

RE: COMPLAINT MADE AGAINST THE VERY REVEREND MARTYN PERCY, DEAN OF CHRIST CHURCH, OXFORD

**PURSUANT TO SECTION 17 CLERGY DISCIPLINE MEASURE 2003
(AS AMENDED)**

DECISION

1. The complaint under the Clergy Discipline Measure 2003 (as amended) (the “CDM”) with which this decision is concerned is dated 5 November 2020 and was made by Canon Graham Ward in respect of the alleged conduct of the Very Reverend Martyn Percy, Dean of Christ Church, Oxford (the “Dean”). It was referred to the Designated Officer by the Bishop of Birmingham, acting under delegated authority from the Bishop of Oxford. In brief, it is alleged that on 4 October 2020, after the 11 am. Eucharist, the Dean touched the hair of a [woman], Ms X, and made inappropriate comments to her.

2. Having made the “due inquiries” required of him pursuant to section 17(2) of the CDM, the Designated Officer has submitted his report to me. I received it and all the relevant paperwork in this matter by email on 25. May 2021. I should make clear that the content of the Designated Officer’s report is strictly confidential. I am now required to determine “whether there is a case to answer in respect of which a disciplinary tribunal . . . should be requested to adjudicate”: section 17(2) of the CDM. The remainder of section 17 provides as follows:

“(3) If the president of tribunals decides that there is a case for the respondent to answer he shall declare that as his decision and refer the complaint to a disciplinary tribunal or the Vicar-General’s court, as the case may be, for adjudication.

(4) If the president of tribunals decides that there is no case for the respondent to answer he shall declare his decision, and thereafter no further steps shall be taken in regard thereto.

(5) The president of tribunals shall reduce his decision to writing and shall give a copy of it to the complainant, the respondent, the bishop and the designated officer.”

3. This complaint and my decision in relation to it, pursuant to section 17 of the CDM, are concerned solely with the alleged conduct which I have described very briefly. The Dean has made references to the other

allegations which have been made against him in his response to this complaint and his concern that animosity has fueled the complaint itself. Although, of course, the context in which the complaint arises is relevant, I must emphasise that I have not taken it into consideration otherwise. I have confined myself solely to what is relevant here.

4. I should also make clear that I have taken no account of an email received by the Designated Officer from Winckworth Sherwood, dated 7 May 2021 and the legal opinions to which it referred.

5. As I have already mentioned, the allegations concern an incident which allegedly occurred on 4 October 2020. Although the precise descriptions of what Ms X says happened vary slightly, in short, it is alleged that:

(i) the Dean approached Ms X when she was alone in the Sacristy; he commented upon her hair, said he could not take his eyes off it and asked if he could touch it and before receiving a reply stroked it very briefly for approximately 10 seconds;

(ii) there was a conversation about the fact that Ms X was going to have her hair cut in order to donate it to charity, that very day. There was also mention of Ms X's age;

(iii) the Dean made a comment that no one would want his hair; and

(iv) when leaving the Sacristy and going down the stairs, the Dean made a comment that there was only [redacted] between them, although Ms X accepts that she may have misheard this.

6. In short, although the Dean accepts that he was in the Sacristy after the service on 4 October 2020, recalls the conversation about Ms X donating her hair to charity, his comment that no one would want his hair and that it was Ms X's [redacted] and that she was [redacted], he denies stroking or touching her hair.

7. Although Ms X thought that she remembered others or another person entering the Sacristy during the incident, it has not been possible to determine who they/that might have been. All the possible individuals have denied being present. There are other witnesses who met with each of Ms X and the Dean shortly after the alleged incident. They corroborate the explanation given, on the one hand by the Dean and on the other by Ms X. I have taken their evidence at face value.

8. In essence, therefore, this matter comes down to two versions of events given by two credible witnesses. I do not consider that any of the slight variances in the way in which Ms X describes the incident are of any assistance when determining whether there is a case to answer. There are two credible accounts. For these purposes, it is sufficient to conclude, therefore, that it is possible that on the balance of probabilities, a finding could be made that the incident occurred as Ms X alleges.
9. When determining whether there is a case to answer upon which a disciplinary tribunal should adjudicate, I must also bear in mind that the CDM is designed to deal with serious misconduct and that section 8(1)(d) of the CDM should be read in that light. Proportionality must also be borne in mind. Would it be proportionate to refer this matter to a tribunal for adjudication?
10. In my judgment, having considered all the evidence including the interviews conducted by the Designated Officer, the answer is “no”. Although I do not intend to trivialise Ms X’s allegations in any way, it seems to me that it would not be proportionate to refer this matter to a tribunal. The incident itself was extremely short, the alleged hair stroking was even shorter and the language and the conduct as a whole was not overtly sexual. If this is put together with: the fact that Ms X accepts that she was not upset in any way; stated originally that she was not perturbed (albeit she told the police that she was concerned what would happen next); the incident took place in a room which was or could be accessed by others; and Miss X stated that she would have accepted an apology if the Dean had admitted what she says took place, it seems to me that it is entirely disproportionate that this matter should be referred to a tribunal. When arriving at this conclusion I also take into account that Christ Church itself has instigated its own inquiry into the incident. It seems to me therefore, that there is another means of redress which is a more proportionate means of addressing alleged incidents. Accordingly, whilst in no way condoning the alleged behaviour, if it is proved to have taken place, I consider that this matter is not suitable to be referred to a tribunal.

Dame Sarah Asplin DBE
President of Tribunals
28 May 2021.