

**Royal College of Veterinary Surgeons**

**v**

**Mr L Higgott**

**The Charges**

1. Mr Leslie Higgott appeared before the Disciplinary Committee of the RCVS on the following charges:

That being registered in the Register of Veterinary Surgeons and whilst in practice at 2/3 Somerville, Poulton Road, Wallasey, CH44 9ED, you:

1A. Between 8 June 2007 and 25 June 2007, in relation to your care of Fliss, a Springer Spaniel belonging to Patricia Cook, whilst Fliss was an in-patient at your practice:

(a) Failed to provide adequate veterinary care to Fliss, more particularly in that you:

(i) did not carry out any or sufficient investigative procedures in relation to Fliss's condition;

(ii) did not seek additional veterinary opinion ;

(iii) did not ensure that Fliss was observed or monitored sufficiently;

(iv) did not keep any or any adequate clinical notes for Fliss

(b) Failed to provide adequate hospitalisation conditions for Fliss, more particularly in that you:

- (i) did not provide an adequately sized cage/box for Fliss's period of hospitalisation;
  - (ii) did not ensure that Fliss's cage/box was cleaned adequately and/or sufficiently often;
- (c) Failed to treat Ms Cook with respect, courtesy and consideration;
- (d) Failed in your duties regarding medication, in that you :
- (i) did not obtain Ms Cook's informed consent to the treatment of Fliss with metoclopramide
  - (ii) supplied Ms Cook with metoclopramide in a paper envelope without adequate labelling

B. Between April 2006 and August 2007 notwithstanding advice from representatives of the College, you;

- (a) failed to keep accurate and/or adequate clinical notes;
- (b) failed adequately to keep up-to-date with continuing professional development;

And that by virtue of the above, whether individually or cumulatively, you are guilty of disgraceful conduct in a professional respect.

### **The Pleas Entered**

2. Mr Higgott denied the facts of Charges 1(a) (i), (ii) and (iii). But he admitted the facts of Charge 1(a) (iv).
3. He denied the facts of Charges 1(b) (both parts) and 1(c). He admitted the facts of both parts of Charge 1(d).
4. He admitted the facts of both parts of Charge 2.

5. Mr Higgott has appeared before the Disciplinary Committee to answer these charges without legal representation. He informed the Committee that he could not afford such representation and was going to respond to these charges himself. There was some difficulty in ascertaining precisely what Mr Higgott's answer was to the question of whether he accepted that any of the facts which he admitted amounted to disgraceful conduct in a professional respect. Accordingly, he was treated as having denied that the charges, whether individually or cumulatively, constituted disgraceful conduct in a professional respect and the hearing proceeded on that basis.

### **The College's Opening**

6. Counsel for the College, Ms Curtis, provided the Committee and Mr Higgott with a copy of a written Opening Statement setting out the factual assertions which the College proposed to seek to prove. This entailed a historical review of the material events in chronological order. This is mentioned because it provides a succinct overview of the alleged facts which have given rise to the charges which Mr Higgott faces.
7. This included an assertion that between February 2005 and August 2007 Mrs Mosedale and Mr Hepper had visited the Respondent on behalf of the College's Preliminary Investigation Committee on seven occasions. It was said that on each occasion they had found the Respondent to be keeping inadequate, or no clinical records and not to be undertaking CPD. It was also asserted that the situation did not improve over time despite advice given both verbally and in writing.
8. The second part of the Opening Submission involved a summary of the contents of the witness statement of the complainant, Ms Patricia Cook.
9. The Opening Submission concluded with references to those parts of the Guide to Professional Conduct which it was alleged Mr Higgott had breached.

## **The Evidence of Ms Cook in Outline**

10. Ms Cook gave evidence under oath. She confirmed the accuracy of the contents of her witness statement. She was then invited to read significant parts of that statement into the record. When she reached those sections which were obviously likely to be highly contentious, she was asked questions so that the Committee might have a full opportunity to assess the ability of Ms Cook to recall the detail of the complaints she had lodged and the manner in which and tone with which she described the events which she said she had witnessed and the exchanges between her and Mr Higgott. This issue is addressed further at paragraph 85 below.
11. Her account began with her confirming that her 14-15 year old Springer Spaniel bitch, Fliss, had become ill early in June 2007, displaying symptoms of depression and vomiting. Ms Cook initially took Fliss to her usual veterinary surgeon, Mr McNulty, who apparently prescribed symptomatic treatment for gastritis. When Fliss did not respond, Ms Cook sought further advice. On finding that Mr McNulty was not able to see the dog personally for several days, she sought advice from Mr Higgott, who ran a nearby practice and had been recommended by a friend.
12. Mrs. Cook found the practice premises of Mr Higgott to be dirty with an unpleasant musty odour, and that the examination table had not been cleaned after the previous patient. She maintained that after a cursory examination Mr Higgott diagnosed a liver condition, gave her dog an injection and dispensed tablets and a Kaolin based liquid medicine. These medicines were not labeled, and Ms Cook had to write the dose on the envelope in which the tablets were dispensed herself.
13. The dog was initially treated by Mr McNulty. There was no improvement in the dogs condition at that stage and after three days the dog was still vomiting

– see paragraph 11 above. Ms Cook then took the dog to Mr Higgott who diagnosed a liver problem. The dog showed no improvement over the next 24 hours. She then revisited Mr Higgott who hospitalized the dog principally for fluid therapy. During this period, using the urine dip-stick method, Mr Higgott diagnosed a kidney problem. The dog was allowed home after the weekend but again Ms Cook did not observe any improvement in Fliss' symptoms. The dog continued vomiting at home with Ms Cook until 14 June. She brought Fliss to the surgery at Mr Higgott's request. Fliss remained under Mr Higgott's care until the dog was discovered dead on the afternoon of 25 June 2007. During this time Ms Cook visited or attempted to visit her dog on each day. On each occasion she secured entry to the practice premises she found her dog to be in a travelling box which she felt was far too small for a dog of that size. She found Fliss to be extremely dirty, caked in faeces and with bedding soaked in urine. She had also found quantities of a dark mucoid fluid in the cage, identical to that which Fliss had been vomiting while she was at home, despite being told repeatedly by Mr Higgott that the dog was no longer vomiting.

14. Ms Cook asserted that Mr Higgott repeatedly dismissed her concerns about the conditions in which Fliss was being kept, saying that they would do her no harm. On several occasions she asked Mr Higgott if blood tests or X-rays would be useful, but on each occasion was told by Mr Higgott that they were not necessary and that Fliss was responding to treatment.
15. On 25<sup>th</sup> June Ms Cook again visited Mr Higgott's practice, determined to take Fliss home. She had to search through the animal carriers and behind cardboard boxes in the kennel area before finally finding Fliss dead, a fact of which Mr Higgott was not aware. She described Fliss's body as being stone-cold, stiff and covered with faeces, mucus, blood and urine. She believed that the quantity of faeces in the cage was consistent with it not having been cleaned in any way since she had last cleaned it herself two days previously.

16. Ms Cook described how Mr Higgott had behaved disrespectfully towards her on several occasions. These instances comprised the following:
- i. That on 19<sup>th</sup> June 2007 Mr Higgott commented that he was now having to deal with an owner getting anxious about a bit of urine. This related to Ms Cook's complaint about the state of the box in which Fliss had been kept by the Respondent.
  - ii. That on 20<sup>th</sup> June 2007, again after a discussion about the condition of her dog, he told Ms Cook that she should see a local priest to "get some faith".
  - iii. That on 21<sup>st</sup> June 2007, when she knocked at the door of his surgery in order to attempt to see her dog, the Respondent answered it with the words "for fuck's sake, you were in here yesterday" and that he thereafter refused to let her gain admission to see her dog.
  - iv. That on 22<sup>nd</sup> June 2007 he had said, in a conversation with Ms Cook about Fliss' progress, that soon either the antibiotics would work or that Fliss would "stop bothering us". He had followed that by saying to Ms Cook that "it was doing his head in".
  - v. Also on 22<sup>nd</sup> June 2007, when Ms Cook asked if she could see the Muller Rice that she had brought in a couple of days previously and why the Respondent had not given it to her dog, despite having asked her to bring it in for that purpose. Mr. Higgott took a tube out of a bowl of water in the sink and said "how do you expect me to get Muller Rice down that", (i.e. the tube).
  - vi. On 23<sup>rd</sup> June 2007, after Ms Cook had complained about the state of the box in which her dog was being kept and after she had requested that the dog be allowed to come home with her, the Respondent refused her request, saying that he was building her up slowly and that Ms Cook was being silly and was getting upset about nothing. Further, he

followed that remark by commenting, that he had never certified a cause of death as being “dog shit and wee”.

- vii. On 25<sup>th</sup> June, he failed to go and find Fliss on the day that she died, thereby requiring Ms Cook herself to go into the side room and remove a number of cages in front of her dog’s box before she was able to approach it, only to find her dog dead.
  - viii. On 25<sup>th</sup> June 2007 he had refused to believe Ms Cook’s assertion that her dog was dead and initially refused to come into the side room to check for himself.
17. Mr Higgott denied all of the instances above, except that he admitted that he may have sworn under his breath on 21<sup>st</sup> June, saying that he was of a jumpy disposition and that Ms Cook had startled him.
18. Ms Cook informed the Committee that her statement had been based on contemporaneous notes which she had made throughout the course of Fliss’ treatment.

### **The Evidence of Mrs Mosedale and Mr Hepper**

19. This evidence was relevant to Charge 2. As Mr Higgott accepts the facts particularized in this Charge, this evidence can be taken in briefer form.
20. Mrs Pamela Mosedale told the Committee that she was an experienced veterinary practitioner and a Practice Standards Inspector for the College. In January 2005 she had been asked by the College to visit Mr Higgott’s practice in the company of Mr Hepper, a barrister employed by the College.
21. They had first visited on 1<sup>st</sup> February 2005, at which time Mr Higgott was working with no support staff in a room in his house, a situation that he had explained was temporary while an extension to the house was being built which would house the practice. Mrs Mosedale reported that the practice

was very dirty and smelled unpleasant. Among other matters she noted, was that there was no identification on the cages of in-patient animals, no clinical records were being maintained by Mr Higgott and that most of the drugs in stock were generic rather than veterinary licensed products.

22. At the time of Mrs Mosedale's second visit, in June 2005, she noted some improvements in the general level of hygiene but recorded that there were still no clinical records were being maintained. Further there were still quantities of generic drugs on the premises.
23. Mrs Mosedale and Mr Hepper visited for a third time in February 2006, by which time Mr Higgott was working in the new extension. She told the Committee that although the surfaces in the new premises were of a type far easier to clean than in the old room, nonetheless they were not clean. There were still no clinical records and no identification on the cages of in-patient animals. These animals were kept in a small side-room, which Mrs Mosedale described as small, hot, stuffy and smelly. There was an extractor fan but this was not switched on when Mrs Mosedale visited. On questioning, Mr Higgott told her that he had undertaken no CPD training since her last visit.
24. Mrs Mosedale and Mr Hepper visited Mr Higgott's practice on four further occasions and found some improvements. However, on each occasion, Mrs. Mosedale found no, or grossly inadequate, clinical records, and on each occasion Mr Higgott admitted to her that he had still not undertaken any CPD training.
25. Her last visit was on 21<sup>st</sup> August 2007, approximately two months after the death of Ms Cook's dog, Fliss.
26. On the occasion of each visit Mrs Mosedale made written notes, which she used in the ensuing few days to prepare a written report to the Preliminary Investigation Committee of the College, in which she listed her findings and

her recommendations of the actions which Mr Higgott needed to make to bring his practice up to an acceptable standard.

27. On questioning, Mrs Mosedale confirmed that some metoclopramide tablets which Mr Higgott had dispensed for Ms Cook to give to Fliss, and which had subsequently been given to Mrs Mosedale, had been dispensed as loose tablets in a paper envelope. In fact the law provides that all medications should be dispensed in child-proof containers.
28. On her last visit to Mr Higgott's practice Mrs Mosedale said that she had been shown the travelling box in which Mr Higgott stated that Fliss had been kept, and stated that in her opinion it was too small for a dog of Fliss' size to be kept in for more than 24 hours. She said that it was too small for a dog of that size to be able to keep itself clean, and it would also be difficult to observe properly a dog in that travelling box.
29. On the evidence of Ms Cook and Mrs Mosedale and subsequently, Mr Hepper, the Committee has come to the clear conclusion that the carrier in question was approximately 70-90cm long, 40cm wide and 50cm high.
30. In cross-examination, whilst admitting that the practice premises were cluttered and untidy and that he neither kept clinical records nor undertook CPD training as advised, Mr Higgott disputed Mrs Mosedale's evidence that the practice premises were dirty and that they smelled unpleasant. Mr Higgott did accept, that it was not his usual practice to write the name of the drug which he dispensed on the labels of the containers (which were generally paper envelopes) of the medicines which he dispensed.
31. Mr Hepper, a barrister employed by the College as a Senior Case Manager in the Professional Conduct Department, also gave evidence to the same effect. He stated that he had accompanied Mrs Mosedale on all but one of her visits to Mr Higgott's practice. His evidence supported Mrs Mosedale's assertions that the practice premises were extremely cluttered, very dirty and smelled

unpleasant. Mr Higgott again disputed that the practice was dirty or that it smelled.

32. Mr Higgott gave evidence in his own defence, beginning by informing the Committee of the background of his practice, the reasons why he had no support staff and his own medical difficulties. He asserted that he did at one point have ample paper clinical records but that he had destroyed them while depressed at some date between December 2004 and February 2005. He also stated that he currently kept clinical records on 6x4" index cards but admitted that he not done so during the period under discussion.
33. Mr Higgott accepted the evidence of Mrs Mosedale and Mr Hepper that at the time of their visits the practice was cluttered and untidy, he kept no clinical records, there was no identification of in-patients and that he had undertaken no CPD. He said that he had undertaken no CPD at all since 1980. He conceded that the photos submitted in evidence by the College were a true reflection of his practice on the relevant dates.
34. Mr Higgott took issue with the evidence of Mrs Mosedale and Mr Hepper in a number of respects. Those respects related to the unpleasant odour and their assertion that the practice was dirty and unhygienic rather than simply cluttered and he gave what he considered to be a reasonable explanation of the presence of a blood-stained cloth soaking in liquid, which he asserted to be a drape soaking in disinfectant after an operation.

### **The Committee's Findings as to the Witnesses and their Evidence**

35. Whilst the evidence of Mrs Mosedale and Mr Hepper, as to the state of the premises and the conditions in which they found Mr Higgott to be conducting his practice, is not directly relevant to the particulars of Charge 2 on the Charge Sheet. The Committee found the evidence of Mrs Mosedale and Mr Hepper in these respects compelling and convincing. Each of these

witnesses gave their evidence in a careful way and appeared anxious to ensure that they went no further than their present recollections would permit. The Committee noted in particular that Mrs Mosedale was entirely willing to indicate those instances in which she could not be absolutely sure of the correctness of her recollections on a number of points of detail on which Mr Higgott had questioned her.

36. Both of these witnesses had compiled written reports of the matters they had witnessed shortly after the visits in question. The important details of the contents of those reports were relayed to Mr Higgott in the form of letters from the College. Those details appear not to have been challenged by Mr Higgott in any responsive correspondence to the College.
37. In the view of the Committee, the value of the evidence given by these two witnesses, Mrs Mosedale and Mr Hepper, concerning the state of the premises on the occasions of their visits, lies in the support that it gives to the evidence of Ms Cook regarding the unhygienic conditions in which she said she found her dog was being kept by Mr Higgott.
38. As to the evidence of Ms Cook, the Committee found that on the first day of the Hearing she was a nervous witness who appeared to be somewhat in awe of the Tribunal setting and its formality. The consequence was that she found it difficult to express herself articulately. However, on the second day of her evidence she seemed more familiar with the setting and as she gave more of her evidence in answer to questions which were put to her, she became more fluent in the details of the account she gave. She was clear on the circumstances and the details of her evidence and was consistent when asked to go over those circumstances and details again on further questioning.
39. In the judgment of the Committee she gave considerable thought to the answers which she gave and was prepared to say that she did not know when she could not recall matters. She made appropriate concessions. At no time did she indicate any tendency to vindictiveness, despite what she clearly

found to be a distressing period in her life and that of her dog. Most importantly she indicated a greater concern for the manner in which she considered her dog had been treated, than about the Respondent's behaviour towards her.

40. The Committee obtained assistance from the contents of the notes compiled by Ms Cook which appear at pages 5/10-14 of the Bundle. She informed the Committee that those notes were compiled by her at the end of each day because she was concerned about the treatment he was delivering to her dog. The notes which she made were handwritten and the copy of these notes, which appear in the bundle, was typed up for her by a friend for production to the College in support of her Complaint. The typewritten notes were attached to her Complaint as an appendix. She confirmed that the typed version coincided exactly with the handwritten notes which she had compiled and that she still had the original notes at home and could produce them if called upon to do so. The Committee is entirely satisfied that Ms Cook compiled these notes in the manner she recounted. It rejects the only alternative explanation i.e. that they were manufactured after the event to support a complaint which she had resolved to make against the Respondent.
41. The Committee also considers it important that Ms Cook has had experience of Rescue dogs which are in the later years of their lives. It is persuaded from the content of and manner in which she gave her evidence that she was concerned to see that the last days of such dogs should be as pain free as possible. Accordingly, the Committee is entirely satisfied that she was driven by that desire to seek to avoid unnecessary suffering and felt responsible to her dog Fliss for the overall quality of her life. The Committee accepts that Ms Cook was not averse to euthanasia if and when that need was appropriate.

42. Finally, the Committee had regard to the manner in which Ms Cook gave her evidence. It was notable that she faced her questioner when giving her answers and indicated no difficulty in looking directly at the Respondent when answering his questions. Her answers were direct and to the point. In short, the Committee found Ms Cook to be a very convincing witness.
43. The manner in which the Respondent gave his evidence and the content of his answers to the questions put to him in cross examination and by the members of the Committee contrasted unfavorably with those of Ms Cook. The Respondent found difficulty in answering those questions directly. In the view of the Committee he gave the responses he wanted to give, rather than answers to the specific questions put to him. He spent a considerable time attempting to justify his conduct and his words.
44. More importantly, the Respondent was often contradictory in the evidence and answers which he gave. In the view of the Committee there was a tendency on the part of the Respondent initially to make a firm denial of an allegation but thereafter to become significantly less dogmatic in his response when challenged on his original denial. Although he showed a firm confidence in his own ability as a veterinarian he repeatedly found it difficult to justify his assertions and decisions when asked to do so.
45. There were many examples of contradictory answers from the Respondent during the course of his evidence. Three are referred to here as they are three which are plain on the documents in evidence. The first relates to the content of the letter the Respondent wrote to the College on 21<sup>st</sup> July 2007 [5/19 in the bundle]. In evidence the Respondent asserted that the taking of blood tests from Fliss was unnecessary, because he said that he had complete faith in his ability to make a correct diagnosis by palpation and the use of urine dip-sticks. However in that letter the Respondent expressed his regret that he had not done so in the following words "why didn't I do a blood urea test then? I ask myself now". Next he maintained that the taking of x-rays would

not have revealed any evidence which would have been of value to the treatment of Fliss because, he said, he would only have had an x-ray taken of her abdomen, which would not have revealed the tumour on her heart. However, in his letter of 14<sup>th</sup> November 2007 [5/28] he stated that “it looks like I should have done an x-ray as Pat Cook was demanding. I would have x-rayed the abdomen, as that was where the pain was, but may have seen the tumour”. Finally, he strongly denied the suggestion put to him by counsel for the College that he had prolonged Fliss’ life in order to defy Ms Cook. In his same letter of 14<sup>th</sup> November 2007 [5/29] the Respondent nonetheless accepted that “I repeat: this case became a case of me defying Pat Cook because she got on my nerves. This caused me to ‘take my eye off the ball’ as it were”. As the Respondent confirmed in his evidence, he wrote those letters to the College believing that he was writing to a colleague and, presumably, that they would not be passed on to third parties. The Committee considers that they are revealing in their content and show what the Respondent’s true thinking was and that they establish that his denials given in evidence cannot be accepted.

46. Finally, Mrs Higgott gave evidence of behalf of her husband. She was unable to attest to the events surrounding the treatment and death of Ms Cook’s dog but she asserted that the surgery was not kept in an unhygienic condition. She stated that her husband could be stubborn, abrupt, lazy and untidy but said that he was good-hearted underneath, cared deeply for his patients and would never swear or be offensive to a client.
47. Whilst the Committee is satisfied that Mrs Higgott genuinely held the views she expressed, it did not derive assistance from her evidence on the critical questions of whether the facts alleged in the charges were true.

### **The Committee’s Findings on the Charge Particulars**

48. In approaching the question of what findings the Committee can make in relation to such evidence, it has fully in mind the advice given by the Legal Assessor that before the Committee can reach any evidential finding it must be satisfied so that it is sure that the fact in issue has been proved. It has applied to the finding of the facts, the standard of a reasonably competent veterinary surgeon in general practice at the relevant time. The Committee has given detailed consideration to all the evidence in this case. In particular, it has given careful consideration to the evidence concerning Mr Higgott's good character provided in writing. The Committee has considered each head of charge and sub-head of charge separately.
49. **Charges 2(a) and 2(b):** The provisions in the 2006 Code of Conduct which are material to the Charge 2(a) and Charge 2(b) are, respectively, Part 2A(5) to (9) and 2D(17); and Part 1D(4). The contents of these requirements are self explanatory.
50. On the basis of Mr Higgott's admissions and on the basis of the evidence of Mrs Mosedale and Mr Hepper, the Committee is wholly satisfied that the facts alleged in Charge 2(a) and Charge 2(b) are proved to the extent that they are sure of those facts.
51. **Charge 1(d):** The Committee next considered the evidence relevant to Charge 1(d) as that related to the Respondent's approach to veterinary medicines in general, as well as to the specific evidence adduced in relation to **Charge 1(d)(ii)**.
52. The material provisions in the 2006 Code of Conduct which relate to the latter Charge, 1(d)(ii) are part 2H and 1(h) of the Ten Guiding Principles.
53. In answers to questions by the Committee, Mr Higgott accepted that he was unaware that one of the drugs which he had used in Fliss' treatment, namely

Finadyne, did not have a product license for use in dogs, or that it was known to have the potential for serious side-effects, including nephrotoxicity and gastric ulceration and had been withdrawn from sale for use in dogs many years before. Mr Higgott conceded that one possible symptom of gastric ulceration could be dark-coloured vomit, a symptom which had been described to him by Ms Cook.

54. Mr Higgott told the Committee that while he did not use child-proof containers when dispensing medicines, despite being aware that this was a legal requirement, he did generally label dispensed medicines in accordance with the law and that the one instance of the metoclopramide dispensed to Ms Cook unlabelled was an exception to his usual practice. It had occurred on this occasion because of the mental state that he was in following the consultation with Ms Cook. He had felt that she was not unintelligent and would be able to follow the verbal instructions which he had given her.
55. On this evidence the Committee found the facts set out in this particular charge to be proved.
56. **Charge 1(d)(i):** the provisions in the 2006 Code which are material to this charge are to be found in Part 2H 13.
57. Mr Higgott admitted that he had not obtained informed consent from Ms Cook for the use of metoclopramide in her dog, saying firstly that he believed it to be unnecessary as the drug was in common use and secondly, that Ms Cook's manner was such that he felt that her questions on the subject would have taken an inordinate amount of time.
58. Neither of these excuses bear on the question in issue on this element of the charge, which the Committee finds proved.

59. **Charge 1(a)(i):** This alleges that Mr Higgott failed to provide adequate veterinary care to Fliss in that he did not carry out any, or sufficient investigative procedures in relation to the dog's condition.
60. The material provisions in the 2006 Code of Conduct are to be found at section 1C(f) of The Guide To Professional Conduct and are relevant to the maintenance of 'proper standards in practice premises and equipment and in relation to in-patient care and supervision'.
61. The Committee heard that Fliss was under treatment by Mr Higgott for 16 days, initially as an out-patient and subsequently as an in-patient. At no time was there any visible sign of improvement in Fliss' condition observable by Ms Cook, and she repeatedly suggested to Mr Higgott that blood tests and/or x-rays should be carried out. Mr Higgott resisted the suggestion, preferring to rely on his use of urine dip-stick tests although these were never explained or demonstrated to Ms Cook.
62. The Committee considers that it would have been normal current practice with unresponsive in-patients to have instigated further diagnostic tests to confirm the diagnosis and treatment or develop an alternative course of action. Alternatively, the case could have been better managed by a referral for a second opinion. Furthermore, in answer to questions from the Committee, Mr Higgott agreed that this would have been a sensible course of action.
63. Therefore the Committee finds this fact proved.
64. **Charge 1(a)(ii):** This alleges that Mr Higgott failed to provide adequate veterinary care to Fliss in that he did not seek additional veterinary opinion.
65. The material provisions of the Code which are relevant to this charge is Part 2D(30).

66. Although no requests for a second opinion were made by Ms Cook, the Committee felt that in the interests of animal welfare and given the lack of investigative techniques employed, it should have been suggested by Mr Higgott that additional veterinary opinion be sought.
67. Accordingly, the Committee finds this fact proved.
68. **Charge 1(a)(iii):** This alleges that Mr Higgott failed to provide adequate veterinary care to Fliss in that he did not ensure that Fliss was observed or monitored sufficiently.
69. The relevant parts of the Code which are material to this charge are Parts 1B(a) and (b), 1C(a), (d), (f) and (h) and 1D(b).
70. The Committee took into account the fact that Mr Higgott operated as a single handed practitioner with no additional help. Mr Higgott claimed to have exercised Fliss and cleaned her cage three times a day, but on every occasion when Ms Cook visited, she found Fliss' cage to be in a filthy condition. Mr Higgott claimed that Ms Cook exaggerated the poor conditions in Fliss' cage, but matters culminated in Ms Cook finding Fliss' stone cold, stiff, dead body lying in a filthy condition, in a filthy cage, and before Mr Higgott was aware that Fliss had been dead for some considerable time.
71. In his verbal evidence Mr Higgott stated that it was not possible for a single handed practitioner like himself to give consultations, perform surgery, and monitor in-patients at the same time. Additionally, it was necessary to shut the door between his consulting room and the in-patient area, in order to prevent children from interfering with the animals in the cages.
72. When Ms Cook first spoke with Mr Higgott on the day that Fliss was found dead, Mr Higgott said that he had last seen Fliss at 11pm the previous evening, but when Ms Cook found Fliss dead at approximately 1:45pm, Mr

Higgott changed his position and claimed to have exercised the dog in the rain at 9am that morning.

73. In view of the fact that Mr Higgott's was a busy surgery and that he had no assistance at the time of Fliss' hospitalisation the Committee concluded that it would indeed have been impossible for Mr Higgott to have adequately monitored any animals in his care.
74. The Committee were not convinced by Mr Higgott's explanations as to his care of Fliss and preferred the evidence given by Ms Cook concerning the conditions in which she found Fliss. Since these poor conditions were found on many occasions, the Committee did not feel that it could be merely an unfortunate coincidence that Ms Cook only visited at the times when Fliss was dirty.
75. The Committee therefore finds this fact proved.
76. **Charge 1(a)(iv):** This alleges that Mr Higgott failed to provide adequate veterinary care to Fliss in that he did not keep any or any adequate clinical notes for Fliss.
77. The relevant part of the Code in this respect are Part 1D(1)(e) and 2D(17).
78. Mr Higgott admitted and it was self evident, that there were no clinical records of any kind for Fliss.
79. Accordingly this fact is proved.
80. **Charge 1(b)(i) and (ii):** The relevant parts of the Code are Part 1C(a), (f) and (h)(iv).
81. At the outset of Fliss' hospitalisation Ms. Cook expressed concern about the smallness of the travel box in which Mr Higgott proposed to accommodate Fliss. There was a difference of opinion between Mr Higgott and Ms Cook

about the actual size of this cage, but Ms Cook, Mr Hepper and in particular Mrs Mosedale, an experienced veterinary surgeon who had been shown by Mr Higgott himself the actual carrier box in which he said that he had housed Fliss, all arrived independently at roughly the same estimation of the size of the cage.

82. Ms Cook was distressed on several occasions to note that it was impossible for Fliss to avoid lying in her own bodily excretions, although the dog was evidently attempting to do this by curling up at the front of the cage. Fliss was frequently wet and when found dead, had a significant amount of faeces on her legs and in her tail according to the evidence of Ms Cook. Mr Higgott was adamant that the cage in question was big enough for a spaniel of Fliss' type, although in evidence he initially said that a) there was not room in the cage for a water bowl and b) there was not a lot of room but it was expedient.
83. The Committee did not agree with Mr Higgott but did agree with the opinion of Ms Cook, Mr Hepper and Ms Mosedale that the cage was too small for long term hospitalisation as the dog would have insufficient space for movement, separation of sleeping and toilet areas and the permanent provision of food and water.
84. The Committee therefore find this fact proved.
85. **Charge 1(c):** This alleges that Mr Higgott failed to provide adequate veterinary care to Fliss in that he failed to treat Ms Cook with respect, courtesy and consideration.
86. The material provisions in the 2006 Code of Conduct are Part 1D(2)(b) and (d).
87. The evidence of Ms Cook which is relevant to this charge is as set out in paragraph 16 above. However, not all of the details of the alleged rudeness

and inconsideration of Mr Higgott are referred to in her contemporaneous notes.

88. Mr Higgott's evidence on this charge was that he did not behave or speak precisely as Ms Cook asserted in her evidence. He was of the view that in some respects she had misunderstood or misheard what he was saying to her. In particular as regards his language at the time he answered her knock on his door, he said that he had been taken by surprise at seeing her there and his response had been an expletive borne out of the fright that she had given him.
89. The Committee is mindful of the degree to which it has to be satisfied before making a finding of fact and considers that in these circumstances the proper course for it to take is to rely on the contents of the contemporaneous notes taken by Ms Cook. This is not an indication that the Committee has doubts about the truthfulness and general accuracy of the evidence of Ms Cook. Instead it is indicative of its view that such allegations require to be proved to the highest degree and its acceptance of the likelihood that there may be room for misunderstanding and mishearing.
90. The Findings of the Committee are therefore that the conduct of Mr Higgott as charged in this particular is found proved only in the respects (i), (vi), (viii), set out in paragraph 16 above. However, the Committee considers that it is significant that in Mr Higgott's correspondence to the College, in response to Ms Cook's complaint, he continued to make disparaging and offensive comments about her.
91. Therefore the Committee finds this Charge 1(c) proved in the respects identified.

## **Conclusions**

92. Therefore the Committee finds the above facts set out in each of the Charges proved to the extent that it is sure. Accordingly it will now proceed to hear submissions on the question of whether, in any of these respects, Mr Higgott is guilty of disgraceful conduct in a professional respect.