

**ROYAL COLLEGE OF VETERINARY SURGEONS**

**V**

**MR LESLIE HIGGOTT**

**FINDINGS OF DISGRACEFUL CONDUCT IN A PROFESSIONAL RESPECT**

1. On 28<sup>th</sup> July 2008 the Committee informed Mr Higgott orally of its decisions on the issues of whether or not the facts found proved constituted Disgraceful Conduct in a Professional Respect and found that they did, with the exception of charge 1(d)(i). Its decision on Sanction was that the Respondent's name should be removed from the Register and that the Registrar should be directed accordingly. The consequence of the decision on Sanction is that Mr Higgott's name will be removed from the Register after the expiration of 28 days, which is the time limit for the filing of an appeal. Subject to the filing of an appeal, he will therefore cease to be entitled to practice upon the expiration of 28 days.
2. The Reasons for delaying the provision of the Committee's detailed Reasons in support of its decisions on Disgraceful Conduct in a Professional Respect and on Sanction, are that the Respondent requested that the Committee proceed in this way. Mr Higgott's financial circumstances dictated that it was preferable for his legal representative to be present for one day only. The Committee willingly agreed to proceed in the manner requested by the Respondent. The Committee's detailed Reasons in support of its decisions on these two issues are set out below and the Respondent will be provided with copies of these written Reasons without delay.

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3. The Committee accepted the advice given by the Legal Assessor as to the approach that should be adopted in relation to its findings on this issue. In particular, the Committee had regard to and applied the test laid down in *McLeod v RCVS* [2006] UKPC 39 that it should consider whether the facts found constitute "conduct which falls far short of that which is expected of the profession". The Committee gave careful consideration to this test and the requirements inherent in it, before reaching its conclusions on each of the charges which had been found proved against the Respondent prior to the adjournment of this hearing. In arriving at its decisions, the Committee was assisted by the fact that two of its members are qualified and practising veterinarians with experience of the demands of and standards to be expected of a practice of the kind conducted by the Respondent.

#### **Charge 1(a)(i), (ii) and (iii)**

4. These charges and the Committee's findings of fact related to the Respondent's failure (1) provide adequate veterinary care to Ms Cook's dog Fliss, (2) failing to carry out sufficient investigative procedures, (3) failing to seek additional veterinary opinion and (4) failing to observe or monitor the animal sufficiently whilst she was in his care.
  
5. In the light of the Findings as set out in paragraphs 61-67, the Committee was satisfied that the Respondent's inadequacies in the veterinary care provided to Fliss affected her welfare adversely. When Fliss failed to respond rapidly to his initial treatment, the Respondent should have performed tests in order to establish a diagnosis, or at the very least to explore why the treatment provided by him was not bringing about an improvement in the animal's condition. The Committee is entirely satisfied that, had those investigations been carried out, the Respondent would have been driven to the conclusion that his diagnosis was incorrect and his treatment ineffective. At that point the unavoidable conclusion would have been that referral, or euthanasia, were appropriate options.
  
6. The Committee was therefore also satisfied that the Respondent was in breach of the first of the ten Guiding Principles in the failures affecting Fliss' welfare (Part 1Ba) and in addition Part 1Ca, d, f and h and Part 1Db. The Respondent's conduct and his failures drove the Committee to the conclusion that the Respondent failed to protect the welfare of this animal in a serious and fundamental respect. The Committee also recalled that the Respondent himself conceded in correspondence to the College, when asked to provide responses to the complaints of Ms Cook, that he could not now understand why he had failed to take blood tests or x-rays as specifically requested by Ms Cook. Even when giving evidence before the Committee, Mr Higgott was entirely unable to explain why he had decided not to undertake either of those procedures, despite the requests of Ms Cook that he do so. The only "excuse" that he purported to offer was that set out in his letter of 14 November 2007, namely the fact that Ms Cook got on his nerves "caused me to take my eye off the ball as it were". In the same letter he describes Ms Cook as a "pain" and in his later undated letter (received on 10 January 2008 by the College) he described Ms Cook as "two-faced". Clearly those "excuses" advanced by Mr Higgott are wholly unacceptable and entirely fail to explain why his conduct in the respects set out in these charges was so totally inadequate. The Committee is driven to the unhappy conclusion that the Respondent's (1) inadequate investigative procedures, (2) failure to seek additional veterinary opinion and (3) inadequate observing and monitoring of the dog during the 14 days during which she was an in-patient under his care, revealed serious professional incompetence. Most troubling of all was the conclusion reached by the Committee that the Respondent was deeply certain that he was right when he was in fact deeply wrong about all aspects of the treatment provided to Fliss. The Committee was equally distressed by how little the Respondent knew and the fact that he did not appear to know how little he knew.

### **Charge 1(b)**

7. This charge, which again the Committee found proved, based upon the evidence of Ms Cook, Ms Mosedale and Mr Hepper, established that the Respondent failed to provide adequate hospitalisation conditions for the dog Fliss particularly as regards the inadequacy of the size of the box in which she was placed and the inadequate manner in which, and frequency with which, her box was cleaned. The circumstances prevailing in this case resulted in the dog Fliss suffering in conditions of absolute squalor.
  
8. The Committee took a very serious view indeed of the inadequacy of the size of the cage in which Fliss was placed for the extended period during which she was under the Respondent's care, particularly as it was manifest from a very early stage that this dog was seriously unwell, was vomiting frequently and copiously, was urinating extensively and was being required to defaecate in her box. Any one of those factors should have ensured that she was immediately placed in a box of much greater size and either (1) provided with toileting facilities and opportunities out of the box or, (2) if that was not possible because of the frequency with which she was vomiting, urinating and defaecating, that her box was examined at regular and frequent intervals so that it could be cleaned expeditiously. That Ms Cook was distressed by the conditions in which her dog was kept during this period was, in the view of the Committee, entirely understandable. Those conditions were wholly avoidable and in the judgement of the Committee no competent and caring veterinary surgeon would have allowed them to occur. This aspect of the Respondent's conduct, in that he totally failed to provide adequate care for this dog is, in the Committee's judgement, nothing short of appalling and does great disservice to the reputation of the profession.
  
9. The same breaches of the ten Guiding Principles apply to the conduct proved in relation to this charge and the Committee would echo the point raised by the College in its submissions, that the Respondent's failures in this respect strike at the very heart of veterinary medicine and surgery. It appeared that no consideration was given to Fliss' welfare. This conduct was almost as far distant from the standards properly to be expected of a competent veterinarian as it is possible to conceive.

### **Charge 1(c)**

10. This charge alleged, and the Committee found proved, that the Respondent failed to treat Ms Cook with respect, courtesy and consideration. The Committee considered only three instances found proved, namely (i) that on 19 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), (vi) on 23 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 he was building her up slowly and that Ms Cook was being silly and 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” and (viii) on 25 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 .

11. In each of these respects, it is clear that the Respondent’s responses to the justified queries raised by Ms Cook were unacceptable and wrong. They were unacceptable because they breached the fourth of the ten Guiding Principles and Part 1D2(b) of the Guide and revealed indifference on the part of a veterinarian to the reasonable enquiries posed by a client who was understandably concerned about the continuing poor condition of her dog. They were wrong because issues being raised by the client were legitimate issues which, if listened to by the Respondent, would have put him on a proper path of enquiry, which could have increased the likelihood that he would have eventually reached a correct diagnosis of the conditions from which this dog was suffering. Instead, in the view of the Committee, the Respondent’s responses were discourteous and inconsiderate and were entirely in line with the contents of the letters that he wrote to the College in which he made plain that he considered this client to be a “pain” and “two-faced”.
12. These responses to legitimate enquiries of an anxious owner/client were wholly unacceptable and, in the view of the Committee, would be roundly condemned by all competent and caring veterinarians. Accordingly in this respect also the Committee considered that the conduct found proved amounted to Disgraceful Conduct in a Professional Respect.

**Charge 1(a)(iv) and Charge 2(a)**

13. These charges, each of which the Committee found proved, established a failure on the part of the Respondent to keep any clinical notes for the dog Fliss and secondly, the Respondent’s failure to keep adequate clinical notes generally, notwithstanding the advice he had received from the College about the importance of keeping such clinical notes for all the animals under his care.
14. The Committee was of the view that the evidence established that (1) for some time the Respondent had been failing to keep clinical records of the animals under his care, (2) this conduct persisted despite the advice and warnings given to him by the representatives of the College on the visits they made to his premises over a period of some 16 months and (3) this failing was carried through to the case of the dog Fliss. Not only were these failings unacceptable but were made wholly inexcusable once the Respondent received the first of the advisory visits from the representatives of the College and the warnings that they issued to him.
15. According to his own evidence, the Respondent was treating many animals during the course of a year, perhaps up to a thousand, and would examine 10 to 12 animals each afternoon. The Respondent could not conceivably rely upon his own memory to recall the treatment he had given to each of those animals

under his care, still less the reasons why he prescribed the treatment that he had for each of those animals. He would therefore be placed at a considerable disadvantage in relation to any return visits of any of those animals, or in relation to any enquiries made by fellow veterinarians to whom those animals had been transferred for second opinions, or continuation of treatment. Accordingly, the Respondent's conduct in this respect would undoubtedly have had a potentially detrimental effect on the welfare of the animals under his care, and would have adversely affected the ability of owners to submit properly supported insurance claim forms.

16. In the case of the dog Fliss, it is the view of the Committee that it had a positively detrimental effect upon her welfare. Had the Respondent kept a proper clinical record of this dog it would have resulted in an improved level of care for Fliss. The Committee has no doubt that had the Respondent referred to those clinical notes during the 14 day period this animal was an inpatient with him, he would have been prompted to reflect, in a conscious and deliberate manner, upon the correctness of his diagnosis and the treatment he was prescribing for her. The Respondent himself accepted that he had lost track of the length of time that the dog had been under his care. Therefore, in each of these respects the Respondent was guilty of Disgraceful Conduct in a Professional Respect.

#### **Charge 2(b)**

17. The Committee found this charge proved, in that notwithstanding the advice he had received from the College of the need to keep up to date with continuing professional development (CPD), the Respondent failed to do so. In this respect, Ms Mosedale and Mr Hepper on behalf of the College had reminded the Respondent on each of their visits to his practice of his obligations in this respect. It is perhaps a statement of the obvious that it was particularly important for the Respondent, being a sole practitioner, to undertake regular CPD as he was deprived of the benefit of regular contact with veterinary colleagues which might assist him to keep his knowledge up to date as regards the requirements of a modern day practice, developments in diagnosis and advances in veterinary medication.
18. By his own evidence, the Respondent conceded that he was wholly unaware that (1) metoclopramide had no veterinary product licence (2) the veterinary product licence for Finadyne had been withdrawn in relation to dogs many years before he prescribed it for Fliss (3) in this case the use of Finadyne was wholly inappropriate for a dog displaying these symptoms. Although the Committee was of the view that the prescribing of metoclopramide to Ms Cook's dog Fliss was not unacceptable, at least for a short period of time (as to which see further below), the Committee has no doubt that had the Respondent undertaken appropriate CPD, as he should have done and as he had been advised to do on each of the visits identified in the evidence, he would not have made the errors that he did in relation to his diagnosis of the problems from which Fliss was suffering. At the very least he would have recognised the need to consult

another veterinary surgeon in relation to his diagnosis when the treatment he had prescribed failed to bring about an improvement in Fliss' condition within a relatively short period of time. He would also have recognised the need to revisit his diagnosis of her problems. Finally, had he undertaken appropriate CDP, the Committee considers he would have learnt just how little he knew. Fliss should have had the benefit of other treatment for her condition, or an early discussion with Ms Cook about euthanasia.

19. In this respect also the Committee was of the clear view that the Respondent's conduct fell far below that properly to be expected of the ordinary competent veterinary practitioner. Given the seriousness of this conduct, particularly in the light of the advice which had been tendered to the Respondent, by the College on issues which constitute basic requirements, the Committee considered that amounted to constituted Disgraceful Conduct in a Professional Respect

**Charge 1(d)(i)**

20. This charge relates to the Respondent's failure to obtain Ms Cook's informed consent to the use of metoclopramide for her dog Fliss.
21. The Committee is mindful of the obligation of veterinary surgeons under Part 2H of the Guide which provides "Responsible use of veterinary medicines for therapeutic and prophylactic purposes is one of the major skills of a veterinary surgeon and crucial to animal welfare and to the maintenance of public health. Failure by the profession to observe these requirements could result in the removal of the exemption for the supply of medicines by veterinary surgeons".
22. What exercised the Committee in relation to this charge as found proved was its knowledge gained from the veterinary surgeons of the Committee that for many years there has been no veterinary licensed anti-emetic drug available. Accordingly metoclopramide, an unlicensed product, has been in regular use by the profession over an extended period of time. Whilst the Committee in no way condones the failure of a veterinary practitioner to secure informed consent of an animal's owner to the use of drugs not licensed for veterinary use, it considers that it would be unrealistic and therefore unfair to the Respondent not to acknowledge that so common has been the use of metoclopramide over this period of time, that a number of otherwise competent veterinary surgeons have followed the same course as did the Respondent on this occasion.
23. Therefore, despite its view of the importance which should be attached to the need to obtain informed consent for the use of drugs which are not licensed for veterinary use, the Committee considered that in this instance Mr Higgott's conduct was not found to be Disgraceful Conduct in a Professional Respect.

**Charge 1(d)(ii)**

24. The Committee found proved this charge which alleged that the Respondent had provided to Ms Cook metoclopramide in a paper envelope without adequate labelling. Indeed the Respondent accepted that he was in breach of the Veterinary Medicines Regulations by failing to label this drug and by handing it to Ms Cook in an envelope which contained no markings and which was not in a child proof container. Concerns which the Committee had in this respect related to the risk of harm posed to the animal Fliss should the owner have given it the wrong amount of the medication or given the wrong dosage particularly at inappropriate frequencies. At the very least, the owner of an animal is entitled to guidance and a written record of the amount of the medication that was to be given to an animal and the frequency with which it was to be given. Without such guidance being given in writing, the opportunities for error are obvious. The consequences of this failure being so obvious, the Committee considered that this failure on the part of the Respondent constituted conduct which fell far short of that which is to be expected of the ordinary competent veterinary practitioner.

**CONCLUSION**

25. In each of the respects set out above, the Committee was of the view that the Respondent's conduct was likely to undermine public confidence in the veterinary profession and did bring the profession into disrepute.