

CLERGY DISCIPLINE ORDINANCE 2019

In the matter of the Reverend Zebulan McKrell

DECISION PURSUANT TO CLAUSE 22 OF THE CLERGY DISCIPLINE ORDINANCE

Formal Requirements

1. My actions today are in response to a notice provided to the Reverend Zebulan McKrell (**Father McKrell**), in accordance with the Clergy Discipline Ordinance 2019 (**CDO**).
2. The format of these proceedings 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.

Summary of Determination and Sentence

3. Father McKrell has **admitted** to offences 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.
4. By **admitting** the offences, Father McKrell has admitted engaging in scandalous conduct.
5. **Consequently, I have determined to impose the following sentence:**
 - (a) **I confirm my previously notified decision (made on 16 December 2022) to terminate Father McKrell's appointment as the Incumbent of the Parish of Kotara South with effect from 15 February 2023; and**
 - (b) **Father McKrell is prohibited from holding himself out as a member of the clergy and undertaking any ministry as a member of the clergy until such time as he is permitted to do so by authority in writing from a Bishop of a Diocese and that no such authority may be given or take effect prior to 3 February 2027.**
6. The full extent of the discipline can be found in the detailed reasons which will be published online.
7. The extent of my detailed reasons, which of their nature must be public, are designed to assist Father McKrell, and others who work with him, understand the scope of the remedial action that he needs to consider.

DETAILED REASONS

Background

8. Father McKrell was accepted as an ordination candidate in 2016 by Bishop Thompson on the recommendation of the Bishop's Examining Chaplains. By delegation, I enacted Bishop Thompson's decision, which I supported.
9. Father McKrell detailed the complex story of his family of origin in his application to be considered for ordained ministry. As part of the formation response, Father McKrell was given an additional year of formation and the Diocese paid for him to receive relevant support.
10. Father McKrell was ordained as both deacon and priest in 2019 and in December 2019 was commissioned as the Incumbent of the Parish of Kotara South.
11. Father McKrell, like all stipendiary clergy in the Diocese, has been provided with confidential ministry supervision by an independent trained professional. He has had unhindered access to the support of senior clergy, such as an Archdeacon and/or Assistant Bishop.
12. Father McKrell also had access to support from the Diocese, his Church Wardens, and his Parish Council.

Status of Clergy

13. Parish clergy are neither employees or contractors (s 263 Clerical Ministry Ordinance 2009 (**CMO**)). They are appointed to offices created under the laws of the Synod including the CMO.
14. Parish clergy are not directly supervised in the conduct of their day to day ministry, however:
 - (a) The Churchwardens of the Parish are required to report "to the Bishop any irregularities in the performance of services or neglect of duty by any licensed person" and "to advise the Bishop and/or Archdeacon in a timely manner if they have serious concerns about the health and wellbeing of any member of the clergy serving in a licensed ministry within the Parish". (Section 57 of the Administration of Parishes Ordinance 2010 (APO)). Much of the work of Parish clergy occurs beyond out of the sight of the Churchwardens; and
 - (b) The Bishop will appoint an Assistant Bishop or Archdeacon to have pastoral oversight of the Parish Clergy. This involves occasional meetings and being a point of reference when matters arise.
15. Clergy in their first five years of ordination are regarded as being in training appointments under the CMO. The Bishop may specify the conditions by which a training appointment can be concluded. In keeping with other similar appointments, at the time of Father McKrell's training appointment, I determined that it could be concluded by the Bishop giving him 2 months' notice in writing.

16. Clergy in their first three years of ordination attend post-ordination training on a regular basis. This training is led by senior clergy. In 2020 and 2021, it was the Director of Formation and in 2022, it was the Assistant Bishops.
17. Clergy have access to a senior Diocesan officer to provide support. From his ordination until 1 October 2020, it was the Diocesan Chief Operating Officer and from 1 October 2020, there were several Executive Directors including the Executive Director of People and Culture (Human Resources).

Incumbency (Training Office) Terminated

18. Based on Father McKrell's admitted misconduct, I determined that there was no prospect of creating a supervisory arrangement in the parish that could effectively monitor his conduct. On 16 December 2022, I gave him notice that his appointment as Incumbent of the Parish of Kotara South would conclude at 5pm on 16 February 2023 and that his stipend would conclude on that day. He is required to vacate the Rectory associated with that office by 5pm on 16 March 2023.
19. On the same day he was charged under the CDO and, with the concurrence of the Diocesan Council (obtained in an anonymised form), I immediately suspended him from ministry.

These proceedings

20. The Cambridge English Dictionary defines scandal as:

“an action or event that causes a public feeling of shock and strong moral disapproval.”
21. The standard for assessing scandal is that of a reasonable person and a reasonable church member.
22. My responsibility under the *Clergy Discipline Ordinance 2019* is to pronounce sentence in proportion to the misconduct, taking into account and giving due weight to all material circumstances including the particular facts of the misconduct.
23. I am required to 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.
24. The sentence available to me under the Constitution of the Anglican Church of Australia are:
 - (a) deposition from orders;
 - (b) prohibition from functioning;
 - (c) removal from office;
 - (d) rebuke.

25. 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 matters of Batrick and Morrison-Cleary
26. In those matters, 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.
27. In approaching the determination of the appropriate sentence, I am assisted by the considered approach within the Church of England.
28. I am also able to be informed by previous decisions of the Professional Standards Board of the Diocese of Newcastle (**PSB**).
29. I am aware that in the PSB Matters of the PSC v Morrison-Cleary and the PSC v Bird, the President of the PSB has been at pains to provide opportunities for the respondents to express remorse, understand the impact of their misconduct, and accept pathways to demonstrate the capacity to be returned to ministry.
30. In proceeding to pronounce Sentence, I acknowledge that the Constitution of the Anglican Church of Australia allows
- (a) for a sentence to be suspended; and
 - (b) a Diocesan Bishop to exercise a prerogative of mercy.
31. It is not the role of the Bishop to make sentences which contain a general deterrent function.
32. However, the Bishop must be mindful of the class of faithful deacons and priests who presently and previously have undertaken ministry. The failures by one deacon or priest reflect on all deacons and priests.
33. The sentence of the Bishop must be such that clergy, parishioners, and the wider community can have confidence in the function of the ordained ministry and those in the ordained ministry can have confidence in themselves.
34. Further, 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.

Conduct under review

35. It has been important for me to summarise the conduct under review to preserve the privacy of the people impacted as best as possible.
36. On 21 November 2022, the Director of Professional Standards received information that suggested breaches of the Code of Conduct *Faithfulness in Service* by Father McKrell in relation to a Newcastle Anglican parish-based employee (**Ministry Relations and Boundaries**).
37. Also on 21 November 2022, the Director of Professional Standards received advice from Father McKrell in relation to an unrelated altercation in the parish on 20 November 2022. However, on 25 November 2022, the Director of Professional Standards received information that suggested circumstances related to this altercation that represented breaches of the Code of Conduct *Faithfulness in Service* by Father McKrell (**Harassment**).
38. Preliminary investigations were made, and key matters were put to Father McKrell who admitted the relevant conduct.
39. During these enquiries, I also became aware that Father McKrell had violated the Road Transport Act 2013 (NSW) by taking the demerit points of another person. While not relevant to the elements of the charge, the other person was previously unknown to Father McKrell, not being a member of his family or congregation (**Demerit Point Offence**).
40. While presenting key matters to Father McKrell and receiving his admissions, the extent of the misconduct related to **safe working environments, alcohol use, and understanding the limit of skills and experience**.
41. On the basis of his admissions, it is open to me to observe that he has engaged in behaviour which has been marked by **poor pastoral judgement** over a period of around 12 months and involved repeated misconduct.
42. I am also satisfied from his own admissions that Father McKrell continued in his course of harmful action even after being alerted to the impact of some of his actions by his supervisor.
43. Father McKrell has also admitted disparaging the Bishop of Newcastle (**disparagement**).
44. It is of concern that clergy, being uncomfortable with Father McKrell's conduct, did not escalate those concerns (**clergy reporting**).

Ministry Relations and Boundaries

45. It is not contested that Father McKrell met an adult person at the Ordination Service at Christ Church Cathedral in November 2021 through a mutual friend.
46. Father McKrell became friends with this person, arranged employment, and later, the employment relationship and friendship soured.

47. The person complained about aspects of Father McKrell's conduct.
48. While reviewing the conduct which was the subject of the complaint, the extent of misconduct became apparent. Not all aspects of the misconduct were the subject of the complaint, but all aspects of misconduct identified in the review of the behaviour required careful consideration.
49. In *Australian National University v Mr Scott Morrison* [2022] FWCFB 83 (**the Morrison Case**), the Fair Work Commission (**FWC**) distinguished private conduct of an employee (including out-of-hours conduct) and employment related conduct.
50. In that case, the FWC commented that:
- “Clearly, it is possible for an academic at the University, in their private life, to enter into a consensual relationship with another person who happens to be a student at the University without this having any relevant connection to the academic’s employment. It is difficult to conceive that, without more, the existence of such a relationship could ever constitute a valid reason for dismissal.”*
51. The FWC determined that the facts of the Morrison case created a different context. It stated at paragraph [55]:
- “We consider that it should be obvious that a senior academic should not in the course of conducting an education activity engage in sexual intimacy with a student participating in that activity, even if the intimacy was consensual and initiated or invited by the student.”*
52. The FWC found that at paragraph [55]:
- “the ANU Code of Conduct provided that University staff are placed in a position of trust, and that trust is placed at risk when staff fail to recognise and avoid conflicts between their private interests and University responsibilities, and situations where there is a reasonable basis for the perception of such a conflict. In this respect, [the respondent] was required to avoid and disclose to the University any situations which might require him to supervise or assess a student with whom he had, or previously had, a personal, commercial, familial or other significant relationship.”*
53. Further:
- “The effect and consequence of [his] conduct was to establish a non-professional, personal relationship with the Student – a situation which he was required to avoid and, once it occurred, to disclose to the University. He did neither, and thus placed at risk the trust which the University reposed in him. [54]”*
54. The FWC found that the Respondent's conduct was:
- “a serious breach of [his] obligations such as to constitute a sound, defensible and well-founded reason for dismissal.”*

55. The *Morrison Case* provides a context in which friendship within an organisation is possible between professionals and service recipients, but that there are also reasonable constraints upon such relationships in those organisations to ensure people's wellbeing and safety.
56. Whilst the facts of the *Morrison Case* arise in an educational setting, the principles are equally applicable to the Anglican Church, which is no different to other groups in Australian society which can stipulate reasonable behavioural expectations of the people working for them and exercise sanction when those expectations are not met.
57. It is not uncommon in caring professions for there to be a prohibition on developing personal friendships or relationships with clients while the professional relationship is ongoing. There is an expectation of a significant period elapsing between the ending of a professional relationship and the formation of a personal relationship. Psychologists, for example, are reminded constantly of the risk of an improper relationship with patients due to the latter's vulnerability and the potential for exploitation.
58. This expectation of psychologists is not made of clergy under *Faithfulness in Service*, which is the code of conduct for the Diocese. The approach taken for psychologists recognises the significant power imbalance created in a therapeutic relationship and recognises that the professional relationship of a psychologist is shaped by formality in which appointments are made and notes are kept.
59. *Faithfulness in Service* states:
- "Clergy have authority conferred upon them by their ordination, consecration and licensing. ... The authority and training associated with their roles means that they have power in pastoral relationships which is always to be exercised in the service of others. Trust is of primary importance in the creation and maintenance of an effective pastoral relationship. Trust grows with the maintenance of physical, sexual, emotional and psychological boundaries suitable to pastoral ministry. While clergy and church workers often enjoy personal friendships with those to whom they minister, their pastoral ministry responsibilities take precedence."* (Page 16)
60. The relationship of a member of the clergy to a parishioner may resemble a psychologist's relationship with a patient in terms of the breadth and depth of issues which may be covered but also recognises that the clergy do not engage as therapists but more so as spiritual companions and fellow disciples. There will be a vast array of formal and informal individual and group encounters between clergy and parishioners. Only some of those encounters might result in the member of the clergy making a pastoral note.
61. The relationship between a member of the clergy and a parishioner is asymmetrical by nature. The asymmetry is further influenced by the clergy or parishioner's understanding of the clergy member's real and perceived power, especially spiritual power.
62. *Faithfulness in Service* recognises that clergy and church workers may form friendships with the people to whom they minister but are guided to preference their work of ensuring wellbeing and providing spiritual advice and support, education, counselling, medical care,

and assistance in times of need. Clergy are expected to ensure the safety and wellbeing of the people they serve.

63. *Faithfulness in Service* provides a caution that confusion between pastoral relationships and personal relationships can lead to a loss of objectivity together with a failure to act in the best interests of another and can result in harm.
64. *Faithfulness in Service* ensures that clergy are aware of the boundaries of their conduct and clergy are aware that a breach of those boundaries will result in disciplinary action or guidance.
65. Clergy may form friendships with parishioners and people to whom they provide pastoral care. People who are friends of clergy may become parishioners or otherwise within the orbit of their professional responsibility.
66. Clergy are expected to bear in mind their pastoral responsibilities and consequently their obligations to the Anglican Church and their Bishop.
67. In interacting with people to whom they minister, clergy have the responsibility to regularly assess whether their engagement is **welcome**. This means reflecting on whether their conduct is inoffensive to the person and is sought, wanted, or desired by the person. Clergy need to be aware that people change in what they want from others. Pastoral relationships and friendships grow and wane.
68. Pastoral relationships in which the member of the clergy and an adult identify a potential or actual romantic or sexual interest are the focus of specific attention in *Faithfulness in Service*. Clergy have specific steps they must observe when that situation arises where transparency is central and the protection of the other person is of paramount concern.
69. It is obvious that a member of the clergy having formed a ministerial relationship with a person should not engage in activities which are offensive and/or which ignore the ministerial dimension of their relationship whether or not some or all of those activities are proposed or consented to by the other person.
70. It is obvious that a member of the clergy has the responsibility to review whether their conduct is appropriate, and/or welcome.
71. The nature of ministry and the permission within *Faithfulness in Service* for friendships with people in ministry means that recognising and attending to the asymmetry in the relationship, reflecting whether the conduct is appropriate, and confirming that the conduct is welcome is an ongoing responsibility. It is an expression of the highest level of pastoral care.
72. In this Diocese, clergy are provided with access to independent professional supervision to assist them to review their relationships and address circumstances where the boundaries or appropriate behaviour have become unclear.
73. In a period of 12 months, Father McKrell completely obscured the boundaries of the priest-parishioner, priest-community member, employer-employee, and friendship relationships

with the person. Such was the impact of the boundary breaking behaviour that it was put to Father McKrell that observers perceived that he had a romantic and/or sexual interest in the person.

74. Father McKrell did not evaluate and/or check whether his conduct toward the person was appropriate and/or had become unwelcome. There were clear indications that Father McKrell was increasingly misusing the power of his position.
75. The relationship can be described as one in which Father McKrell repeatedly and wilfully broke pastoral boundaries, failing to place the interests of the other person first, engaging in heavy-drinking, shared a room with this person overnight on at least 10 occasions when he was inebriated and when Father McKrell's home and wife were in easy travelling distance. Father McKrell engaged in behaviour which stressed and humiliated the other person.
76. On this matter, I would remove Father McKrell from office as Incumbent and prohibit him from undertaking ministry for 3 years and only permit him to be relicensed when he has demonstrated to a Diocesan Bishop and the Director of Professional Standards for that Diocese that he has met the **objective tests** outlined in this decision.

Harassment

77. It is not contested that Father McKrell went to a home of two people not associated with the Diocese to remonstrate with them about the remuneration payment to their employee who was a parishioner.
78. Father McKrell concedes that he became hot headed.
79. The two people indicated their sense of intimidation and fear of Father McKrell during that engagement to the Director of Professional Standards.
80. The parishioner corroborates the essential factual basis and Father McKrell has admitted the allegations.
81. The interests of the parishioner were not advanced by this engagement by Father McKrell. Rather they appear to have been set back.
82. Father McKrell admits using language seeking to inappropriately assert spiritual authority.
83. He also admits seeking to exert authority which he did not have.
84. Father McKrell's conduct was unwelcome and left its recipients feeling offended, belittled and threatened.
85. Father McKrell showed no insight into the impact on the people to whom he directed his conduct.

86. He has also admitted that he did not disclose the full circumstances of his conduct to the people he sought to enlist to help him when the two people sought to redress their experience with him.
87. It is obvious that members of the public do not expect to be harangued and imposed upon by a member of the clergy on their doorstep at night in relation to their business affairs.
88. It is obvious that people seeking the assistance of clergy in addressing their personal circumstances are not wishing their circumstances to be worsened by that assistance.
89. Father McKrell has admitted his conduct was scandalous.
90. On this matter, I would rebuke him, place his ministry under the supervision of an experienced priest for a period of 2 years, and require him to address his conduct with a trained counsellor at his own expense.

Demerit Point Offence

91. The NSW Government has legislated a demerit point system as part of the process of enhancing road safety.
92. As part of that legislation, it is an offence to take the demerit points of another person unless you engaged in the offending behaviour in the relevant vehicle owned by that person.
93. There is a poor understanding of this offence in the community with people taking demerit points for family and friends. When discovered by Government authorities, they find themselves subject to significant fines and, depending, on the nature of their declaration, criminal charges.
94. Father McKrell admitted that he took the demerit points for a person he met for the first time in a fast-food restaurant.
95. He has offered no plausible reason for this misconduct and little insight into the potential adverse impact of this misconduct on others, including the person for whom he took the demerit points.
96. This conduct has been reported to the NSW Police.
97. I am deciding this matter on the basis that Father McKrell has not been charged or convicted of criminal conduct. Those circumstances would give rise to a further formal review.
98. Accordingly, I would rebuke Father McKrell and require him to undergo counselling with a senior member of the clergy on ethical conduct.

Safe working environment

99. Father McKrell has admitted conduct that allowed questions to be raised about the working environment that he was facilitating in the parish.

100. I would direct that Father McKrell be supervised in the oversight of employees by the Newcastle Anglican People & Culture Directorate.
101. I would direct that Father McKrell undertake training in Work, Health and Safety and employee supervision.

Alcohol Use

102. Father McKrell has admitted the misuse of alcohol.
103. I propose to treat this as a health issue.
104. I would direct that he has a full assessment for alcohol dependency and a treatment plan.
105. I would direct that his permission to undertake ministry be conditional on evidence of compliance with the prescribed therapy and treatment.
106. I would warn Father McKrell that drunkenness is a specific offence under the *Offences Canon 1966*.

Failing to understand the limit of skills and experience

107. Father McKrell has admitted that he did not seek appropriate support or make the appropriate referrals when complex issues arose.
108. I would direct that Father McKrell be subject to 2-year period of ministry oversight during which there would be coaching and guidance on this aspect of ministry.

Poor Pastoral Judgement

109. A number of matters were put to Father McKrell and which he admitted which demonstrate poor decision-making on his part.
110. It is of notable concern that he took actions contrary to advice and in some cases directions from others, including from the Director of Professional Standards in exercising her role of ensuring the care for a victim of abuse.
111. Father McKrell has not provided plausible explanations for his conduct. Some of Father McKrell's responses were worryingly self-referential and egotistical.
112. Father McKrell had previously been counselled to ensure an appropriate separation from his personal story and the needs of those who came to him for ministry. Some of Father McKrell's actions indicate that he was not maintaining this important distinction.
113. Some of Father McKrell's answers to these matters showed an inadequate understanding of the power and authority that people may perceive in a member of the clergy nor the impact of his actions on others.

114. Given my decision in relation to the matters considered under the sections entitled **Ministry Relations and Boundaries** and **Harassment** I have not assessed each matter to ascertain whether it represented scandalous conduct. I have determined that it fell below the standards expected of a priest.
115. Father McKrell needs an extended period of direct and close supervision of his ministry by an experienced priest.

Disparagement

116. It is not an expectation of the Anglican system that clergy and their Bishop are always in agreement. The Anglican Church of Australia is alive with contested theological debate.
117. Importantly, Clergy do make a promise to willingly “accept the order and discipline of the Anglican Church of Australia, submitting themselves to the lawful authority of their bishop and others set over them in the church”¹.
118. This places on the Bishop the responsibility to oversee the conduct of the clergy within the parameters of the Constitutions, Canons, Ordinances, and associated policies in force in the Diocese. It places on the clergy the responsibility to conduct themselves within those parameters.
119. Father McKrell has admitted that, at a dinner event, he was untruthful about my guidance to him related to his wellbeing and engaged in an extended denigrating conversation.
120. Father McKrell had previously been cautioned in his ordination training and post-ordination training to exercise greater wisdom in his expressions of opinion.
121. Denigration of the Bishop (and others to whom a member of the clergy is obliged to be attentive) in this way is a course of action designed to reduce accountability and the perception in others that the member of the clergy is held to account for their conduct. It can show an incapacity or unwillingness to be coached and guided.
122. It is obvious that members of the church and members of the community expect clergy to be accountable. They expect the Bishop to exercise this oversight in the manner authorised by church law.
123. On this matter, I would require Father McKrell to undergo counselling with a senior member of the clergy on appropriate conduct.

Cumulative Effect

124. I am required to not only consider each matter individually but also to consider the totality of the admitted misconduct.

¹ Ordinal for a Priest *A Prayer Book for Australia* page 795.

125. Father McKrell has not demonstrated the ministerial wisdom required of an Incumbent of a Parish and a priest in general.
126. Father McKrell has caused upset and harm to a significant number of people.
127. The impact of Father McKrell's conduct is felt by the parishioners of his parish and his clergy peers.
128. Father McKrell's conduct has diminished the standing of the Anglican Church in the eyes of members of the wider community.
129. The extent of the admitted misconduct means that simply imposing the head sanction described in the section called **Ministry Relations and Boundaries** is insufficient. The totality of the matters requires a period of extended exclusion from the prospect of undertaking ministry.

Good character

130. I observe that, in general, prior to the conduct being considered in relation to the Charges, Father McKrell was of good character.

Early submission

131. I take into account the fact that Father McKrell has submitted to the CDO charge at the earliest opportunity.

Mitigation

132. Father McKrell has submitted that I should show mercy based on his inexperience in life. I consider that he is 31 years old. He can be expected to make considered adult decisions and take responsibility for his actions. I do not believe that age is a ground for mitigation or mercy.
133. Father McKrell has submitted that I should show mercy based on his inexperience as a priest. It is appropriate for me to consider that Father McKrell was still in a training role and can be considered inexperienced as a member of the clergy. I have factored this into my decision.
134. Father McKrell has cited the impact of running the Parish Fair as an explanation for aspects of his conduct. I accept, based on his description, that he perceived the Parish Fair as a stressful event. That increased workload of managing that sort of event does not provide a reasonable basis for the conduct he admitted.

Aggravating Factors

135. Father McKrell, by his deliberate conduct, has created fear in people and damaged the reputation of the Church.

Remorse and Prospect for Rehabilitation

136. Father McKrell has expressed remorse.
137. There is evidence indicating that Father McKrell has a desire for rehabilitation.
138. Given Father McKrell's lack of insight into the impact of his conduct and tendency to be self-referential, rather than seek the advice and counsel of people with expertise or greater experience, it would be reasonable for me to consider that there is a low prospect of successful rehabilitation into ministry.
139. However, I have taken into account age, inexperience, and remorse and formed the view that Father McKrell has time on his side in being able to do the work that is necessary for him to demonstrate the wisdom required of someone in professional ministry. Those factors allowed me to form the view, by a thin margin, that rehabilitation was realistic.

MERCY

140. 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. In my decision in *Morrison-Cleary*, I commended and adopt the approach outlined by Justice Gray in *Morrison v Behrooz* [2005] SASC 146, Gray J at 49.
141. In addition to the requests outlined under mitigation (above), Father McKrell has begged me consider my prerogative of mercy and stated, "I love the Church, and I feel called to the ministry and mission of a priest for it. Please allow me time to reform so that I can be of best use to it."
142. This statement of affection for the Church, which is frankly not evident elsewhere and borders on offensive given the actions under review, is not a legal basis for mercy.
143. It is evident to me that my decision will result in Father McKrell needing to find alternate employment and housing. This places a burden on Father McKrell and his wife, but it is within his capability to address them. Additionally, Father McKrell has not made a submission in this regard.
144. These circumstances are fully of Father McKrell's own making and have caused harm to people and to the Church.
145. 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 Father McKrell to undertake meaningful and remunerated work within the Church at this time.

DECISION

146. Father McKrell has already been terminated from the office of the Incumbent of the Parish of Kotara South. There is no basis for this decision to be revoked.

147. Further, taking all matters into consideration, I am of the view that Father McKrell should be prohibited from holding himself out as member of the clergy and undertaking any ministry until such time as he is permitted to do so by authority in writing from a Bishop of a Diocese and that no such authority may be given or take effect prior to 3 February 2027.
148. Accordingly:
- (a) I confirm the termination of Father McKrell's licence issued by me as Bishop of the Diocese;
 - (b) I prohibit Father McKrell from making any application for another licence or permission to officiate in any other Diocese or otherwise holding himself as a priest or exercising ministry until at least 3 February 2027; and
 - (c) after 3 February 2027, Father McKrell may apply for a licence or permission to officiate from a Bishop of a Diocese.

OBJECTIVE STANDARDS FOR RELICENSING

149. I have sought to determine objective tests which could be applied to assessing Father McKrell's possible relicensing. He would need to consider his conduct and the issues identified in paragraphs 45 – 129, and related conduct. He would also need to consider that love for the Church, which he espouses, involves not acting in ways which knowingly harm it as the community of faithful people.
150. Based on the approach outlined by Nancy Hopkins and Mark Laaser in *Restoring the Soul of a Church*, Father McKrell would need to:
- (a) **Fully admit the wrongdoing** and demonstrate a deep (not superficial) understanding of his conduct and the full nature of the impact on others as well as on himself.
 - (b) **Willingly comply with the imposed discipline** – observing all the requirements set out in this decision and which result from a fair application of Diocesan policies.
 - (c) **Participate in any therapy** that is deemed appropriate.
 - (d) Where it is appropriate, willingly attempt to **make amends to any injured individuals or communities**.
 - (e) Gives strong evidence of having **learned about his own psychological issues and personal psychosexual dynamics**
 - (f) understand and **cooperate with any safeguards** and/or conditions connected with return to the exercise of ministry.
 - (g) Receive an **evaluation from an appropriately accredited therapist** indicating that is not at risk to repeat the offending behaviours.
 - (h) Welcomes and accepts processes that ensure that any **parish is as fully informed as possible about the misconduct** when it is asked to receive his ministry and comes to substantive agreement about his return to ministry.
 - (i) Indicate that he personally desires to return to the exercise of ministry and **understands the issues and problems likely to be connected to that return**.

(j) Demonstrate that he has ready access to **ongoing support systems** and gives evidence of willingness to make regular use of them.

151. I have determined that it is possible for Father McKrell to engage in activities that might lead to his restoration to ministry but that for these to be effective they would need to take place over an extended period. I have set a minimum period of four years.

152. If Father McKrell does not wish to undertake such a course of action and/or wishes to be relieved from the burden of ministry, it is open to him at any time after the conclusion of these proceedings to apply to renounce his Holy Orders.

153. I stipulate that the Bishop of Newcastle will only permit him to be relicensed when he has demonstrated to the Bishop of Newcastle and the Director of Professional Standards for this Diocese that he has met the objective tests outlined at 150. I commend this approach to other Bishops who consider authorising Father McKrell for ministry after 3 February 2027.

Clergy Reporting

154. *Faithfulness in Service* is structured to provide standards for clergy and guidelines to meet those standards.

155. Clergy are expected to observe and consider the conduct of their peers and other church workers. This responsibility is not diminished simply because clergy establish friendships with some of their peers and church workers. Their professional obligations remain.

156. Clergy are required to advise the Diocesan Bishop as the Church Authority (or any church authority having oversight of the member of the clergy or church worker) and the Director of Professional Standards where they observe a breach of a standard or observe a breach of a standard or guideline which results in a person being harmed.

157. It is clear to me that there were members of the clergy who observed breaches of both standards and guidelines and who should have considered the potential for harm with the consequence that they should have reported their observations to the Director of Professional Standards and to me. The affected clergy will be counselled on their responsibilities.

158. In *Morrison-Cleary*, I reminded 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.

Lessons learned

159. It is my view that all those who have sought to work with Father McKrell as a church member, an ordinand and then as an ordained person have done so with diligence. The reflection I set out below are not an adverse reflection on any individual or group. They are intended to identify changes in practice that limit these unfortunate circumstances being repeated.

160. Christian ministry is a dynamic enterprise. The minister (ordained or lay) is a disciple of Jesus who seeks to nurture other disciples. In doing so they draw on the resources of the Christian faith, especially the scriptures, and seek the continued guidance of the Holy Spirit.
161. Each minister is a human being has a unique combination of psycho-social needs. When these needs aren't being met, they can fall into unique, individual stress behaviours.
162. In addition, some ministers have experienced significant personal or professional trauma, which impact their coping mechanisms giving them less tolerance or reduced perception in certain contexts.
163. Each minister has the personal responsibility to develop the necessary self-awareness so that they understand what their stressed or triggered behaviour looks like, to consider its impact, and take steps to engage it appropriately for the benefit of themselves and others.
164. Henri Nouwen writes, "Nobody escapes being wounded. We all are wounded people, whether physically, emotionally, mentally, or spiritually. The main question is not "How can we hide our wounds?" so we don't have to be embarrassed, but "How can we put our woundedness in the service of others?" When our wounds cease to be a source of shame, and become a source of healing, we have become wounded healers."²
165. Ministry will draw out our wounds and our stress behaviours.
166. Given the highly personal nature of the work, ministers will experience the transmission of the personal thoughts and feelings of people onto them and transmit their personal thoughts and feelings onto other (transference and counter-transference). Ministers are alerted to this dynamic and are expected to manage it recognising it is an identified source of boundary-breaking conduct.
167. A significant part of the discernment and formation processes is aimed at identifying and enhancing a person's self-awareness and offering them spiritual, psychological, and related tools to undertake ministry in an a largely unstructured and unsupervised environment.
168. The paradigm for Christian discipleship is that every person, as the beloved child of God, is given distinct gifts for the service of God, the church, the community, and themselves. Each person is imperfect and across the course of their life will exhibit behaviours and take actions which limit others or are self-limiting. Some behaviours and actions will harm others and impact their relationship with God. The Christian paradigm is that every person can be released from the burden of their imperfect behaviours and decisions. Every person has the opportunities for a new beginning.
169. Contemporary psychology blends with the wisdom tradition of religious practice in guiding us that reflection/remorse/enlightenment followed by an intention is insufficient. People seeking to change must embrace new behaviours which are repeated with sufficient regularity that they become habits which turn into a sustained and way of behaving. Hearing

² [The Wounded Healer - Henri Nouwen](#)

and accepting adverse feedback is insufficient. It must be accompanied by sustained concrete action which will often be observable to others. This can be a challenging road in which the companionship of spiritual directors, soul friends, supervisors, therapists, and coaches have great significance. It is often marked by receptivity to coaching, teaching, and guidance. This process can outwardly and inwardly suggest an experience of spiritual renewal.

170. There are four distinct stages to the ordination journey - Discernment, Formation, Post-Ordination Training, and Ongoing Ministry.
171. The Discernment process takes at least 9 months and involves a range of processes aimed at identifying the suitability of an applicant for ordained ministry. It culminates in a Vocation Discernment Conference which provides advice to the Bishop. There are some applicants clearly suited, some who are clearly not suited, and a small number of applicants who generate further engagement.
172. The group of applicants who generate further engagement are sometimes referred to as candidates who 'have been given the benefit of the doubt'. It is not uncommon for the Bishop to have one or more moments when the option of not proceeding to their ordination is a live consideration.
173. I have not experienced candidates to which other bishops, and I, have given the benefit of the doubt being hugely successful. On the contrary, there has often been a need for intervention and additional support.
174. These candidates often have a cohort of strong supporters who become their champions advocating for the candidate's spiritual contribution, ministry contribution, and perceived growth. Their championing can blunt the impact of the critical feedback being offered.
175. Father McKrell was a candidate and newly ordained person who received the benefit of the doubt.
176. Father McKrell found in the Christian faith a welcome and support which enabled him to engage the trauma of his family of origin as well as find a higher purpose and sense of vocation.
177. With the benefit of hindsight, it is not evident that Father McKrell had embraced a disciplined way of life over a sustained period that enabled him to be suited to the ordained ministry and its demands.
178. The Formation Program can contribute to deepening and strengthening this work in each candidate but is not designed to be the primary means of developing ministerial wisdom and resilience.
179. People seeking ordination must be able to articulate how they have adapted and changed in relation to their growing self-awareness. They must be able to articulate how they have embraced new behaviours which have turned into a sustained and way of behaving. People seeking ordination need to be able to demonstrate this in their application and for their

representations to be evidenced by clear examples of sustained practice from their referees. This trajectory needs to be evident as they participate in the discernment and formation proves.

180. People seeking ordination must be open to coaching and guidance which must also be accompanied by an agile response to feedback aimed at integrating new insights and adapting habits and practices.
181. With the benefit of hindsight, it is evident that the data gathering and assessment tools we used in the Formation Program were not sufficiently targeted to identify the key areas that needed addressing. Further, the supervising clergy were not trained to successfully prosecute the changes identified with diligence and consistency.
182. It is evident, with the benefit of hindsight, in relation to Father McKrell, that there were emerging indications in the Formation Program of concerning behaviour, but the response was inconsistent, and at times undermined, the process of addressing them effectively.
183. While there are key learnings for our Discernment, Formation, and Post-Ordination, processes, ultimately, Father McKrell engaged the Anglican Diocese of Newcastle as an adult and was given a clear understanding of the ethical conduct and ministerial standards expected of Anglican clergy. At no point was he denied the agency he needed to heed the guidance offered to him and to make mature decisions which reflected his spiritual and professional expectations.
184. It will be a weighty matter for Father McKrell to explore with his spiritual advisor to review the demand of the Ordinal and seek spiritual consolation –

“Never forget how great a treasure is placed in your care: the Church you must serve is Christ’s spouse and body, purchased at the cost of his own life. 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. Therefore, apply yourself with diligence and care, and fashion your life and ministry in accordance with Christ’s example.”³

SENTENCE

185. **I therefore pronounce the following SENTENCE:**

THAT upon the entry of Judgment as against the Reverend Zebulan McKrell 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 Zebulan McKrell be REMOVED from the office of the Incumbent of the Parish of Kotara South and PROHIBITED from holding himself out as member of the clergy and undertaking any ministry within the Anglican Church of Australia until such time as he is permitted to do so by authority in writing from a Bishop

³ A Prayer Book for Australia – Ordinal for Priests – Page 794.

of a Diocese and that no such authority may be given or take effect prior to 3 February 2027.

186. The shorthand reference for this sentence shall be **“removed from office and prohibited from exercising ministry until at least 3 February 2027.”**
187. **I further direct that the Zebulan McKrell is PROHIBITED from seeking paid or voluntary work or role in any parish or institution or agency or school within the Diocese without the prior written permission of the Bishop of Newcastle.**
188. **I further direct that details of the misconduct be entered on the National Register of the Anglican Church of Australia.**
189. The effect of my sentence is that until such time as Zebulan McKrell is giving written authority to undertake ministry by a Bishop of a Diocese and no earlier than 3 February 2027 he:
 1. 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;
 2. ceases to have any right, privilege or advantage attached to the office of priest or deacon; and
 3. shall not hold himself out to be a member of the clergy;