

**ROYAL COLLEGE OF VETERINARY SURGEONS**

**INQUIRY RE:**

**DANIEL DOHERTY MRCVS**

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**DECISION ON SANCTION**

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Oral Evidence

1. Over the course of yesterday morning the Committee heard oral evidence from the Respondent. This consisted of a detailed set of answers to the many questions which Mr Eissa QC put to him. This written Decision can but summarise some of the more important aspects of that evidence but detailed notes were taken of all of it, which were reflected on in the Committee's deliberations.
2. The Respondent confirmed that he was married with one son who is now aged 8. His wife holds a responsible position as a practising legal practitioner. He has no criminal convictions other than the one which resulted in his appearance before this Committee and no appearances before this Regulatory body.
3. He stated that his determination to study veterinary medicine commenced when he was only 6 or 7 years of age. His passion has always been for animal welfare. He studied between 1986 and 1991, when he qualified. He established his own practice in 2008. It was called My Vet 24/7 and its purpose was to provide low cost, high quality care for small animals. This decision required him to work weekends and nights, to set up the new business, in addition to his daytime work. He invested many hundreds of thousands of pounds into the project. Thereafter he worked solidly for 10 and a half years establishing his practice, without taking a break. His motivation, he said, was to provide the highest standard of care at the lowest cost. As a result of his efforts his practice became one of the fastest growing in the small animal sector, at least according to his accountants. He did not spend any money on advertising. Instead the growth of his practice came from word-of-mouth recommendations from clients. He carried out work for various animal charities including the Dogs Trust, the RSPCA and the Cats Protection League. The Dogs Trust and the RSPCA continued to use his practice during the period

he was being tried in the courts, following his convictions and even after he served his period of imprisonment.

4. He was about to open a third clinic in Hillingdon when he was sentenced to his period of imprisonment, which prevented him from doing so. He then experienced difficulties because of the Covid lockdown but he asserted that his business was still functioning at his 2 remaining sites, at a high level despite those difficulties. At these 2 sites he employs 15 personnel. These include an experienced veterinary surgeon and a regular veterinary locum. He continues to offer practical experience to veterinary students - something which he considers an important part of his role in his practice. In addition, he employs veterinary nurses and front of house lay staff.
5. When asked about the ability of his practice to continue if he were to be removed from the Register, the Respondent said that his practice would have to close. This was because it could not continue on an ad hoc basis with only locum veterinary surgeons. Although, his wife is a director she could not oversee the clinical aspects of the running of the practice because she is not a veterinary surgeon. He has tried over recent years to employ veterinary surgeons but has received very few responses to his advertisements for such veterinary surgeons. This, he believed, was partly the result of the Covid lockdown and the result of the restrictions on overseas veterinary surgeons since the country's departure from the EU. When asked by his counsel about what would happen to his practice in the event of a period of suspension, the Respondent answered that that would depend on the length of the period of suspension. The issuing of redundancy notices to his staff would have to be an option.
6. Questioning then turned to whether or not the Respondent accepted his conviction for the offence of Conspiracy to Defraud. The Respondent's answer was that he accepted he was convicted by the Jury but he did not accept his guilt. He maintained that no one told him what his co-conspirators were doing. He did however state that he presumed that the puppies in question came from puppy farms because of the volume of such puppies presented to his practice. He asserted that veterinary surgeons have to protect such puppies. They are vulnerable. They need protection. The role of a veterinary surgeon is to protect such puppies at least while the nation permits puppy farming to continue. He referred to a 2017 report generated by the Dogs Trust which he stated revealed that 53% of puppies sold in the United Kingdom emanate from puppy farms. He maintained that he was not aware of any advice not to vaccinate puppies which came from puppy farms. He asserted that veterinary surgeons are required to maintain the same standards whatever source puppies presented to them came from. The risk of disease in such puppies was higher in those which came from puppy farms.
7. He was referred to the document marked D2 which references an exchange from the Respondent to the RCVS dated 17 December 2014 and the response received from the RCVS dated 2 February 2015. He said this related to a veterinary surgeon at his practice who was said to have provided insufficient detail on a vaccination card. The Respondent stated that although it was not a card that he completed and it was one which he could have passed to that veterinary surgeon to deal with himself, he chose to respond to the

RCVS in person. He said that this revealed that he did telephone the RCVS and there was no attempt at a cover-up by him. The issue was simply about the correctness of the name and address on the vaccination card and it had nothing to do with the ethics of vaccinating such puppies. He stressed that meticulous records were kept of all the vaccination transactions carried out by his practice, as His Honour Judge Johnson accepted, and it was these records which were used by the prosecution to successfully prosecute his co-conspirators.

8. The Respondent maintained that the Slough Trading Standards Officer, Mr Blake, approached him because he thought that the puppies had not in fact been vaccinated and that the vaccination cards that were being presented to purchasers of these puppies were fictitious. The RCVS advised him that he could not release the documents which that Officer wished to examine without the consent of the client in question, which was not forthcoming. Additionally, that the Officer needed a Production Order from the Court before they could be released to him. The Respondent went on to state that the RSPCA also asked him to disclose client information. He stated that when he was given client consent he provided that information but where there was no such consent forthcoming he informed the RSPCA that they needed to obtain a Production Order. The Respondent made it clear that he considered that it was these refusals which precipitated the decision to prosecute him for the offence of Conspiracy to Defraud. (This is a matter which is addressed further below) He went on to confirm that before he was arrested, he was warned that the RSPCA would be coming to the 2 sites from which he conducted his practice but despite that warning no records of the practice were destroyed. Instead, what he did do was to make a call to the RCVS in front of the RSPCA and police and asked what his obligations as regards disclosure of client documentation were. The RCVS asked if those present had a warrant and, if not, he was under no obligation to disclose the documentation requested. The Respondent contrasted his stance on this issue with that of other local practices who were providing the same vaccination services to the same co-conspirators, which practices simply handed over client records.
9. The Respondent maintained that he was never asked not to vaccinate these puppies. Instead he said the issue was whether or not the vaccination cards were genuine – and they were. He asserted that no one mentioned the existence of a fraud whereby puppies were misrepresented as having been homebred when they were puppy farm bred.
10. When addressing the question of the change in the law which he said was introduced in 2017 and which now requires puppies to be micro-chipped by the age of 8 weeks, the Respondent stated that if a veterinary surgeon discovered that such an animal was not micro-chipped by the age of 8 weeks the responsibility of the veterinary surgeon was to do nothing other than to advise the owner to microchip the animal in question. He asserted it was not for the veterinary surgeon to police this requirement.
11. He was asked about the impact which his conviction and sentence of imprisonment had on him. He stated that the impact was devastating on him and his family. The Attorney General referred the matter to the Court of Appeal to review whether or not the original

suspended sentence imposed by His Honour Judge McDowell was unduly lenient because of a complaint registered by a member of the public against that sentence. He was at work at his practice clinic when the decision of the Court of Appeal was handed down on 19 July 2018. He was informed of it by telephone and directed to go to the nearest police station and surrender himself. That he did. That he had to do so was a wholly unexpected event. He was detained at the Police Station 2 days before a placement in a prison hospital could be located. This placement was at HMP Bullingdon where he was placed [REDACTED] He remained there for about 4 weeks. Thereafter he was sent to a prison where he had to share a cell and where he was kept locked up for 23 hours a day. This remained the position until a differently constituted Court of Appeal quashed his original conviction as being unsafe. He was then released but retried by a new jury and a new judge, His Honour Judge Johnson in December 2019. He was reconvicted and then resented by that Judge in January 2020. A part of that sentence involved a requirement that he undertake 150 hours of Community Work and he has fulfilled his obligations in that regard.

12. One of the other consequences of his conviction has been negative feedback from the public on social media and some of the things said about him were “horrendous”.
13. The Respondent was asked a number of questions by Counsel for the College on the issue of “insight” and it was pointed out to him that this could help the Committee on the issue of whether or not he posed a future risk. In response he asserted that he did not accept the correctness of his conviction and he knew that he was innocent. When asked about whether he could understand the impact that his conviction would have on the reputation of his profession and his fellow professionals, the Respondent maintained that the circumstances of his case have “highlighted an error which has never been exposed before”. He was pressed on the question of whether the conviction was damaging to the profession and to the confidence which the public could have in the profession. The Respondent’s answer was “I acknowledge what you say. I understand people will ask how can you continue to practise”. He accepted that veterinary surgeons must obey the law especially where the welfare of animals is concerned. He was asked whether he wished to express any remorse or regret. His answer was that he had not brought his profession into disrepute, the prosecutor was the one who brought the profession into disrepute. He did however go on to say that he did regret what had happened. He asserted that he was oblivious to the risk of attaching himself to a conspiracy. But he said he could not accept that he was the author of his own misfortune. He maintained he had no idea people were going to advertise these puppies as homebred after he had vaccinated them. He maintained that he was right to vaccinate these animals “100%” and that he would vaccinate them again in similar circumstances. What he would now do is to “query what was going on outside the vaccination process”. He was asked whether he had an understanding why he was before this Committee to which he replied, “I understand I’m here because of an issue relating to data disclosure”.
14. The remaining questions put to him by Counsel for the College related to what happened to his practice whilst he was serving his period of imprisonment. The Respondent indicated that at that time he had a senior veterinary surgeon employed in his practice

and that there were, in addition, two students who were working there full-time. It was a combination of covid restriction and recruitment difficulties which forced temporary closure of one of the practices.

15. Re-examination by his own Counsel produced the following additional information. He had advertised for veterinary surgeons for a period of 2 years. Those currently in this practice have very limited experience and this was not enough to enable the practice to be open to the public were he to be the subject of a sanction which did not allow him to continue in practice. He again maintained that 'data issues' were the reason why he was prosecuted. He maintained that the Trading Standards Officer told him that he was charged because he did not hand over the data which they had requested of him.
16. In answer to questions put to him by the Committee, the Respondent stated that his employed veterinary surgeon was on maternity leave and so apart from him, there was only a regular locum vet. The practice was only operating from the bigger site since the Covid lockdown and he was still continuing to conduct consultations by telephone. As regards out of hours provision, that is now under a contract with Vets Now.
17. He confirmed that he was the clinical director of practice and so responsible for protocols. When asked what training he provided to make sure the protocols were in fact implemented, the Respondent asserted that all his staff had a clear understanding of what was required of them as a result of his experience before the criminal court. He stated he informs them himself what the requirements are. Practice staff, independently of him, ask the question "did you breed these puppies yourself?". The answer is then recorded in the Clinical Notes. The vaccination card issued is photographed. Clients who present more than three litters in one year are asked for proof of their breeding licence. Also recorded in the clinical notes, where appropriate is "NAD" – No Abnormalities Detected" to demonstrate that each puppy has been examined. He is present in the practice every day so his staff know the system he requires. His senior members of staff also know his requirements and emphasise those to other members of staff. However, there remains no written policy to this effect, the reason being that everyone in the practice knows what happened to him. He now educates his staff members in person and he requires them to initial the records which they generate. When asked how he monitors his staff's records, the Respondent stated that he checked every time he dealt with an animal, that photographs were taken of the vaccination cards on staff mobile phones, forwarded to his computer system, then deleted from the phones. All this was now second nature to his staff.
18. On completion of Re-Examination of the Respondent he then requested that he be permitted to read out a pre-prepared statement to the Committee. The consequence of the Respondent's decision to follow this course meant that he could not be asked any questions by Counsel for the College or by members of the Committee about the contents of this pre-prepared statement. The content of this statement is on the record. The Committee did not consider it helpful to its deliberations on sanction, save in the following respects. The Respondent indicated that he had taken additional steps to ensure that the events which led to his prosecution could not happen again. He had

installed CCTV in his clinic which identifies those who attend with puppies for vaccination. Secondly he stated that the last 5 years of his life had been destroyed by this criminal case and now his appearance before this Committee. The rest of his statement related to a criticism of “the authorities who should have stopped” the fraud and the prosecution who he asserted were bent on “concocting a case of conspiracy” against him.

19. In short, what this statement revealed was that this Respondent still cannot accept the correctness of his conviction by the Jury and that he continues to believe that he is a victim. It also revealed to the Committee a troubling lack of insight on the part of the respondent.
20. Unfortunately for the Respondent this Committee cannot accept those propositions. The correctness of the summing up to the Jury by His Honour Judge Johnson was the subject of an appeal to the Court of Appeal. The Court of Appeal rejected the Respondent’s Counsel’s criticisms of that summing up. The Respondent has therefore exhausted his rights to contest his conviction for the offence of Conspiracy to Defraud and this Committee must proceed on the basis that his complaints are not properly founded, that his conviction was correct and that the sentencing findings of His Honour Judge Johnson, who heard the entirety of the evidence presented to the Jury, were also correct.

#### Submissions on behalf of the Respondent

21. The submissions advanced by Mr Eissa QC on behalf of the Respondent were measured, therefore more helpful to the Committee’s deliberations. Counsel referred to his written submissions presented at the commencement of this Hearing. They have been considered in full, are on the record and do not require recitation here.
22. Counsel emphasised that every case turns on its own facts and that there is no rule of law that a conviction for fraud should necessarily results in a removal from the Register. He acknowledged that a fraud committed in the execution of the veterinary surgeon’s duties would be regarded by the Committee as serious. However the purpose of sanction was not to punish. That said, the Respondent had already served period of imprisonment of 8 months, which was the equivalent of a 16 month sentence, and this meant that he had de facto been suspended from practice for that period. In addition he has been required to, and has undertaken, 230 hours of unpaid work. For these reasons, the need for a deterrent sanction, was in this case, he submitted, substantially lessened. This also fed into the requirement that the sanction imposed should be proportionate. When considering the issue of protection of the public he submitted that the Respondent’s conviction represented no risk to the public and emphasised that His Honour Judge Johnson had made such a specific finding, which he submitted was a very rare statement for a judge to make. Counsel contended that the Committee could not, or should not, arrive at a different conclusion given the available evidence. He referred to

the Judge's finding that it was the Respondent's obsessive commitment to animal welfare which led to his manipulation by his co-conspirators and skewed his judgement.

23. Counsel referred to the fact that there had been no complaints lodged against the Respondent since his conviction. He referred to the large body of testimonial evidence which confirmed that the Respondent was an exceptionally caring and competent veterinary surgeon.
24. Turning to the issue of the protection of the welfare of animals, Counsel asserted that it was also the case that the vaccination of these animals protected them from disease to which they would otherwise have been vulnerable. Accordingly the Respondent's decisions were not inherently detrimental to animals but rather more beneficial to them and were brought about, according to the Judge, because of his concentration on the issue of the welfare of these puppies. He therefore invited the Committee to consider where the balance of public interest lies in this case because the health of such puppies relies on their early vaccination. In this connection he further referred to the sentencing remarks of the first trial judge, His Honour Judge McDowell, which contained a request that his Disciplinary Body be as lenient as possible when it came to sanction and a hope that there would be no removal of his name from the Register.
25. Counsel next submission related to the fact that this conviction was now of some age covering as it did the period 2013 through until February 2017. He asserted that, but for the delays in the criminal process, had these disciplinary proceedings been heard in 2017 and the Respondent removed from the Register he could already have applied for restoration. There had been no complaints lodged against the Respondent since 2017. The mitigation available to the Respondent was described by His Honour Judge Johnson as exceptional. The Respondent obtained no financial gain. The Judge said that he could not recall another fraud case where the defendant was not motivated by financial gain. The Financial Investigator, DS Siertsema confirmed that the Respondent had received no monies which were unaccounted for and was satisfied that all the clients identified in the practice records were genuine clients. The Judge found that the Respondent was exploited by his co-conspirators which meant that he was able to find that this was a "lower culpability" case. He found that the Respondent "overlooked their dishonesty and thereby join the conspiracy".
26. Counsel contended that the Respondent had not behaved in a way from which he had been told to refrain by any third party including the RCVS.
27. Counsel's final submissions were as follows. Without intending to detract from the gravity of this matter he submitted that striking off was not an appropriate sanction. There were other options which were available. He referred to the entitlement of the Committee to postpone sanction for a period of up to 2 years and suggested that an undertaking could be secured from the Respondent to refrain personally from offering vaccination services to puppies, especially if the Committee considered that the current protocols laid down by his practice were not sufficient. As regards the possible sanction of suspension, counsel invited the Committee to consider all of the ways in which the Respondent had

already suffered. He had undergone a de facto period of suspension and in addition had been adversely affected in many other ways.

28. The bundle of references placed before the Committee revealed that this Respondent was a caring and compassionate veterinary surgeon. He was an exceptionally talented and dedicated veterinary surgeon. Accordingly the striking off of such a professional should be a decision of last resort, especially as there were other alternatives available to the Committee. Finally, he invited the Committee to allow his practice to continue.

#### The Approach of the Committee to the Issue of Sanction

29. The Committee had regard to the Disciplinary Procedure Guidance on sanction. It took into account the submissions of both parties and gave close consideration to the full submissions of Mr Eissa QC. Counsel for the College confirmed that there were no previous findings against the Respondent, which is an important factor on the issue of the appropriate sanction in this case.
30. In considering the question of sanction, the Committee accepted the advice of the Legal Assessor which was in the following terms. The Committee should have in mind that the primary purpose of the sanction is not to punish (though it may have that effect) but to protect the welfare of animals, to maintain public confidence in the profession and to declare and uphold proper standards of conduct. The sanction which it applies must be proportionate to the nature and extent of the conduct in question and the Committee must weigh the public interest against the interests of the Respondent. The application of the doctrine of proportionality is to ensure that a sanction measure imposes no greater restriction upon a Convention right than is absolutely necessary to achieve its objectives. That said the Committee is aware that, whilst its role at this stage is not to be punitive, any sanction may have a punitive effect.

#### Aggravating and Mitigating Factors

31. The Committee took into account the aggravating and mitigating factors identified in this case. This was a serious offence as the Committee has already stated in its Decision on Stages 1 and 2 (Findings of Fact and Decision on Unfitness to Practise).
32. As regards to aggravating factors, these have been identified in the following paragraphs of the Committee decision on Findings of Facts and Fitness to practice, 17, 24-27, 37, 39-41, and they do not require repetition here.
33. As regards to mitigating factors, these have been identified in the following paragraphs of the Committee decision on Finding of Facts and Fitness to practice, 20, 22; 35; they do not require repetition here
34. The Committee has also had the opportunity of reading numerous testimonials which attest to the Respondents' ability as a veterinary surgeon and the high regard in which he is held by fellow professionals and clients alike.



## Conclusions on the Appropriate Sanction

35. As advised, the Committee considered sanction in ascending order.
36. This was much too serious a case of conviction, a conspiracy to defraud, for a ruling that no further action be taken. The Committee considers that public confidence would be undermined by such a sanction because right-thinking members of the public would be dismayed at such an outcome following a finding of unfitness to practise by reason of the Respondent's conviction for an offence of conspiracy to defraud. This in the view of His Honour Judge Johnson merited a starting point sentence of 3 to 6 years before regard was had to the mitigating factors available to the Respondent.
37. The Committee saw no useful purpose in postponing judgment. This is not a case where the Respondent's conduct requires monitoring or his clinical standards require improvement following further training. The only undertaking offered on behalf of the Respondent was that he could be required not to vaccinate puppies for a period. Having regard to the steps now implemented by the Respondent to install, CCTV cameras at his clinics and to ensure that all clients confirm the existence of a breeding licence if they present puppies for vaccination more than 3 times, the prospect of a repetition of the conduct which led to his successful prosecution is remote in the Committee's view. Accordingly the Committee did not consider that a postponement would achieve anything useful. In the 5 years that have elapsed since he was charged with the offence of Conspiracy to Defraud members of the public the Respondent has had an opportunity to show an interest in comprehending the ethical issues which should have been addressed by him at the time, he was being asked by these sellers to continue to vaccinate puppies that they were presenting to him. He gave evidence in terms which indicated that, even now, he cannot accept that he did anything which was improper or unethical. The Committee is unaware of any course of ethics which the Respondent could be requested to sign up to which would serve to remedy this deficiency in his understanding of what he should have done when faced with these repeated requests from the same clients, his co-conspirators, to vaccinate puppies which they presented to him. As previously found, the Committee holds to the view that the Respondent, should, in those circumstances, have reported to the RCVS his concerns that these clients were requesting these puppies to be vaccinated so that they could be represented to potential members of the public as homebred puppies when it was clear that they were not home bred puppies. The Committee is satisfied that a open-handed approach to the RCVS, accompanied by assurances from him that he would assist the authorities in bringing an end to their scheme, was the right professional and ethical response to be expected of a responsible veterinary surgeon. That, unhappily, is not what the Respondent resolved to do. Instead, as he confirmed when cross-examined during his criminal trial before His Honour Judge Johnson, the Respondent took the line that putting an end to such a scheme was the responsibility of the authorities alone and nothing to do with him – his responsibility was solely confined to that of vaccinating the puppies presented to him. That is an unacceptably narrow view of his professional responsibilities in the judgement

of this Committee, and it serves to explain why the Jury concluded that he had resolved to join the conspiracy, as His Honour Judge Johnson so found at paragraph 31 of his Sentencing Findings.

38. The Committee considers that this case is and was much too serious to be disposed of by way of a reprimand about the Respondent's past conduct or a warning as to his future behaviour. The aggravating factors identified in the Committee's Decision on Facts and Unfitness to Practise (which are referred to paragraph 32 of this decision) confirm the correctness of this conclusion.
39. The Committee turned to consider whether a period of suspension would be sufficient to meet the public interest requirements, that is to say the confidence of the public in the veterinary profession and in its ability to maintain proper professional standards by those practising the veterinary profession.
40. Of concern to the Committee was its conclusion that the Respondent, even now, has but a limited insight into the reasons why he was convicted of the offence with which he was charged. He was not able to explain why others might view the facts of the case brought against him differently from the view he has held to date. That said, he has acknowledged that his criminal conviction and this Committee's decision on Unfitness to Practise will damage the reputation of his profession.
41. The Committee also accepts he was exploited by his co-conspirators and that his decision to vaccinate the puppies in question did not cause them any harm; indeed it benefited them as puppies. He gained no financial benefit from his decision to vaccinate these puppies – he simply recouped the cost of the vaccines in question. His motivation for vaccinating them was his obsessive commitment to animal welfare, as His Honour Judge Johnson so found. He maintained full and proper records of the vaccinations he had undertaken which assisted the authorities to successfully prosecute his co-conspirators. He was in this sense open with the prosecuting authorities and engaged with that process, albeit not with the outcome of that process. The Committee is satisfied that he has made efforts to change his practices to prevent a repeat of such a mis-description scheme as this. There has been a significant lapse of time since the commission of the offence – the last act referred to in the indictment is February 2017, now some 5 years ago.
42. The Committee accepts that the testimonials provided by the Respondent are all fully supportive of his capabilities and the fact that he is a caring and dedicated veterinary surgeon.
43. In addition to that it is manifest that, by reason of the time the Respondent served in prison, he has been the subject of a de facto period of suspension from practice and has also undertaken a significant number of hours of Community Service (some 230 hours in all). In these circumstances the Committee concludes that the deterrent factor in a sanction of suspension has been partially met.

44. The conduct for which the Respondent falls to be dealt with by his Regulatory Body demands that a message be sent out to the profession that a veterinary surgeon's obligations are wider than a simple obligation to treat an animal presented to him or her. A conviction for an offence of dishonesty committed in the course of veterinary practice requires the imposition of a sanction which will necessitate a period of removal from the right to practise that profession.
45. The Committee considers that a period of suspension from practice will meet the justice of this case and the interests of the public in the maintenance of proper professional standards and its confidence in the standards to be expected of an honourable profession. In the Committee's view, the seriousness of the Respondent's conduct which resulted in his criminal conviction merits a period of suspension of 9 months.
46. However, the Committee considers that it is right that the period during which the Respondent was unable to practise during his incarceration should be fully reflected and should serve to reduce the period that would otherwise have been the appropriate period of suspension from practice. The Committee is also cognisant of the fact that the Respondent's period of incarceration would have been a particularly difficult one for him to bear, being both a person of hitherto good character and it being a result which was one he was not expecting or prepared for.
47. In the result the decision of the Committee is that, having regard to the unusual and, in some respects unique, features of this case which are set out above, the ultimate period of suspension should be that of one month, as will be specified in the Notice of Direction. The Committee considers that such a period of suspension will not prejudice the ability of his practice to continue in his absence for such a limited time.

**Disciplinary Committee**  
**25 May 2022**