

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

DONALD STUART BREMNER MRCVS

DECISION OF THE DISCIPLINARY COMMITTEE

The Charges

THAT, being registered in the register of veterinary surgeons, you:

- 1. On 31 October 2017 at the Colchester Magistrates' Court, were convicted, following a guilty plea, as follows:**
 - (i) on 25 October 2017, at Colchester, Essex, knowing or believing that MB was a witness in proceedings for an offence, did an act, namely send a letter threatening her to withdraw charges which intimidated and was intended to intimidate MB, intending thereby to cause the course of justice to be obstructed, perverted or interfered with, contrary to sections 51(1) and (6) of the Criminal Justice and Public Order Act 1994;**
 - (ii) between 1 May 2017 and 13 October 2017, at Colchester, Essex, pursued a course of conduct which amounted to the harassment of MB, and which you knew or ought to have known amounted to harassment of MB, in that, despite being asked not to repeatedly send her emails, letters, cards and gifts, contrary to sections 2(1) and 1(2) of the Protection from Harassment Act 1997;**

In relation to which convictions you were committed to prison for twelve weeks, suspended for twelve months; ordered to comply with a Rehabilitation Activity Requirement within twelve months; and ordered to pay £85 in costs and £115 as a surcharge to pay for victim services;

AND THAT it is alleged that the above convictions render you unfit to practise veterinary surgery.

Background to the charges

1. The Respondent is a registered veterinary surgeon. He had been married to his ex-wife for some 28 years and they divorced in 2015. On 31 October 2017 the Respondent pleaded guilty at Colchester Magistrates' Court to two offences which have been detailed above.

The Committee's findings of fact

2. 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.
3. The Committee accepted that the certified copy of the certificate of conviction was proof of the convictions, pursuant to Rule 23.3(a) of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rule Order of Council 2004 ("the 2004 Rules"). In addition, the Respondent admitted the facts of the charge. Accordingly, the Committee finds the facts proved.

The Committee's decision on fitness to practise veterinary surgery

4. The Committee read the inquiry bundle, written admissions agreed between the parties, and the bundle submitted on behalf of the Respondent, which included two witness statements of the Respondent as well as statements as to character and testimonials. The Committee heard live evidence from the Respondent and two character witnesses called on his behalf.
5. Counsel for the College submitted that the conduct of the Respondent which gave rise to the convictions fell far short of that to be expected of a member of the profession. She submitted that the Respondent's insight into his behaviour is limited and superficial. Counsel for the College submitted that the risk of repetition is low, however the profession has been brought into disrepute by his actions and that in all the circumstances, the convictions render the Respondent unfit to practise.
6. Counsel for the Respondent reminded the Committee that the relevant test is whether the Respondent's fitness to practise is impaired as of today's date. He reminded the Committee that there are no concerns about his clinical practice, nor was there any violence or threat of violence by the Respondent to his ex-wife. Counsel for the Respondent submitted that the Respondent's conduct was of short duration, and that he has taken sufficient steps to remediate the behaviour in question, and has put in place an extensive support mechanism. Counsel for the Respondent submitted that the Respondent's insight is complete, that there is no risk of repetition and that the confidence of the ordinary well-informed member of the public in the profession would not be undermined.
7. The Committee accepted the advice of the Legal Assessor. The Committee noted that whether the convictions render 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 was mindful that it is looking at whether the Respondent's fitness to practise is impaired as of today's date.

8. The Committee was of the view that the Respondent gave his evidence in a straight forward manner and answered questions put to him as best as he could.
9. 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; no repetition of the behaviour that led to the convictions; no financial gain; a long and unblemished career; demonstration of some insight.
10. The Committee took into account the following aggravating factors: emotional harm was caused to the Respondent's ex-wife; the harassment was a course of conduct sustained over a period of some 5 months.
11. The Committee was of the view that the Respondent's criminal conduct was serious. It involved a course of conduct amounting to harassment, which included sending emails to his ex-wife intending to inflict hurt. Such conduct was serious and fell far short of what was expected of the Respondent.
12. In addition, the Committee read the Respondent's bail conditions, one of which was not to contact his ex-wife directly or indirectly. The form, which sets out the substantive content of the bail conditions, was signed by the Respondent at the police station, and begins with the phrase

"I understand that I am granted bail with conditions....I have been given a copy of this form."

13. The Committee considered the Respondent's evidence that he could not remember whether he was given a copy of the bail conditions and also his evidence was that he did not appreciate the condition that he could not contact his ex-wife. The Committee was willing to accept the Respondent's evidence that he was under significant stress and confusion at the police station, and that it was a difficult experience for him having been arrested and spent a night in the police cells. However, the Committee also took into account that the Respondent is a highly educated and professional person, who is well-versed in the importance of forms and signatures in his own practice. Moreover, he had had sufficient time for reflection after release from custody. Having considered the oral evidence, as well as the bail form, the Committee is satisfied, so that it is sure, that the Respondent knew or ought to have known of his bail conditions. The breach was particularly serious as it involved attempting to interfere with the course of justice. The Committee read an email sent to his daughter pressurising her to ask her mother to drop the charge of harassment. This was also in breach of his bail conditions. Such disregard of proper criminal process falls far short of what is expected of a member of the veterinary profession. The Committee was satisfied that the Respondent's actions and subsequent convictions brought the veterinary profession into disrepute.

14. The Committee took into account the positive character witness evidence and testimonials, including the encouraging letter from his probation officer. The Respondent told the Committee about the support network, which has been in place since the time of the convictions. This includes professional counselling and social and emotional support from members of his church and colleagues. The Committee concluded that the Respondent has support mechanisms to assist him achieving a healthy and effective approach to life and work. Therefore the Committee decided that the risk of repetition of his actions is low.
15. The Committee considered the degree of insight and understanding shown by the Respondent into his convictions and inappropriate conduct, and into the impact of the convictions on his ex-wife, the wider profession and on public confidence in the profession. The Respondent pleaded guilty and informed the College of his convictions. In addition, in his evidence, he expressed shame and acknowledged that his communications were "horrendous". The Committee considered that the Respondent demonstrated some insight into the impact of his behaviour on his ex-wife, the wider profession and public confidence. He explained that his behaviour was triggered by extreme anger, grief and stress. The stressors included the acrimonious breakdown of his marriage, other family issues such as bereavements, as well as work related issues. He described a process of understanding starting from originally considering that the criminal allegations were "ridiculous" and now realising that his conduct was unacceptable and being horrified by it.
16. However, the Committee noted that while the Respondent accepted the harm he has caused to his family, as well as to the profession, his evidence mostly concentrated on the effect of the convictions and their consequences upon him. In addition, in a letter to the College dated 6 March 2018, the Respondent, in the Committee's view, sought to deflect blame for his actions onto events and other individuals and failed to take full responsibility for his behaviour and the impact of this behaviour on others. The Committee is of the view that such a tendency was still demonstrated. In oral evidence, for example, he indicated that he found and still finds the behaviour of the police and the court to be "abusive". In addition, during cross-examination, he said that he understood that his email to his daughter might have "hurt" her, but did not fully appreciate until questions were asked that certain sections of that email were threatening and manipulative. The Committee is of the view that while the Respondent has begun the journey into insight, this is still in development.
17. For the reasons set out above, the Respondent brought the profession into disrepute by the seriousness of the convictions. In addition, there is deficient insight and a need to fully accept personal responsibility for his actions and their consequences. The Committee has a duty to consider 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. Such a person should not expect perfection in a veterinary surgeon. The Committee was satisfied that the nature of communications sent by the Respondent which led to the convictions and the breach of the bail conditions, coupled with deficient insight, renders the Respondent unfit to practise. To find otherwise would

undermine public confidence in the profession and fail to uphold proper standards of conduct and behaviour.

18. Accordingly, the Committee found that the convictions, set out in the charge, render the Respondent unfit to practise veterinary surgery.

The Committee's decision on Sanction

19. Counsel for the College referred the Committee to the "Disciplinary Committee Procedure Guidance" ("the Guidance") on sanctions as well as the principle of proportionality. Counsel referred to the case of *CHRE V (1) GDC (2) Fleischmann* [2005] EWHC 87 and submitted that the general principle referred to in that case did not oblige the Committee to impose a suspension due to the fact that the Respondent's suspended sentence is yet to end. Counsel for the College also referred to the case of *RCVS v Garcia* (19 December 2017) which, while it dealt with a conviction for harassment, was, in her submission, more serious than the instant case before the Committee.
20. Counsel for the Respondent submitted that the appropriate and proportionate sanction was a Reprimand. Counsel for the Respondent stated the Respondent's case, in support of which he advanced evidence, was that if the Respondent is prevented from practising by one month or more, this will deprive his practice of the ability to function, and, due to the structure of his business, the debts to which it is subject, and the imminent departure of two vets, at least one of the two branches of his practise will close. In addition, there will be a consequential effect on the 30 or so remaining employees. Counsel for the Respondent submitted that the cases of *Fleischmann* and *Garcia* related to different, far more serious circumstances than the Respondent's case.
21. Counsel for the College accepted the Respondent's contention that if he were to be prevented from practising for a month or more, this would result in loss to his business with likely closure of at least one of the surgeries.
22. The Committee took into account the submissions and accepted the advice of the Legal Assessor. The Committee accepted the submissions and evidence on behalf of the Respondent regarding the impact on the Respondent's business if he were prevented from practising for one month or more.
23. The Committee had in mind that Sanction is a matter for its own independent judgment. The primary purpose of the available sanctions is not to punish but: (i) to protect the welfare of animals, (ii) to maintain public confidence in the profession and (iii) to declare and uphold proper standards of conduct. The Committee was mindful that in the case before it, there is no concern about the welfare of animals, rather as has already been decided, it is public confidence in the profession that needs to be upheld. The Committee was aware that any sanction imposed must be proportionate to the nature and extent of the conduct and to the maintenance of appropriate standards

expected of members of the veterinary profession and must weigh the seriousness of the convictions and the public interest with and against the interests of the Respondent. No greater sanction should be imposed than is absolutely necessary. Accordingly the Committee considered the available sanctions in reverse order of seriousness.

24. 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 practice; no repetition of the behaviour which led to the convictions; no financial gain from his convictions; the loss of jobs of many employees at his practice and the loss of continuous clinical care if he is prevented from practising; a long and otherwise unblemished career with no other convictions or disciplinary findings; demonstration of some insight which is developing; evidence and testimonials of his character and his clinical competence and commitment.
25. The Committee took into account the following aggravating factors: emotional harm caused to the Respondent's ex-wife; the harassment was a course of conduct sustained over a period of some 5 months.
26. The Committee reminded itself of paragraph 6.5 of the Code of Professional Conduct for Veterinary Surgeons (2012) which states:

“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.”
27. The Committee has already decided that the Respondent has brought the profession into disrepute, as part of reasons for its decision that he is unfit to practise.
28. The Committee first considered whether to take no further action, but decided that this was not appropriate as it would not address the need to uphold public confidence in the profession. In any event, the convictions were too serious for this outcome to be proportionate. The Committee relies on the reasons set out in relation to why the convictions render the Respondent unfit for veterinary practice.
29. The Committee considered and discounted a postponement of judgment on the basis of the serious nature of the charges which meant that this would not be appropriate. Further, this is not a case concerning professional standards or competency where a postponement can have some value.
30. The Committee went on to consider whether the sanction of a Reprimand and/ or Warning as to future conduct was an appropriate sanction. The Committee considered paragraphs 45 and 46 of the Guidance in this regard. The Committee was of the view that the convictions are serious. However, it also took into account that there is no future risk to animals arising from this case, and a low risk of repetition of the offending.

There has been some insight demonstrated, and the convictions are not at the higher end of the spectrum of criminal offending, albeit that the conduct was unacceptable.

31. The Committee was of the view that the conviction for intending to interfere with the course of justice was particularly serious, in light of the need to maintain public confidence in the profession, because it involved a disregard of proper criminal process. However, a particular feature of this case, is the risk to the jobs of 33 or so employees if the Respondent were to be prevented from practising as a result of the Committee's imposition of a sanction. It is this mitigating factor which weighed most heavily with the Committee. The Committee weighed demands of the public interest, this particular mitigating factor, as well as the previously stated mitigating and aggravating factors. The Committee concluded that both a Reprimand as to this conduct and a Warning as to any future conduct is sufficient and proportionate in this case to meet the need to maintain public confidence in the profession and uphold proper standards.
32. The Committee therefore decided, in the particular circumstances of this case, to impose a Reprimand and Warning on the basis that it would be proportionate to maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour in light of the serious nature of these charges.

DISCIPLINARY COMMITTEE

23 AUGUST 2018