

**ROYAL COLLEGE OF VETERINARY SURGEONS**

**INQUIRY RE:**

**JAMES DEAN GRACEY MRCVS (Respondent)**

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**DECISION AND REASONS ON SANCTION**

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1. The Committee went on to consider what, if any, sanction to impose in respect of all the disgraceful conduct in a professional respect that it had found proved. It considered the sanction in respect of all the charges together when deciding what sanction was proportionate and what sanction met the public interest.
2. Ms Bruce, counsel for the College, confirmed that the Respondent had no previous disciplinary findings against him and that he was of 'good character'.

Summary of the Respondent's submissions on Sanction

3. There were thirteen written character references, of whom three also gave evidence by video link. The references were from veterinary surgeons and others who had known the Respondent personally or in a professional capacity, for a long period of time. All referees commented positively on the Respondent's character highlighting his personal and professional qualities. All referees were aware of the case being brought before the Disciplinary Committee.
4. The Respondent, gave evidence again to the Committee. He stated that he had made errors on which he had reflected after the issues about conflict and certification were brought to his attention. He told the Committee that he had not repeated the wrongdoing since the time of these charges. Illustrating the fact he had learned from his wrongdoing, the Respondent told the Committee that he had recently asked another veterinary surgeon to attend his father's farm for an emergency slaughter. He said that he now takes 'extreme care' with clinical records and certification and that he had learned how important it was to be transparent when keeping records and signing documents. In relation to Charge 4, he explained that he had sought to share with a number of other veterinary surgeons lessons he had learned regarding fitness to travel of animals and he now fully understood the

obligation to prioritise the welfare of animals above all other considerations. He said he would not allow an animal in a similar condition (re Charge 4) to be transported and in future he would 'err on the side of caution'.

5. In mitigation, Mr Eissa KC asked the Committee to sanction the Respondent by way of a reprimand and/or warning. Alternatively he submitted if the Committee were minded to sanction to a higher level. that only a short period of suspension would be proportionate.
6. Mr Eissa KC asked the Committee to take into account that in respect of all five charges no actual harm was caused to the animals. He submitted that there was only a risk of harm in relation to one animal [Charge 4]. He also asked the Committee to take into account the fact that in respect of Charge 4 the Respondent had made a swift and accurate diagnosis. In relation to Charge 3, the Respondent had admitted administering the medications to the animal..
7. Mr Eissa KC invited the Committee to consider a sanction at the lower end of the spectrum because all but Charge 4 dated back five to six years. Mr Eissa KC asked the Committee to consider that the Respondent no longer posed any risk to the public, bearing in mind the passage of time since these incidents and the fact that the Respondent had continued as a practising veterinary surgeon without further incident. Mr Eissa KC submitted that the Committee should also take into account the 'psychological stress' that the length of the proceedings had had on the Respondent.
8. Mr Eissa KC also submitted that the Respondent did not gain financially in respect of any of the charges and at the time he was a young and inexperienced veterinary surgeon. He asked the Committee to take into account the fact that the Respondent has made efforts to avoid a repetition of similar behaviour and to remediate his wrongdoing.
9. In respect of the dishonesty found proved, Mr Eissa KC submitted that it was an 'isolated aberration'. He asked the Committee to take into consideration that the Respondent had not falsified any documents to cover up matters, rather he had provided to the College the documents which showed the medication he had given the animal [re Charge 3].
10. Finally, Mr Eissa KC asked the Committee to take into consideration that any financial advantage to the Respondent was 'limited in its nature and scale'. Mr Eissa KC asked the Committee to look at the full circumstances when deciding where on the scale of dishonesty, Charge 3(ii) and Charge 5(b) fell. He submitted that any sanction imposed should take all the mitigating factors into account and should be proportionate.

#### The Committee's reasons and decision on sanction

11. In reaching its decision on sanction the Committee had full regard to Mr Eissa KC's submissions, the Respondent's good character, the delay, which was not the fault of the Respondent, and the nature of the charges overall. It had in mind that the primary purpose of sanction is not to punish an individual veterinary surgeon but to protect the welfare of animals, to maintain public confidence in the profession and its regulation and to declare and uphold proper standards of conduct. It noted that any sanction it imposed should be proportionate to the nature and extent of the conduct it had found proved and that the

public interest should be balanced against the interests of the Respondent veterinary surgeon.

12. The Committee noted the aggravating and mitigating factors it had found in respect of the charges in its decision on disgraceful conduct in a professional respect. It did not propose to reiterate those factors in this part of its decision, however it took into account all those matters it had previously found as aggravating and mitigating factors in its decision on disgraceful conduct. It found no further aggravating factors.

13. The Committee went on to consider personal mitigation and to consider if there were any other relevant mitigating factors. The Committee decided that there were other mitigating factors which were relevant to the sanction stage in particular:

- The Respondent had no previous disciplinary findings against him and he was of 'good character'
- The Respondent had admitted Charge 1(ii) and Charge 3(ii) at the start of the hearing.
- The Respondent had made subsequent efforts to avoid a repetition of similar behaviour. The Committee noted that the Respondent had engaged another veterinary surgeon to carry out an emergency slaughter on his father's farm and that he now understood the importance of openness and transparency when resolving conflicts of interest.
- The Respondent had made subsequent efforts to remediate past misconduct. The Committee noted that there had been no further incidents. It further noted from the Respondent's evidence that he had sought to share what he had learned and intended to continue to share his learning with other veterinary surgeons. He had put in place alternative arrangements for certification of his father's cattle where he had identified a possible conflict of interest. It accepted he was now determined to take appropriate care with his record keeping.
- There was a significant lapse of time, up to to six years, since the misconduct found proved in respect of Charges 1, 2, 3, 4 and 5. The Committee accepted that the delay had caused stress to the Respondent.
- The Respondent had demonstrated sufficient insight into his disgraceful conduct. The Committee found that the disciplinary process had been a salutary experience for the Respondent. The Committee concluded that his insight had grown as a result of the disciplinary hearing, and his understanding of the issues relating to the importance of accurate and transparent certification and conflicts of interest had developed.
- Any financial advantage to the Respondent was limited in 'scale and nature'.

14. The Committee was not persuaded that the Respondent was young or inexperienced at the time of the misconduct. It noted that he qualified in 2010 and that he was also qualified as an Official Veterinarian at the time of the incidents. It therefore did not rely on this as a mitigating factor.
15. The Committee decided that the dishonesty found proved was serious because it related to procedures designed to uphold animal welfare and public health. Further, it was compounded because misuse of antibiotics can contribute the development of anti-microbial resistance. However, the Committee accepted that when dishonestly certifying 'none' on a form in denial of treatment administered on two occasions by the Respondent, the dishonesty only related to one animal and one form in April 2017. The Committee also noted that the Respondent had admitted and provided the medicines records which showed that he had administered two medications to the animal despite certifying 'none' regarding treatment administered on the Emergency Slaughter form. It was to the Respondent's credit that he had been open with the College about the medication he had himself administered. It found these factors went some way to mitigate the seriousness of the dishonest conduct. In consequence, when considering all the circumstances, the Committee found the dishonesty proved in respect of Charge 3(ii) and Charge 5(a), fell midway in the scale of dishonest conduct.
16. The Committee considered each of the thirteen character references. It noted that many referees spoke about the fact that the Respondent was relied upon, both as a veterinary surgeon by younger veterinary surgeons and as an individual by members of his local community. It was evident that all of the witnesses who gave written and/or oral character evidence held him in high regard - all were aware of the Disciplinary Committee hearing and some were aware of the charges. The Committee took into account in mitigation that the Respondent was highly valued within the veterinary profession by those that knew him and by his local community. It was also to the Respondent's credit that he 'gave back' to the veterinary profession by being available to colleagues for advice 'day or night' and to his community through his church by volunteering to assist a youth group.
17. The Committee firstly considered whether there should be 'no further action' in respect of the misconduct found proved. It decided that misconduct involving four animals on four separate occasions, including false certification, with one instance of proven dishonesty was too serious for no further action.
18. The Committee went on to consider whether it was appropriate to postpone judgment. It noted that neither counsel for the College nor counsel for the Respondent had invited the Committee to postpone judgement. Furthermore the Committee considered that the matters found proved occurred some time ago and that postponement of judgement would not serve any useful purpose and would result in further delay for the Respondent.
19. The Committee next considered whether a reprimand and/or warning was the proportionate sanction for the matters found proved. It decided it was not. There was one instance of proven dishonesty and disgraceful conduct in a professional respect in relation to four animals on four separate occasions. In particular the fact that there were four separate events relating to animal welfare and public health which was significant when considering what sanction to impose. The Committee concluded that a sanction of 'a

reprimand and/or warning' was insufficient to uphold standards in the profession, nor would it maintain public confidence in the profession or emphasise the importance of honest, accurate and transparent certification by a veterinary surgeon.

20. The Committee decided that a sanction of 'suspension' to uphold standards and maintain public confidence in the profession and its regulation and was necessary to deter other members of the profession from acting similarly (see DC Procedure Guidance paragraph 68). Furthermore it concluded that a period of suspension would also underline to the profession the importance of complying with the Code of Conduct and its supporting guidance especially the ten principles of certification.
21. The Committee noted that in the Disciplinary Committee Procedure Guidance, that a sanction of 'suspension' is appropriate if (paragraph 71):
  - a) *The misconduct is serious, but a lesser sanction is inappropriate and the conduct in question falls short of being fundamentally incompatible with remaining on the register;*
  - b) *The respondent veterinary surgeon has insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour;*
  - c) *The respondent veterinary surgeon is fit to return to practice (after the period of suspension).*
22. The Committee decided that these factors applied to the Respondent's case. Furthermore although the Respondent's character was positive, a period of 'suspension' was the only available sanction that the Committee considered would adequately uphold public confidence in the profession. In all the circumstances the Committee concluded that suspension was the proportionate and appropriate sanction.
23. The Committee then considered the appropriate period of suspension and concluded that suspension of the Respondent's registration for a period of six months was proportionate. The Committee considered whether a shorter period was appropriate bearing in mind the mitigating factors it had found applied in this case. It decided that a period of six months was proportionate and the minimum length necessary to meet the public interest balancing the seriousness of the misconduct and all of the mitigation. It decided that a shorter period of suspension was insufficient to uphold proper standards within the profession, or to achieve a deterrent effect.
24. The Committee considered that any longer period of suspension would be of no additional benefit taking into account the lapse of time and all the other mitigation that the Committee had found in this case.
25. The Committee was satisfied that the Respondent had shown sufficient insight and efforts to remediate his misconduct and it concluded that at the end of this period of suspension he would not pose a further risk to animal welfare or public health. The Committee considered that the Respondent was a valued veterinary surgeon with extensive farm animal experience and that a more severe sanction such as removal from the RCVS Veterinary Register would not properly reflect the Committee's findings on the scale of dishonesty and would not take account of the Respondent's mitigation.

26. The Committee therefore instructs the Registrar to suspend the Respondent's registration for a period of six months.

**Disciplinary Committee**  
**Tuesday 6 December 2022**