

BEFORE THE PROFESSIONAL CONDUCT COMMITTEE OF THE
ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS

v

KAREN MARIE ALCOCK RVN (Respondent)

DECISION OF THE DISCIPLINARY COMMITTEE ON FINDING OF FACTS AND FITNESS
TO PRACTISE

1. The College was represented by Ms Nicole Curtis, Counsel; Ms Alcock was represented by Mr Alex Jamieson, Counsel.
2. Ms Alcock appears before the Disciplinary Committee to answer the following head of charge:

That, being in the Register of Veterinary Nurses, you:

On 23rd December 2022, at the Lincoln Crown Court, were convicted on indictment, following a guilty plea, of being the owner / person in charge of a dog dangerously out of control causing injury resulting in death;

and in respect of the above conviction, on 14th August 2023, were sentenced to 8 months imprisonment, suspended for 2 years, and ordered to undertake 80 hours unpaid work.

AND THAT it is alleged that the above charge renders you unfit to practise as a registered veterinary nurse.

3. By her counsel, Ms Alcock admitted the conviction, which the Committee found proved.
4. At the outset of the hearing, Mr Jamieson made an amended application as follows:

That portions of the evidence called on behalf of Ms Alcock be heard in private and to feature only upon the private versions of the transcript of the Committee's determination, those portions being limited to any information relating to:

- i.
- ii.



5. The Committee received Mr Jamieson's submissions in support of the application and Ms Curtis' statement that the College did not oppose the application. The Committee received legal advice from the Legal Assessor.
6. The Committee had regard to Rule 21 of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee Procedure and Evidence) Rules 2004 which by paragraph 21.2 granted the Committee a discretion to exclude the public from the proceedings or any part thereof, where it appeared to the Committee that this would be in the interests of justice. Further it noted Article 6(1) of the European Commission of Human Rights which provided as follows:

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. ..."

7. The Committee determined that it was in the interests of justice to grant Ms Alcock's amended application, and therefore allowed it.
8. Ms Curtis outlined the facts which gave rise to the charge as set out by prosecuting counsel at the sentencing hearing as follows:

"At about 11.30 pm that night, the emergency services were called to attend the Ostler's Plantation, Kirkby Lane, Woodhall Spa. The defendants' 3-month-old daughter, Kyra, had been bitten by their Siberian Husky dog Blizzard. Tragically, Kyra's injuries were so severe it was not possible for the attending medics to treat her and she was pronounced dead at the scene. A post-mortem examination revealed that she had died from multiple injuries to her head and neck, including a severance of the carotid artery... The attending medics were unable to do anything by then, both of these defendants had been invited and did do what they could by way of CPR at the scene. ... It's accepted that that is a significant feature of mitigation for both of them, having to do that in those circumstances."

9. She then referred to the sentencing remarks of Her Honour Judge Sjölin Knight dated 14 August 2023 which included the following:

On 7 December 2021, Miss Alcock gave birth to Kyra King, your very much wanted and loved baby. Children's services had visited you prior to Kyra's birth and found your house to be spotless, with practical plans in place to keep the dogs and Kyra apart when she was born. From five days after Kyra's birth, you were going out together to exercise the huskies at Ostler's Plantation. Kyra would come with you. That continued to be your routine at least twice a week. When you went to Ostler's Plantation, you worked together as a team. You were both experienced dog handlers I am satisfied that there was a tragic conjunction of circumstances on 6 March 2022. Blizzard and the other two dogs in the middle of the van were not immediately put into the cages by Miss Alcock so they could have a drink after their run.

There was no partition between the middle of the van and the front. Mr King, you did not think that necessary because the dogs would be in their cages. The passenger door was left open. Kyra was in her pram, right next to the passenger door. Miss Alcock was helping Mr King clip on the second dog team and, so, not next to the van.

None of this was out of the ordinary for you, and it had not previously caused a problem. You were both used to dogs, and Blizzard was not a dog who had previously caused any concern. There was nothing to trigger her attack on Kyra; but on this occasion she was dangerously out of control, as evidenced by that attack.

Dog ownership is a privilege and, for many, a pleasure; but it comes with a heavy burden under the Dangerous Dogs Act.

You are guilty of the offence under section 3(2) because you were working together and this was your dog, Mr King -- in your charge, Miss Alcock, as well -- and she did an awful thing which neither of you expected and which will weigh heavily upon both of you for the rest of your lives.

I have been assisted by hearing submissions about the sentencing guidelines. I put this in culpability C, the lowest level. I do not consider that this incident was reasonably foreseeable. I do consider that there was a momentary lapse in an otherwise good system.

The starting point, therefore, is one year, and the range of sentence is between a high-level community order and two years.

The single aggravating factor for both of you is that Kyra was particularly vulnerable as she was a baby, but I must weigh against that that you feel that more keenly than anyone as she was your baby.

Karen Alcock, you are 42 years old...

I turn to mitigating factors. You are remorseful and admitted your responsibility at the plea and trial preparation hearing.

At this step, these factors balance each other out.

Your guilty plea was entered, as I said, at the plea and trial preparation hearing; but it was entered following legal discussions, and I accept that it was then the first opportunity. I extend to you full credit; that is, one third. The appropriate sentence, therefore, is eight months, reduced from twelve months for the guilty plea.

It is appropriate to suspend both sentences because of the extremely strong personal mitigation in this case. No one will bear the loss of Kyra more than you two. [REDACTED]

Miss Alcock, your sentence will be suspended for two years and you will complete 80 hours of unpaid work

A suspended sentence works like this: if in the next two years you commit any offence, you will be brought back to court and it is likely this sentence will be brought into operation. You will complete the hours of unpaid work I have attached to the order within the next 12 months, working when and where you are directed by your supervising officer. If you fail to comply with the requirement, you will be in breach of this order, which means you will be brought back to court and you will be liable to serve the sentence.

Disqualification from owning or having custody of a dog would only be justified if I found that you were each not a fit and proper person to have a dog. Despite the terrible harm which Blizzard caused in this case, I accept that it was through a terrible set of events aligning, so this does not justify disqualification from having dogs in future.”

10. Ms Alcock disclosed her conviction to the College on 15 March 2023. Ms Curtis referred to Ms Alcock’s letter to the College dated 19 November 2023 in which she set out an account of the facts leading to the conviction and stated:

“I accept that I pleaded guilty to the charge, however I would have never have deliberately put Kyra at risk, and I have suffered a personal loss that is indescribable. I have not been able to work much (and not in veterinary practice) since Kyra died, however if I feel able, I would like to return to veterinary nursing at some point in the future. I hope the RCVS will understand that Kyra’s death was a truly tragic event and not one which I could have foreseen. I do not believe what happened that night impacts my fitness to practise as a veterinary nurse and hope you will consider my conviction compassionately.”

11. The Committee also noted a passage in Ms Alcock’s letter to the College dated 19 November 2023

“I am ashamed to say that I was so conditioned to not changing anything that [her partner] did that on that awful evening I did not close the passenger door on the van that he had left open. This was because prior to that night, when at home, I would close doors to keep heat in or to keep dogs out of the kitchen when I was cooking for example and this angered [her partner] and he would throw the doors open with such force that he damaged the door frame and hinges. There was another episode involving the metal garden gates also.

On arriving at the training ground, Kyra was placed in her pram and we pushed her around the trail whilst walking the retired huskies. On returning the retired dogs were put back into their van crates and the first team was prepared for their rig run. [Her partner] opened the van's passenger door to retrieve his gloves and helmet. He left this door open and Kyra's pram was parked against the open door. While [her partner] was out with the first team, I sat in the doorway of the side sliding door of the van so I could be near Kyra."

12. Ms Curtis then continued with the College's submissions regarding Ms Alcock's fitness to practise.
13. She submitted that the conviction renders the Respondent unfit to practise as a veterinary nurse.
14. She stated that a finding of unfitness to practise by virtue of a conviction may, but does not automatically, lead to removal from the College's register. If a Disciplinary Committee concludes that a conviction renders a respondent unfit to practise, the Committee would then go on to consider, at a subsequent stage, its decision as to sanction. The College submitted that the test for considering whether a conviction renders a respondent unfit to practise is to all intents and purposes the same as that for assessing whether behaviour amounts to disgraceful conduct in a professional respect, namely whether the conduct falls far short of that which is expected of a member of the veterinary profession. There is no burden or standard of proof involved in determining the issue of fitness to practise; it is a matter for the Committee's judgment.
15. She submitted that for a conviction to render a person unfit to practise as a veterinary nurse, it need not relate to conduct in their professional practice. The Disciplinary Committee's Procedure Guidance (August 2020) provides (paragraph 25):
"A conviction may be related to professional or personal behaviour and whether it renders a respondent veterinary surgeon unfit to practise is a matter of judgment for the Disciplinary Committee. Behaviour unconnected with the practice of veterinary surgery can cause concerns about the protection of animals or the wider public interest."
16. She submitted that the "wider public interest" includes upholding the reputation of the profession of veterinary nurses and maintaining public confidence in the profession. A veterinary nurse may be unfit to practise as a result of conduct which is of such an egregious nature that it has the potential to bring the profession into disrepute and undermine public confidence in the profession.
17. She referred to the case **of Roylance –v- General Medical Council [2000] 1 A.C. 311**, Lord Clyde confirmed that serious professional misconduct may arise where the

conduct was “quite removed from the practice of medicine but is of a sufficient immoral or outrageous or disgraceful character”.

18. Ms Curtis further referred to the case of **Kirk v Royal College of Veterinary Surgeons [2004] UKPC 4** in which the Privy Council confirmed that convictions did not need to be linked to professional practice in order to render a registrant unfit to practise. In that case, the appellant, Mr Kirk, had been convicted on four occasions, for matters including common assault and public order offences. Lord Hoffmann stated (para.33):

“...veterinary surgeons as professionals have wider duties than the care of animals. They are expected to conduct themselves generally in accordance with the standards of professional men and women and failure to do so may reflect upon the reputation of the profession as a whole... ...

it is difficult to say that violent or anti-social behaviour of the kind involved in Mr Kirk’s convictions cannot in principle be a ground for a finding that he is unfit to practise as a member of the profession.”

19. Ms Curtis submitted that the conviction in this case, involving the death of a baby, is of such a serious nature that the public interest, in terms of upholding the reputation of the profession, requires a finding of unfitness to practise, even in the absence of any direct link to the Respondent’s work as a registered veterinary nurse. The College invites the Committee to consider that it is of note that the offence involved an animal within the Respondent’s charge and was linked to animal husbandry. As such, in the College’s submission, the conviction is likely to have a more direct impact on the reputation of the profession than a conviction for a matter wholly unrelated to animals. In any event, the College submitted that, quite apart from any link to animal husbandry, the matter, involving a tragic death of a baby caused by an animal dangerously out of control, is of such a grave nature that it has the potential to bring the profession into disrepute.
20. Ms Curtis submitted that the Committee may take into account aggravating and mitigating factors at this stage, as long as those factors relate directly to the circumstances of the conviction itself (and are not, for example, purely personal mitigation).
21. Ms Curtis acknowledged that there were severe personal consequences for the Respondent arising from the offence, and that there may be powerful mitigating circumstances with regards to her relationship with her former partner. The College invited the Committee to consider that:
- (i) none of the mitigation constituted a defence to the offence to which she pleaded guilty and for which she received a suspended sentence of imprisonment; and
 - (ii) mitigation which is purely personal mitigation will be relevant only to the sanction stage of the Committee’s process.

22. Ms Curtis invited the Committee to consider that, of the aggravating factors listed at paragraph 39 of the Procedure Guidance, (a) “actual injury to a human” and (i) “the involvement of a vulnerable [individual]” are of relevance to this case.
23. Ms Curtis submitted that the seriousness of the conduct underlying the offence is reflected in the sentence, namely a lengthy period of custody, albeit suspended.
24. Ms Curtis stated that the Committee may in addition be assisted by the following, in the “Available Outcomes and Sanctions” section of the Procedure Guidance:

“77. Removal from the register may be appropriate where behaviour is fundamentally incompatible with being a veterinary surgeon, and may involve any of the following (the list is not exhaustive): ...

e. Offences involving violence and/or loss of human life;”

25. Ms Curtis explained that for the avoidance of doubt, the College is not promoting any particular sanction, nor suggesting that removal from the register is appropriate in this case (its policy is to remain neutral at sanction stage), but sought to remind the Committee that the Procedure Guidance refers to matters involving loss of life as being of particular seriousness.
26. Ms Curtis also drew the Committee’s attention to the decision in **The Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann) [2005] EWHC 87 (Admin)** (referred to at paragraph 49 of the Disciplinary Committee Procedure Guidance). A registered dentist had been convicted in relation to numerous indecent images of children, He had been sentenced to a Community Rehabilitation Order for three years and ordered to remain on the Sex Offenders' Register for five years. The General Dental Council’s Professional Conduct Committee suspended his registration for twelve months. The CRHCP (now the Professional Standards Authority) sought a review of the sanction on the basis that it was too lenient. The High Court agreed that it was too lenient, and substituted an order for erasure. Newman J held

“I am satisfied that, as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine. The rationale for the principle is not that it can serve to punish the practitioner whilst serving his sentence, but that good standing in a profession must be earned if the reputation of the profession is to be maintained.”

27. Ms Curtis stated that in this case, the Respondent is subject to a period of imprisonment which was suspended for a period of two years, and that suspension does not expire until August 2025.

28. Ms Curtis stated that the Code of Professional Conduct for Veterinary Nurses includes the following: “6.1 Veterinary nurses must seek to ensure the protection of public health..... 6.5 Veterinary nurses must not engage in any activity or behaviour that would be likely to bring the profession into disrepute or undermine public confidence in the profession.”
29. Ms Curtis submitted that, despite the powerful mitigation taken into account by the sentencing judge, the conviction is a serious matter. It involved the death of a vulnerable infant and was linked to animal husbandry. Its severity was reflected in the fact that it led to a lengthy custodial sentence, albeit one which was suspended. That sentence is still “live”. The College submitted that such conduct is liable to bring the profession of veterinary nursing into disrepute; members of the public would be shocked to learn that a veterinary nurse was convicted of an offence of being in charge of a dog dangerously out of control causing injury resulting in death. The College submitted that the conviction is of such a serious nature that it renders the Respondent unfit to practise.
30. Ms Alcock gave evidence. In her witness statement dated 22 March 2024
- a. She explained the circumstances surrounding the tragic events of 6 March 2022 that led to her conviction.
 - b. She stated at the time of the events in question, she was in what she subsequently recognised as an abusive and controlling relationship with her partner who was convicted of the same offence. She said that she had gone to the forest with him and his racing dogs with their three-month-old daughter on the night of 6 March 2022 as she was not able to refuse him.
 - c. She explained that she had moved in with her partner in July 2021 after he had found a house which they intended they would buy together. However, while she was ill with meningitis, he bought the property in his name only. She stated that thereafter he became irritable, controlling, bad tempered and eventually violent to her. She believes he became like this when, following the sale of her house, he knew she had “no way out”. After an incident in Thetford Forest, her sister, who was frightened by his violence towards her, reported him to the police and a Public Protection Notice was issued which records Ms Alcock reporting that the abuse by her partner was getting worse, that he was jealous and he had mistreated an animal or family pet. The Public Protection Notice was exhibited to Ms Alcock’s witness statement.
 - d. Following the incident in July 2021, she explained that she was referred to EDAN, a registered charity in Lincolnshire that helps people suffering domestic abuse. She informed them about his very bad temper, and that she was afraid he would lash out at her and her animals. She kept 11 dogs as pets. These had mainly come through her practice as a veterinary nurse. She said that he had already threatened to kill them.

- e. She explained that, after their daughter was born, her partner obliged her to go out with him to train his dogs, bringing their daughter with her, because, if she did not, he said he would change the locks on their home, keep their daughter and she would not be able to have access to her. On those occasions when she did not go with him, he blamed her for the trouble this caused him. He would also belittle her ability to care for their daughter, saying he could do it better than she could.
 - f. In February 2022, there was a further incident following her having an injured thumb. Her partner was due to take her to hospital but then lost his temper and started kicking the car and punching the window trying to take their daughter out of the car. Ms Alcock had to drive to the hospital and explained that she was late because of her partner's behaviour. Social Services carried out an unannounced visit following a referral from the hospital, and the social worker reported that the Respondent was experiencing emotional abuse and controlling behaviour from her partner.
 - g. The Respondent explained that it was on account of the abusive and controlling way her partner behaved towards her that she was out with him and with their daughter exercising his dogs on 6 March 2022. She told him she did not want to take their daughter into the forest late at night, but he said that if she couldn't handle it, he would change the locks when they got back. When they arrived she said that she was concerned about her ability to help because of her injury. He had again said that if she was unable to handle the dogs, she was of no use to him and he would call the police to get them to remove her from "his" home.
31. Ms Alcock explained her qualification and employment history, and her love of animals. She had qualified in 2003. She moved to the Coventry People's Dispensary for Sick Animals (PDSA), which service was for people who could not afford vets' fees. She learned a lot about client communication there. She did voluntary out of hours work with Vets Now Emergency Coventry about two years after she joined Coventry PDSA. In 2008, she moved to a practice in Solihull to do night cover where there was just one vet and one nurse, plus an animal care assistant on duty. This reflected her enjoyment of the emergency care at Vets Now. The routine with the practice at Solihull was 7 days on and 7 days off. She took a locum job for 2 or 3 days in her weeks off, and later worked regularly on Sundays at the practice, becoming a permanent member of staff. In 2016 she trained to be able to provide hydrotherapy services for dogs, and started her own business in April 2017 in Coventry. She stopped the locum work to be able to do this. Eventually, she left the Solihull practice to concentrate on the hydrotherapy business and her Sunday work. The business closed on account of a combination of the covid pandemic, her being on maternity leave and not living locally and difficulties with staff.
32. Ms Alcock stated that she wishes to return to veterinary nursing. She has reflected deeply. She accepts the huge importance of public trust in the veterinary profession. She feels she is definitely fit to practise as a veterinary nurse and that she has as great deal to contribute to the profession. She hopes that members of the public

would understand, if they were fully aware of the circumstances, that the incident could not have been foreseen. She has learnt that she must trust her instincts. She has continued with her CPD [REDACTED]

33. Ms Alcock exhibited to her witness statement the following exhibits:

- a. A statement of Mrs Heather Snelson, Ms Alcock's sister, dated 7 August 2023 in which she attested to Ms Alcock's partner belittling, controlling and sometimes violent behaviour towards Ms Alcock. She confirmed that she witnessed Ms Alcock's partner's violent behaviour towards her, which occurred in Thetford Forest when she was 7 months pregnant. As a result, she reported him to the police. Following that incident, Ms Alcock's partner banned her (Mrs Snelson) from their house. She recounted incidents of violence which Ms Alcock complained that she had suffered at the hands of her partner. She described how Ms Alcock was unable to leave the house with her animals still there. She stated that Ms Alcock had lost her house, her business and her independence through her relationship with her partner.
- b. A handwritten statement from Mrs Ann Alcock, Ms Alcock's mother, dated 9 March 2022 attesting to the fact that Ms Alcock's partner used abusive and threatening behaviour towards Ms Alcock and her parents. She recounted three occasions when this happened, on 30 January 2022 and on 5 and 26 February 2022. Mrs Ann Alcock was a joint owner of the hydro business with her daughter Ms Alcock.
- c. A further typed but undated statement from Mrs Ann Alcock attesting to the behaviour of Ms Alcock's partner and in particular recounting an incident in March 2022, which was reported to the police in April 2022;
- d. A police witness statement of Ms Sarah Rudkin (social worker) dated 19 May 2022. She refers to a visit which she conducted at Ms Alcock's home on 15 February 2022;
- e. An interim report of expert opinion regarding the behaviour assessment of the Siberian Husky Blizzard by Shaun Hesmondhalgh MCFBA, MBIPDT, MEWI. He carried out the assessment of the husky, an adult Siberian female, on 15 March 2022, nine days after the incident in question. She was currently in whelp. He concluded that the dog did not pose any obvious and immediate danger to public safety. He stated that the behaviour of the dog gave no cause for concern; no maladaptive traits were identified that indicate that the dog might be inherently dangerous.
- f. A telephone attendance note of Ms Alcock's call to the College dated 15 March 2023.
- g. Her curriculum vitae

h. Six testimonials.

34. In her oral evidence, Ms Alcock confirmed the contents of her witness statement. She stated that she thought her sister's and her mother's statements were given to the Criminal Court when the Judge considered sentencing. She explained her love of animals and commitment to being a veterinary nurse. She expanded on aspects of her career as set out above. She stated that she still had a great deal to offer the profession in respect of the care of animals. She acknowledged that conviction could have had an impact on the reputation of the profession, because an owner of an animal who hands over its care to a member of the profession will need to know that that person can be trusted and will properly care for the animal. She considered that if such a person was aware of the facts of her case, he / she would be sympathetic to her situation. She confirmed that, within 3 months of sentencing, she had completed the 80 hours of unpaid work, ordered by the Criminal Court.
35. The first testimonial witness also gave oral evidence.
36. Mr Jamieson submitted that the issue for the panel to determine is whether the facts and circumstances of that conviction rendered the Respondent unfit to practise..
37. In determining that issue, the key question for the panel would likely be whether the circumstances of Ms Alcock's conviction so adversely impact the reputation of Veterinary Nurses that a finding of impairment is necessary to protect the public interest; notwithstanding her unblemished practice.
38. He submitted that question ought to be answered in the negative. The Respondent had practised as a veterinary nurse without deficit for more than 20 years: as soon as the facts and circumstances of this case are objectively considered, any fair-minded member of the public learning of them would react with sympathy, rather than condemnation; and that no such finding is required.
39. He submitted that the following features of the evidence were relevant to the Panel's determination of The Respondent's current fitness to practise:
- i. she has practised as a Veterinary Nurse since 2003
 - ii. she has had no previous hearings before the College, nor have any complaints or concerns ever been raised about her standard of Veterinary Nursing Practice
 - iii. she has dedicated her life to the care of animals, and has practised with commitment, skill and ability for many years. Powerful testimonials have been provided to her qualities as a Veterinary Nurse.
 - iv. on 23 December 2022 she was convicted of an offence dated 6 March 2022 of being jointly in charge of a dog dangerously out of control, which caused an injury resulting in the death of her infant daughter Kyra. The Respondent pleaded guilty to that charge on her first appearance before the Crown Court.

- She was then asked (and agreed) to give evidence against her co-defendant who had pleaded not guilty, despite being the owner of the dog
- v. she reported her conviction to the College herself in a telephone call on 15 March 2023. She did so before sentence was imposed.
 - vi. The Co-defendant ultimately pleaded guilty at his trial. It was not necessary for the Respondent to give evidence against him
 - vii. sentence was passed on both defendants on 14 August 2023. Having considered all the evidence, HHJ Sjölin Knight determined the relevant facts of the conviction to be as follows,

a. Children's services had visited you prior to Kyra's birth and found your house to be spotless, with practical plans in place to keep the dogs and Kyra apart when she was born

b. On 15 February 2022, there was a further social worker visit. There were no problems with the dogs and Kyra or with your relationships with Kyra.

c. There is no evidence of you leaving Kyra with your pet dogs, let alone the huskies. There is no evidence of earlier problems with the husky Blizzard

d. Blizzard has been examined by an expert whilst in police kennels and found not to be an aggressive or excitable dog. She was calm and sociable, gentle and sensitive. She was not interested in playing with a toy but did like human contact. She did not have any medical condition to make her behave in an aggressive way. She was, however, pregnant and undernourished

e. [The Judge was] satisfied that there was a tragic conjunction of circumstances on 6 March 2022)

f. None of [the circumstances on 6 March 2022 were] out of the ordinary for [the Defendants], and it had not previously caused a problem. [They] were both used to dogs, and Blizzard was not a dog who had previously caused any concern. There was nothing to trigger her attack on Kyra; but on this occasion she was dangerously out of control, as evidenced by that attack. Dog ownership is a privilege and, for many, a pleasure; but it comes with a heavy burden under the Dangerous Dogs Act. [The Defendants were] guilty of the offence under section 3(2) because [they] were working together and this was your dog, Mr 4 King -- in your charge, Miss Alcock, as well -- and she did an awful thing which neither of you expected and which will weigh heavily upon both of you for the rest of your lives

g. [The Judge had] been assisted by hearing submissions about the sentencing guidelines. [She] put this in culpability C, the lowest level. [She did] not consider that this incident was reasonably foreseeable. [She did] consider that there was a momentary lapse in an otherwise good system.

viii. At the time of the offence, the Respondent was in a relationship that was characterised by domestic violence. She subsequently came to recognise that it was a coercive and controlling relationship. Unbeknownst to her at the time, Mr King had previous convictions for similar offending against a previous partner.

ix. On 14 August 2023 the Respondent was sentenced to 8 months imprisonment, suspended for 2 years. The operative requirement of the sentence was that she was

required to complete 80 hours unpaid work, all of which has now been completed. She was not disqualified from owning dogs in the future, since the Judge concluded,

“Disqualification from owning or having custody of a dog would only be justified if I found that you were each not a fit and proper person to have a dog. Despite the terrible harm which Blizzard caused in this case, I accept that it was through a terrible set of events aligning, so this does not justify disqualification from having dogs in future”.

40. Mr Jamieson submitted that the ~Committee would be guided by “Disciplinary Committee Procedure Guidance 2020”. At [25] the Guidance provides that, “A conviction may be related to professional or personal behaviour and whether it renders a respondent veterinary surgeon unfit to practise is a matter of judgment for the Disciplinary Committee. Behaviour unconnected with the practice of veterinary surgery can cause concerns about the protection of animals or the wider public interest”.
41. He submitted that for the RCVS (and in contrast to other regulators) “impairment of fitness to practise” is a concept removed from cases of misconduct (where the standard is ‘disgraceful performance in a professional respect’) and reserved for ‘conviction’ cases. The inclusion of the term in the Rules makes explicit the principle that not every criminal conviction calls for a sanction: such an approach would amount to no more than double-punishment. It followed that only those convictions that call into question a registrant’s ‘fitness to practise’ ought to attract regulatory sanction.
42. He said that since ‘impairment of fitness to practise’ is a concept in common usage before many other regulators, substantial authority is available to assist the panel with determining its meaning in these circumstances.
43. In **Meadow v General Medical Council [2006] EWCA Civ 1390** Sir Anthony Clarke MR considered the wide landscape of regulators of various professions that considered the common issue of ‘fitness to practise’ and held as follows [30] and [32] (emphasis added)

“The purpose of all these bodies is to regulate the profession or occupation concerned for the benefit of the public. It has been held that the essential purpose of FTP [fitness to practise] proceedings is to protect the public and not to punish the practitioner.

In short, the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practice. The FTP thus looks forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past.”

44. In **Cheatle v GMC [2009] EWHC 645 (Admin)** – the High Court considered the proper approach to determining the question of whether fitness to practise was impaired and provided the following guidance:

19. Whatever the meaning of impairment of fitness to practise, it is clear from the design of Section 35C that a panel must engage in a two-step process. First, it must decide whether there has been misconduct, deficient professional performance or whether the other circumstances set out in the section are present. Then it must go on to determine whether, as a result, fitness to practise is impaired. Thus it may be that despite a doctor having been guilty of misconduct, for example, a Fitness to Practise Panel may decide that his or her fitness to practise is not impaired. ...

22. In my judgment this means that the context of the doctor's behaviour must be examined. In circumstances where there is misconduct at a particular time, the issue becomes whether that misconduct, in the context of the doctor's behaviour both before the misconduct and to the present time, is such as to mean that his or her fitness to practise is impaired. The doctor's misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe at all. On the other hand, the doctor's misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practise Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite the misconduct.

45. In the leading case of **Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [EWHC] 927 Admin** Cox J specifically approved (at [76]) the now well-known global test for impairment of as identified by Dame Janet Smith in her fifth report of the Shipman Inquiry. She held that Panels called upon to determine questions of impairment should ask themselves the following questions:

“Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

The value of this test, in my view, is threefold: it identifies the various types of activity which will arise for consideration in any case where fitness to practise is in issue; it requires an examination of both the past and the future; and it distils and reflects, for ease of application, the principles of interpretation which appear in the authorities. It is, as it seems to me, entirely consistent with the judicial guidance to which I have already referred, but is concisely expressed in a way which is readily accessible and readily applicable by all panels called upon to determine this question.

46. He submitted that, when considering the question of whether a registrant's conviction has the effect of bringing the profession into disrepute, the Privy Council held in a Veterinary case that it is necessary to look beyond the broad description of the offence, and consider the detail of the factual circumstance: **RCVS v Samuel [2014] UKPC 13** (a case where a Panel's determination that a Veterinary Surgeon sentenced to a period of suspended imprisonment on charges of theft and common assault was not fit to practise was quashed) :

30.[For the College] Ms Foster submitted that even if the Board were to consider that the way in which the Committee expressed itself regarding Dr Samuel's assertion of loss of self-control through provocation was unclear and unsatisfactory, it did not follow that there was anything wrong in the Committee's determination that he was unfit to practise. The Committee was entitled to conclude, as it did, that Dr Samuel's convictions were such as to damage the reputation of the profession and undermine the public's confidence in it, and on that basis it was entitled to conclude that he was unfit to practise. Ms Foster submitted that the instinctive response of ordinary members of the public on being told that he had been convicted of offences of theft, assault and using threatening words or behaviour, and had received a suspended prison sentence, would be that someone guilty of such behaviour ought not to be allowed to practise as a veterinary surgeon.

31. Ms Foster may be right in that submission. But if so, it goes to prove the adage that a little learning can be a dangerous thing. Criminologists who have conducted research into public attitudes to crime have often shown that the views expressed by the public in answer to very broad questions about different types of offending and the appropriate sentences may be very different from the views of the same people when given detailed factual information about particular offences and offenders. In this case if members of the public were told that the offences occurred in the context of an angry flare-up between neighbours, in which Dr Samuel lost his self-control after Ms Jackson had refused to delete photographs which she had been taking of him and had insulted him with a racial epithet, they might well think that this had little bearing on his fitness to practise as a veterinary surgeon.

47. In the light of the authority, Mr Jamieson submitted that the true issue in this case is whether or not the Respondent's conviction – properly considered in the light of all of

its facts and circumstances – engages the second of Dame Janet Smith’s criteria, and brings the profession of veterinary nursing into disrepute.

48. He urged that, none of the other species of ‘current impairment’ codified in Grant could sensibly be said to apply to her: she has never acted in a way so as to put patients at unwarranted risk of harm; she has not breached any of the fundamental tenets of the profession; and nor has she acted with anything other than scrupulous candour in the face of her bereavement.

49. Mr Jamieson submitted that the following factors arise from the facts:

a. The Respondent appears before the Committee in relation to a single conviction concerning events more than two years ago. She pleaded guilty to that offence, and herself notified the College of the conviction.

b. She was sentenced to suspended imprisonment and unpaid work. Despite the other pressures and responsibilities of her life, the unpaid work has long been completed. If the Court had taken a more serious view, declined to suspend her sentence and sent her straight to prison, the entire sentence would be very shortly to expire.

c. The offence had nothing to do with the practice of Veterinary Nursing.

d. The offence casts no shadow on either her devotion and care for animals in the broad sense; nor in her professional skills and abilities in the particular context of her profession. There had been no default in the care or training of the dog in question. It follows that the conviction does not “cause concerns about the protection of animals”

e. The court determined that Ms Alcock’s culpability for the tragedy was at the lowest possible level: she did not cause this harm intentionally, recklessly or even negligently. As the Judge found: the tragedy was “not reasonably foreseeable”: it was instead a “tragic conjunction of circumstances”.

f. The Court determined that there had been no deficit in the training or character of the dog, which was found to be “calm and sociable, gentle and sensitive”

g. The dog did not belong to Ms Alcock. She did not want to be out in the woods that evening, but was induced to so by a violent, coercive and controlling partner.

h. Beyond the harm caused to Kyra, none of the aggravating features set out at [39] of the Guidance apply.

i. The Guideline features of mitigation are not really apt to situations such as the instant case. For completeness, the identified features of: circumstances of the incident; no financial gain; single and isolated incident are applicable

j. Ms Alcock has been traumatised by the death of her daughter: If punishment were merited, she has already been punished by the criminal proceedings; and it is not a legitimate purpose of regulatory proceedings to inflict further punishment upon her.

k. No possible public good can come of depriving animals of Ms Alcock's services as a Veterinary Nurse.

50. Mr Jamieson drew the following **conclusions**:

- a. Mr Jamieson submitted that it is not hard to think of the sorts of convictions that will readily impair a registrant's fitness to practise as a veterinary nurse. Some offences take place within the professional context or the workplace; others (such as animal mistreatment or cruelty) strike at the fundamental qualities necessary for membership of the profession. Some species of criminal behaviour (such as dishonesty and child sexual offences) involve deliberate behaviour so egregious that were a regulator to allow such persons to continue to practice without censure, the whole profession would suffer by association and be diminished. None of these are closed categories – it will always be for a panel to make an individual determination on all of the facts – but they are illustrative. Some link between the offending and the qualities necessary for professional practice – direct or indirect – needs to be established.
- b. On a bare description of the offence, this conviction might well cause the same “instinctive response” that was rejected as a legitimate yardstick in Foster. However, once the facts of this tragedy are considered, it is readily apparent that it is of an entirely different nature. Properly considered, the facts, in fact, say nothing about Ms Alcock's eminent fitness to practise as veterinary nurse. They engage no criticism or deficit in her professional practice; no shortcoming in the care or training of her own animals is uncovered; and she has been guilty of no action of deliberate, reckless or negligent infliction of harm.
- c. She was jointly responsible for an otherwise well-behaved and gentle dog when an unforeseeable ‘tragic conjunction in circumstances’ led to an outcome that will always haunt her. The operation of the criminal law required her punishment for that outcome. No fair-minded and informed member of the public apprised of the facts would demand that she be punished further, nor condemn a regulator that properly and compassionately applied the standards.

51. Mr Jamieson spoke to his written submissions. In particular he submitted that:

- The case of **The Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann) [2005] EWHC 87 (Admin)** was a 2005 case and the principles set out therein are not addressed in the August 2020 RCVS Guidance. It was an obiter observation, not germane to the actual decision. There was good reason for the general principle expounded in that case as there was a subsisting risk of sexual harm. Further, in that case, there were ancillary orders; for example Dr Fleischmann was placed on the Sex Offender Register. There were no equivalent ancillary directions made in Ms Alcock's case. It was a case concerned with sanction.
- In any event, Ms Alcock would have very nearly completed her sentence of imprisonment had it not been suspended;
- He reminded the Committee that Ms Alcock had not been banned from keeping a dog;
- He submitted that had she not been in a coercive relationship, neither she, nor her daughter would have been present in the wood when the attack took place;
- The sentence imposed was the lowest category of culpability for this offence.
- The incident had nothing to do with her practice as a veterinary nurse. It was not about poor husbandry of animals. Why therefore should the Committee find that she was unfit to practise?
- The Committee's focus should be on impairment, not misconduct nor sanction. It should ask itself what actions did she take, what risk to the public is posed if she is permitted to return to practise as a veterinary nurse notwithstanding the conviction.

52. The Legal Assessor then advised the Committee on the principles of law which it should have in mind when determining whether the conviction which was admitted by Ms Alcock renders her unfit to practise as a registered nurse. In particular, he advised:

- that the decision was a matter for the Committee exercising its own judgment. There was no burden or standard of proof;
- The issue was whether the conviction rendered Ms Alcock unfit to practise, not whether she was guilty of misconduct;
- That issue was well summed by Mr Jamieson as follows:
In determining that issue, the key question for the panel will likely be whether the circumstances of Nurse Alcock's conviction so adversely impact the reputation of Veterinary Nurses that a finding of impairment is necessary to protect the public interest; notwithstanding her unblemished practice.
- The conviction need not relate to conduct in professional practice;
- The purpose of all regulatory bodies was to regulate the profession or occupation concerned for the benefit the public. The essential purpose of fitness to practise proceedings is to protect the public and not to punish the practitioner. **Meadow v. GMC [2006] EWCA Civ 1390**

- The Committee is entitled to consider circumstances in which the practitioner found herself as they may be relevant to the level of culpability.
- The Committee is entitled to take into account aggravating and mitigating circumstances provided they are relevant and do not amount to personal mitigation.
- When considering damage to the reputation of the profession, the Committee should consider it from the point of view of the fair minded and informed member of the public, not the view of someone who simply knows about the conviction. **RCVS v. Samuel [2014] UKPC 13.**
- Of the 4 categories to which Dame Janet Smith referred in her 5th report to the Shipman enquiry, the relevant category to consider is whether by reason of the conviction, Ms Alcock has brought the profession in to disrepute.
- The RCVS Guidance at paragraphs 9 to 11 sets out the meaning of the public interest.
- The Committee should be aware of the case of **The Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann) [2005] EWHC 87 (Admin)**. Although Mr Jamieson has made a number of submissions relating to the case, the Committee should remember that it lays down a general principle that where a practitioner has been convicted of a serious criminal offence, he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Newman J. goes on to acknowledge that there may be *circumstances which plainly justify a different course*.

The determination of the Committee in respect of fitness to practise

53. The Committee noted that the offence which Ms Alcock admitted was effectively one of strict liability. She admitted that she was in charge of the dog with her partner. The dog was dangerously out of control and caused injury to her daughter resulting in death.
54. Further the Committee noted that the sentence which Her Honour Judge Sjölin Knight imposed was, subject to the category of culpability which she identified and subject to an appropriate reduction for a guilty plea, mandatory. She determined that the culpability level of this offence was category C, the lowest level. Nonetheless it attracted a mandatory tariff.
55. The Committee accepted that this was a very serious offence, resulting as it did in the death of Ms Alcock's infant daughter. Considering the aggravating factors listed in the Guidance, there was actual injury to a person who was vulnerable. Kyra, of course could not defend herself. The injury was so severe that it resulted in her death.
56. The Committee accepted that it should be considering whether Ms Alcock was unfit to practise as a veterinary nurse, not whether her conduct amounted to serious misconduct. In that regard, the Committee considered the relevant categories of

impaired fitness to practise to which Dame Jane Smith referred in her 5th report to the Shipman enquiry. It considered whether Ms Alcock

- a. *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;*

This was not an incident which arose out of her practice as a veterinary nurse. This was an incident which occurred, as the learned judge stated, by virtue of a *tragic conjunction of circumstances on 6 March 2022. The learned judge did not consider that this incident was reasonably foreseeable. She considered that there was a momentary lapse in an otherwise good system. She accepted that it was through a terrible set of events aligning. As Mr Jamieson put it, Ms Alcock did not cause this harm intentionally, recklessly or even negligently. Moreover, there was no suggestion that the dog would ever have behaved in the way she did based upon her past behaviour. Ms Alcock and her partner had exercised the huskies in the presence of their daughter twice a week since their daughter was only a few days old. They had no reason to fear that the dog would attack their daughter. Immediately before the incident the dog was placid, calm, drinking water. Her behaviour was out of character.*

- b. *has in the past brought and/or is liable in the future to bring the medical profession into disrepute;*

The Committee recognised that this is the matter which it must carefully consider.

- c. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession.*

The Committee did not consider that Ms Alcock had breached a fundamental tenet of the veterinary nursing profession. She was not caring for Blizzard in a professional capacity. The incident occurred outwith her practice as a veterinary nurse, in the circumstances set out above under Dame Janet's first category.

57. The Committee, therefore, turns to the issue as to whether by reason of her conviction, Ms Alcock has brought the profession into disrepute. The Committee accepted Mr Jamieson's argument that the telling point here is what the fair minded and informed member of the public would think. That member of the public would be appraised of the full circumstances which led to the conviction. The test is not what a member of the public would think if all he or she knew was the bald fact of the conviction.
58. It is right to observe that the transcript of the sentencing hearing does not disclose information concerning the alleged domestic abuse which Ms Alcock suffered at the hands of her partner, set out in some detail in this determination in her witness statement and in her evidence. Although Ms Alcock said in evidence that she thought the witness statements from her sister and mother were before the court, the position was not clear. Of course, the learned judge was dealing with a case whereby Ms Alcock admitted that she was in charge of the dog at the material time with her partner. Moreover she found as above recited that the incident was not

foreseeable. It is therefore not surprising that her sentencing remarks do not address this aspect of the case.

59. The College did not challenge Ms Alcock's evidence in respect of the alleged abuse by her partner. That evidence is before the Committee. If it is necessary for the Committee to find as a fact beyond reasonable doubt that Ms Alcock was abused and that she lost her independence, the burden of proof being upon her, the Committee so finds. Her account is corroborated by the evidence of her sister and her mother, by the Police Protection Notice and by the visit from the Social Worker.
60. In so far as is relevant to the matters which the Committee must decide, Ms Alcock's account establishes to the satisfaction of the Committee that she was only present in Thetford Forest assisting her partner to exercise the dogs because her partner obliged her to be so. That meant that she had no choice but to bring their infant daughter to the scene. That evidence also establishes that Ms Alcock had no independent will to make sure the door which her partner had opened was closed, and no independent will to organise the training of the dogs and their care in any different way than that which her partner had arranged.
61. The Committee considered that the facts set out in the preceding paragraph would weigh heavily with a fair minded member of the public considering the conviction of this veterinary nurse, and whether it brings the reputation of the profession into disrepute. The Committee considers that it is far more likely that that member of the public would reflect upon the danger to which Ms Alcock and her daughter were exposed at the hands of her partner who obliged her to permit him to run things his way without demur.
62. The Committee is anxious not to overstate the issue of the relevance of the domestic abuse in this case. Primarily it focusses on the findings of the learned judge. It accepted that Ms Alcock had no intention to harm, was not reckless nor negligent notwithstanding that it would have been a simple matter for her to close the front door of the van or ensure that the dog was on a lead. She was, as has already been said, an operative in a system which was working and which was not dealing with a dog which was known to represent any danger to anybody. That matter would, in the view of the Committee, also weigh with the fair minded and informed member of the public. Indeed, were it the case that the infant in question was not Ms Alcock's daughter, still that member of the public is likely to be influenced by the twin pillars of the accident not being foreseeable and the fact that Ms Alcock had no say in whether she should be assisting her partner in organising the training of the dogs in the way he wished.
63. It is also the case that the learned judge did not ban Ms Alcock from keeping dogs. That strikes the Committee as an eloquent statement on her part that this was in fact an unforeseeable tragic accident, not an incident whereby blame or fault should be attributed to Ms Alcock.

64. The Committee therefore turns to the language of the Allegation. Does the conviction render Ms Alcock unfit to practise as a registered veterinary nurse? The Committee considers that in reality the conviction has no bearing on Ms Alcock's fitness to practise as a registered veterinary nurse. It acknowledges that a conviction may have that effect notwithstanding that it is outwith professional practice, but in the view of the Committee that would only be the case if the conviction established that Ms Alcock was guilty of some scandalous or shocking behaviour which thereby brings the profession of veterinary nursing into disrepute. That is not the case here.
65. The Committee is minded to accept Mr Jamieson's submission that there were no relevant mitigating factors in the case beyond the circumstances already outlined. That is because it is not a case about Ms Alcock's blameworthiness; it is a case which concerns a tragedy to all concerned. It is not a case about a failure to take proper charge of a dog known to be dangerous or potentially out of control. It is not a case about animal husbandry in respect of the dog in question. It is not a case about Ms Alcock's practise as a veterinary nurse.
66. Without more therefore, the Committee is minded to find that Ms Alcock's conviction does not render her unfit to practise as a veterinary nurse. However, it must also consider the case of **The Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann) [2005] EWHC 87 (Admin)**. That authority is a case concerning sanction. Indeed, the decision of the Committee of the GDC, which was the subject of an appeal, was made at a time when there was no consideration of whether, by reason of the conviction in that case, Mr Fleischmann's fitness to practise was impaired. Section 27(1) of the Dentist's Act 1984 provided at that time that:

Where the Professional Conduct Committee are satisfied that a registered dentist (whether before or after registration) –

- i. has been convicted in the UK of a criminal offence ...or*
- ii. ...*

they may, if they think fit, determine that his name shall be erased from the register or that his registration in it shall be suspended for such period not exceeding twelve months as may be specified in their determination.

67. The Committee considered that it would be a strange and inappropriate outcome in Ms Alcock's case if, having reached the conclusion that her conviction did not render her unfit to practise as a veterinary nurse, it was then obliged to find that she was unfit because the period of suspension of her prison sentence will not expire until August 2025. Of course, the decision of the learned judge to suspend the sentence ("*because of extremely strong personal mitigation in this case*") entirely removed the impact of the custodial sentence imposed, and only thereby allowed a consideration of the judgment in Fleischmann to take place.
68. The Committee has reached the conclusion that the case of Fleischmann should not influence its decision. There were no ancillary orders made in Ms Alcock's case by

the learned judge which have not been addressed. She had completed her 80 hours of unpaid work by about October 2023. Further, if contrary to the Committee's view, the case of Fleischmann is something which it should take into account notwithstanding that it has not reached stage 3 of this inquiry which relates to sanction, it has no hesitation in finding that the *circumstances ... plainly justify a different course* as Tanner J. contemplated in Fleischmann.

69. The Committee therefore determined that Ms Alcock's conviction does not render her unfit to practise as a registered veterinary nurse.

Disciplinary Committee

27 March 2024