

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

ANDREEA MARIA BACAITAN

DECISION OF THE DISCIPLINARY COMMITTEE

1. Miss Bacaintan appeared before the Disciplinary Committee (“the Committee”) to answer the following charge:

That, being registered in the Register of Veterinary Surgeons, you:

1. On 5 October 2017, in the Bucharest Court of Law (Criminal Section 1) were convicted following a guilty plea, of buying influence, contrary to article 292 paragraph 1 of the New Criminal Code of Romania, corroborated by article 6 of law number 78/2000 (Romanian Criminal Law): and

were sentenced to a period of one year and four months’ imprisonment, suspended for two years, with requirements for supervision and unpaid community service work: and were ordered to pay 350 Romanian leu by way of confiscation and 700 Romanian leu by way of costs:

AND it is alleged that the above conviction renders you unfit to practise veterinary surgery.

2. Miss Bacaintan, who appeared unrepresented, admitted the facts, as contained within the charge, and that her conviction rendered her unfit to practise veterinary surgery.

3. Miss Curtis, Counsel for the Royal College of Veterinary Surgeons (“the College”), then proceeded to open the case on behalf of the College.
4. At the time of the offence, Miss Bacaintan was a student in her final (6th) year at the University of Agronomic Sciences and Veterinary Medicine of Bucharest, studying to qualify as a Veterinary Surgeon.
5. On 5 October 2017, Miss Bacaintan pleaded guilty and was convicted in the Bucharest Court of Law (Criminal Section) of buying influence. The case was dealt with by way of a “guilty plea agreement” whereby the offender pleads guilty and the type and quantum of sentence is agreed between the parties and the Court.
6. The offence consisted of offering a bribe to a professor at the Faculty of Veterinary Medicine in Bucharest, Romania, in order to pass an examination. In June 2016, in her sixth year of studies at the university, she gave approximately £66 to another student, with a view to it being paid to a university professor via the professor’s son - who also taught at the university. The payment was in order to pass an examination in the subject, *“Practical work in the slaughtering and processing units of foodstuffs”*.
7. It was said by the Judge at the hearing that Miss Bacaintan had a *“sincere attitude, acknowledging and regretting the commission of the crime she was charged with.”*
8. Miss Bacaintan was sentenced to a term of imprisonment of 1 year and 4 months, suspended for two years. She was placed under the supervision of the Probation Service and required to carry out 60 hours of unpaid community service.
9. In an email to the College dated 12 March 2019, Miss Bacaintan said, *“The Court ruled that we don’t have to take the exams again as the class was just an optional and it did not count for any credits.”* She added that to her knowledge no action was taken by the University. She said that it was all reported to the police by the lady who had contacted her to pay for the exam. Miss Bacaintan confirmed that she had completed the community service element of her sentence.
10. In a further email on the same date, Miss Bacaintan said she deeply regretted what happened, but said that in her defence she was a *“scared child”* who did not know how to react to the situation.
11. The College instructed an expert witness, Amalia Gogoci, a lawyer in Romania, to opine on the status of the documents provided to the College. She confirmed that the documents referred to

a criminal conviction for the purposes of Romanian Law. This was not disputed by Miss Bacaintan.

Submissions as to the Charges

12. The Charge being admitted, there was no necessity for the parties to make any further submissions on the facts.

The Committee's determination on the Charges

13. The Committee made the following findings on the Charge:

Charge 1

14. The Committee found this charge proved on the basis of Miss Bacaintan's admission, as supported by the evidence relied on by the College, namely the documents relating to the conviction from the Bucharest Court.

Fitness to Practise

15. Miss Curtis, on behalf of the College, submitted to the Committee that the nature and circumstances of the offence, which involved an element of dishonesty and which led to the conviction, were such as to render Miss Bacaintan unfit to practise as a Registered Veterinary Surgeon. Miss Bacaintan indicated that she accepted that her conviction rendered her unfit to practise as a Registered Veterinary Surgeon.

The Committee's Determination on Fitness to Practise

16. The Committee considered the submissions made by Miss Curtis and noted that Miss Bacaintan did not dispute that the nature and circumstances of the offence, which led to her conviction, were such as to render her unfit to practise as a Registered Veterinary Surgeon. The Committee accepted the advice of the Legal Assessor that, notwithstanding Miss Bacaintan's acceptance that she was unfit, the issue of unfitness remained one for the Committee's judgement. The Committee also took into account the Code of Professional Conduct for Veterinary Surgeons (The Code) and in particular the declaration made by all Veterinary Surgeons, namely:

"I promise and solemnly declare that I will pursue the work of my profession with integrity and accept my responsibilities to the public, my clients, the profession and the Royal

College of Veterinary Surgeons, and that above all my constant endeavour will be to ensure the health and welfare of animals committed to my care."

17. The Committee found Miss Bacaintan had breached the following part of the Code:

"6.5 Veterinary Surgeons 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...."

18. The Committee considered the charge was aggravated by the fact that it contained an element of dishonesty.

19. The Committee found the following mitigating factors associated with the conviction: this was a single, isolated incident; Miss Bacaintan was clearly the victim of a dishonest scheme perpetrated by members of staff at the University to extort money from students in order to allow them to pass this exam. The Committee accepted Miss Bacaintan's evidence, supported by the translated court documents, that many students were victims of this scheme.

20. However, the very nature and seriousness of the conviction, namely buying influence in order to pass a veterinary exam, was relevant to the public interest in a finding that the conviction rendered her unfit to practise. The conduct underlying this conviction involved Miss Bacaintan either being approached by, or seeking out, and accepting, the help of someone she believed to have influence who could help her to pass an exam she had previously failed. Such behaviour undermined the examination system, the University and ultimately the Veterinary profession. The Committee considered this to be serious conduct on the part of Miss Bacaintan, a member of a profession where integrity is most important.

21. Miss Bacaintan's conduct was also liable to have a seriously detrimental effect on the reputation of the profession and to undermine public confidence in the profession. The Committee considered that members of the public would rightly be troubled that a prospective Veterinary Surgeon had committed an offence of this kind.

22. The Committee was satisfied that this conduct fell far below the standard expected of a Registered Veterinary Surgeon and that Miss Bacaintan's conviction was of a nature and seriousness that rendered her unfit to practise as a Veterinary Surgeon.

Sanction

23. Miss Curtis informed the Committee that Miss Bacaintan has no previous disciplinary matters recorded against her.

24. Attached to an email dated 15 April 2019, Miss Bacaintan had provided a written statement in which she said:

“In 2016 my 5th year of University a new subject was introduced take Practical work in food slaughtering and processing units. The titular professor was [name redacted] but also his son [name redacted]. The subject was newly introduced in study disciplines. Initially we were told that we will not have a written exam in order to pass we have to write an essay. Any of teachers did not attend any of the classes except one that we had to go to see how food is processed in a supermarket, where at the end of the class he said that he recommends to buy his book. Later, within 1 week before exams session professor change his mind and said that we will have a written examination. The exam consisted in 3 subject. For the first one he instructed us to open the book and to write it from there and in meantime he signed our book covers. The next 2 subjects were questions about what we had seen at the supermarket. Although I prepared thoroughly. For the exam I failed as most of my colleagues did. Shortly In about a week a re-examination was announced. Shortly [name redacted] contacted me that she can help in exchange of money. I refused and studied for exam. At the 2nd exam I failed again. For the 3rd examination I studied again. In the exam day, I keep hearing students talking about how they had been contacted to pay to pass and they did. Panicking even though I studied, I contacted [name redacted] and payed. I think that the exam papers were not looked at by anyone and we had no idea about examination criteria. In the court evidence it emerged that [name redacted] had asked [name redacted] to contact all the students who had failed to ask them for money as part of a planned scheme. I regret my decision was made in the heat of the moment. I felt at the time that I would never pass no matter how much I would study. I will never take a decision like that again. It had a huge impact over my life and character. The Court had noted that I had not been retained, arrested, kept in custody, or arrested at the domicile and I was not put under judiciary control or on bail. The court accepted the agreement of recognition due the special circumstances and gave me the minimum sentence. It was noted that the agreement was accepted as well due to my honesty and show of remorse and regret. In present I am still under extended observation until October. After this the current Romanian law says that the criminal record will be erased after 3 years.

Since then I try to be a valuable member of society. I had done my legal duties and finished my hours of community service. Extra I had enriched my knowledge about dolphins at the dolphinarium and at the museum of natural science Constanta. I had worked with dolphins before, since my 5th year of university this being a passion of mine. I also volunteered to a local practice in Romania in the purpose of improving my ultrasound knowledge and

skill. I tried to do as many CPD I could and started my DPD that is almost finished. I also did my OV course.”

25. Miss Bacaintan also provided a newspaper article from Romania about the father and son academics from the University of Veterinary Medicine (in Romania) who were accused of extorting money from students in order to allow them to pass their exams. The article said that *“Prosecutors started the criminal pursuit against the son for taking bribes and traffic of influence.”* The article added that, according to investigators, the son, *“... proposed to the student to collect certain amounts of money from other students in the same position in exchange for passing the resits, both on his course and those his father taught.”* The article did not provide any information about the result of the investigations. The Committee treated the article with some caution, however it did appear to be borne out by what was said in the transcripts from the court proceedings, where it was clear many students had paid money to this particular individual in order to be able to pass the exam.
26. Miss Bacaintan also gave oral evidence to the Committee. In her evidence she repeated what had been in her written correspondence and provided further information. She detailed how she was in her sixth year and close to finishing her degree when she and others were told they had to take this particular course. Although labelled optional, she said it was made clear it was anything but optional. She said that the professor in charge of the course said there would be no exam at the end of it, just a written assessment. Thereafter, the professor did not attend any of the classes and in the whole time the only thing they did was attend a supermarket to discuss an audit. Then, as the exam season approached, the professor announced that there would in fact be an exam and all the students had to buy his book. Miss Bacaintan said she did so. Before sitting the exam she was approached by another student who said if she paid some money she would pass the exam. Miss Bacaintan said she thought this was *“crazy”* and she said *“no, go away.”* She then sat the exam and although it was open book and, she thought, straightforward, she nevertheless failed it, as did everyone else. She said she then studied really hard for the resit, at which books were not allowed, but she and many others failed again. She learned that those that had passed had paid money to do so and she became really scared as she realised she was not going to pass by just studying. Groups of other failed students were talking about paying the colleague. She therefore contacted the colleague who had previously approached her and paid up. She felt that this was not a free choice but a decision she had to take in order to pass the exam and complete her degree.
27. Miss Bacaintan said she realises what a mistake that was and that she should have said no and raised the alarm. She added, however, that there was/is a real problem with corruption in Romania that may not be readily understood in the UK and that this particular professor was

known for taking bribes and acting corruptly. She said it was because of the corruption rife in her country that she had chosen to come to the UK to make a better life for herself. She said she really regretted what she had done and she wanted the Committee to know that she was working hard every day to improve herself.

28. In answers to Committee questions, Miss Bacaintan explained how she had come to the UK and worked as Veterinary Surgeon including for two years in a practice in Evesham. She was currently working as a Veterinary Surgeon in a practice in the West Midlands. She said that if she ever found herself in a similar situation she would not pay the money and would report the matter, adding that she would never compromise her integrity again. She referred to the cultural difference between the UK and Romania, where corruption was widespread. Miss Bacaintan spoke of the effect of the behaviour on herself, saying she had worked really hard and it was all “*shattered by this behaviour*” and consequently she now finds it hard to trust herself.

The Committee’s Determination on Sanction

29. In reaching its decision on sanction, the Committee took into account the evidence given by Miss Bacaintan, together with the submissions made, all the written evidence and all matters of personal mitigation. The Committee also referred to the RCVS Disciplinary Committee Procedure Guidance. The Committee had in mind that the purpose of sanctions was not to punish Miss Bacaintan, but to protect animals, maintain public confidence in the profession and maintain proper standards of conduct and performance. The Committee was also cognisant of the need to ensure that any sanction is proportionate. The Committee accepted the advice of the Legal Assessor.

30. The Committee first considered any aggravating and mitigating factors in this case. The Committee found the following aggravating factors:

- the offence contained an element of dishonesty;
- the offending behaviour was directly linked to veterinary surgery in that it was part of Miss Bacaintan’s Veterinary degree, even if, as it appears to have transpired, it was not a necessary element of it.

31. The Committee considered the following mitigating factors:

- no previous disciplinary history;
- full and frank admissions at all stages of the process both in the UK and Romania;

- full co-operation with the authorities in Romania and with the RCVS, to which she self reported;
- this was an isolated, one-off incident;
- although an offender herself, she was clearly the victim of a corrupt scheme aimed at extorting money from students at a time when they were under great pressure, nearing the end of their studies;
- she resisted the first approach by those wishing to extort money from her and it was only when approaching the third attempt at passing the exam that she succumbed to the pressure and decided to pay;
- clear cultural differences between the UK and Romania, as alluded to above;
- significant insight and understanding of her dishonest behaviour and how that impacted upon herself, the University and the profession as a whole;
- genuine and heart-felt remorse and apology;
- her youth and inexperience, she was a student at the time of the offence;
- no repetition of the behaviour which was now over three years ago;
- she demonstrated a great deal of integrity when addressing the Committee, providing convincing and plausible testimony;
- the impact upon her confidence as a person both personally and professionally and her ability to act as a young, newly qualified vet;
- positive testimonials and the fact that she was now a valuable and valued fee-earning Veterinary Surgeon.

32. Miss Bacaintan provided a letter from her previous employer, dated 10 April 2019, that detailed how she started work as a Veterinary Assistant in June 2017. The author referred to Miss Bacaintan as being *“an honest, reliable and trustworthy member of the team.”* The Principal goes on to state, *“I have witnessed tremendous growth in Maria’s skills as a veterinary surgeon over the course of her employment and look forward to her continuing working here in the future.”*

33. Miss Bacaintan also provided a letter dated 21 October 2019 from the Dean at the Faculty of Veterinary Medicine in Bucharest, who stated, *“Mrs Bacaintan Andreea - Maria is in good standing with our institution and, as a student, she has demonstrated good character and she has never been subject of any disciplinary actions.”*

34. In addition, she provided a letter dated 21 October 2019 from a Lecturer and Head of the Toxicology Department at the Faculty of Veterinary Medicine in Bucharest, who was convinced that Miss Bacaintan was a *“conscientious student, who shows interest for all the required*

activities.” The Lecturer said Miss Bacaintan demonstrated *“real teamwork skills”* and *“the skills of a researcher”* and described her as a *“meticulous, persevering and ambitious person.”*

35. Miss Bacaintan also provided an undated letter from a Veterinary Doctor and Manager of the Constanta Museum of Natural Sciences in Romania, who has known Miss Bacaintan since she was a student at Veterinary College. The Manager said that Miss Bacaintan did voluntary work at the museum and *“stood out for her enthusiasm, love for animals and emotional involvement in daily activities.”* The Manager went on to say, *“I have subsequently followed Ms. Maria Bacaintan’s professional activity. During all these years she worked hard to raise the professional level, studying speciality literature and taking improvement classes.”* The Manager concluded by saying, *“Considering all of the above and also Ms. Maria Bacaintan’s surgical skills I consider she shall accomplish all she sets out to do and good results shall come.”*
36. In addition to the professional references, Miss Bacaintan provided a testimonial from a recently satisfied client who said that Miss Bacaintan’s swift action saved their dog’s life by carrying out a complicated emergency procedure. They described Miss Bacaintan’s care of their dog as *“fantastic, brilliant and above all else, caring, we could not have asked for a more competent vet and we can certainly never thank her enough for everything she’s done.”*
37. Moving to consider sanction, in light of the seriousness of the conduct, the Committee did not consider this was an appropriate case to take no further action or for judgement to be postponed.
38. The Committee next considered whether to reprimand and/or warn Miss Bacaintan about her behaviour. The Committee was completely satisfied that Miss Bacaintan understood the magnitude of what she had done and was highly unlikely to repeat her dishonest behaviour. This was a truly exceptional case where, whilst she had been dishonest, which the Committee in no way condoned, she had felt compelled to act in this way because of the circumstances described above. The Committee was persuaded that Miss Bacaintan had herself been the victim of a corrupt system and had acted out of desperation in the final stages of her degree and with the genuine fear that if she did not *“play the game”* she would not graduate, thereby throwing away six years of hard work. It was notable that she did not succumb to the corrupt scheme until the third time of trying to pass this exam. It was clear from the evidence that she was not alone in paying up to try and pass this exam and that at least 30 and possibly many more students had done the same thing. The Committee did not consider Miss Bacaintan to be a risk to animal welfare, the public or the integrity of the profession.

39. In such circumstances and with the significant mitigation referred to above, the Committee decided that the appropriate and proportionate sanction was to reprimand Miss Bacaintan and to warn her about her future conduct.

40. The Committee recognised that this was what might be considered a lenient approach in a case that involved dishonesty, but was firmly of the view that nothing would be gained by suspending Miss Bacaintan's registration. There is clearly a spectrum of dishonesty and given the unique circumstances of this case, and in particular the cultural difference between the UK and Romania as expressed above, the Committee was of the view that this offending came at the lowest level of dishonest behaviour. Accordingly, the Committee was satisfied that the public interest, in the unusual and exceptional circumstances of this case, would be adequately served by a reprimand and warning.

DISCIPLINARY COMMITTEE

21 NOVEMBER 2019