

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

DANIEL DOHERTY MRCVS

**DECISION ON RESPONDENT'S APPLICATION THAT
THE COMMITTEE RECUSE ITSELF**

1. The Committee has given careful consideration to the application of Mr Eissa QC that it should recuse itself from this case. In essence, he contends that what is stated in paragraph 31 of the Committee's Decision is inaccurate and does not accord with the evidence contained in the documentation that has been placed before the Committee.
2. Ms Bruce on behalf of the College submits that what is stated accords with the evidence and is correct. She has identified various passages in the Hearing Bundle which confirm the accuracy of the content of paragraph 31 of the Committee's Decision. She submits that the content of this paragraph is in line with and '*on all fours*' with the matters of which the Respondent was convicted, and that, looking at the Respondent's own evidence and viewing it at its highest, that evidence does not address the points made in paragraph 31 of the decision. Ms Bruce referred to a number of passages in the evidence in support of her submissions.
3. Mr Eissa QC has submitted as follows:

- i. The meaning put forward by the College is not a straightforward reading of paragraph 31. It requires, he contends, mental gymnastics, which is not appropriate on such an important issue, and which involves a man's career.
- ii. The College's submission ignores the second sentence of paragraph 31. This refers to the Respondent's apparent failure to seek early advice to enable the mis-selling operation to be closed down. Any fair reading of the evidence, and including the Judge's summing-up, makes it clear that the RSPCA and Trading Standards were aware from 2014 onwards of the puppies being vaccinated by Mr Doherty. The evidence is clear that the RCVS did give advice to the Respondent on this, and the RCVS had considerable sympathy for the Respondent and the position he was in. Accordingly, anyone reading the evidence would not agree with the wording in paragraph 31.
- iii. The Committee, he contended, asked a surprising question yesterday as to whether the Respondent had notified any of the identified bodies that he was being asked to vaccinate farm-bred puppies so that they could be sold to members of the public as home-bred puppies. Mr Eissa QC stated that it was clear that no such question was asked because it would have involved acceptance of knowledge that the puppies were not home-bred. This would have been admitting the criminal charge. This question conveys to an objective person that the Committee may not have fully digested or assimilated the evidence and enhances the need for recusal.
- iv. The evidence confirms that these bodies were on notice and there were no lost opportunities.

Mr Eissa QC submitted that it was therefore incompatible with fairness for this Committee to continue with its deliberations in this case he further submitted that the appearance of justice was an important as the process and that, for this reason, the Committee should now recuse itself.

4. As to the submissions of Mr Eissa QC the Committee makes the following observations:

- i. As Mr Eissa QC acknowledged in his reply, the specific question put by the Committee was not raised by the Respondent with any of these bodies. However, the Respondent was convicted of conspiracy to commit fraud by false representation; the Particulars of Offence state "Daniel Doherty... 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". This Committee's must proceed on the basis that this conviction was correct, and Mr Eissa QC acknowledged this early on in these proceedings. This means that the Committees deliberations must be founded on an acceptance of what the Judge found at paragraph 31 of his Sentencing Findings.
- ii. As to the contention that the College's submission ignores the second sentence of paragraph 31 and the Respondents apparent failure to seek early advice to enable the operation to be closed down, the Committee accepts that the Respondent did have communications with Trading Standards and other bodies, but this was not in relation to his part in the mis-representations being made to purchasers concerning the home-bred nature of the puppies, that he was being asked to vaccinate. Mr Eissa QC acknowledged this when responding to the question posed by the Committee because he said that would entail acceptance of knowledge that the puppies were not home-bred and that the Respondent would therefore have been admitting the charge/dishonesty. The difficulty facing the Respondent in this

respect is that the Jury's verdict and the Judge's Sentencing Findings make it clear that the Respondent was dishonest.

- iii. As to the point that the evidence is clear that the RCVS did give advice to the Respondent, and the RCVS had considerable sympathy for Mr Doherty and the position in which he was in, the Committee noted that the Respondent did not seek specific advice as to the steps that he should be taking given his knowledge of what his co-conspirators were doing and saying, when selling these puppies to members of the public.
 - iv. In relation to the contention that the evidence confirms that these bodies were on notice and there were no lost opportunities to terminate this mis-selling, the Committee remains of the view, that bearing in mind he stated in cross examination at his trial [3-112 G] that he had been carrying out this work for at least two years prior to 2014, that he could have acted sooner to raise his concerns with the appropriate authorities. As he did not so inform them, they (the College, the Trading Standards Officers and the RSPCA) were deprived of supportive evidence from a member of the College. In that way their abilities to put an end to this conspiracy were hindered and delayed.
5. To those passages referred to by Ms Bruce to which the Committee had had regard when reaching its Decision, the following are also relevant:
- (1) [3-132 D] A. "...as far as I was concerned, the names and addresses were obviously going to be real persons, but I have no way of checking that. There is no system in veterinary clinics, and no requirements for us to check these types of details.
- Q. No requirement, Mr Doherty, no, but if you really wanted to protect these puppies you could have stopped doing the work couldn't you?
- A. I don't believe that would have protected these puppies, my role as a veterinary surgeon is to health check, examine, parasite treat and vaccinate these high-risk individuals. The role of protecting people from misrepresentation, or misrepresentations of my card, is not for a veterinary surgeon, that is for RSPCA and/or trading standards"
- (2) [3-144] Q. "What would you have done had you known that these puppies were being sold to members of the public on the basis that they were home-bred. Would you [have] continued then to vaccinate them?
- A. Not at all..."
- Notwithstanding that answer, this is what the Respondent continued to do rather than approach any of these bodies for advice as to what he should be doing in such circumstances.
6. In the circumstances, the Committee does not wish to alter paragraph 31 of its Decision dated yesterday, the purport of which is sufficiently clear when the paragraph is read as a whole and in the context of the Decision as a whole. The Respondent did not ask any of the bodies identified what steps he, as a responsible veterinary surgeon, should be taking in the light of the fact that he knew that his co-conspirators were selling mis-described puppies which he had been and was being asked to vaccinate. That is what paragraph 31 states.
7. In the circumstances the Committee does not accept the submission that paragraph 31 is unclear or inaccurate. The Committee considers that when read in context and in its entirety it is clear and reflects the evidence before the Committee.

8. Finally, as to Mr Eissa's submission about the Appearance of Justice, the Committee considers that, there being nothing inaccurate in the content of paragraph 31, this submission has no foundation or substance.
9. It is to be noted that the passage in paragraph 31 namely "What the Committee considers most concerning about the Respondent's conduct" does not contain any definite article before the word "most". It does not say "the most concerning". Instead, it is pointing to a matter which the Committee does consider to be a concern of substance.
10. In any event, independently of what is said in paragraph 31, the Committee considers that the Respondent's conviction merits a finding that he is unfit to practise as a veterinary surgeon.
11. In the circumstances, the Respondent's application is refused. Subject to what Mr Eissa QC wishes to submit now, the Committee is minded to proceed to consider those matters relevant to Stage 3 of this disciplinary procedure.

Disciplinary Committee

6 April 2022