

written application, that the Respondent was concerned about reputational damage since the commencement of his path of rehabilitation, requesting that his initials were used and not his full name. Dr Jaddoo elaborated on these submissions in oral submissions.

2. Ms Curtis, on behalf of the College, relied on written submissions dated 31 January 2024, as well as making oral submissions. Ms Curtis referred to the general rule encapsulated in Rule 21 of the Veterinary Surgeons and Veterinary Practitioners Disciplinary Committee (Procedure and Evidence) Rules 2004 (“the 2004 Rules”), (which applies by virtue of Rule 13 of the Veterinary Nurse Conduct and Discipline Rules (2014)) which sets out the general rule that hearings shall be in public, although a Committee may derogate from this if it would appear to be in the interests of justice. Ms Curtis also referred to extracts from the Disciplinary Committee Manual (November 2022) and a number of authorities. Ms Curtis submitted that there were no compelling reasons to invoke the interests of justice ground, reminded the Committee that the original criminal proceedings had been in public, and submitted that there were no exceptional grounds for anonymisation in this case. [REDACTED]
[REDACTED]
[REDACTED]
3. The Committee accepted the advice of the Legal Assessor who, within her advice, referred to the case of MXM v GMC [2022] EWHC 817 (Admin).
4. The Committee considered the matter carefully. Pursuant to Rule 21 of the 2004 Rules, the Committee has a discretion to hear matters in private, and anonymise the identity of the Respondent, noting that there was no discretion to deliver its findings or judgments in private. The Committee also took into account the importance of the rule of open justice, in that the general rule was that the hearing should be in public. It could hear matters in private, as a matter of its discretion, taking into account Article 8 of the European Convention on Human Rights (right to respect for private and family life).
5. Taking all the circumstances into account, the Committee could not find that there were any exceptional circumstances which would justify anonymisation. Clearly, the Respondent was concerned about reputational damage, but as stated in para. 109 of the guidance in the Disciplinary Committee Manual (November 2022):

“Arguments such as potential adverse publicity arising from the case, damage to reputation or embarrassment to the Respondent’s family or associates will be common to virtually all Respondents who appear before disciplinary committees and as such, are unlikely to be successful”.

6. [REDACTED]
[REDACTED]
[REDACTED] On this basis, the Committee could not accede to the application. However, in the interests of justice, the Committee was willing to redact [REDACTED] and put that element into private, and the Committee decided to proceed on this basis.

Application to amend the Charge

7. Dr Jaddoo referred to his written submissions dated 6 March 2004, in which he applied to amend the charge to make it clear that it was during the Respondent’s application for membership of the RCVS that he disclosed the conviction and sentence. Dr Jaddoo’s reason for this application was the significance of the fact that the conviction occurred prior to the Respondent’s membership of the RCVS.
8. Ms Curtis referred to her written submissions dated 8 March 2024, submitting that the Charge was not factually incorrect or incomprehensible, and that the Respondent was not a member of the RCVS at the time of the conviction could be used in mitigation where relevant. It was for the College to decide how the Charge should be put.
9. The Committee accepted the advice of the Legal Assessor, who advised that the Committee did have a power to make amendments to the Charge, as referred to in Rules 5.6 and 10.2 of the 2004 Rules.
10. The Committee decided that there was no justifiable reason to amend the Charge. It was not misleading in any way, and the fact that the Respondent was not a member of the RCVS at the time of the conviction and sentence was a matter which the Committee could take into account in its consideration of the issues in dispute.

Background

11. The Respondent is a registered veterinary nurse. On 15 December 2021, the Respondent pleaded guilty at Birmingham Crown Court to Affray and was sentenced to 9 months' imprisonment.

The Committee's findings of fact

12. The Committee was aware that the College must prove its case on the facts to the requisite standard, namely that the Committee is satisfied so that it is sure on each head of charge.
13. The Committee accepted that the certified copy of the certificate of conviction was proof of the conviction, pursuant to Rule 23.3(a) of the ("the 2004 Rules"). In addition, the Respondent admitted the facts of the charge. Accordingly, the Committee found the facts proved.

The Committee's decision on fitness to practise

14. The Committee read the inquiry bundle, and the bundle submitted on behalf of the Respondent, which included the Respondent's witness statement.
15. Ms Curtis referred to her written opening submissions dated 27 March 2024 and written submissions on fitness to practise of the same date. Ms Curtis submitted that the Affray in question was a serious public order offence, in which the Respondent was part of a joint enterprise, and during the incident in question, serious injuries were caused to another individual. Ms Curtis submitted that the conduct of the Respondent which gave rise to his conviction was "deplorable" and "egregious", that the profession had been brought into disrepute by his actions and that in all the circumstances, the conviction rendered the Respondent unfit to practise.
16. Dr Jadoo took the Committee through the Judge's sentencing remarks and reminded the Committee that the incident occurred prior to the Respondent's application for membership. It was clear from the sentencing remarks that the Respondent's involvement was neither premeditated, nor did he himself inflict any physical harm on any individual. Dr Jadoo also submitted that in respect of the first confrontation against the complainer who was eventually injured (Mr 1), (and who himself was armed

with weighted sock), the Respondent had hung back. In relation to the second confrontation, the Respondent was not in direct proximity. Rather, he had reversed his car to withdraw, but when Mr 1 swung his weighted sock at the Respondent's windscreen and cracked it, the Respondent got out of the car to see what had happened. Dr Jaddoo confirmed that the Respondent was not a member of a gang at the time [REDACTED] and was the only person convicted. Mr 2, who had injured Mr 1 with a samurai sword or machete ("the sword"), had never been apprehended by the police, as he had been unable to be located. Dr Jaddoo submitted that the nature and circumstances of the conviction did not render the Respondent unfit to practise.

17. The Committee accepted the advice of the Legal Assessor. The Committee noted that whether the conviction renders the Respondent unfit to practise is a matter for the Committee's independent judgment, and that there is no burden of proof on either party. The Committee took into account para. 25 of the Disciplinary Committee Sanctions Guidance (August 2020) which states "behaviour unconnected with the practice of veterinary surgery can cause concerns about the protection of animals or the wider public interest".
18. The Committee took into account that the incident occurred prior to the Respondent's membership of the RCVS, some two and a half years ago, and that he disclosed the conviction to the RCVS when he did apply for membership.
19. The Committee took into account the following mitigating factors: no actual harm or risk of harm to any animal; no concerns raised about the Respondent's competence or quality of his practice. The Committee took into account the following aggravating factors: risk of injury to a human; recklessness.
20. The Committee took into account that the Respondent's involvement was not premeditated, and that the offence took place prior to his membership of the RCVS. No injury was caused by him, nor did he have a weapon. There was no suggestion before the Committee, nor, it appears, before the Judge, that the offence was gang-related in any way.
21. However, the Respondent's involvement was clearly serious, resulting in a significant custodial sentence. The Judge assessed the seriousness as a Category B offence, with category 1 to reflect the serious physical injuries which were caused, on the basis

that Affray is a joint offence (albeit the injuries were not by the Respondent himself). This categorisation meant that the sentencing starting point was one year's imprisonment.

22. As stated by the sentencing Judge, the Respondent approached Mr 1 twice. Once at the beginning, when arguably he would not have known that his co-defendant, Mr 2, was armed with the sword. However, after Mr 1 had broken the Respondent's windscreen, the Respondent did participate in the pursuit when there was no doubt that Mr 2 was armed with the sword which Mr 2 then used to cause very serious physical injuries to Mr 1. The Judge addressed the Respondent in court in the following terms:

"I do take the time to warn you, Mr Murray. This was an extremely serious incident in which somebody might well have died".

23. The Committee assessed the incident to be serious, taking into account its nature and circumstances as set out above. It led to serious physical injuries inflicted by Mr 2 with a sword in a public place. Children were present at the scene at one point, as remarked upon by the Judge.

24. The Committee considered the wider public interest. Taking into account the view of the reasonable member of the public who is well-informed of all the facts and evidence in the case, the Committee was satisfied that the Respondent's behaviour and conviction brings the veterinary nursing profession into disrepute. To find otherwise would undermine public confidence in the profession and fail to uphold proper standards of conduct and behaviour.

25. Accordingly, the Committee found that the conviction, set out in the Charge, renders the Respondent unfit to practise.

Disciplinary Committee
4 April 2024