

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

LYNN JO ANN DAVIES

RESUMED HEARING DECISION

1. This is the resumed Hearing of a Sanction Inquiry which adjourned on 23 January 2018. The decision then taken was to postpone the final decision on sanction having regard to the Undertakings which the Respondent was prepared to enter into. These Undertakings were reduced to writing and signed by the Respondent and their content is set out below. In return for the giving of those Undertakings the Committee ordered that the Disciplinary Inquiry would be postponed for a period of 6 months.
2. Accordingly, this Decision on the adjourned Hearing requires to be read in conjunction with the full reasons given in the Decision of the Committee dated 23 January 2018. The exigencies of time do not permit a full recapitulation of all that was submitted on that occasion and/or all of the findings then made by the Committee. The following summary should suffice for the purposes of the Decision arrived at today.
3. The Charges which the Respondent faced at the time of the January 2018 Hearing were as follows:

That being registered in the Register of Veterinary Surgeons:

1. **On 4 March 2014, at the Neath Magistrates Court, you were convicted of driving a motor vehicle on 10 February 2014 on the M4, after consuming so much alcohol that the proportion of it in your breath, namely 84 micrograms in 100 millilitres of breath, exceeded the prescribed limit; for which offence you were sentenced to:**

a fine of £500, disqualification from driving or holding a licence for 17 months (to be reduced by four months on satisfactory completion, by 2 January 2015 of a course approved by the Secretary of State); costs of £85 and a victim surcharge of £50;
2. **On 30 October 2015, at the Worcester Magistrates Court, you were convicted of driving a motor vehicle on 18 May 2015 after consuming so much alcohol that the proportion of it in your breath, namely 199 milligrams of alcohol in 100 millilitres of blood, exceeded the prescribed limit; for which offence you were sentenced to:**

a fine of £600, disqualification from driving or holding a licence for 45 months; costs of £105, a criminal courts charge of £150 and a victim surcharge of £60;

AND it is alleged that the above convictions whether individually or in combination, render you unfit to practise veterinary surgery;

AND/OR

3. Having on 27 November 2014 given signed undertakings to the Preliminary Investigation Committee of the Royal College of Veterinary Surgeons ("the College"), as part of the College's Health Protocol, including undertakings in relation to abstinence from alcohol and attendance at review meetings with a consultant psychiatrist, you breached those undertakings in that:
 - (a) on 18 May 2015, you consumed alcohol such that there were 199 milligrams of alcohol in 100 millilitres of your blood; and/or
 - (b) during a period between 1 July 2015 and 3 August 2015, you consumed alcohol, namely a bottle of wine or small bottle of vodka twice per week; and/or
 - (c) during a two week period between 3 August 2015 and 28 September 2015, you consumed alcohol on two occasions per week; and/or
 - (d) during a two or three week period between 15 December 2015 and 7 January 2016, you consumed alcohol, namely one bottle of wine three times per week; and/or
 - (e) you did not attend for a pre-arranged appointment for a quarterly review meeting with the said consultant psychiatrist on 7 December 2015; and/or
4. On the following dates you were on duty as a veterinary surgeon whilst under the influence of alcohol, more particularly:
 - (a) 19 December 2016; and/or
 - (b) 23 December 2016; and/or
 - (c) 24 December 2016; and/or
5. By virtue of the matters set out in 4 above (individually or in any combination), you were in breach of your undertakings to the College dated 27 November 2014;

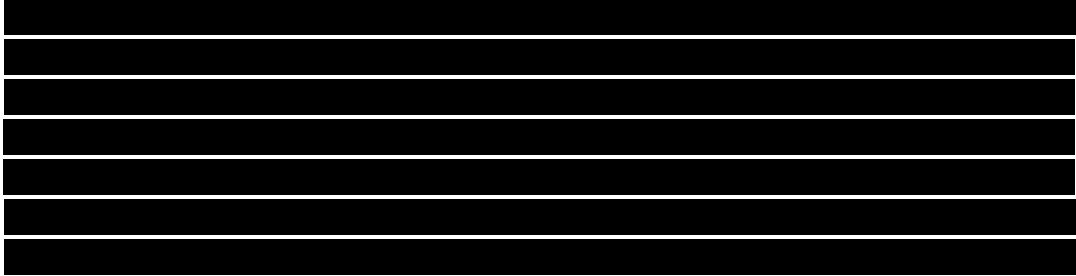

AND that in relation to the matters in 3, 4 and 5 above, whether individually or in any combination, you are guilty of disgraceful conduct in a professional respect.

4. The Committee's Decision at the conclusion of that Hearing was that in respect of five charges, two of which had rendered Dr Davies unfit to practise and three of which amounted to disgraceful conduct in a professional respect that closing the case with 'no further action' would be wholly inappropriate. The behaviour underlying the five allegations amounted to serious misconduct and to close the case with 'no further action' would be insufficient to protect animals and the wider

public interest because Dr Davies had not yet fully addressed her underlying alcohol problem that had led to the misconduct found proved.

5. The Committee went on to consider the application to postpone judgement for a period not exceeding two years. It decided to accede to the application and postpone judgement in this case for a period of six months on the basis of the voluntary undertakings which Dr Davies had put before the Committee which read as follows:

I, Lynn Jo Ann Davies, pursuant to the Disciplinary Committee decision at the conclusion of the hearing held on 22 January 2018, hereby undertake as follows:

1. *Not to practise veterinary surgery;*
2. *To abstain completely from the consumption of alcohol;*
3. 
4. 
5. *To undergo blood and hair tests for alcohol consumption every two months and to provide the results of the same to the RCVS; the same to include blood and hair tests undertaken between two and four weeks prior to the date of the resumed hearing before the Disciplinary Committee;*
6. *To provide a report to the RCVS from a consultant psychiatrist relating to my recent and current state of health, prognosis and fitness to practise, in particular with regards to alcohol dependency, such report to be provided at least four weeks prior to the date for the resumed hearing; (the said consultant to be provided, prior to my examination, with a copy of the College's Inquiry Bundle and my Bundle in relation to these proceedings);*
7. *To allow the RCVS to appoint its own consultant psychiatrist (should it wish to do so) to examine me and provide a report to the Disciplinary Committee in relation to my recent and current state of health, prognosis and fitness to practise, in particular with regards to alcohol dependency; and to allow that consultant psychiatrist to have access to my medical records and test results, and to the College's Bundle and my Bundle in relation to these proceedings;*
8. *To consent to any medical professional who is involved in my treatment or who is providing a report for the purposes of these undertakings to communicate with the RCVS in relation to my health;*
9. *To comply with the RCVS Continuing Professional Development requirements; and provide evidence of the same at the resumed hearing;*

I agree to pay for the costs of complying with the undertakings, including the appointment of any medical practitioner, medical assessments/treatments and reports tests and CPD (save that the RCVS will meet the costs of appointing its own consultant psychiatrist).

I understand that any adverse report or breach of these undertakings may result in the hearing being resumed at a date earlier than the date of the end of the period of the adjournment and that at any resumed hearing, the Committee may decide to postpone judgment again, on the same or different terms, or reach a final judgment which includes any sanction within its powers.

6. The Committee was then satisfied that the undertakings volunteered by Dr Davies sufficiently guarded against her repeating her previous behaviour and demonstrated that she had good insight into the behaviour underlying the charges. Further the undertakings in the Committee's view guarded against any risk to animals because Dr Davies had volunteered not to practise veterinary surgery in the terms set out above.
7. The Committee was persuaded by the evidence of Dr Davies that her forthcoming divorce marked a turning point for her. It accepted her evidence that her longstanding marital difficulties had caused her to rely on alcohol and that had been a reason why she had breached previous undertakings as she had done so at a time when she had not yet disclosed to anyone her marital difficulties. The Committee noted that there was supporting evidence from Mr Chudleigh from Vets4Pets and Companion Care Vets who had conducted a disciplinary hearing with Dr Davies in January 2017, in which he observed Dr Davies' marriage to be strained and Dr Davies' husband was not as supportive as he would have expected.
8. The Committee accepted Dr Davies' evidence and found her to have genuine remorse. Further, it recognised that Dr Davies was fully committed to understanding and addressing her alcohol problem [REDACTED] by studying. Her efforts to avoid any repetition of misconduct were evident from the detailed undertakings which she had volunteered.
9. The Committee took into account that Dr Davies had a hitherto unblemished career prior to her alcohol problem, having qualified in 1996. Further it noted that she had not worked as a veterinary surgeon since her dismissal from Vets4Pets in December 2016.
10. The Committee was therefore satisfied that the criteria set out in paragraph 37 of the Disciplinary Committee Procedure Guidance (see paragraph 91 above) were met in this case. It was persuaded that Dr Davies continued to develop and demonstrate good insight having read her statement and having heard her give evidence. It was satisfied that she would not be a risk to animal welfare during the period of postponement because of the undertakings.
11. The Committee was further persuaded that the structured support Dr Davies had put in place could address her low self-esteem and her difficulty in managing stress which it appeared had underpinned her alcohol problem. The Committee therefore decided to postpone judgement so that Dr Davies could continue to demonstrate her improved insight and her abstinence from alcohol whilst dealing with an acrimonious divorce. The Committee was satisfied that the postponement of judgement with the undertakings met the wider public interest because Dr Davies would not be a risk to animals and she would have the opportunity to rehabilitate herself.

12. The Committee therefore acceded to the request of the Respondent to postpone judgement for six months because that period could allow Dr Davies to rehabilitate herself and would allow her a better opportunity to restore her career in due course. The Committee was satisfied that the undertakings proposed also met the wider public interest.
13. As required by the provisions of the Procedure and Evidence Rules 2004, the Respondent was notified that the Sanction Inquiry would resume today and requiring her to submit any written evidence or statement relating to her conduct or to any relevant facts or matters since the adjournment on 23 January 2018.
14. The Respondent has submitted a substantial body of evidence in response to that opportunity. There is a detailed second witness statement from the Respondent dated 19 July 2018 in which she confirmed her compliance with all of the undertakings that she gave to the Committee on 23 January 2018. To that witness statement she has exhibited documentary proof to support her contention that she has complied fully with those Undertakings. They include a witness statement
[REDACTED]
[REDACTED]
[REDACTED]; a report from Alpha Biolabs to confirm her compliance with the requirement for test results to establish that she has not been consuming alcohol; a psychiatric report from Dr Mansour dated 18 July 2018; and her CPD documentation to confirm compliance with that requirement. That documentation was updated still further on the morning of this Adjourned Hearing when additional CPD documentation was submitted to confirm her further work in this connection dated 28 and 29 July 2018 which was added to Tab 11 of the Hearing Bundle. A further test report was submitted dated 27 July 2018 from Dr Breidi, a forensic toxicologist who had been appointed by the College to carry out an independent examination of her blood samples provided by the Respondent. In substance that report confirms that the tests carried out by Dr Breidi indicate no evidence of chronic or excessive alcohol consumption within the last three months before sampling. This report was added to the Hearing bundle at Tab 13. The final document was a letter from the Respondent's solicitors, Millars of 76 King Street, Manchester, to confirm that the Court had agreed to the return of the Respondent's driving licence with effect from 31 July 2018.
15. The College's stance in relation to this Adjourned Sanction Hearing has been one of neutrality, its position being that this is now a matter for the decision of the Committee in the exercise of its discretion and judgement.
16. The submissions of Mr Thomas on behalf of the Respondent were to the effect that the Respondent feels that she is ready to return to work. He asked the Committee to take note of the considerable efforts Dr Davies had made to comply with the requirements of the Undertakings she gave and that she had taken full advantage of the professional help that had been offered. He submitted that since the last Hearing the Respondent's divorce proceedings had been concluded. A financial settlement was agreed on 21 March 2018 and a Decree Absolute been granted on 18 April 2018. A sale of the former matrimonial home was taking place and that would free up a sufficient lump sum to enable the Respondent to purchase a property of her own. In the meantime she had been living with her parents in the Midlands, and it was there that she proposed to make a new home and to seek employment, if the Committee's decision were to

permit that to occur. The work that she proposed to undertake was small animal work within 5 miles of her parents' home. Her parents had provided her with considerable support during the period of her divorce and she considered that their support been essential to her ability to achieve the recovery that she has. It was submitted that in the period prior to the last Hearing she was on a downward spiral but that she was now moving in an upward direction, a process which would be assisted by an ability to return to practice as a veterinary surgeon.

17. As regards the Undertakings that the Respondent had given previously, it was accepted that if she were to be able to return to practice that there would need to be some provision made for her to be supervised or otherwise assisted in her return to work. It was accepted that the Undertakings numbered 2, 7, 8 and 9 would need to be continued. [REDACTED]

[REDACTED]

[REDACTED] Similarly, in relation to Undertaking No.5 the cost element was significant, involving as it did a payment of £600-£700 for each report. It was submitted that a two-step approach be adopted whereby such a report be provided every six months subject to a requirement that the College be permitted to apply for its own test on a random date of its determination prior to the end of any extended period of postponement of sanction.

18. As regards Undertaking No.6 it was submitted that, as the cost of providing such a report will amount to a further expenditure of £2000 or thereabouts, that requirement could be dispensed with, particularly bearing in mind that pursuant to Undertaking No.7 the College would be permitted to appoint its own consultant psychiatrist if it wished to do so to examine the Respondent and provide a report to the Committee covering her recent and current state of health, prognosis and fitness to practice, in particular with regard to her alcohol dependency – that being an Undertaking which she would agree to provide.

19. The Committee considered it would be helpful to hear from the Respondent as to why she considered she was ready to return to work, bearing in mind that she had not worked since 19 January 2017; as to what type of work she considered she was capable of undertaking; and as to what type of supervision or mentoring that she considered would be appropriate having regard to the type of work she was proposing to undertake.

20. The Respondent then did give evidence under oath. She stated that over the last six months since she last appeared before the Committee she had prioritised her recovery from her alcoholism. [REDACTED]

[REDACTED] She stated that her divorce proceedings had been very acrimonious and that she had managed to deal with those issues without recourse to alcohol. She said she was happy with herself and with her life. Both her children were now away either at university or College and this enabled her to move in with her parents who lived in the Midlands. She said that when she

undertook her CPD requirements this reminded her how much she missed working in the profession. She stated she would wish to have the chance to recommence working as a veterinary surgeon. Her intention was to seek work with a local veterinary practice starting part-time a few mornings per week *“under supervision for some months or until the Committee was reassured that I was maintaining my recovery”*. She also indicated that she did not consider she should be in sole charge of any veterinary practice and considered that that should provide some reassurance to the Committee.

21. Counsel for the College asked some questions of the Respondent from which the following emerged. She had not yet approached any particular practices seeking re-engagement. It was her intention to seek part-time work a few mornings each week. She acknowledged that if she undertook locum work she might have to work on her own, be on-call and have to undertake out of hours work out which might include home visits. The Respondent stated nonetheless that, if the Committee was not happy that she should undertake such work, she would not do so. She further confirmed that it would probably be a further month before she actually secured the return of her driving licence. [REDACTED]

22. Having had the opportunity to see and hear from the Respondent when she gave evidence and when she answered the questions put to her, the view formed of her current state of health was favourable. Two members of the present Committee had been involved in the January 2018 decision to postpone Sanction. They noted a marked improvement in her presentation and apparent levels of confidence. [REDACTED]

[REDACTED] All members of the Committee considered that the account she gave of herself in the witness box today was confident and they were reassured by her evidence as to how she now sets about managing her levels of stress and how she reacted to stressful incidents. She appeared positive and optimistic as regards her future and the Committee noted her enthusiasm about the prospect of being permitted to return to practice.

23. Such concerns as the Committee had about her return to practice concerned her ability to receive support from a third party who would act as a mentor. The type of mentor that the Committee has in mind is a veterinary surgeon to whom she could turn for advice and assistance on professional and clinical issues, as well as for support in relation to her alcohol dependency. The Committee would have preferred to have seen an identified mentor from whom they could have heard evidence. As that has not been done the Committee would require the Respondent to identify, within a period of one month of today's date, a veterinary surgeon who would agree to act as her mentor. That mentor would have to be a veterinary surgeon acceptable to the College as someone suitable to act in that capacity and that mentor would have to be approved before the Respondent could resume practice. In the event that no such Mentor, or no such Mentor who was acceptable to the College, is identified this matter would have to be restored for a further hearing before the Committee. A further requirement of the Committee would be that the Respondent should make a disclosure to any new employer of the fact of her appearances before this Committee in January 2018 and in July 2018 and of the decisions of the Committee in relation to both such Hearings. The final requirement of the Committee in this respect is that the

Respondent should not accept a "sole charge position" at any time during her employment during this next period of postponement of Sanction.

24. [REDACTED]

25. [REDACTED]

26. Undertaking No.5 which covers an obligation to undergo blood and hair tests for alcohol consumption may be altered to a requirement that she do so every six months and to provide the results of the same to the College. In addition there should be one additional random test on a date specified by the College, should it wish to do so. Otherwise that Undertaking should remain in the current form.

27. The Committee accepts that the Respondent may be released from the requirements of Undertaking No.6. That is because Undertaking No.7 will remain in force and that will allow the College to appoint its own consultant psychiatrist to examine the Respondent and to provide a report on her to the Committee in relation to her recent and current state of health, prognosis and fitness to practice and in particular with regards to any alcohol dependency. Similarly the remainder of the wording of this Undertaking should remain.

28. These decisions by the Committee have been reached on the basis of an understanding that Undertakings 2, 7, 8 and 9 will remain in force.

29. The Committee considers that in order to ensure that the public interest in the outcome of these proceedings is preserved, the next period of postponement should be for 12 months. The public interest in a case such as this incorporates three elements:

- (1) The protection of animals and the public generally from veterinary surgeons who face Charges of the kind here laid against this Respondent;
- (2) The maintenance and promotion of public confidence in the veterinary profession; and
- (3) The maintenance and promotion of public confidence in the College and the Committee's performance of its statutory functions.

30. The Committee is therefore concerned to ensure that the Respondent has an opportunity to provide evidence that she can be trusted to return to practice and that she will be able to act in a way which does not prejudice the health or welfare of the animals who will be under her care. A further period of review will be required before she would be in a position to ensure that public

confidence in her ability to perform to the requisite clinical standards could be achieved. The outcome of this further period of review would be enhanced if the Respondent could have the support, professional and emotional, from a suitably experienced veterinary surgeon Mentor. That Mentor would be expected to produce a report to the Committee on the return date and, preferably, to be available to give evidence to the Committee (either in person or by Skype) to confirm the content of any report he/she may provide.

31. Subject therefore to the provision by the Respondent of a new set of Undertakings, as per the attached, which accords with the above indications of this Committee's requirements, the Committee's decision is that this Sanction Inquiry should stand adjourned for a further period of 12 months from today's date.

DISCIPLINARY COMMITTEE

30 JULY 2018