

**ROYAL COLLEGE OF VETERINARY SURGEONS
INQUIRY**

RE:

MR ANDREW MICHAEL DOBSON MRCVS

DECISION OF THE DISCIPLINARY COMMITTEE

Proceeding in Absence

1. At the outset of the hearing Ms Curtis, on behalf of the College invited the Committee to proceed in the Respondent's absence. She referred to her written submissions on service of the Notice of Inquiry, proceeding in absence, a Chronology in relation to the service of hearing documents, and a bundle of documents in support of the application to proceed in absence.
2. Ms Curtis first submitted that there had been good service of the Notice of Inquiry.
3. The Committee accepted the advice of the Legal Assessor with regard to service. The Committee took account of the evidence before it that the Notice of Inquiry, dated 17 June 2021 was sent by recorded delivery. The Committee decided service of the Notice of Inquiry complied with Rule 5 of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules (2004) (the Rules).
4. Ms Curtis next submitted that it was in the interests of justice for the Committee to proceed in the Respondent's absence. Ms Curtis referred to the cases Adeogba –v- General Medical Council (2016) EWCA Civ 162 and R v Jones (Anthony) (2002) 2 WLR 52, set out the attempts which the College have made to inform the Respondent about the hearing and serve documents on him, and submitted that his absence was voluntary.
5. The Committee accepted the advice of the Legal Assessor who referred to the cases of Jones, and Adeogba.
6. The Committee took into account the considerable steps taken by the College to contact the Respondent with regard to the hearing and to serve documents related to the hearing upon him.

7. In particular, the Committee noted that the Notice of Inquiry was served not only by recorded delivery, but was also sent by email to the Registrant on 17 June 2021. On 21 April 2021, the College's witness statements were served by hand at the Respondent's practice. On 8 July 2021, the College's solicitors served copies of the Inquiry Bundle and Unused Material Bundle on the Respondent. by first class post, recorded delivery and by email. On 15 July 2021, the College made an attempt to serve the bundles by hand, by leaving them in an envelope addressed to the Respondent in the Practice's mail box, which appeared full. On 20 July 2021, the Respondent was sent a letter by first class post, special delivery and email (including to the email address used by the Respondent in July 2020 and October 2020), informing him that the date and time of the Case Management Conference ("CMC") had changed to 22 July 2021 at 17:30, The letter was signed for on 21 July 2021. However, the Registrant did not attend the CMC. On the morning of the 22 July 2021 (prior to the CMC) the solicitor in the College's professional conduct department, tried to telephone the Respondent on his mobile telephone (the answerphone was full and it was not possible to leave a message), his practice telephone line (a message was left for the Respondent), and, his home telephone number (the call was screened and was not answered). The Respondent did not attend the CMC.
8. The Committee took into account that the Respondent has not asked for any postponement of the proceedings, nor has he given a reason why he is not in attendance today. The Committee decided in any event that in the circumstances, a postponement was unlikely to secure his attendance in the future.
9. The Committee took into account the potential disadvantage to the Respondent in proceeding in his absence, particularly where he is not represented, but took the view that in the circumstances, he had voluntarily waived his right to attend. The Committee also took into account the public interest in proceeding expeditiously with the hearing. In all the circumstances, the Committee was satisfied that it was fair, and in the interests of justice to proceed in the Respondent's absence in accordance with Rule 10.4 of the Rules.

The Charges

That, being registered in the Register of Veterinary Surgeons, and whilst in practice at The Barn Equine & Large Animal Practice and/or the Barling Equine Veterinary Practice, Clay Street Barn, Barling Road, Great Wakering, Essex, SS3 0QG, you:

1. On 21 June 2018, at a time when you were not on the Royal College of Veterinary Surgeons ("RCVS") register of veterinary surgeons:
 - (a) carried out a veterinary pre-purchase examination ("PPE") of a horse belonging to SS; and
 - (b) used the post-nominal "MRCVS" (namely "Member of the Royal College of Veterinary Surgeons") on a certificate relating to the said PPE and/or a covering note relating to the said PPE.
2. In relation to Professional Indemnity Insurance ("PII"):

- (a) failed to have in place adequate PII or equivalent arrangements for the period 23 November 2018 to 1 August 2020; and/or
 - (b) between 17 March 2020 and 4 August 2020, failed to provide adequate details of your Professional Indemnity Insurance or equivalent arrangements when requested to do so by the RCVS;
 - 3. Failed to comply, adequately or at all, with reasonable requests from the RCVS, more particularly in that:
 - (a) Between 8 October 2019 and 12 December 2019, failed to provide written comments on concerns relating to the said PPE on 21 June 2018
 - (b) Between 17 March 2020 and 21 July 2020, failed to provide written comments on the concern that you had carried out a PPE and/or used the post-nominal MRCVS when not on the RCVS Register; and/or
 - (c) Between 18 June 2020 and 18 November 2020, failed to provide details of your CPD for the previous three years; and/or
 - (d) Between 12 August 2020 and 18 November 2020, failed to provide copies of your Day Book and/or Controlled Drugs Register for the period 1 June 2018 to 1 August 2020;
- AND that in relation to the above, whether individually or in any combination, you are guilty of disgraceful conduct in a professional respect.

Background

- 10. On 1 June 2018, the Respondent was removed from the RCVS Register, as he had not paid his annual retention fee.
- 11. On 21 June 2018, the Respondent was said to have carried out an equine pre-purchase examination (PPE) of a horse for a client, SS. He was also said to have provided a PPE certificate to SS, together with a covering letter, and to have used the post nominal "MRCVS" on those documents when he was not on the Register. On 22 November 2018, the Respondent paid his retention fee and his name was restored to the register the following day. He has remained on the Register as a UK practising veterinary surgeon since then.
- 12. The College became aware of the PPE as well as the PPE veterinary certificate and its covering letter following which the College began to contact the Respondent for further information regarding several issues, namely, the PPE, the use of the post nominal "MRCVS" on the PPE certificate and the covering letter, the Registrant's Professional Indemnity Insurance (PII) or equivalent arrangements, his CPD for the previous three years, as well as seeking copies of his Day Book and/ or Controlled Drugs Register.
- 13. The Charges arise out of allegations against the Respondent in respect of undertaking a PPE and use of the post nominal "MRCVS" when he was not on the RCVS Register, a failure to have in place adequate PII or equivalent arrangements, as well as a failure to provide the College with information when reasonably requested by it to do so.

Decision on Facts

14. In coming to its decision on facts the Committee had regard to all the evidence both oral and documentary. The burden of proof rests entirely on the College to prove its case and there was no burden on the Respondent to prove anything. The standard of proof to be applied when considering whether the allegations are made out is that the Committee must be sure.
15. The Committee took into account the College's bundle of documentary evidence. Two witnesses attended to give evidence on behalf of the RCVS: CM, Senior Case Manager in the Professional Conduct Department of the RCVS, and MDH, Barrister and Chief Investigator in the Professional Conduct Department of the RCVS.
16. The Committee considered the evidence of CM and MDH to be clear and reliable. In response to questions from the Committee MDH provided helpful and balanced information about the Respondent, including his impressions of the Respondent and his practice. He said that the practice on the first visit appeared to be functioning, although on the second occasion it was closed, possibly due to it being a Saturday. He said that his impression of the Respondent was that "he didn't come across as unreasonable".
17. The Committee took into account the submissions made by the College, both oral and in writing, this included a detailed chronology of the attempts to contact the Respondent and seek information from him. She submitted that the lack of response supported the charges and that the factual charges should be found proved.
18. There were no written submissions from the Respondent nor did he submit any evidence for the hearing. There were no formal admissions to the Charges, and the Committee proceeded on the basis that all Charges were denied. The Committee drew no adverse inference from the Respondent's non-attendance.
19. The Committee accepted the advice of the Legal Assessor who referred to the general principles which the Committee should apply when deciding on the facts.
20. The Committee interpreted the word "failed" in the charges to connote firstly a professional duty to carry out the action alleged, and secondly, a breach of that duty.

The Head of the Charges

21. With respect to the Respondent's practice name, the Committee took into account a letter written by the Respondent dated 20 March 2019, as exhibited by CM, which confirmed that his practice known as The Barn Equine and Large Animal Practice Ltd had been wound up and ceased trading in November 2018.
22. The evidence of CM and MDH led the Committee to be sure that during the dates referred to in Charge 1, the Respondent practised at The Barn Equine and Large Animal Practice Ltd, and during the dates referred to in Charges 2 and 3, the Respondent

practised at Barling Equine Veterinary Practice. It was clear from the evidence that both practices operated from the same address. Further the Committee was sure that all contacts including email and postal addresses and telephone number were those provided by the Respondent himself.

Charge 1(a) :

23. CM's evidence was that as part of his role, he reviewed concerns raised by SS about the Respondent's five stage equine PPE on a horse which SS had purchased for her daughter.
24. CM exhibited both the PPE certificate and a covering letter. The PPE made clear that the PPE was carried out on behalf of SS, and was signed by the Respondent on 21 June 2018, and he gave his practice address as "The Barn Equine, Barling Road, G. Wakering, Essex SS3 0QG".
25. In addition, the covering letter bore the same date, address, stated that the Respondent had on that day examined the horse and was signed by him. CM's evidence was that, from reviewing the file, SS had purchased the horse, and the horse became lame after about a fortnight. SS took it to the Royal Veterinary College Equine Referral Hospital on 6 August 2018, where serious and long-standing issues with the horse were identified, and the horse had euthanasia performed on it.
26. Further, CM's evidence was that he discovered from the College's records that the Respondent had been removed from the Register on 1 June 2018 due to non-payment of his annual renewal fee. CM also discovered that following payment on 22 November 2018, the Respondent was restored to the Register on 23 November 2018. CM exhibited screenshots from the College's electronic IMIS system displaying this information.
27. The Committee was therefore sure, from the evidence before it, that the Respondent carried out a PPE of a horse for SS on 21 June 2018 when he was not on the Register.
28. The Committee therefore found this charge proved.

Charge 1(b) :

29. CM exhibited the PPE certificate and the covering note in respect of the PPE of the horse purchased by SS.
30. On the line after the Respondent's signature, the Committee saw that he had written his name with the letters MRCVS after his name. In addition, on the covering letter which accompanied the PPE certificate, the Respondent's name appears at the top right corner, above the address, and has the letters MRCVS after his name.

31. In light of the evidence, the Committee was sure that the Respondent used the post-nominal MRCVS on those documents at a time when he was not on the register.

32. The Committee therefore found this charge proved.

Charge 2(a)

33. The Committee decided that there was a clear duty on the Respondent to have in place PII or equivalent arrangements, on the basis that this duty is made clear as a requirement in the Code of Professional Conduct for Veterinary Surgeons (the Code) as follows:

“3.4 Veterinary surgeons must ensure that all their professional activities are covered by professional indemnity insurance or equivalent arrangements.”

34. The Committee took into account the evidence of CM which was that the Respondent was restored to the Register on 23 November 2018.

35. The Respondent was asked several times by the College to confirm his PII cover.

36. On the 21 July 2020 MDH visited the Respondent’s practice where he spoke to the Respondent via phone as he was not physically present. He asked the Respondent to provide evidence of his PII and followed this visit with an email on the same date.

37. On 21 July 2020, the Respondent replied by email to MDH, giving his practice address as Barling Equine Veterinary Practice. He stated that:

“...I didn’t have professional indemnity insurance for much the same reason as not having paid my renewal fee. This matter is in hand.”

38. The Committee noted from this communication that the Respondent accepted that he had not had PII cover, but also, crucially, he did not state that he had, by 21 July 2020, taken out PII or had in place equivalent arrangements.

39. CM sent the Respondent a letter dated 12 August 2020 by recorded delivery and email to his practice address at Clay Street Barn. In that letter, CM asked the Respondent to provide the College with evidence of this PII cover for the period 23 November 2018 (the date that he was restored to the Register) and 1 August 2020.

40. This request was reiterated in letters from CM dated 4 September 2020 and 20 October 2020 sent to the same address.

41. On 5 August 2020 the Respondent sent MDH an email attaching evidence of PII taken out by him with the Veterinary Defence Society, such cover beginning on 1 August 2020.

42. The Committee considered carefully the evidence before it, in particular, the lack of any confirmation from the Respondent, despite being asked, that he had PII in place prior to his taking out PII cover from 1 August 2020. The Committee did take into account that in the communications set out above, he was asked particularly about PII (as opposed to equivalent arrangements specifically). However, the Committee decided so that it was sure that if the Respondent did have any equivalent arrangements, he would have reasonably been expected to state this.
43. This lack of confirmation from the Respondent, in addition to the PII cover letter which shows PII cover starting only from 1 August 2020, led the Committee to be sure that the Respondent breached his duty to have PII or equivalent arrangements for the period 23 November 2018 to 1 August 2020 while he was on the Register.
44. The Committee therefore found this charge proved.

Charge 2(b)

45. The Committee considered that there was a duty upon the Respondent to provide adequate details of his PII or equivalent arrangements when he was requested to do so by the College. The Committee decided that this duty arose from the duty to have those arrangements in place as provided for in para. 3.4 of the Code as set out above, as well as para. 5.4 which provides as follows:
- “5.4 Veterinary surgeons, and those applying to be registered as veterinary surgeons, must comply with reasonable requests from the RCVS as part of the regulation of the profession ...”.*
46. CM’s evidence was that he wrote a number of letters and emails to the Respondent asking for details of his PII, and those communications were in evidence before the Committee. CM wrote a letter dated 17 March 2020 making that request, and this was reiterated in an email from CM dated 17 April 2020. A further follow up email was sent by CM on 4 May 2020 and a letter dated 26 May 2020, and a further letter was sent by CM’s colleague SD on 18 June 2020 seeking evidence of PII, followed up by an email of the same date.
47. MH’s evidence was that he sent an email dated 3 August 2020 to the Respondent, asking him for evidence of his PII. The Respondent replied on 4 August 2021 but did not provide the details of cover he had obtained to begin on 1 August 2020, until 5 August 2020. Those emails were before the Committee in evidence.
48. On the basis of the evidence, the Committee was satisfied so that it was sure that between 17 March 2020 and 4 August 2020, the Respondent breached his duty to provide adequate details of his PII or equivalent arrangements when requested to do so by the RCVS.
49. The Committee therefore found this charge proved.

The Head of Charge 3

50. The Committee considered para. 5.4 of the Code and decided that this was the basis of a duty upon the Respondent to comply with reasonable requests for information from the RCVS.

51. The Committee then considered each sub-particular of Charge 3 in turn.

Charge 3(a)

52. CM's evidence was that a number of attempts were made to contact the Respondent, and he exhibited documentary evidence which demonstrated those attempts.

53. On 8 October 2019 CM's colleague, MH, wrote a letter to the Respondent asking for his comments on the concerns relating to the PPE on 21 June 2018. On 31 October 2019 the Respondent emailed asking for an extension of time until the 7 November 2019 which was granted. MH did not receive a response, and on 21 November he called the practice and left a message. On 2 December MH emailed the Respondent asking him to call him but did not receive a call. On 4 December 2019 MH called the Respondent and spoke to him. The Respondent apologised and stated that he would send his response that day. On 5 December the Respondent left a voicemail for MH apologising and stating he needed to find some notes and would respond by 6 December 2019. On 11 December, not having received a response, MH emailed the Respondent requesting a response.

54. The Committee was satisfied that the RCVS's requests for this information, as the Respondent's regulator, were reasonable.

55. On the basis of the evidence the Committee was sure that the Respondent breached his duty in failing to comply with the RCVS's reasonable requests for written comments on concerns relating to the PPE on 21 June 2018.

56. The Committee therefore found this charge proved.

Charge 3(b)

57. CM's evidence was that a number of attempts were made to seek the Respondent's written comments on the concern that he had carried out a PPE and used the post-nominal MRCVS when not on the Register. This request for these comments was made by CM in a letter dated 17 March 2020, follow up emails on 7, 17 April, and 4 May 2020 from CM, a further letter dated 26 May 2020 from CM, and a chaser letter from CM's colleague SD dated 18 June 2020, with a follow up email on the same date. None of

these communications were replied to until a reply was sent from the Respondent to MDH on 21 July 2020 when he admitted generally to “burying his head in the sand”.

58. The Committee was satisfied that the RCVS’s requests for this information as the Respondent’s regulator were reasonable.
59. On the basis of the evidence the Committee was sure that the Respondent breached his duty in failing to comply with the RCVS’s reasonable requests for written comments on concerns relating to undertaking the PPE and using the post-nominal MRCVS when not on the Register during the dates in the charge.
60. The Committee therefore found this charge proved.

Charge 3(c)

61. The request for details of the Respondent’s CPD for the previous three years was made on multiple occasions to the Respondent and the documentary evidence of the requests was before the Committee. CM’s evidence was that this request was made by his colleague SD in a letter dated 18 June 2020, followed up by an email of the same date, a letter from CM dated 12 August 2020, sent by recorded delivery and email, a letter from CM dated 4 September 2020 sent by recorded delivery and email, and a letter from CM dated 20 October 2020.
62. MDH sent the Respondent an email on 21 July 2020 asking for a copy of the Respondent’s CPD which he had undertaken in 2017, 2018 and 2019, and MDH sent a further email on 3 August 2020 asking for details of his CPD.
63. The Committee was satisfied that the RCVS’s requests for this information as the Respondent’s regulator were reasonable.
64. The Registrant did not reply with the details of his CPD as requested.
65. On the basis of the evidence the Committee was sure that the Respondent breached his duty in failing to comply with the RCVS’s reasonable requests for details of his CPD for the previous three years.
66. The Committee therefore found this charge proved.

Charge 3(d)

67. In his letter of 12 August 2020, CM specifically asked for copies of the Respondent’s Day Book and Controlled Drugs Register for the period between 1 June 2018 and 1 August 2020.

68. The evidence of CM and MDH was that this request was not complied with, despite MDH's evidence of attempts to seek a response from the Respondent to the letter of 12 August 2020. On the 24 October 2020 MDH visited the practice and spoke to the Respondent about the importance of responding to the RCVS.
69. The Committee noted that on 18 November 2020 the Preliminary Investigation Committee of the RCVS requested formal statements to be taken from CM and MDH.
70. The Committee was satisfied that the RCVS's requests for this information as the Respondent's regulator were reasonable.
71. On the basis of the evidence the Committee was sure that the Respondent breached his duty in failing to comply with the RCVS's reasonable requests for copies of this Day Book and Controlled Drugs Register for the relevant period.
72. The Committee therefore found this charge proved.

Decision on Disgraceful Conduct in a Professional Respect

73. The Committee considered the submissions of Ms Curtis, both written and oral. Ms Curtis submitted that the all the factual findings amounted to disgraceful conduct in a professional respect.
74. There were no submissions before the Committee from the Respondent. Despite the Respondent's absence from the hearing, the Committee had, in order to assist the Respondent, asked the College, prior to the lunch adjournment on the second day of the hearing, to send him the determination on facts by email, as well as to inform him that after the lunch adjournment, the Committee would be receiving submissions on disgraceful conduct.
75. The Committee accepted that the test for considering disgraceful conduct in a professional respect is as set out by the Legal Assessor, namely whether the conduct falls far short of that which is expected of a member of the veterinary profession.
76. The Committee took into account those sections of the "Disciplinary Committee Procedure Guidance" and the "Disciplinary Committee Sanctions Guidance" which are relevant to the issue of disgraceful conduct in a professional respect. The Committee noted that it was entitled to take into account the aggravating and mitigating factors in the case provided they did not amount to personal mitigation. The question of whether conduct amounts to disgraceful conduct in a professional respect is a matter of judgement for the Committee, and not a matter of a burden or standard of proof on either party.

77. The Committee took into account the Code of Professional Conduct for Veterinary Surgeons (the Code). The Committee was mindful that not every breach of the Code amounts to disgraceful conduct in a professional respect.

78. The Committee was of the view that the Respondent breached the following provisions of the Code:

“3.4 Veterinary surgeons must ensure that all their professional activities are covered by professional indemnity insurance or equivalent arrangements

....

5.1 Veterinary surgeons must be appropriately registered with the RCVS.

5.2 Veterinary surgeons must provide the RCVS with their VetGDP/PDP and CPD records when requested to do so

....

5.4 Veterinary surgeons, and those applying to be registered as veterinary surgeons, must comply with reasonable requests from the RCVS as part of the regulation of the profession....

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.”

79. In considering whether the conduct amounted to disgraceful conduct in a professional respect the Committee had regard to the public interest which includes protecting the health and welfare of animals, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

80. The Committee considered whether each charge either individually or in combination could amount to disgraceful conduct in a professional respect.

Charge 1(a) and (b)

81. In carrying out a veterinary PPE of a horse, as well as using the post-nominal MRCVS on the PPE certificate and covering letter, when he was not on the RCVS Register, the Respondent breached a fundamental tenet of the Code.

82. The reason for not being on the Register was that he had not paid his annual retention fee. In a letter to the Preliminary Investigation Committee dated 21 July 2020 the Registrant stated:

“In 2017 my practice manager of 13 years retired. She was very competent and had trained the replacement staff. However, the renewal fee was overlooked and not paid. I understand it is my personal responsibility to renew my annual membership, I had previously relied on my practice manager to carry this out for me. Unfortunately I did not

realise this was not done and as soon as I had this brought to my attention I renewed my Membership”.

83. The Committee took into account that the reason given by the Respondent for the lapse of his registration was an administrative oversight. The Committee had no reason not to accept this, and that therefore the lapse was not a premeditated or intentional action. Further, the RCVS had sent reminders chasing payment over a period of months, so although this was an administrative oversight prompts were given for its correction which were ignored. It was the view of the Committee that the RCVS had gone beyond what should be necessary to obtain a retention fee. The Committee was of the view that it was a crucial part of the Respondent's registration, and his obligation to his regulator, for which he was personally responsible, that he was aware of the deadline for payment of his annual retention fee. The Committee took the view that, in allowing his registration to lapse in this way, the Respondent was reckless.
84. The Committee considered that the factual findings in Charge 1(a) and (b) were serious. The Respondent's unregulated practise of veterinary surgery, and holding himself out as a member of the RCVS when his registration had lapsed, were serious matters and constitute criminal offences pursuant to sections 19 and 20 of the Veterinary Surgeons Act 1966. The Respondent's actions struck at the heart of the purpose of the Register, which is to further the welfare of animals, maintain public confidence in the profession and uphold proper standards, by ensuring that only those who are properly registered can undertake veterinary surgery. By his actions, the Respondent undermined the integrity of the Register and breached the trust of the client for whom he performed the PPE. It is apparent from the letter from SS's solicitors dated 1 March 2019 that SS paid for the PPE, and therefore the Respondent obtained a financial gain from his conduct. As a result of his actions, the Registrant brought the profession into disrepute and undermined public confidence in the profession.
85. In all the circumstances, the Respondent's actions fell so far short of what was expected as to amount to disgraceful conduct in a professional respect.

Charge 2(a)

86. The Respondent's failure to have PII (or equivalent arrangements) in place for a period spanning almost 1 year and 9 months breached a fundamental tenet of the Code. To have PII or equivalent arrangements in place is a fundamental requirement of being a professional in practice. The Committee was of the view that the Respondent's failure placed clients at financial risk if they had a claim against the Respondent and were unable to obtain any satisfaction for that claim against him. This had serious implications that placed not only clients at risk of financial harm but also animals at risk of harm if clients were deprived of financial resources.

87. The Respondent was not a newly qualified vet and could reasonably have been expected to know that he was required to have PII and that he did not. Indeed he had previously purchased PII and must have been aware of its existence and importance. The length of time during which he did not have PII aggravated his behaviour and made it more serious. Even if he had in the past delegated his administrative duties to his office manager who was no longer in post, he was still personally responsible for ensuring that it was in place. The Committee was of the view that in not having PII for such a significant period the Respondent did gain financially by not having to pay the insurance premiums required of him.
88. The Committee therefore decided that the Respondent's failure fell so far short of what was expected as to amount to disgraceful conduct in a professional respect.

Charges 2(b) and 3 (a) – (d)

89. The factual findings in Charges 2(b) and 3(a) – (d) all relate to a failure to provide the RCVS with important information relating to his professional practice. Those requests for information by the RCVS were all made in the ordinary course of its basic function as the Respondent's regulator.
90. The RCVS's requests for information about the concerns relating to the PPE, as well as the concerns relating to performing the PPE and using the post-nominal MRCVS without being on the Register were serious matters. The Respondent could reasonably be expected to have realised the importance of complying with the requests for information in a timely manner.
91. The requests for information regarding PII, CPD, and copies of the Day Book and Controlled Drugs Register were all matters which were important and fundamental aspects of the Respondent's professional life. As a result of the prolonged and persistent failure to provide the information over significant periods of time, the RCVS invested resources in seeking to contact the Respondent by various means on multiple occasions, including letters by post, email, telephone calls, and personal visits. It appeared to the Committee that the RCVS was genuinely and proportionately attempting to ensure that the Respondent engaged in providing the requested information.
92. The Respondent demonstrated a pattern of behaviour in not responding, which was sustained and persistent. He asked for extensions of time but did not make good on his assurances that he would provide information. Due to the length of time during which the Respondent failed to comply with the requests, as well as the proliferation of issues in respect of which he did not comply, the Committee was of the view that he demonstrated a wilful disregard of the role of the RCVS and the regulatory processes. This was particularly serious in light of the reliance which the RCVS places upon its members to cooperate with providing it with information relating to their professional practice which is relevant to the RCVS's regulation of the profession.

93. There was no harm caused to animals or the public, and the Committee acknowledged that practice circumstances have been made more difficult in general by the Covid-19 pandemic. However, as set out above, the Respondent's failures to comply were serious and undermined the functions of the RCVS. The Committee was satisfied that the Respondent's failures fell so far below what was expected as to amount to disgraceful conduct in a professional respect.

Conclusions

94. On the basis of the above, the Committee decided that the Respondent's conduct in Charges 1, 2 and 3 demonstrated departures so far below professional standards expected of the Respondent as to amount to disgraceful conduct in a professional respect.

Decision on Sanction

95. Ms Curtis referred the Committee to the "Disciplinary Committee Procedure Guidance" ("the Guidance"), highlighted aggravating and mitigating factors, and took the position that any form of sanction is a matter for the Committee.

96. There were no submissions before the Committee from the Respondent. Despite the Respondent's absence from the hearing, the Committee had, in order to assist the Respondent, asked the College to send him the determination on disgraceful conduct by email after it was handed down by the Committee during the hearing.

97. The Committee accepted the advice of the Legal Assessor, who referred to the general principles governing the imposition of sanctions.

98. The Committee had in mind that the decision whether to impose a 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, and the public (ii) to maintain public confidence in the profession and (iii) to declare and uphold proper standards of conduct. 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 professional misconduct and the need to protect animals, the public 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.

99. The Committee took into account the following aggravating factors:

- i. Recklessness in allowing his registration to lapse and to practise while it had lapsed;

- ii. a pattern of behaviour in not responding to the RCVS, which was sustained and persistent over a significant period of time, including inadequate engagement in the disciplinary process;
- iii. financial gain obtained;
- iv. a wilful disregard of the role of the RCVS and the regulatory processes;
- v. limited evidence of insight into the disgraceful conduct.

100. The Committee took into account the following mitigating factors:

- i. previous good character;
- ii. a long and otherwise unblemished career (having first been registered in 1999) with no other convictions or disciplinary findings;
- iii. no actual harm to any animal;
- iv. increased demands on time and processes resulting from the Covid-19 pandemic, although mindful that the Respondent's registration and PII lapsed prior to the pandemic.

101. The Committee has had no evidence or submissions from the Respondent for the purposes of this hearing. It did consider his communications to the RCVS during the time of the incidents which were the subject of the Charges and which were in the bundle of evidence before the Committee. The Committee took the view that he was always polite and respectful in his communications, he did not seek to deny any wrongdoing, and the Committee also bore in mind the oral evidence of MDH who met with him, and who told the Committee that he "didn't come across as unreasonable". He also appeared to demonstrate some recognition that he had not complied with his professional obligations once he had been confronted by the RCVS. However, there was no evidence of any meaningful reflection, or any evidence of understanding of why what he did was wrong, and how to prevent his actions from recurring. As such, the Committee concluded that his insight into his disgraceful conduct was limited.

102. In addition, and linked to the limited insight, the Committee considered that there was no evidence of remedial steps taken by the Respondent to demonstrate that his behaviour would not be repeated in the future.

103. In light of the limited insight, and the absence of evidence of remediation the Committee decided that there was a real risk of repetition of the disgraceful conduct, which therefore, on the basis of the Committee's reasoning on disgraceful conduct, gave rise to a real risk of harm to animals, clients, and the wider public interest.

104. The Committee also considered the Respondent's inadequate engagement with the disciplinary process and took the view that this was a continuation of the general attitude which the Respondent had taken in relation to his failure to provide information to the RCVS when requested.
105. The Committee first considered whether to take no further action, but decided that this would not be appropriate as it would not address the need to protect animals, the public or uphold public confidence in the profession. Further, the Committee considered that the findings were too serious for this outcome to be proportionate.
106. The Committee considered and discounted a postponement of judgment on the basis of the serious nature of the disgraceful conduct, coupled with Respondent's lack of engagement, which meant that this would not be appropriate.
107. The Committee went on to consider the sanction of a Reprimand and/ or Warning as to future conduct. The disgraceful conduct was not at the lower end of the spectrum of gravity. There was a pattern of sustained and persistent misconduct. Further, there was limited insight, no evidence of remediation, and a real risk to animals, the public, and the public interest. In addition, through the RCVS's ongoing attempts to seek information from the Respondent, he was warned about the consequences of not complying, and in his failures to respond, he showed a disregard for those previous warnings. In such circumstances, the Committee decided that such a sanction would be neither appropriate nor proportionate.
108. The Committee next went on to consider a Suspension from the Register. The Committee once again took into account the limited insight, lack of evidence of remediation, and a real risk of repetition. In addition, the Committee also took the view that the disgraceful conduct found in Charge 1(a) and (b) was particularly serious in the manner in which it breached the trust placed in the Respondent by society and struck at the heart of the purpose of the RCVS as regulator of the veterinary profession.
109. In addition, the Committee took into account the lack of any evidence submitted by the Respondent regarding his current practice or his CPD, which the Committee considered significant in light of the disgraceful conduct in failing to provide details of his CPD when requested by the RCVS. In light of this absence of such evidence, as well as the real risk of repetition, the Committee was unable to conclude that the Respondent would be fit to return to practice after a period of suspension.
110. For all these reasons, the Committee decided that in the circumstances of this case, Suspension from the RCVS Register would not be appropriate or proportionate.
111. The Committee carefully considered the sanction of removal from the RCVS Register. As has already been found in the decision on disgraceful conduct, the

Respondent created a risk of harm to animals and clients, brought the profession into disrepute and undermined public confidence in the profession. His behaviour was a serious departure from standards set out in the Code, and was prolonged and sustained in nature.

112. The Respondent demonstrated a wilful disregard of the role of the RCVS and the regulatory processes by way of his disgraceful conduct. In addition, his lack of engagement with the hearing process indicates to the Committee that he is not engaging with his regulator and, along with the limited insight and lack of remediation with respect to the disgraceful conduct, this demonstrates a lack of insight into the seriousness of his actions or their consequences.

113. The Committee therefore decided to direct that the Respondent should be removed from the Register. In coming to this decision, the Committee applied the principle of proportionality and took into account the impact of such a sanction on the Registrant's ability to practise his profession, as well as a potential financial impact (although it has not had any information about this). However, the Committee determined that the need to protect animals and clients and uphold the wider public interest outweighed the Respondent's interests in this regard. Any lesser sanction would lack deterrent effect and would undermine public confidence in the profession and the regulatory process. Removal was the only appropriate and proportionate sanction.

114. The Committee therefore directs the Registrar to remove the Respondent from the RCVS Register.

DISCIPLINARY COMMITTEE
4 AUGUST 2021