

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

KATHERINE HEYES RVN

DECISION OF THE DISCIPLINARY COMMITTEE

1. Ms Heyes appeared before the Disciplinary Committee (“the Committee”) to answer the following charge:

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

1. On 6th March 2020, at the Greater Manchester Magistrates’ Court, were convicted of entering an aircraft when drunk / being drunk in an aircraft;

and in respect of this conviction, on 8th July 2020, at the Manchester Crown Court, were

sentenced to a Community Order consisting of unpaid work for 80 hours, and ordered to pay a victim surcharge of £85 and £250 costs;

AND THAT it is alleged that the above conviction renders you unfit to practise veterinary nursing.

2. Ms Heyes was not legally represented but she was assisted by a family friend, Mr Bardsley.

Preliminary Matters

3. Ms Curtis asked the Committee to hear any evidence that related to the identification of a child in private, further she requested that any part of the decision that would identify that child to be redacted from any published decision. Ms Heyes did not oppose the application.
4. The Legal Assessor advised the Committee that hearings should generally be held in public but that Rule 19 of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004 (“the DC Rules”) and the Disciplinary Committee Guidance (August 2020) paragraph 15, allows for matters relating to the identification of a juvenile and the private life of that juvenile to be heard in private because the interests of a third party can outweigh the need to for a hearing to be held in public. A Committee can therefore hear such matters in private if it is satisfied that it is reasonable and proportionate to do so. This principle can also relate to redaction of any part of a Committee’s published decision.
5. The Committee accepted the advice and it decided that any part of the hearing or any part of the Committee’s decision that might allow for the identification of a child would be heard in private.

Admissions

6. At the start of the hearing Ms Heyes admitted the facts of the conviction. She denied that the conviction rendered her unfit to practise as a veterinary nurse.

Background and the College’s case

7. On 6 March 2020, at the Greater Manchester Magistrates’ Court, the Respondent was convicted, following a guilty plea, of being drunk on an aircraft. She was committed to the Crown Court for sentence. On 8 July 2020, at the Manchester Crown Court, she

was sentenced to a Community Order consisting of 80 hours unpaid work. She was also ordered to pay a victim surcharge of £85 and costs of £250.

8. The College obtained a transcript of the sentencing hearing on 8 July 2020, which included Prosecution counsel's opening submissions on the facts of the offence. The College relied on those Opening submissions as the factual basis of the Respondent's conviction and sentence.
9. Prosecuting counsel explained that on 18 May 2019, the Respondent boarded an aircraft at Manchester airport, bound for Turkey. She was with two other adults and a three-year-old child. At the point of boarding, she appeared to be sober. During the flight, members of the cabin crew noticed that the Respondent and her adult companions became increasingly inebriated. The Respondent and one of her friends were seen going to the lavatory with a large beach bag, which cabin crew suspected contained alcohol.
10. There came a time on the flight when the cabin crew saw that the Respondent was particularly drunk. She was slurring her words to the extent that the senior cabin manager was unable to understand what she was saying. Later the crew found a full size bottle of vodka in a bag on the floor near the Respondent's seat; the bottle had very little vodka remaining in it. Cabin crew took the bottle away. They also took the Respondent's passport, together with the passports of the other adults in her party, and they alerted the captain.
11. Another passenger on the flight, Miss L, who was travelling with her two young children (aged nine and five), had concerns about the Respondent's state of inebriation, noting that the Respondent slurred her words and was acting in what she described as a "full-on" manner. Miss L was particularly concerned as it was apparent that the Respondent had charge of a three-year-old child. The child was standing on a chair and refusing to put on a seat belt. The Respondent was described as "*shouting and swearing aggressively and loudly*" at the child, which had caused the child to become upset and cry. This attracted the attention of other passengers. Miss L was so concerned that she alerted the cabin crew. The cabin crew took the child to the back of the aeroplane, and the Respondent's behaviour deteriorated. She was "*screaming and swearing at everyone*", including the cabin crew and the other adults in her party. She was described as "*bordering on manic*" and it was said "*One minute she had her head in*

her hands and was crying; the next minute she was flailing her arms around and was laughing. This went on for some time”.

12. Prosecution counsel explained that the Respondent was at this stage saying she wanted to get off the aircraft, and that she wanted the child to come back and sit with her. Miss L described her as being “*completely out of it*”. The Respondent’s friends had to physically restrain her, but at one point she managed to break free. She appeared fixated on the senior manager, who feared for her safety. The atmosphere in the aircraft was described as “*chaotic*”, with passengers shouting that they wanted the aeroplane to be diverted so the Respondent could be removed from the flight. This created additional work for the cabin crew. Miss L’s nine-year-old child was particularly upset and was crying.
13. The captain considered options for diverting the flight, but decided that they should continue, as they were by this stage only forty minutes from their destination. The Respondent eventually calmed down. She and her companions were unsteady on their feet as they disembarked. Turkish police met the flight when it arrived, although the Respondent was not detained.
14. Prosecution counsel referred to the impact of the offence on witnesses, stating that Miss L described how her nine-year-old child had been traumatised for a lot of the holiday by what had happened, worrying about whether the same people would be on the return flight. The senior cabin manager stated that she had never before been in a position where she had considered diverting a flight or using a restraint kit on a passenger.
15. Prosecution counsel explained that when interviewed by police on her return to the United Kingdom, the Respondent admitted having drunk alcohol but denied being drunk. She stated that she had become angry at the suggestion that she had not been fit to look after the child.
16. During mitigation, the Respondent’s counsel referred to her work as a veterinary nurse and to the fact that the College would be involved. There was a suggestion that the sentence might affect whether or not she would be struck off.
17. When sentencing, the Judge made the following comments:

“You are every passenger’s worst nightmare, or you were on 18 May last year. The maintenance of good order [sic] on an aeroplane, where passengers and flight

attendants are cocooned in a confined space from which there is no escape, is not only deeply unpleasant and distressing for anyone who has to suffer it but has the potential to cause complete havoc and endanger safety. That is why it is so serious and why the courts have been urged to pass deterrent sentences. You were to use your own phrase, "out of it", you should be ashamed – I think you are ashamed."

18. On 28 March 2022, the College wrote to the Respondent asking for comments on the conviction. The Respondent replied stating that she was ashamed and remorseful about the events which had led to the conviction. She stated she had had one alcoholic drink before boarding the aircraft, that there had been an issue with the name on her boarding pass, which had delayed the flight, and she sensed that the crew were disgruntled as a result. The Respondent stated that the child she was with had become restless and would not stay in her seat. She admitted she had shouted at the child and she said she regretted this. She stated that a member of the cabin crew had told her she must have been drinking as they saw drinks on her friend's table, that the cabin crew member had then been aggressive and had taken away the child. She stated that this had led her to shout, which would have happened whether or not she had been drinking.
19. The Respondent stated that she did not consider herself to be drunk at any point on the flight, although she had drunk one alcoholic drink before boarding.

Decision on Findings of Fact

20. The Committee found that the facts were proved, on admission by Ms Heyes and on the basis that the certificate of conviction referred to the criminal offence which Ms Heyes had pleaded guilty to. The Committee was therefore satisfied so that it was sure, that the facts in respect of Charge 1 were proved.

Unfitness to Practise

21. Ms Curtis on behalf of the College submitted that the conviction renders the Respondent unfit to practise as a veterinary nurse.
22. She submitted 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 falls far short of that which is expected of a member of the veterinary

nursing profession. For a conviction to render a person unfit to practise as a veterinary nurse, it need not relate to conduct in their professional practice.

23. Ms Curtis drew the Committee's attention to the following by way of aggravating features as being relevant to the circumstances of the offence itself and therefore relevant to the issue of unfitness to practise:

- *Risk of injury to ... human [in this case a minor and other passengers]*
- *recklessness.*

24. She also asked the Committee to have regard to the mitigating factors which relate to the circumstances of the conviction itself:

- *No financial gain*
- *single and isolated incident*

25. The College submitted that the conduct underlying the offence is of a particularly egregious nature, risking harm to a number of passengers, crew and in particular a child. As the sentencing judge noted, the passengers and cabin crew were cocooned in a small space with no means of escape. It is essential that good order is maintained on an aircraft in order to ensure the safety of everyone on board. An atmosphere of shouting, swearing and chaos risks disruption to the flight, and it also risks distracting the captain who should be free to focus on flying and landing the aircraft safely. The Respondent's conduct would have made passengers and crew members fearful for their safety.

26. The College submitted that members of the public would rightly be appalled that a Registered Veterinary Nurse had behaved in this way. It submits that the behaviour underlying the conviction is conduct falling far below that to be expected of a member of the profession and renders her unfit to practise veterinary nursing.

Submissions and Evidence of Ms Heyes

27. Mr Bardsley submitted on behalf of Ms Heyes that Ms Heyes had regretted pleading guilty to the offence. He submitted that Ms Heyes was an extremely nervous flyer and she suffered from severe anxiety when flying. He submitted that this had worsened the situation on the day of the offence.

28. He further submitted that although Ms Heyes admitted drinking alcohol she did not admit that she was drunk to the extent described in the Opening by Prosecution Counsel in the Crown Court. He questioned the accuracy of Ms Heyes' inebriation because she had not been breathalysed and there was no scientific evidence produced to show how much alcohol she had had to drink. Mr Bardsley submitted that Ms Heyes had pleaded guilty to an offence because she was keen to get a lesser sentence in the Crown Court but she had not realised the effect her plea would have on her registration.
29. Mr Bardsley also submitted that the crew were frustrated with Ms Heyes having caused a delay to the flight because her passport and boarding pass were not in exactly the same name.
30. Mr Bardsley asked the Committee to take into account Ms Heyes' excellent references, her unblemished record and the fact that she had been anxious about these disciplinary proceedings since 2020. He emphasised the positive references which were contained in the Respondent's bundle, that illustrated that Ms Heyes and her practice were held in high regard by her employers and colleagues. Further he relied on other personal references attesting to her usual positive character traits.
31. Mr Bardsley asked the Committee to see the incident as an isolated incident that would not be repeated. He submitted that Ms Heyes was fit to practice and that she posed no risk or danger to the public or animals. He relied on her previous good character and her subsequent good work record to persuade the Committee that her offending would not bring the profession into disrepute if she was found fit to practise.
32. Ms Heyes gave evidence before the Committee. She apologised to the Committee and thanked them for giving her the opportunity to explain matters. She explained that she had had one pint of lager before boarding and then once on the plane she had had some vodka poured into a plastic cup by a friend. She said that 'she did not believe she was 100% innocent or 100% guilty' and that she felt she had misbehaved on the flight because she was anxious of flying and because a stewardess had upset her more [REDACTED]. She denied behaving in a way that caused a risk to other passengers. She told the

Committee she was anxious, annoyed and upset. She said she regretted her behaviour.

33. Ms Heyes explained as a single mother she relied on her livelihood to support her and her family. She said that both her previous and subsequent history showed that she was fit to continue practising as a veterinary nurse and she had not had her duties at work restricted despite her employer being aware of the conviction. She said she had made an error to drink alcohol on the plane.
34. Ms Heyes denied that she had purposefully concealed the fact that she had also had a drink on the plane when she had responding in writing to the College about the charge.

The Committee's decision on Fitness to Practise

35. The Legal Assessor advised the Committee that the following authorities R v Hunter 1998 WL 1044831, R v Cooper EWCA Crim 3277 and R v Tagg [2002] 1 Cr App R 2 supported the College's case that the behaviour surrounding Ms Heyes' drunkenness was a factor that the sentencing Judge was entitled to take into consideration when sentencing Ms Heyes; as he did in his sentencing remarks. Although the offence Ms Heyes pleaded guilty to was one of 'simple drunkenness', the behaviour that was outlined in the Prosecution Opening was also relevant to the offending. Furthermore, the Committee should not go behind the facts of the conviction and the basis upon which Ms Heyes was sentenced. The legal assessor drew the Committee's attention to the fact that in the Crown Court, the Respondent's counsel, did not challenge the behaviour outlined in the Prosecution Opening and had accepted that Ms Heyes' behaviour was '*extremely unpleasant for those on that aircraft particularly those with young children*'. She also drew the Committee's attention to the Sentencing remarks of the sentencing Judge.
36. The Legal Assessor also drew the Committee's attention to the fact that since Ms Heyes had received a community order for 12 months which she had completed, the rehabilitation period for the sentence imposed had expired in July 2022.
37. The Legal Assessor advised the Committee when deciding whether Ms Heyes was unfit to practise to refer to the Code of Practice for Veterinary Nurses¹ in order to

¹ Applicable in 2019 at the time the underlying offence was committed

determine whether the underlying facts of the conviction breached any Code of Practice.

38. The Committee took into account the evidence before it and the advice of the Legal Assessor which was not challenged by Ms Heyes. It was not persuaded by Ms Heyes that it could go behind the facts of the conviction and the basis upon which she was sentenced which included the underlying behaviour outlined in the Prosecution Opening. Therefore, despite the submissions made by Mr Bardsley and the evidence given by Ms Heyes, the Committee considered the charge on the basis and facts upon which Ms Heyes had been sentenced in the Crown Court and it did not accept the alternative version of events which she or Mr Bardsley had advanced during the disciplinary hearing.
39. The Committee went on to consider whether these facts as outlined by Ms Curtis rendered Ms Heyes unfit to practise. It noted that the Disciplinary Committee Guidance stated that *“A conviction may be related to professional or personal behaviour and whether it renders a respondent veterinary surgeon unfit to practise is a matter of judgment for the Disciplinary Committee. Behaviour unconnected with the practice of veterinary surgery can cause concerns about the protection of animals or the wider public interest.”*
40. The Committee also took into account that the *“wider public interest”* includes upholding the reputation of the profession of veterinary nurses and maintaining public confidence in the profession. In doing so, the Committee also considered whether Ms Heyes was unfit to practise because the conviction and conduct was of such an egregious nature that it has the potential to bring the profession into disrepute and undermine public confidence in the profession.
41. The Committee was satisfied that the charge was aggravated by the following factors:
- i) The nature of the conviction would have caused a risk to passengers including children; and
 - ii) Ms Heyes had behaved recklessly.
42. The Committee found that the charge was mitigated by the fact that this was a single and isolated incident. It noted that prior to the conviction, Ms Heyes had no previous

disciplinary findings against her and following her conviction she had continued to practice as a competent and dedicated veterinary nurse.

43. In the Committee's judgment, the conviction and the underlying behaviour surrounding the conviction brought the profession into disrepute. It decided that in this case, a finding of 'unfitness to practise' was necessary to maintain and uphold professional standards of behaviour in the profession of veterinary nurses. The Committee considered that members of the public would be concerned that a registered Veterinary Nurse had been convicted of an offence of this nature. The Committee therefore concluded that the conviction and underlying behaviour was sufficiently serious that it required a finding that Ms Heyes was unfit to practise on public interest grounds.
44. The Committee further decided that the facts of the conviction and the basis of the conviction which included the behaviour surrounding the drunkenness, referred to in both defence counsel's submissions and by the sentencing Judge, also breached Code 6.5 of the Code of Practice for Veterinary Nurses which states "*Veterinary nurses 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*".
45. The Committee further decided that Ms Heyes was unfit to practise veterinary nursing because the behaviour underlying the conviction amounted to conduct falling far below that to be expected of a member of the veterinary nursing profession.

Sanction

46. Ms Curtis made no submissions regarding the sanction to be imposed. She confirmed that Ms Heyes had no previous disciplinary findings against her.
47. Mr Bardsley submitted that the sanction of a 'reprimand or warning' was the most appropriate and proportionate sanction in this case. He submitted that if a more severe sanction was imposed Ms Heyes would lose her occupation because she is limited by the geographical area in which she can work because she has no driving licence.
48. Mr Bardsley further submitted that the delay in reaching the disciplinary proceedings combined with Ms Heyes' age of 32, alongside the glowing references testifying as to her ability as an Registered Veterinary Nurse and her character, should persuade the Committee to impose a lesser sanction. He submitted that it would be unfair and disproportionate if the Committee imposed a sanction of either 'suspension' or 'removal' for what was a single incident.

49. Ms Heyes reiterated her apology to the Committee and she expressed her remorse about the charge. She said she was fully committed to the profession of veterinary nursing. She asked the Committee to give her a further opportunity to carry on with her profession as a Registered Veterinary Nurse.
50. Her employer, the Clinical Director of the practice where Ms Heyes worked, wrote a reference, in which it was clear he was aware of these proceedings, and he stated "*in my opinion Ms Heyes is one of the most compassionate, gifted and dedicated veterinary nurses I have had the pleasure of working with.*" He also said if the sanction was removal from the Register, he would consider it a great loss to patients and the veterinary profession.

The Committee's decision on Sanction

51. The Committee took the submissions made into account. It took into consideration the RCVS Disciplinary Committee Sanctions Guidance ("DCSG").
52. It did not find any further aggravating factors to those which it had set out at paragraph 41 above.
53. The Committee found the following further mitigating factors to those which were set out at paragraph 42 above, which were relevant to the sanction:
- i) On the basis of her evidence, the Committee found that Ms Heyes had developing insight albeit not full insight into the seriousness of her actions;
 - ii) She was remorseful;
 - iii) She had no previous convictions;
 - iv) The references confirmed that Ms Heyes posed no risk to animals or the public in the future.
54. The Committee did not find that delay in reaching these proceedings was a mitigating factor. It noted that the sentence imposed on Ms Heyes was a 12 month community order which expired in July 2021. It found that any delay had ended up being to the advantage of Ms Heyes because the Committee was considering the matter after the rehabilitation period for the sentence imposed in the Crown Court had expired.
55. The Committee noted that the purpose of any sanction is not to punish the individual although it may be punitive in its effect but was to protect animals, maintain public

confidence in the profession and uphold professional standards of conduct and performance. The Committee bore in mind that any sanction it imposed needed to be proportionate.

56. The Committee first considered whether to take 'no further action'. It noted that the DCSG stated that this was appropriate where the disciplinary finding is itself "*sufficient to protect animals and the wider public interest, without a reprimand or warning as to future conduct*". The Committee accepted that the conviction and underlying facts was not the most serious of its kind on the spectrum of such offences but it decided that the public interest would not be met if it imposed 'no further action'. It decided that it was important to mark the severity of the charge found proved and it considered a warning as to future conduct was necessary.

57. The Committee next considered whether it was appropriate to postpone judgement in this case. Neither the College or Ms Heyes invited it to postpone judgement. The Committee decided that it was not appropriate to postpone judgement because there was a need for the disciplinary proceedings to be concluded, without any further delay in fairness to Ms Heyes, since the charge was in respect of an offence which took place in 2019.

58. The Committee next considered whether a 'reprimand and/or warning' was the proportionate sanction. It noted that the DCSG states:

"A reprimand might be appropriate if the disgraceful conduct in a professional respect, or conviction that renders the respondent veterinary surgeon unfit to practise, is at the lower end of the spectrum of gravity for such cases and, for example, there is no risk to animals or the wider public interest that requires registration to be restricted. A reprimand or warning maybe appropriate where the misconduct is

- a) at the lower end of the spectrum of seriousness and;*
- b) there is no future risk to animals or the public and;*
- c) there is evidence of insight."*

59. The Committee having decided that the conviction underlying the charge was serious but was at the lower end of the spectrum for such offences and having found that Ms Heyes had developing insight and that she posed no future risk to animals or the public decided that the proportionate sanction was to reprimand Ms Heyes in respect of the charge and to warn her as to her future conduct.

60. The Committee therefore decided that Ms Heyes be reprimanded because of its finding that the charge amounted to disgraceful conduct and rendered Ms Heyes unfit

to practise. Such a sanction was necessary in the Committee's view because it brought the profession into disrepute. Whilst the charge was not so serious as to require suspension or removal from the register, the Committee decided it is necessary to issue a formal warning to Ms Heyes as to her future conduct.

61. Taking into account the overall circumstances of the case including the positive references and the fact that a number of mitigating factors set out in the Disciplinary Committee Sanctions Guidance were present in this case, the Committee was satisfied that this sanction would meet the public interest and protect the reputation of the profession and uphold standards within the profession; thereby maintaining public confidence in the College as the regulator for veterinary nurses.

DISCIPLINARY COMMITTEE

28 September 2022