doing getting involved in all that?" I know where your kids go to school and where you live." Somewhat taken aback, I didn't respond. ... He was deadly serious in his demeanour and tone.

11 At the time I had two daughters attending St Phillip's Christian College, Waratah.

123 Ms Torok made a record of the incident and reported it to her supervisor and to the Diocesan Business Manager, Ms Wilson, with whom she discussed the incident in detail.

124 Ms Wilson confirmed that Ms Torok, shortly after the incident, told her of the statements she alleged were made to her by the Respondent on 2 August 2013. She said Ms Torok was 'rattled' by the incident.

125 The Respondent replied to the second letter of allegations on 22 December 2020 as follows:

(1) The Respondent did not recall having attended the Diocesan Head Office on 2 August 2013.

(2) He denied all other allegations relating to the incident involving Ms Torok.

Findings

126 The allegations set out in paragraphs 80 – 95 of the Referral were not pressed.

127 The allegations concerning the incident at Head Office on 2 August 2013 were set out in paragraphs 96 – 105 inclusive.

128 Ms Torok's evidence was supported by the contemporaneous file note of the incident and by the evidence of Ms Wilson that she reported the incident to her shortly after its occurrence.

129 I find paragraphs 96 – 105 of the Referral to be proved. I find that the Respondent engaged in behaviour towards Ms Torok that was intimidating and threatening.

The police chaplaincy incidents occurring between 2016 and 2019

130 Witness C is an Anglican priest, not currently in active ministry, who served with the NSW Police Force as [REDACTED].

131 The Respondent held the position of Honorary Chaplain to the Newcastle Local Area Command from August 1989 until August 2016. His chaplaincy status of 'active' was put on hold when he was mentioned in the Royal Commission.

132 Witness C stated that the Police Commander of Workforce Management requested the change in status without waiting for a response from the Diocese because he wanted to mitigate any risks immediately. On the same day the Commander of the Newcastle Local Area Command requested that the Respondent not engage in pastoral ministry to members of the Command until matters were resolved.

133 On 16 August 2016, Witness C telephoned the Respondent to inform him of the change in status until confirmation was received from the Diocese. He said the following conversation took place:

19. He (raised angry forceful voice) 'I can't believe this! I'm not being investigated. Just mentioned. You are unbelievable [Witness C]. Doing this to me. You know what? You want my resignation? You can have it!

11 I said, 'Chris, I do not want you to make a hasty decision. Can I suggest we let this process play out?'

12 He said, (angrily) 'You know how long I've been doing this? A lot longer than you [Witness C]. I am of a mind to write to the Commissioner and let him know how poorly you've handled all this. Very poorly. Not just this. Lots of things.'

13 I said, 'Chris, of course you can write to whomever you wish. Do you understand what I've requested of you regarding your ministry as a police chaplain?

14 He said, 'Yes. Yes. Bad decision but yes.'

134 On 23 August 2016, Witness C received the following text message from the Respondent:

Can you please give my barrister a call re my being stood down. She would like some clarification. Her name is and she would like to discuss.

135 Witness C said he found the text confronting and threatening. He regarded it as an attempt to unsettle him through the use of legal action. He took advice from his Commander and did not make the contact.

136 On 7 September 2016, the Respondent forwarded to him an email from a journalist who was seeking comment about his suspension. Witness C interpreted this as a threat to have him publicly named and questioned. Again, he did not make contact.

137 In mid-November 2016, a retired Superintendent telephoned Witness C making comments supportive of the Respondent. He told Witness C that:

'many of the older retired police were dismayed by "my" decision and I was being viewed in a bad light'.

138 He assumed that this telephone call was the result of the Respondent's gathering support for reinstatement and attempting to undermine his own position and reputation.

139 In late November 2016, Witness C and the Respondent were present at the Northern Region Commissioner Officers' end of year dinner. Early in the evening the Respondent stood with a group of retired police. The Respondent stared at Witness C, and he whispered and laughed while looking at him. Witness C regarded this behaviour as childish.

140 The Respondent took a seat at dinner next to Witness C and moved his seat closer to the point where their elbows were touching. He placed a heavy hand on his shoulder at least three times while pointing out to the table the benefits of police chaplaincy and its leadership. Witness C considered the gestures to be insincere and intimidating.

141 Witness C said grace. When he resumed his seat, amongst his peers, the Respondent spoke loudly, asking why he had not mentioned a particular saint's day and recently departed police. The Respondent said:

Senior Chaplains aren't as good as they used to be.

142 Witness C found the comments to be offensive and demeaning.

143 There were two other incidents of which Witness C gave evidence:

(1) Both Witness C and the Respondent attended the installation and commissioning of the 14th Bishop of Newcastle, the Right Reverend Dr Peter Stuart in February 2018. On that occasion the Respondent approached Witness C, stood close to him and asked in a bullying way why he was there.

(2) On 12 November 2019, at a Clergy Development Day, the Respondent bumped Witness C's elbow as he took a sip of coffee, after which he laughed and said:

Sorry. Didn't see you.

144 Witness C conceded that, although the incidents that he reported might appear to be childish and petty, collectively they caused him embarrassment, anxiety and, at times, fear. He said that since the events of 2016 he had been treated by the Respondent only with disdain or open hostility.

145 The Respondent replied to the second letter of allegations on 22 December 2020 as follows:

- (1) He admitted that Witness C contacted him to inform him that:

... I had to stand aside from my position as a Police Chaplain because I was giving a statement to the Commission.
- (2) He denied the balance of the conversation as alleged by Witness C.
- (3) He agreed that he asked Witness C to contact his barrister. This was done, he said, on the instructions of the barrister because he had no written reasons concerning his suspension. He denied that the request was made with the intent to intimidate or suggest that he might take legal action against Witness C.
- (4) He agreed that he forwarded to Witness C a request from a journalist for comment on his change in status. He denied that he did this with the intention of intimidating Witness C. He said he believed it was Witness C's responsibility to deal with the media.
- (5) He agreed that he attended the NSW Police Force North Region Commissioned Officers' end of year dinner in late November 2016 and that he sat next to Witness C at the dinner.
- (6) He denied all other allegations concerning his comments and conduct at the function.
- (7) He denied that his comments would be regarded by a reasonable person as demeaning and offensive to their character.
- (8) The Respondent denied all allegations concerning his conduct at the installation and commissioning of Bishop Peter Stuart and at the Clergy Development Day.
- (9) He denied that a reasonable person would conclude that his conduct and behaviour towards Witness C between 2016 and 2019 caused Witness C to feel embarrassed, anxious and fearful of him.

Findings

- 146 The allegations concerning the Witness C were set out in paragraphs 106 – 131 inclusive of the Referral.
- 147 The allegations contained in paragraphs 106, 109, 111, 112, 114, 115 and 117 were admitted.
- 148 While admitting that he asked Witness C to contact his barrister, the Respondent denied that he did so with the intent to intimidate Witness C. His explanation that his lawyer was inquiring into the reasons for his suspension was plausible. In the circumstances, I find the allegation of intimidating conduct contained in paragraph 110 of the Referral not proved.
- 149 The explanation for forwarding the request for comment from the journalist was not plausible. Witness C had acted as a messenger for the Police Force in conveying the decision to put his position as police chaplain on hold. The request for comment was made to the Respondent not to Witness C or the Police Force. It could not reasonably be expected that contact from Witness C would satisfy that request.
- 150 Notwithstanding my rejection of the Respondent's explanation, I was not able to be satisfied to the required standard that he forwarded the request for comment to Witness C with the intent to intimidate him. I find the allegation set out in paragraph 113 not proved.
- 151 There was coherence between the conduct reported by Witness C in relation to the incidents occurring in 2016, 2018 and 2019 and that reported by Mr Smith and Ms Torok, to the extent that I accepted the evidence of Witness C concerning that conduct.
- 152 Overall, the evidence indicated that the Respondent behaved inappropriately towards those he believed to be undermining the status quo within the

Diocese. For this reason, I accepted the evidence of Witness C and I find the allegations set out in paragraphs 107, 108, 116 and 118 – 131 to be proved.

153 I find that the Respondent engaged in conduct designed to bully, harass and intimidate Witness C.

Faithfulness in Service

154 The allegations set out in paragraphs 132 – 143 of the Referral applied the conduct of the Respondent already described to the standards contained in the Faithfulness in Service Code (July 2016) and alleged failure to adhere to the Code in a number of respects.

155 It follows from my findings in paragraphs 64 and 65 of this Determination that I find proved the allegations at paragraphs 132 – 134 inclusive of the Referral that, in respect of the conduct involving Mr Lawrence and Witness A:

(1) the Respondent did not adhere to the provisions of Part 4.14 when he failed to obtain advice to deal with the conflict of interest; and

(2) the Respondent did not adhere to the provisions of Part 4.16 when he failed to avoid behaviour that could give the impression of favouritism towards Mr Lawrence.

156 It follows from my findings in paragraph 106 of this Determination that I find proved the allegations at paragraphs 135 and 136 of the Referral that the Respondent failed to adhere to Part 6 of the Faithfulness in Service Code (July 2016) when he engaged in physical abuse by assaulting Mr Smith in December 2016.

157 It follows from my findings in paragraph 129 of this Determination that I find proved the allegations at paragraphs 137 – 138 of the Referral that the Respondent failed to adhere to Part 6 of the Faithfulness in Service Code (April 2011) when he engaged in bullying and harassment of Ms Torok in August 2013.

- 158 It follows from my findings in paragraph 153 of this Determination that I find proved the allegations at paragraphs 139 – 141 (a), (c) and (d) inclusive of the Referral that the Respondent failed to adhere to Part 6 of the Faithfulness in Service Code (July 2016) when he engaged in bullying and harassment of Witness C.
- 159 It follows from my findings in paragraph 153 of this Determination that I find proved the allegations at paragraphs 139 – 141 (e) inclusive of the Referral that the Respondent failed to adhere to Part 6 of the Faithfulness in Service Code (August 2019) when he engaged in bullying and harassment of Witness C.
- 160 The allegations set out in paragraphs 142 and 143 of the Referral were not pressed.

Conclusion

- 161 The matter will be listed for directions on a date to be fixed to set a date upon which to hear the parties' submissions concerning the recommendation that the Board should provide to the Diocese.