

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

A, A REGISTERED VETERNIARY NURSE

ANNEX A

<u>Annex A</u>

1. Respondent A ["A"] gave oral evidence to the Committee in support of an application for anonymisation of the Allegation and a private hearing of this disciplinary proceeding. A feared for A's personal safety and that of A's parents, for an address and a report of these proceedings were published. A's appearance at the Crown Court was reported in a local newspaper and this resulted in explicit threats to A's life and health which appeared on social media. The social media site had removed the article after these threats had been made. A's parents had taken various security precautions, A referred the Committee to various WhatsApp messages written by A's mother, which showed her anxiety about social media posts, and to a social media posts.

greatly feared that publication of information in these proceedings would produce even worse effects because the previous publicity had appeared in a local newspaper without the extended readership within the profession that publication of these proceedings would reach.

- 3. The College opposed A's application for anonymisation and a private hearing of these proceedings. The College accepted that information relating to A's health should be heard in private. In his written submissions on behalf of the College, Mr Collis referred the Committee to Rule 21 of the *Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004* ("the Rules") and accepted that Rule 22.2, which enables the Committee to go into private session in the interests of justice, enabled the Committee to anonymise the Respondent should the circumstances of the case justify such an approach. The College relied upon the approach taken in *RCVS v X*, a Determination of the Disciplinary Committee, published in March 2021.
- 4. However, the College also drew the Committee's attention to a number of cases in which Judges had emphasised the importance of proceedings being conducted in public; *In re S* [2005] 1 AC 593, *Yassin v GMC* [2015] EWHC 2955, and *Lu v SRA* [2022] EWHC 1729 (Admin). The College submitted that this important principle should only be departed from where there was evidence that a public hearing would create a real or significant risk of a violation of an individual's rights under the European Convention on Human Rights. In the present case, as details identifying the Respondent had already been published following the criminal proceedings, such risk would, in the College's submission, need to arise from the *further* reporting of these disciplinary proceedings.
- 5. Having heard A's evidence, Mr Collis submitted in oral argument that the threats that had been made were not sufficient in themselves to justify a departure from the important principle of open justice. There was no evidence that A had been directly approached in person. Mr Collis submitted that unpleasant comments of the type which A had described were, unfortunately, the kind of behaviour that could occur after the reporting of criminal convictions of this kind. While the College was sympathetic to A's position, it did not consider that the evidence of threat was sufficient, in this case, to justify anonymisation of A's name in the allegation or a wholly private hearing.
- 6. The Legal Assessor reminded the Committee of the application of Article 6 of the *European Convention on Human Rights* to these proceedings. Article 6 (1) provides, so far as is relevant, that:

"In the determination of his civil rights.... everyone is entitled to a fair and public hearing.... Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial.... where.... the protection of the private lives of the parties so require...."

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7. The Legal Assessor also referred the Committee to the practice in the High Court in relation to anonymisation, as set out in the *Civil Procedure Rules CPR* 39.2 (4).

"The Court must order that the identity of any person shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administration of justice and in order to protect the interests of that person".

8. Rule 21. 1 and 2 of the Rules provide, so far as is relevant, that

"21.1 Subject to paragraphs 21.2, all proceedings before the Committee shall....be held in public.

21.2. The Committee may direct that the public shall be excluded from any proceedings or any part of any proceedings, where it appears to the Committee that this would be in the interests of justice. The Committee shall not make any direction under this paragraph excluding the public from the announcement of a finding, determination or judgment of the Committee under these Rules"

- 9. The Legal Assessor advised that it was necessary for the Committee to consider carefully the evidence and submissions of both the College and the Respondent in relation to this issue and to determine whether the risk of a violation of the Respondent's Convention rights was sufficiently serious as to justify allowing A's application.
- 10. The Committee recognised the importance of open justice, confirmed by the judicial observations included in the College's written submissions. It recognised that it had to weigh the seriousness of the threats to A's life and well-being, together with that of A's parents, against this important principle.
- 11. The Committee considered that there were two elements to be considered in relation to threat. One element was the posting of threatening communications on social media sites and the precautions that had been taken as a result of these postings. The Committee accepted that A was genuinely fearful for A's and A's parents' safety as a result of these postings. The other element was A's own state of health,
- 12. Balancing these various considerations, the Committee concluded that it would be justified in anonymising A's name in the Allegation and the identity of the Respondent in these proceedings so as to protect the interests and health of A and A's family. The Committee was also satisfied, as was not disputed, that it was appropriate for any evidence in relation to A's health to be heard in private.
- 13. The Committee decided that this was as far as it was appropriate to go in relation to A's application for anonymisation and a private hearing. The Committee was in no doubt that, subject to the matters referred to in paragraph 12, the remainder of the hearing should be in public. It recognised the strong public interest in open reporting of this type of hearing.

DISCIPLINARY COMMITTEE 25 October 2022