

**ROYAL COLLEGE OF VETERINARY SURGEONS**

**MR MAURICE JOHN KIRK**

**JUDGMENT**

Mr Kirk made application to be re-instated to the Register of Veterinary Surgeons in a letter to the College, dated 21<sup>st</sup> August 2006, and has appeared before us today with his Mackenzie friend. Mr. Kirk chose not to address the Committee himself.

The burden of demonstrating that he is a fit and proper person to be re-instated to the Register falls upon Mr. Kirk.

During the course of the hearing today, Mr Kirk, despite being given every opportunity and encouragement has not addressed any of the issues that might persuade the Committee that he had met that burden. These issues have been set out in detail in a letter sent to Mr. Kirk in December 2004, and in a note prepared by the Committee, dated 7<sup>th</sup> November 2005, setting out eight questions that the Committee would require him to answer, if he is to achieve his re-instatement.

Mr Kirk has not placed before the Committee any evidence nor any submission addressing any of the questions identifying the relevant issues to support his application.

The Committee, having listened to Mr Kirk through his Mackenzie friend, for some four hours, finds that Mr. Kirk has not discharged the burden that falls upon him.

The Committee dismisses his application.

The College invited the Committee to make a number of directions which the College's solicitors had set out in a letter addressed to Mr Kirk, dated 2<sup>nd</sup>. October 2006.

In order to ensure that any future application for re-instatement made by Mr Kirk is a genuine application which has a reasonable prospect of success, and that the resources of the College are not wasted for a frivolous or vexatious application, or one which seeks the determination of irrelevant issues, the Committee makes the directions that the College have sought, without amendment.

A copy of the College's letter has been attached to this judgment.

**6 OCTOBER 2006**  
**DISCIPLINARY COMMITTEE**

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Mr M J Kirk

2 October 2006

Dear Sir

**Royal College of Veterinary Surgeons – Application for Restoration 6 October 2006**

We write to put you on notice that, in the event that you are not successful in securing restoration to the Register of Veterinary Surgeons at the hearing listed for 6 October 2006, the Royal College of Veterinary Surgeons (“the College”) will, at the conclusion of proceedings on 6 October 2006, invite the Disciplinary Committee to give directions about any future applications for restoration that you may make.

The College has sought to address the issues raised by you in your applications for restoration. However, the College is of the view that many of the issues you raise are not relevant to the issue of whether you should be restored to the Register. The College’s view is that it is not appropriate that irrelevant issues be raised repeatedly before the Committee upon applications for restoration. It is an abuse of process and a disproportionate use of resources for you to request that irrelevant matters be considered and re-considered in this way. The Committee has already sought to assist you in focusing your applications for restoration by outlining the questions it would like to see addressed by you before you are restored to the Register. However, it appears that you reject the Committee's guidance and continue to wish to raise irrelevant matters before it.

The College therefore proposes that directions be given by the Committee at the end of the hearing on 6 October 2006 in order to focus any further applications you might make for restoration, should you not succeed on that date. The directions that the College seek are as follows:

- a. upon your applying for restoration in writing, the clerk to the Disciplinary Committee will ask the Chairman of the Committee, if necessary with advice from the legal assessor, to consider whether your application is on relevant grounds and has a reasonable prospect of success;

b. in considering your application the Chairman may, in addition to having regard to the terms of your application, have regard to any communications by you with members or representatives of the College since your last application for restoration and the material posted by you on your website since your last application for restoration when making his decision;

c. if the Chairman decides that your written application for restoration is not on relevant grounds and has no reasonable prospect of success, he will advise you of this with reasons in writing and your application will not be listed for hearing;

d. if after your application has been listed for a hearing, you place material on your website and/or submit to the clerk to the Disciplinary Committee material which indicates that you will be seeking to raise matters at the hearing which are irrelevant to an application for restoration, then the clerk to the Disciplinary Committee will ask the Chairman of the Committee to reconsider his decision, if necessary with advice from the legal assessor;

e. if you make an application in writing to the Disciplinary Committee for restoration and such application is, following a decision by the Chairman under the provisions of a-d above, not listed for hearing, such application will be an application within the meaning of section 18 of the Veterinary Surgeons Act 1966 and, pursuant to the provisions of sub-section 18 (3) (b) you will not be permitted to make a further application within 10 months of that earlier application.

The College considers that the making of such directions is both appropriate and lawful within the terms of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Evidence and Procedure) Rules Order in Council 2004. Rule 20.1 requires that an application for restoration sets out in writing the grounds upon which it is based. It is understood by the College that the grounds must be relevant to the application for them to be grounds upon which reliance is placed. Rule 20.6 provides that an applicant for restoration shall address the Committee, and adduce evidence and make submissions, but only in support of the application. It is understood by the College that the rule does not permit the making of submissions or adducing of evidence which is not relevant to the application. Rule 20.7 permits the Committee to determine its own procedure in relation to applications for restoration apart from the matters provided for under that part of the Rules, as does rule 28 more generally. It is therefore the view of the College that the Committee may properly determine its own procedure, and accordingly, give directions in order to ensure that an application for restoration is confined to relevant matters.

You will of course be able to make submissions in response to the College's request that the directions set out in this letter be made by the Committee.

A copy of this letter has been sent to Mrs Whall, the Clerk to the Committee, with the request that it is forwarded to the Legal Assessor for your hearing on 6 October 2006.

Yours faithfully

Penningtons Solicitors LLP