

ROYAL COLLEGE OF VETERINARY SURGEONS
INQUIRY RE:

SIMON LEROY HUTTON MRCVS

DECISION OF THE DISCIPLINARY COMMITTEE

DECISION ON SANCTION

The Committee's reasons and decisions on Sanction

1. The Committee having found disgraceful conduct in a professional respect went on to consider what, if any sanction, it ought to impose.
2. The Committee received further evidence on behalf of Mr Hutton at this stage.
3. Ms Sanderson, on behalf of Mr Hutton called three character witnesses to give oral evidence to the Committee. The Committee was provided with their written character witness statements together with a full bundle of testimonials from 41 character witnesses. The statements included the full version of the witness statements parts of which were provided at the earlier stage of the hearing.
4. The live character witnesses all gave evidence of their positive experience of Mr Hutton. Ms E said that she had known Mr Hutton for about 10 years. He had an excellent approach to horse welfare, in her view. She had experienced Mr Hutton working with multiple "difficult" horses, and he was always very calm. She said that she had "*never seen him lose his cool with horses*". Mr A, a referral veterinary surgeon, said that he knew Mr Hutton as a result of referrals of animals that Mr Hutton had made to his hospital. Mr A dealt fairly regularly with Mr Hutton. Mr A stated that he had no doubt concerning Mr Hutton's clinical competency. He described Mr Hutton's compassionate behaviour towards a horse in a particular case. Mr A found Mr Hutton to be very affable and likeable, with an ease of communication. Ms DB said that Mr Hutton had been veterinary surgeon to her horses for about 5 to 6 years. She had switched from a previous veterinary surgeon and remained with him since. She found him to be very pleasant, straightforward and truthful.

Submissions

5. On behalf of the College, Ms Greaney informed the Committee that no previous regulatory matters were known against Mr Hutton. She submitted that, as was usual, the College did not take a position on the matter of sanction.
6. Ms Greaney reminded the Committee of the Sanctions Guidance (August 2020) and in particular the aim of sanctions, as set out, to protect the public and address the public interest. Ms Greaney reminded the Committee of its finding that public confidence in the profession was engaged in this case. She submitted that the Committee should consider the wider public interest and the deterrent effect of a sanction.
7. Ms Greaney submitted that the Committee should consider the Aggravating and Mitigating factors lists set out in the Sanctions Guidance and reminded the Committee that it had found a risk of injury to Angel.
8. Ms Sanderson also reminded the Committee that the purpose of sanctions is to protect the public and the wider public interest. She submitted that the Committee should consider whether it regarded Mr Hutton as posing a continuing risk and what if any sanction was needed to maintain public confidence in the profession.
9. Ms Sanderson referred the Committee to the listed Aggravating and Mitigating factors in the Sanctions Guidance. She submitted that the risk of any injury to Angel had been low. No evidence of any mental injury had been provided. Ms Sanderson said no other listed Aggravating factors were involved in the case.
10. Ms Sanderson submitted that, in contrast, all but one of the listed Mitigating factors were present. She submitted that a number of the Committee's findings at the earlier stage were relevant mitigating circumstances to Mr Hutton's conduct. Ms Sanderson submitted that Mr Hutton had gone to work on 12 February 2021 with the firm intention to help the animal where he could. He fully accepted the appropriateness of the regulator's involvement, in view of what transpired.
11. Ms Sanderson submitted that, although Mr Hutton could not rely on youth or inexperience as mitigating the case, he could rely on his experience and long, unblemished career as personal mitigation.
12. Ms Sanderson submitted that there had been no actual harm to animal or human. There had been no financial gain. The matter had been found to be a single isolated incident. The action had been without full reflection by Mr Hutton. He had shown insight and had made open and frank admissions as to his conduct. He had admitted the kick and offered an apology.
13. Ms Sanderson told the Committee that Mr Hutton had made subsequent efforts to avoid repetition and to remediate his misconduct. He had sought appropriate training and given evidence about his contemplation on the incident. She reminded the Committee that the events occurred two years ago. Mr Hutton had demonstrated insight by acknowledging his inappropriate action.

14. Ms Sanderson referred the Committee to the significant number of testimonials in support of Mr Hutton. She reminded the Committee of its findings which went to mitigate the circumstances of the kick. Ms Sanderson submitted that the Committee had found the event had been sudden and unexpected. It had been found to be an isolated incident, involving no physical harm to Angel. The incident had lasted for seconds only.
15. Ms Sanderson submitted that the case was one in which the Committee would be justified in all the circumstances in taking No Further Action. She said that he was of good character and there was no reason to think he would repeat the misconduct. She submitted that this was not a clinical case where training was required, Mr Hutton had no deep-seated attitudinal problems, and there was much mitigation about the kick and the circumstances of the incident. Mr Hutton had immense support from colleagues and clients. She said the process had had a huge impact on Mr Hutton. Ms Sanderson submitted that the finding of Disgraceful Conduct alone was a sufficient marker and the proceedings themselves had been salutary to Mr Hutton.
16. Ms Sanderson submitted that, if the Committee felt it necessary to take action, a Reprimand would be sufficient. She submitted that, as the guidance states, a Reprimand is appropriate if the Committee considered the conduct at the lower end of seriousness. Ms Sanderson reiterated that this had been a single kick causing no harm to the animal.
17. Ms Sanderson submitted that there was no basis for the Committee to consider that Mr Hutton posed a continuing risk to the public. She submitted that he was a useful, efficient and caring practitioner and that the Committee will have formed a view as to his developed insight.
18. Ms Sanderson provided to the Committee copies of two previous RCVS Disciplinary Committee determinations, which she submitted bore comparison to this case.
19. The Legal Assessor advised the Committee to have regard to the Sanctions Guidance (August 2020) published by the College. He advised the Committee that it should apply a sanction, if any, which was the minimum required to achieve the statutory aims of protection of the public and the wider public interest. He advised the Committee that it should first consider whether to postpone judgement or impose an immediate judgement.

Committee's Decision on Sanction

20. The Committee took time to consider its decision as to the appropriate sanction. It considered what were the aggravating and mitigating factors of the case, based on its findings at the earlier stage of the hearing.
21. The Committee had found that there had been a risk of physical and/or mental injury to Angel from Mr Hutton's conduct. Although it accepted that this was not a risk of the highest order, the Committee considered that there had been an appreciable risk that Angel would come to harm from being kicked by Mr Hutton. Further, the Committee took into account that the conduct had taken place during the course of Mr Hutton's professional practice.

22. The Committee accepted that there were a number of mitigating factors. It had found that the incident had occurred over a very brief period. There had been an unforeseen and unexpected kick by Angel, followed by a response from Mr Hutton. That response had been without Mr Hutton taking proper time for consideration.
23. The Committee considered the two other cases provided. It acknowledged that consistency in sanction is a legitimate aim, as the guidance states. However, it also considered that this case turned on its own particular facts and there were material differences compared to the other cases.
24. The Committee had found this to be a single, isolated incident. It accepted that the character evidence indicated that otherwise, Mr Hutton was a competent and well-regarded veterinary surgeon. He had a long, unblemished career and had no previous regulatory findings against him.
25. The Committee accepted that Mr Hutton had admitted the kick early on in the proceedings and had issued an early apology, albeit seeking initially to raise some justification for his actions. The Committee considered that it was relevant that, at the time he had been kicked, Mr Hutton had been concerned about a previous leg injury sustained to his other leg, which played on his mind when Angel kicked him.
26. The Committee noted that as to insight, Mr Hutton has sought out an appropriate training course, which has only lately become available. It accepted Mr Hutton's evidence that he has reflected on the incident, amended his practice as a result and is unlikely to repeat it in the future.
27. The Committee first considered taking No Further Action. However, it did not consider that there were any exceptional circumstances which would justify this course. It considered that, even accepting the salutary effect of proceedings on the Mr Hutton, it would not sufficiently mark the effect on public confidence of the Disgraceful Conduct found if the Committee concluded the case by taking no further action.
28. The Committee next considered issuing a Reprimand to Mr Hutton. It considered that the single kick, without actual harm to the animal, committed in the circumstances found was alarming in terms of promoting public confidence in the profession. However, it was at the lower end of the spectrum of seriousness otherwise.
29. The Committee was persuaded, in light of Mr Hutton's admissions, heartfelt apologies, developing insight and the testimonial evidence, that he is very unlikely to repeat his past misconduct. Further, despite the low risk of repetition, the Committee considered that the nature of the kick, delivered without the consent of the owner, could undermine public confidence in the profession. Thus, the Committee considered that it was proportionate to issue a Reprimand together with a Warning as to Mr Hutton's future conduct. It determined that this would be proportionate and sufficient to provide adequate protection for animals and maintain public confidence in the profession.

30. The Committee considered whether it should go further and direct Suspension of Mr Hutton's registration for a period. It took into account the Sanctions Guidance and noted that Suspension is intended to have a deterrent effect.
31. However, the Committee considered that, in light of the considerable body of testimonial evidence, it was clear that this had been a singular aberration by an otherwise competent and caring veterinary surgeon of long-standing. Bearing in mind the isolated nature of the incident, its short duration and the lack of likelihood of repetition, the Committee considered Suspension would be disproportionate.
32. The Committee reprimands Mr Hutton for his Disgraceful Conduct, which does not meet with the standards required of a veterinary surgeon. It risks bringing the profession into disrepute and it must not be repeated. The required standards are set out in the Code of Practice for Veterinary Surgeons issued by the College. Whilst this failing in itself is not so serious as to require any greater restriction on his registration, the Committee has also determined to issue a formal Warning to Mr Hutton. The Committee warns that any repeat of this or similar behaviour in the future is likely to be regarded very seriously by the College and by any future Disciplinary Committee.
33. Accordingly, the Committee has determined to issue a Reprimand and a Warning to Mr Hutton.

Disciplinary Committee

24 February 2023