

**ROYAL COLLEGE OF VETERINARY SURGEONS
INQUIRY RE:**

LAURA BENSON RVN

DECISION ON SANCTION

1. Having found Ms Benson guilty of Disgraceful Conduct in a Professional Respect, the Committee went on to consider its powers pursuant to the Royal College of Veterinary Surgeons Veterinary Nurse Conduct and Discipline Rules 2014 and paragraph 18 of The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004 (“the 2004 Rules”) and to decide what, if any, sanction it should impose.
2. Mr Lambis confirmed that there had been no previous regulatory findings against Ms Benson. Mr Lambis referred the Committee to the Disciplinary Committee Procedure Guidance (September 2013) and Disciplinary Committee Sanctions Guidance for Veterinary Surgeons Cases (August 2020) (“Sanctions Guidance”).
3. He submitted that certain of the Aggravating and Mitigating factors set out in the College’s Sanctions Guidance were involved in this case, according to the Committee’s Determination on Facts and Disgraceful Conduct in a Professional Respect. He submitted that the Committee had found a risk of injury to animals. The case involved dishonesty and financial gain on the part of Ms Benson.
4. In addition, Mr Lambis mentioned certain Mitigating Factors as set out in its earlier Determination. Mr Lambis asked the Committee to consider whether Ms Benson’s health had had an impact. He also reminded the Committee that it had considered the testimonial letters submitted on behalf of the Respondent.

5. Mr Lambis submitted that Ms Benson's subsequent good conduct might be relevant, but should be considered in light of a delay in Ms Benson herself mentioning being subject to investigation, when starting her new role.
6. Mr Lambis referred the Committee, in relation to consistency, to the recent decision of a Disciplinary Committee in the case of *RCVS v Karen Hancock* as being the closest comparable case in the College's records.
7. Mr Lynch submitted that Ms Benson had demonstrated remorse for her actions. The dishonesty relating to the request to her colleague had been committed over a short space of time. No insurance claim had in fact been made as a result. He submitted that Ms Benson had paid back the practice for its loss.
8. Mr Lynch took issue with Mr Lambis' comments about the delay in Ms Benson reporting the investigation personally to her new employer. He submitted that she had reported it within 24 hours of starting her new role and this showed her intent to be open about what had happened.
9. Mr Lynch submitted that whilst he accepted there had been a risk to animals caused by Ms Benson's actions in charge 6, the matter had not gone forward and so there had been no actual harm caused.
10. Mr Lynch submitted that the evidence showed Ms Benson had been a dedicated employee at the practice and she had a strong personal connection to Dr Molloy. However, she had felt overwhelmed at times by the workload. He said that she had undertaken a significant amount of unpaid overtime. He submitted that Ms Benson's removal would entail an extreme loss to the veterinary profession. Although Ms Andrea McPherson had been the person who reported Ms Benson to Dr Molloy in the first place, she had in fact provided a positive testimonial on behalf of Ms Benson.
11. Mr Lynch submitted that the appropriate and proportionate sanction was postponement of judgement by the Committee on the basis of Ms Benson giving an undertaking to no longer work in a managerial capacity. If that was not accepted, Mr Lynch submitted it was proportionate to impose a period of suspension of Ms Benson's registration. Mr Lynch submitted that the Committee should have regard to the impact of suspension on Ms Benson's clients, both animal and personal and also on Ms Benson.

Committee's Decision on Sanction

12. In reaching its decision on sanction, the Committee took into account all the previous evidence together with the additional character evidence provided at this stage. The Committee took into account the submissions made on behalf of both parties.
13. The Committee accepted the advice of the Legal Assessor, which was that the purpose of sanction was not punishment but to maintain public confidence in the profession. He advised

the Committee to consider the appropriate sanction, starting from the least restrictive and moving upward. It should balance Ms Benson's interests with the public interest.

14. The Committee turned its consideration to the Aggravating and Mitigating factors in the case. It considered that there had been a potential for risk to animals had the records been incorrectly completed. However, no harm actually resulted. The request to alter the records had been a short, single event, but the taking of items had been repeated over a period. The Committee considered that Ms Benson had abused the trust placed in her as a senior nurse with managerial responsibility.
15. The Committee noted there was some evidence of Ms Benson being overloaded by work, but there was no evidence of any health condition during the time of the misconduct which might explain her actions.
16. The Committee had accepted Ms Benson had developing insight. It gave credit for her long unblemished career. It credited her for her early admissions to a large part of the Allegation and her remorse expressed. It also gave credit for her having repaid the practice. The Committee took into account that Ms Benson had provided a number of positive testimonials which spoke positively of her conduct in recent times.
17. The Committee accepted that Ms Benson had been tardy in personally telling those she worked with at the University of Glasgow about her being under investigation, but she had confirmed that she had told the locum agency employing her about the issue. It did not find this tardiness to be indicative of general character traits.
18. The Committee noted that dishonesty is a serious matter in relation to professional practice. The Committee noted paragraph 76 of the Guidance which states:

“Proven dishonesty has been held to come at the ‘top end’ of the spectrum of gravity of disgraceful conduct in a professional respect. In such cases, the gravity of the matter may flow from the possible consequences of the dishonesty as well as the dishonesty itself.”

19. The Sanctions Guidance at paragraph 36 states, quoting from the case of *Walker v RCVS PC16 of 2007*:

‘The Board also reminds itself of the guidance given by Sir Thomas Bingham MR (as he was) in Bolton v. Law Society [1994] 1 WLR 512 with regard to the proper approach by, and to orders of, professional disciplinary tribunals. Speaking in the context of lawyers, he emphasised that any lawyer “shown to have discharged his professional duties with anything less than complete integrity, probity and complete trustworthiness must expect severe sanctions (p.518B).....The reputation of and confidence in the integrity of the profession of veterinary surgeon is important in a manner which bears an analogy to, even if it is not precisely the same as, that described by Sir Thomas Bingham in Bolton v. Law Society. But that is not to say that it would be correct to bracket all cases of knowingly inaccurate veterinary certification into a single group and to treat them as equivalently serious.”

20. The Committee noted that it was not every case of dishonesty that would result in removal from the register. The Committee had to set the dishonesty against all the circumstances of the case. The Court in *Atkinson v GMC* [2009] EWHC 3636 had said:

“erasure is not necessarily inevitable and necessary in every case where dishonest conduct by a medical practitioner has been substantiated. There are cases where the panel, or indeed the court on appeal, have concluded in the light of the particular elements that a lesser sanction may suffice and it is the appropriate sanction bearing in mind the important balance of the interests of the profession and the interests of the individual. It is likely that for such a course to be taken, a panel would normally require compelling evidence of insight and a number of other factors upon which it could rely that the dishonesty in question appeared to be out of character or somewhat isolated in its duration or range, and accordingly there was the prospect of the individual returning to practice without the reputation of the profession being disproportionately damaged for those reasons.”

21. However, issues of personal mitigation may have less weight, as the citation from the cases of *Walker* and *Bolton* identified.
22. The Committee first considered taking no action in response to its findings. The Committee considered, however, that there were no exceptional circumstances in the case, which would justify taking no action. Further, taking no action in response to the serious nature of Ms Benson’s disgraceful conduct, would not be proportionate and would not serve to protect animals and maintain public confidence in the profession.
23. The Committee considered postponing judgement. However, there was no clear and identifiable purpose behind postponing for a period. The Committee was required to take action in order in part to protect public confidence in the profession; postponing judgement would not serve this interest.
24. The Committee considered whether it should issue a reprimand and/or warning to Ms Benson. However, bearing in mind the serious nature of the dishonesty involved, the Committee was not satisfied that this was sufficient to adequately protect animals and the wider public interest. A reprimand and/or warning would not maintain confidence in the profession.
25. The Committee next considered suspension from the register. The Committee noted the Sanctions Guidance at paragraph 68, which states:

“Suspension may be appropriate where the misconduct is sufficiently serious to warrant more than a reprimand but not sufficiently serious to justify removal from the register. Suspension has a deterrent effect and can be used to send a signal to the [respondent] the profession and the public about what is regarded as disgraceful conduct in a professional respect.”

26. The Committee considered the Sanctions Guidance at paragraph 71, which states:

*“71. Suspension may be appropriate where some or all of the following apply:
a) The misconduct is serious, but a lesser sanction is inappropriate and the conduct in question falls short of being fundamentally incompatible with remaining on the register;
b) The respondent veterinary surgeon has insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour;
c) The respondent veterinary surgeon is fit to return to practice (after the period of suspension).”*

27. The Committee considered that the misconduct had been serious. However, it accepted that Ms Benson had some insight into the matters. Although she had not accepted that she had

been dishonest in relation to the dog food bags and the wormer, she had repaid the practice what she had been asked to pay for them.

28. The Committee noted the evidence of Dr Molloy as to Ms Benson's immediate apology and acceptance of error on confrontation by Dr Molloy and in addition her reimbursement of the practice, in relation to the matters in charge 1.
29. Ms Benson, in these proceedings, had made early admissions as to the facts and had admitted a large part of the Allegation against her, including admitting having been dishonest in relation to her request to her colleague to falsify the clinical records as set out in charge 6. She had acknowledged her disgraceful conduct in a professional respect, in relation to her request in charge 6.
30. There was no issue as to Ms Benson's competence as a veterinary nurse. She had been described otherwise as a hardworking and dedicated employee at the practice by Dr Molloy. The Committee considered that the testimonial letters demonstrated that those where she had worked subsequently to the practice regarded Ms Benson highly. In her time at the practice, until the matters in the charges, she had also been highly regarded. The Committee was of the view that Ms Benson had the ability to be a competent veterinary nurse.
31. The Committee considered whether it was necessary to go further than suspension and remove Ms Benson's registration. However, it had found that, although serious disgraceful conduct, in all the circumstances of the case it fell short of demonstrating fundamental incompatibility with registration. This was due to the insight that Ms Benson had shown in making her admissions, repaying the practice and demonstrating to the Committee her remorse.
32. Having carefully considered matters, the Committee concluded that the appropriate and proportionate sanction, in light of its conclusions was to order suspension of Ms Benson's registration.
33. The Committee next considered the period of the suspension. It noted that its power to suspend was unlimited, although in practice other Committees did not usually suspend for more than a two-year period. The Committee determined that it should impose a period which was sufficient to mark the seriousness with which Ms Benson's conduct was regarded, to send out a message to the profession as to the appropriate standards and thereby maintain public confidence in the profession. The Committee determined that the minimum period to satisfy the public interest was a suspension for 9 months.
34. In terms of consistency of decision, the Committee considered the decision of another Committee in the case of *RCVS v Hancock* provided to it. However, it was of the view that the respondent in that case engaged in dishonesty of a much more calculated and sustained nature.
35. The Committee balanced Ms Benson's interests with the public interest. It understood that suspending Ms Benson's registration for a period had the effect of preventing her from undertaking registered practice for a period. This was likely to lead to financial loss to Ms

Benson and some reputational damage. There was also a risk that Ms Benson might become de-skilled during an extended period of suspension. However, the Committee determined that it had to mark the dishonesty found with a serious sanction and the public interest outweighed Ms Benson's interests to that extent.

36. In all the circumstances, the Committee determined that a period of 9 months' suspension would be appropriate and proportionate.
37. The Committee therefore directs the Registrar that Ms Benson's registration should be suspended for a period of 9 months.

DISCIPLINARY COMMITTEE

17 June 2021