

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

A, A REGISTERED VETERINARY NURSE

DECISION OF THE DISCIPLINARY COMMITTEE

Allegation

1. Respondent A ["A"] faced the following allegation:

"That, being registered in the Register of Registered Veterinary Nurses:

1. On 29 March 2022, in the [Redacted] Magistrates' Court you were convicted, following a guilty plea, of the following offences

i) Make indecent photograph/pseudo- photograph of a child;

ii) Make indecent photograph/pseudo-photograph of a child; and

iii) Make indecent photograph/pseudo-photograph of a child

In relation to said convictions, on 26 April 2022, at the [Redacted] Crown Court, you were sentenced to 8 months imprisonment suspended for 24 months (with rehabilitation activities of a maximum 35 days, 12 months mental health treatment, 100 hours unpaid work, 10 years sexual harm prevention order, and your name placed on the sex offenders register for 10 years) and ordered to pay £425 prosecution costs.

AND it is alleged that the above convictions render you unfit to practise veterinary nursing".

2. A applied for the Allegation to be anonymised and for this disciplinary hearing to be held in private. Following an agreed direction given at the earlier Case Management Conference, both parties provided written submissions in relation to this issue. The Committee's decision in relation to this application appears at Annex A of this Determination.

3. A admitted the Convictions and further admitted that the Allegation rendered A unfit to practise as a veterinary nurse.

Background

4. The Committee was told that on 18 May 2021 officers from the Online Child Sexual Exploitation Team attended the Respondent's home address as a result of intelligence received. A number of mobile phones, laptops, hard drives and USB memory sticks were seized. A refused to provide the officers with passwords or codes to enable access to all of the devices, but the police were able to locate images on a hard drive and laptop which comprised 158 Category A images, 266 Category B images and 758 Category C images.
5. For these purposes, Category A images are defined as those involving full penetrative sexual activity or sexual activity with an animal, or sadism; Category B images are those involving non-penetrative sexual activity; Category C images are other indecent images not falling within Categories A or B.
6. These images appeared to have been accessed or downloaded on dates ranging from 1 June 2017- 15 April 2021. One folder used to store some of the images was entitled: "Users\straf\Documents\VET NURSING\Clinical Nursing Practice2\New Folder".
7. Some of the images discovered involved very young girls, from four years old.
8. In her sentencing remarks, [REDACTED], sitting at the Crown Court, said:

"..... I am quite sure therefore that you are familiar with the principle of supply and demand, and so you know that without [Redacted] like you with perverted tastes, children would not be abused and photographed and videoed, so people like you can gain sexual gratification from looking at those images and those movies. So whilst your counsel has valiantly and repeatedly said you are a good [Redacted], I do not think you are, and I do not think that anybody that heard what you have been doing would think that you are, because you are part of the cycle of child abuse.

I note that you have distanced yourself to some degree from that in the pre-sentence report, and you refused, I note when you were arrested by the police, to give your passwords to the police so they could look into further devices to see whether or not there were child images on there. So that suggests to me that you are not as sorry, or you were not as sorry as you have suggested in your letter to me and to the author of the presentence report. I note that you continued to view those images over a very long period of time, a four year period, so I am quite satisfied that contrary to your suggestion that you were simply addicted to porn and these were collections for you, you were having a sexual interest in children and this was nothing to do with the thrill of doing something illegal, or just the fact that you were a collector, as I say.

I am quite satisfied that what you were doing was getting off on what you were looking at on the internet and looking at these images, some of which are very young children indeed. The statement that you made to probation that you had reported your findings to the internet watch foundation is nothing short of pantomime in my judgment.

On the other hand, what you have done since committing these offences is admirable. You have been to the Lucy Faithful Foundation, you have seen a psychologist, you have joined sex addicts' group, and I have seen references which speak highly on your behalf. I note that you have a supportive family. I note of course that you have no previous convictions. I do note that you are, as I say, highly educated and hopeful for the future, but I am sure you realise that a conviction of this nature is likely to affect your future, and no doubt will remain with you for the rest of your life"

Submissions and Legal Advice

9. Mr Collis referred the Committee to the Respondent's admission and to the Certificate of Conviction. In relation to the impact of the Convictions upon the Respondent's fitness to practise, Mr Collis placed particular reliance upon *RCVS v Samuel* [2014] UKPC 13 and the following observations of Lord Toulson in that case:
- "For a conviction to render a person unfit to practise veterinary surgery it need not necessarily relate to conduct in his professional practice.*
- In Roylance v General Medical Council (No 2) [2000] 1 AC 311 the Board considered the meaning of "serious professional misconduct" in the case of a medical practitioner. It recognised that behaviour remote from the carrying on of a professional practice may be sufficiently disgraceful to constitute serious professional misconduct. In deciding whether it does, a matter of particular concern is the potential damage caused by the person's conduct to the public reputation of the profession. The same may be said in relation to conduct of a veterinary surgeon which involves the commission of a criminal offence. If allowing the person's name to remain on the register would prejudice the reputation of the profession in the eyes of ordinary members of the public and harm their confidence in it, the Disciplinary Committee is entitled to conclude that a charge of unfitness to practise is made out."*
10. Mr Collis submitted that the nature of the Respondent's Convictions was such as to engage this principle.
11. Mr Collis also referred to what he submitted, on behalf of the College, to be a number of particularly aggravating features; the age of the children involved; the number of images and the length of time over which these images had been acquired; the categorisation of these images and the fact that some images had been stored in a folder which contained a reference to veterinary nursing.
12. Mr Collis also referred to the principle set out in *Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann)* [2005] EWHC 87 (Admin) in which it was stated that a practitioner convicted of a serious criminal offence should not normally be permitted to resume practice until that practitioner has satisfactorily completed his or her sentence. The Respondent's suspended sentence of imprisonment will not expire until April 2024, and A will remain subject to the terms of a Sexual Harm Prevention Order and the notification requirements of the Sexual Offences Act 2003 until 2032.
13. A accepted the seriousness of the Convictions. [REDACTED]
- [REDACTED] A also said that a number of images were duplicated and that evidence of accessing images was not the same as evidence of viewing those images. A wanted to emphasise that A had been dedicated to the profession of veterinary nursing but appreciated that these Convictions rendered A unfit to practise as a veterinary nurse.
14. The Legal Assessor reminded the Committee that it first needed to consider whether to accept the Respondent's admission and to find the fact of the Convictions proved. Secondly it needed to form a judgment as to whether the Convictions rendered the Respondent unfit to practise veterinary nursing.

The Committee's finding of facts

15. The Committee accepted the admission made by the Respondent. It noted, in the Inquiry Bundle the Certificate of Conviction in the Magistrates Court and of the Sentence passed in the Crown Court.

16. The Committee therefore found that the facts set out in the Allegation were Proved.

Unfitness to practise as a veterinary nurse

17. The Committee noted that the Respondent had been convicted of three very serious offences and had been sentenced to a substantial term of imprisonment, suspended for two years. Any reasonable and fully informed member of the public would regard Convictions for this type of offence with abhorrence. The Committee also noted the remarks of the sentencing Judge in relation to the lack of full co-operation with the police at the time of the Respondent's arrest and the particularly aggravating features that resulted from the young age and vulnerability of the children involved in the production of images of this type, many of which fell into the most serious category.

18. The Committee was in no doubt the Respondent's Convictions for these offences was sufficiently disgraceful to prejudice the reputation of the profession in the eyes of ordinary members of the public and harm their confidence in it.

19. Accordingly, the Committee concluded that the Respondent's Convictions rendered A unfit to practise as a veterinary nurse.

Sanction

20. Mr Collis told the Committee that A had no previous regulatory history. He also reminded the Committee of the principle in *Fleischmann*, to which he had already referred, and of the Sanctions Guidance.

21. A made no further submissions with respect to sanction.

23. The Legal Assessor reminded the Committee of the importance of the Sanctions Guidance and of the need to arrive at a sanction which was proportionate to the public interest that needed to be protected.

24. The Committee considered aggravating and mitigating factors.

25. So far as aggravating factors were concerned, the Committee considered that A's conviction involved behaviour which increased the risk of harm or injury to human beings; the Committee had in mind the sentencing Judge's remarks concerning the support which A's obtaining of such material gave to the market in exploitative images of the kind found on their devices. The conviction also involved premeditated sexual misconduct and behaviour which was sustained or repeated over a period of time.

26. In relation to mitigating factors, the Committee noted the sentencing Judge's acceptance that A had taken a number of steps to address what A considered to be the root cause of the offending behaviour; that A recognised the seriousness of these offences; and that they had engaged fully with the College throughout the disciplinary process.

27. Although not a mitigating feature relating to the Convictions, the Committee also noted the absence of any previous regulatory finding and that no complaint had ever been made to the College about A's clinical practice as a veterinary nurse.

28. The Committee considered sanction in ascending order. It was satisfied that it would be wholly inappropriate to take no further action in the light of the seriousness of the Convictions and that no purpose would be served by a postponement of sanction.

29. The Committee was also satisfied that a warning or reprimand would be a wholly insufficient response to Convictions of this type.

30. The Committee went on to consider a suspension order. The Committee did not consider that a period of suspension from the Register would be sufficient to meet the public interest. It would not, in the Committee's judgment be a proportionate response to the seriousness of these Convictions. Further, a suspension would enable the Respondent to return to the Register at the end of the period of suspension without any examination of the extent to which they had developed full insight into the seriousness of the offending behaviour and of the need to avoid any repetition of this kind of offending in future.
31. The Committee decided that the only appropriate and proportionate response to the Respondent's Convictions was a Removal Order. Convictions of this kind are fundamentally incompatible with being a registered veterinary nurse. At this point in time, a Removal Order is the only sanction capable of satisfying the public interest in safeguarding the reputation of the profession of veterinary nursing and ensuring that public confidence in the profession is maintained.
32. The effect of the Committee's direction is that A's name will be removed from the Register of Veterinary Nurses. Any application for restoration that A may make in the future will need to be considered by the disciplinary committee in the usual way.

DISCIPLINARY COMMITTEE
26 October 2022