

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

DANIEL DOHERTY MRCVS

**DECISION ON FINDING OF FACTS
AND UNFITNESS TO PRACTISE**

The Respondent, Mr Daniel Doherty MRCVS, was served with a Notice of Inquiry, which contained the following charge:

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

On 19 December 2019, at the Isleworth Crown Court, were convicted of Conspiracy to Commit Fraud by False Representation contrary to section 1(1) of the Criminal Law Act 1977

for which offence, on 17 January 2020, you were sentenced to 24 months imprisonment suspended for 18 months, 150 hours of unpaid work and pay a victim surcharge of £100.

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

The Facts

1. On that day in December 2019 at the Isleworth Crown Court, the Respondent was convicted, following a contested trial, of the above offence, the Particulars of that Offence being:

“Daniel Doherty together with Simon O’Donnell, Thomas Stokes, Edward Stokes and others unknown, between the 1 December 2013 and 14 February 2017 did conspire to commit fraud by making false representations to members of the public that puppies being sold were home-bred, intending to make a gain for yourself or another or to cause loss to another”
2. He was thereafter, on 17 January 2020 sentenced to a term of 2 years imprisonment, such sentence to be suspended for a period of 18 months, and he was ordered to perform 150 hours of community service and to pay a victim surcharge of £100.
3. The Respondent appealed that conviction to the Court of Appeal, which refused permission on 15 October 2021.
4. This conviction came at the end of a long road of court appearances. The chronology of such appearances was as set out in the Chronology which counsel have placed before this Committee as an agreed document. This appears at Appendix 1 to this Decision.
5. When the College’s charge was put to the Respondent he responded in essence by stating that he accepted the conviction had occurred but he denied that the conviction renders him unfit to practise veterinary surgery.

Background Facts and facts relating to the Conviction

6. In summary, Mr Doherty was convicted of being involved between 1 December 2013 and 14 February 2017 with others (who were also convicted), in a conspiracy to deceive members of the public by passing of puppies that had been bred in puppy farms, which were commercial establishments in which

large numbers of puppies were bred for sale, as the offspring of domestic pets living in family homes and so home-bred. Mr Doherty's role was that he provided vaccinations and vaccination/health check cards which materially contributed to the impression that the puppies had been home-bred locally and were in good health. These were services for which he was paid.

7. The Sentencing Findings of His Honour Judge Johnson, who presided over the second trial of the Respondent in the Crown Court in November and December 2019 appear in the Hearing Bundle at [4-1 to 4-14]. Reference will be made hereafter to some of those Sentencing Findings. For the sake of completeness, and so that those wishing to scrutinise them have an opportunity to examine them in full, they are attached to this Decision as Appendix 2.

Findings of the Committee on Facts

8. This is a conviction case, the conviction being that set out in the charge listed above. The Committee is 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 that the facts contained within the Head of Charge are made out.
9. The charge has been proved by a certificate of conviction from the relevant Crown Court which has been placed before in the Hearing Bundle at [2-1].
10. Although the Respondent pleaded not guilty to this charge and, even today does not accept the correctness of his conviction, he does accept that he was convicted and sentenced as set out in the certificate.
11. The Committee accepts the submissions of the College that he is not entitled to go behind the fact of the conviction. Further, the certified copy of the certificate of conviction is proof of the conviction, pursuant to Rule 23.3(a) of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Order of Council 2004. In fairness to his counsel, Mr Eissa QC has not contended to the contrary.
12. In these circumstances, the Committee is satisfied that the conviction set out in the charge has been proved and it is satisfied that the facts underlying the conviction is set out in the Sentencing Findings of His Honour Judge Johnson. Mr Eissa QC, on behalf of the Respondent, has further rightly accepted the

correctness of those Findings by His Honour Judge Johnson, which have been annexed to this Decision.

Decision on Fitness to Practice Veterinary Surgery

13. The Committee read the Inquiry Bundle and the Bundles submitted on behalf of the Respondent, which included a witness statement from Jade Fitzgerald and 178 testimonials (some of which appeared in both of the Respondents Bundles) as to the competence and character of the Respondent. The Committee did not hear live evidence from the Respondent himself. Mr Eissa QC also helpfully provided Written Submissions in support of his contentions that the College had not proved that the Respondent's conviction rendered him unfit to practise as a veterinary surgeon. These written submissions were elaborated on in parts by Mr Eissa QC during his oral argument.
14. The College submitted a Written Opening stating that the conviction renders the Respondent unfit to practise veterinary surgery and the reasons why it is so contended.
15. The Committee has given careful consideration to the content of all these documents. The many testimonial and defence statements were read by the Committee in advance of the commencement of this Hearing over the course of the weekend. The Committee members also took time yesterday to refresh their memories on the content of these documents and to discuss their content in collaboration with each other to ensure that the points raised in them were not overlooked. They also took into account the additional documents provided.
16. The Committee notes that a finding of unfitness to practise by virtue of a conviction may, but does not automatically, lead to removal from the College's Register. If the Committee concludes that a conviction renders a Respondent unfit to practise, the Committee must then go on to consider its decision as to sanction. The College accepts, and the Committee accepts, that the test for considering whether a conviction renders a Respondent unfit to practise is to all intents and purposes the same as that for assessing whether behaviour amounts to disgraceful conduct in a professional respect, namely whether the conduct of the veterinary surgeon falls far short of that which is expected of a

member of the veterinary profession. This is a matter for the Committee's judgement.

17. As just mentioned written submissions on unfitness to practise veterinary surgery were provided by the College. In addition to contending that the conduct of the Respondent which gave rise to the conviction for conspiracy to defraud fell far short of that to be expected of a member of the profession, it was submitted that the sentencing Judge's findings confirmed the following features about that conviction: the impact statements presented to the Court emphasised the cruelty underpinning the conspiracy, animals becoming unwell and attendant veterinary surgeons bills; the fraud in total amounted to over £1.6 million; Mr Doherty knew that the puppies were not home-bred and his co-defendants were representing that they were and used false names; Mr Doherty acted dishonestly and attached himself to a conspiracy and disreputable enterprise; Mr Doherty played a significant role in the conspiracy; loss caused or intended justified the case being found to fall within Category 1 (the most serious category); and the case attracted a custodial sentence of 2 years (suspended). Accordingly, the College contended that the profession has been brought into disrepute by his actions and that in all the circumstances, the conviction renders the Respondent unfit to practise.
18. The Committee has had regard, as it is entitled to do, to relevant provisions in the Code of Professional Conduct for Veterinary Surgeons, and the Code's Supporting Guidance. The Committee has taken these provisions into account to the extent identified hereafter.
19. Written submissions have been provided by Mr Eissa QC on behalf of the Respondent. These are detailed submissions which were elaborated upon still further by Mr Eissa QC in oral argument. They were all directed, in a persuasive manner, to seeking to secure a finding that, despite the seriousness of the offence for which the Respondent was convicted, such conviction did not render him unfit to practise veterinary surgery.
20. Emphasis was placed on the fact that there was a very substantial body of independent evidence to substantiate the conclusion that the Respondent was a highly competent veterinary surgeon who was dedicated to the concept of the health and welfare of all the animals he was asked to treat. Indeed it was submitted that it was this very dedication which caused him to allow himself to

be drawn into this conspiracy to defraud which his co-conspirators had already embarked upon, namely that of selling puppies which had been bred in puppy farms by misrepresenting to purchasers that they had been instead “home-bred”.

21. That, of course is not the only factor to which this Committee must give consideration when considering and determining the issue of fitness to practise. As Mr Eissa QC accepts, in the context of disciplinary proceedings, the public interest is defined as having 3 elements:
 - i) The protection and promotion of the health and welfare of animals and the protection of public health;
 - ii) The promotion and maintenance of public confidence in the veterinary profession; and
 - iii) The promotion and maintenance of proper professional standards and conduct in the veterinary profession.
22. When considering the last two factors the Committee is entitled to, and indeed is required to, consider whether the Respondent’s conduct which led to his conviction for conspiracy to defraud would undermine public confidence in the veterinary profession as a whole and whether such conduct undermines the promotion and maintenance of proper professional standards and conduct in the veterinary profession.
23. In considering these issues, the Committee has had regard to the Sentencing Findings of His Honour Judge Johnson. The Judge’s Findings have been considered in depth by the Committee. Those Sentencing Findings which appear to the Committee to be the most relevant to its decision on the question of whether his conviction renders the Respondent unfit to practise as a veterinary surgeon are identified below but they have been considered in their totality.
24. The Disciplinary Committee Procedure Guidance sets out matters which may be considered as aggravating and mitigating features. Aggravating features in this case include the fact that this was a conviction for an offence of dishonesty, the dishonesty being the fact that the puppy buyer was not getting a puppy of the description he or she wanted, namely a home-bred puppy. The facts pertaining to that dishonesty are those identified by His Honour Judge Johnson when he passed sentence on the Respondent. That having been said, the

Committee considers that in this case it is not appropriate to treat the element of dishonesty as an aggravating feature of this offence for that would be, to so to speak, double count against the Respondent the dishonesty component in the offence of which he was convicted.

25. The premeditated nature of the Respondent's criminal conduct is however an aggravating feature in the judgement of the Committee. The misconduct continued for an extended period of over 3 years. He knew that the puppies he was vaccinating came from puppy farmers or their selling agents and he continued to act as a co-conspirator even after the RSPCA asked him for data concerning the identities of the individuals who were bringing these puppies to him to be vaccinated. The Respondent knew that the co-conspirators wanted these puppies vaccinated to enable them to seek to legitimise their mis-descriptions of these puppies as being home-bred when he knew that they were not. In this way his conduct will have caused losses to those purchasers who believed that the puppies they were purchasing from his co-conspirators were home-bred because such puppies obviously command a higher market price than puppies which are disclosed to be the products of puppy farms.
26. Paragraph 1.5 of the Code of Professional Conduct for Veterinary Surgeons and Supporting Guidance [2017] states that veterinary surgeons who prescribe, supply and administer medicines must do so responsibly. As a veterinary surgeon administering vaccinations to these puppies the Respondent was not, in the judgment of the Committee, acting responsibly when he allowed the continuation of a system that defraud the purchasers of such puppy farm bred puppies.
27. Paragraph 6.5 of that same Code prescribes that 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.
28. This requirement is reinforced by the contents of the Code to Professional Conduct 2017, Part 1 – The Responsibilities of a Veterinary Surgeon. Which states “Veterinary Surgeons seek to ensure the health and welfare of animals committed to their care and to fulfil their professional responsibilities by maintaining five principles of practice” the second of those is “honesty and integrity” and the fifth of those is “professional accountability”.

29. That same Guide states further “Rights and responsibilities go hand-in-hand. For this reason on admission to membership of the Royal College of Veterinary Surgeons, and in exchange for the right to practise veterinary surgery in the United Kingdom, every veterinary surgeon makes the following declaration: *“I PROMISE AND SOLEMNLY DECLARE that I will pursue the work of my profession with integrity and accept my responsibilities to the public, my clients, the profession and the Royal College of Veterinary Surgeons, and that, ABOVE ALL my constant endeavour will be to ensure the welfare of animals committed to my care.”* (Emphasis added)
30. What the Committee considers most concerning about the Respondent’s conduct during the period covered by this conspiracy (some 3 years) is the Respondent’s failure to seek professional advice. The Respondent failed to make any approach to the College’s Professional Conduct Department service to seek advice as to the correctness of his stance in relation to the vaccination of these puppies brought to him by these puppy farm breeders or their selling agents. Every profession has an ethics guidance service, and the RCVS is no exception. By reason of his failure to seek professional advice the Committee considers that the Standards Officers of the Local Authority and / or the RSPCA lost opportunities to take early steps to act sooner to close the operation down. Further, the Respondent could, if he preferred, have taken advice from the Veterinary Defence Society, of which he was a member, as to the steps he should be taking to prevent those who were bringing these puppies to him for vaccination from wrongfully selling them to members of the public as home-bred puppies.
31. None of these were courses which the Respondent chose to take and, as the Jury and HHJ Johnson found, he thereby agreed to join the conspiracy which resulted in the wide spread deception of those members of the public to whom these mis-described puppies were sold. Although the Respondent did not secure a financial gain as a consequence of the conspiracy, he was acting dishonestly when he chose to continue to vaccinate these puppies.
32. In short, the Respondent set himself up as judge and jury in his own cause when he decided that, instead of testing the correctness of his desire to vaccinate such puppies with his professional body, he would put his desire to see them vaccinated above all other factors - such as his profession’s

requirement for honesty, particularly when members of the public who were desirous of purchasing home-bred puppies were, to his knowledge, being misled.

33. The fraud in which the Respondent partook was not a one-off isolated incident but related to perhaps as many as 3300 puppies vaccinated at his practice (see paragraph 26 of HHJ Johnson's Sentencing Findings) and extended for a period of over 3 years.
34. The criminal conduct was directly linked to the Respondent's veterinary practice and his own professional conduct within that practice.
35. As to mitigating factors which would serve to reduce the gravity of the offence for which the Respondent was convicted there are many, as identified by His Honour Judge Johnson in his Sentencing Findings. The Committee accepts that the Respondent was not motivated by any financial gain but that, instead, his motive was canine welfare, that being that such puppies would benefit from being vaccinated by him. It further accepts that he was exploited by his co-conspirators – see the Sentencing Findings at paragraph 35. The Committee also noted the very large number of supportive testimonials from his clients and other practitioners.
36. Having considered all of the above matters, the Committee has no hesitation in concluding that the Respondent's criminal conduct will have severely undermined the confidence of the public in the veterinary profession and, further, that his conduct fell far short of the standards and conduct properly to be expected of a member of the veterinary profession. The Committee is satisfied that this conduct by the Respondent brought the profession into disrepute.
37. The Respondent brought the profession into disrepute by reason of the seriousness of the offence of conspiracy to defraud of which he was convicted. The seriousness of the offence was confirmed by the Sentencing Findings of His Honour Judge Johnson. Who found the following features of high culpability: this was an abuse of trust; the fraud was perpetrated over a long period; and there were a large number of victims – see paragraph 27. The Respondent played a significant role in a substantial fraud (albeit not motivated by personal gain) – see paragraphs 30 and 33.

38. The contents of paragraph 31 of the Sentencing Findings are also important. There the Judge concluded “that you knew that these puppies were not home-bred; you knew that your erstwhile co-defendants were representing that they were, and you knew they were, using false names. Accordingly you were acting dishonestly and attaching yourself to this conspiracy.”
39. Even after taking into account all the many mitigating factors detailed by HHJ Johnson, including his finding at para 32 that “it was that obsessive commitment to animal welfare that overwhelmed your judgement resulting in you acting dishonestly”. The Judge agreed with the Court of Appeal that the Respondent’s conduct merited a starting point sentence of 5-8 years – see para 42 of his Findings. The Judge placed the Respondent’s conduct in a lower category than did the Court of Appeal and concluded that it lay in the range of 3-6 years – see para 42 of his Findings. It was because of the time already served in prison (equivalent to 16 months); the number of hours of unpaid work that the Respondent had undertaken (230 hours); and the impact on the Respondents wife and son that reduced that to one of two years before he went on to considering whether or not to suspend it. All this serves to confirm that the Court’s view was that this was a very serious offence even taking into account those particular factors which served to reduce its seriousness, which were not associated with mitigation that was purely personal to the Respondent.
40. The Committee has a duty to consider the wider public interest, taking into account the view of the reasonable member of the public who was well informed of all the facts and evidence in the case. Such a person should not expect perfection in a veterinary surgeon, but the Respondent’s conduct was liable to have a seriously detrimental effect on the reputation of the profession. The Committee considered that members of the public would rightly be troubled that a veterinary surgeon had committed an offence of this kind. Veterinary surgeons’ duties extend beyond the care of animals. Here, individual members of the public who purchased these mis-described puppies were adversely affected. The Respondent’s conduct enabled those individuals to be defrauded. Veterinary surgeons are expected to conduct themselves generally in accordance with standards of professional persons. Professional persons are

rightly expected to act with integrity. Failure to do so can, and in this case does, reflect adversely upon the reputation of the profession as a whole.

41. There is also a wider public interest here which concerns the obligation of a veterinary surgeon to stop practices which are inconsistent with animal welfare generally when such practices are viewed in their totality, as opposed to the improperly narrow way in which the Respondent chose to view them.
42. The Committee is satisfied that this conduct, fell far below the standard expected of a Registered Veterinary Surgeon and that this conviction was of a nature and seriousness that renders him unfit to practise as a Veterinary Surgeon. To find otherwise would undermine public confidence in the profession and fail to uphold proper standards of conduct and behaviour in veterinary surgeons.
43. Accordingly, it is the judgement of this Committee that the conviction, as set out in the charge, renders the Respondent unfit to practise veterinary surgery.

Disciplinary Committee
5 April 2022