

THE ROYAL COLLEGE OF VETERINARY SURGEONS

V

LESLIE HIGGOTT

DECISION ON APPLICATION FOR RESTORATION

1. The Disciplinary Committee of the Royal College of Veterinary Surgeons heard the case against Mr Higgott between 29th April 2008 and 2nd May 2008. He faced the charge of disgraceful conduct in a professional respect relating to his treatment of a Springer Spaniel dog, Fliss, belonging to Ms Cook in June 2007. The heads of charge included allegations that he had failed to provide adequate veterinary care, failed to provide adequate hospitalisation conditions, failed to treat a client with respect, courtesy and consideration, failed in his duties regarding medication, and between April 2006 and August 2007, notwithstanding advice from representatives of the College, failed to keep accurate and adequate clinical notes, and failed adequately to keep up to date with Continuing Professional Development. On 28th July 2008 Disciplinary Committee found Mr Higgott guilty of disgraceful conduct in a professional respect and ordered that his name be removed from the Register. Mr Higgott did not appeal against the decision and his name was duly removed. On 5th November 2009 Mr Higgott made an application for restoration to the Register.
2. At this Hearing Mr Higgott was represented by Mr Tandy, a veterinary surgeon, as a friend of Mr Higgott pursuant to rule 24.3 of The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules 2004. Mr Kirwan, a veterinary surgeon, gave evidence that he was prepared to act as Mr Higgott's mentor. The Committee would like to express its gratitude to both Mr Tandy and Mr Kirwan for the way in which the Application for Restoration was prepared and presented on behalf of Mr Higgott.
3. The Committee has given careful consideration to the advice of the Legal Assessor, the submissions of Counsel for the College, Mr Tandy on behalf of Mr Higgott and the Disciplinary Committee Guidance. The Committee has been reminded by the Legal Assessor that the onus is on Mr Higgott to establish, on the balance of probabilities, that he should be restored to the Register. The standard of proof that the Committee has applied is the balance of probabilities. The Committee has paid

particular regard to the Disciplinary Committee Guidance and has addressed each of the matters listed in reaching its decision.

4. Mr Higgott gave oral evidence which has been supported by evidence from Mr Kirwan and testimonials from his former clients. He qualified as a veterinary surgeon from the Liverpool Veterinary School in 1973. Before his removal from the Register he practiced as a single-handed practitioner from 3, Somerville, Poulton Road, Wallasey. Since that time he has not worked, having undergone two operations to his legs. He has had a longstanding disability as a result of a subarachnoid haemorrhage when he was a young man. The practice was operated from the premises where Mr and Mrs Higgott live. Next to his house Mr Higgott constructed a single storey unit which comprises a waiting room, consulting room, recovery area and operating theatre. Before its erection in about 2005 he operated his practice from one of the ground floor rooms in his house. In recent years Mr Higgott employed no nursing or support staff.
5. On behalf of Mr Higgott, Mr Tandy has presented an action plan that would be put into place were Mr Higgott's name to be restored to the Register. The actions are detailed in his letter of application, and subsequent correspondence, which would lead to the classification of Mr Higgott's practice as a RCVS accredited Tier 1, with a programme of sustained CPD and significant improvements in the operation of his practice including the engagement of appropriate nursing and support staff. Mr Kirwan, who has given impressive evidence of his pastoral role within the profession, believes that Mr Higgott should be permitted to return to practice initially in a vaccination only clinic. Mr Kirwan has outlined a proposal which would include Mr Higgott spending periods of time at his own practice during which a proper assessment could be made of his capabilities as a veterinary surgeon during which time he would remain under his personal supervision. He does not envisage that Mr Higgott would be able to return to providing a full service as a veterinary surgeon in general practice, but he believes that he will be able to continue practising within this limited context and possibly in other areas in the future. Mr Kirwan recognises that Mr Higgott's current financial difficulties may result in the loss of his home and practice premises, leading to him providing a restricted service of home visits.
6. The College adopted a neutral position on the Application but brought to the Committee's attention the circumstances leading to the finding of disgraceful conduct and the removal of Mr Higgott's name from the Register.
7. Turning to the first of the matters set out in the Disciplinary Committee Guidance, the Committee does not consider that Mr Higgott fully accepts the previous findings of the Committee, or the seriousness of those findings. Whilst Mr Higgott's application states that he fully accepts the decision to remove his name from the

Register, the Committee believes that he does not accept the findings of fact made by the Committee, in particular the evidence of the complainant and owner of the dog, Ms Cook. His repeated theme at this hearing was that the Committee had accepted evidence that was not true. He appeared to accept the effect of the seriousness of the findings on himself, and the profession but failed to appreciate the effects of his actions on the dog and the client concerned. However, in fairness to Mr Higgott, in evidence he did accept that he was out of his depth in treating Ms Cook's dog.

8. The Committee does not consider that the restoration of Mr Higgott's name to the Register would protect the public or the future welfare of animals. Whilst the Committee has already expressed concern that Mr Higgott does not fully understand the seriousness of the reason for the removal of his name from the Register, its principal concerns relate to Mr Higgott's clinical competence as a veterinary surgeon. The findings of the Committee on 29th July 2008 were bleak. The Committee found:

"it could not understand how a veterinary surgeon who had a proper concern and feeling for welfare of animals under his care could allow those conditions to persist and could not envisage how any period of training or supervision during any period of postponement would bring about that change in attitude in the Respondent which would be necessary before the Committee or the public could repose confidence in the belief that there would be no repetition of this lack of respect for, or feeling for, the suffering for an animal in his care."

9. Although Mr Kirwan has said in evidence Mr Higgott should only be permitted to run a vaccination clinic and he does not envisage that he will be able to return to operating a single handed practice, the Committee is not satisfied that he is a fit and proper person to practise as a veterinary surgeon. The Heads of Charge found proved at the previous hearing, relating to Mr Higgott's clinical competence, are so serious that, it would require persuasive evidence to re-assure the Committee that the level of his competence had undergone a significant improvement following the decision to remove his name from the Register. In doing so the Committee recognises the problem, outlined by Mr Kirwan in his evidence, that there is no provision in the Veterinary Surgeons Act 1966 for persons other than veterinary surgeons and veterinary students (under supervision) to practice the art and science of veterinary medicine. His answers to clinical questions from professional members of the Committee on anaesthesia and analgesia, amongst other matters, caused it real concern notwithstanding that he had attended CPD courses on those subjects in May 2009. It was also telling that Mr Higgott remains unfamiliar with the College's Guide to Professional Conduct which he still has not read.

10. Mr Higgott's name was removed from the Register some sixteen months ago. The Committee does not believe that this short period is, of itself, a factor which would preclude the restoration of his name to the Register at this time.
11. No issues have been raised by the College over Mr Higgott's conduct since the removal of his name from the Register. The Committee is satisfied that he acted properly in closing his practice, and in difficult circumstances has acted to the best of his ability in undertaking Continuing Professional Development, following advice from Mr Tandy and other members of the profession.
12. The Committee is encouraged by the Continuing Professional Development that Mr Higgott has undertaken since he was removed from the Register. Mr Higgott told the Committee that he has undertaken some 35 hours CPD over the past 12 months, including courses put on by the Royal Veterinary College which have been paid for by the Veterinary Benevolent Fund. In his application he produced a detailed record of the CPD he has undertaken. However, the Committee does not consider that the CPD he has already carried out is sufficient training to remedy the deficiencies in his clinical competence identified in the findings of the Committee who removed his name from the Register. This conclusion was reinforced by the answers that he gave in oral evidence, to matters raised by the professional members of this Committee.
13. The Committee accepts that removal from the Register has been highly significant for Mr and Mrs Higgott both financially and emotionally. Mr Higgott told the Committee that he has not worked since his name was removed from the Register. He has explained to the Committee that he has substantial debts over and above the mortgage that he has taken out against his property. He told the Committee that probably there would be no equity in the property after the mortgage had been redeemed. He has additional debts to his former drugs supplier and other unsecured loans. He has little or no savings. His wife is currently unemployed after an orthopaedic operation earlier this year. He is subject to impending court proceedings which may result in his bankruptcy. Although recent surgery has improved his physical condition, he continues to suffer from restricted mobility and pain.
14. At the Hearing on 28th July 2008 Mr Higgott received significant support from clients including an elected representative in the area. He has practised in Wallasey since 1983 which the Committee is informed is not an affluent area, where he provided a basic and necessary service. A petition signed by over 1000 people was made available to the Committee. The Application for Restoration is also supported by former clients who would welcome his return to practice. The Committee is

- satisfied that for many years, Mr Higgott did provide a basic veterinary service to the area in which he lives.
15. The Committee appreciates the difficulties faced by Mr. Higgott in making this application for restoration of his name to the Register. However, the Committee has to pay particular regard to the protection of the public and the future welfare of animals. Whilst accepting the point made by Mr Tandy that Mr Higgott had not expressed himself in evidence as well as he may have done in private conversations, it has real disquiet as to his understanding of the matters which led to the removal of his name from the Register. Moreover, the Committee is not satisfied that his clinical competence is of a sufficient level to permit his name to be restored to the Register at this time.
 16. Although the proposal put before the Committee is that Mr Higgott should only work within the context of a vaccination clinic under supervision of Mr Kirwan, the Committee does not believe that this would be adequate protection for the public or the future welfare of animals. As recognised by Mr Kirwan, the Committee has no jurisdiction to direct a conditional registration in the case of an applicant for restoration to the Register. Once his name is restored to the Register, the Committee has no jurisdiction to monitor, or to take steps in relation to a breach of the proposed arrangement. Whilst it accepts that Mr Higgott may at this stage see that an agreement to practise in this limited context is his only route to the restoration of his name to the Register, it has noted the evidence before the Committee at the previous hearing. He had repeatedly agreed with Mrs Mosedale, a veterinary surgeon, and the College's Chief Practice Standards Inspector, to rectify deficiencies in the operation of his practice, in particular the keeping of clinical records, the cleanliness of the premises and his own CPD requirements, but he consistently failed to do so. The Committee is concerned that under pressure from clients of his vaccination clinic he would return to providing a general service whilst not equipped with the necessary skills and knowledge to do so.
 17. The Committee is mindful that Mr Higgott has had the valuable support of Mr Tandy, Mr Kirwan and the Veterinary Benevolent Fund. The Committee acknowledges the valuable work that they have carried out in preparing Mr Higgott for making this application which has been well-prepared. It considers that it would assist Mr Higgott to be aware that were he to make another application for restoration of his name to the Register he would be well-advised to undertake the following steps.
 18. He should spend a minimum of 8 days each month, for a period of not less than ten months, doing observational practice in an RCVS accredited veterinary surgery or hospital. He should keep a written record of the cases observed including the treatment given in the form of a 'learning diary' and ensure that this is regularly

reviewed by one of his mentors. He should maintain regular weekly contact with a mentor. Mr Kirwan has said in evidence that he was willing to fulfil this role. He should also undertake the minimum of 35 hours CPD per year which may include reading journals and internet-based learning as well as attending formal lectures or courses. He should keep a written record of all CPD on a RCVS CPD record card which can be downloaded from the RCVS web site www.rcvs.org.uk. The Committee also considers that a future application for restoration would be assisted by an assessment of Mr. Higgott's health and ability to work as a veterinary surgeon from both a qualified medical practitioner and occupational therapist. Mr Higgott should be aware that this guidance does not bind the decision of the Committee who hears such an application.

19. The Committee has concluded that the Application is unsuccessful and that Mr Higgott's name should not be restored to the Register.
20. This is the decision of the Disciplinary Committee of the Royal College of Veterinary Surgeons.

15th JANUARY 2010