

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

MR WILLIAM PATRICK KANE RVN

DECISION OF THE DISCIPLINARY COMMITTEE

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

That, being registered in the Register of Veterinary Nurses kept by the Royal College of Veterinary Surgeons (the “College”):

1. On 5 August 2024, at the North Somerset Magistrates’ Court, following a guilty plea, you were convicted of three counts of causing serious injury by dangerous driving, in relation to which offences, on 3th September 2024 at the Bristol Crown Court, you were sentenced to 2 years’ imprisonment, suspended for 18 months, concurrent on each count disqualified from driving for 2 years and until such time as you had passed an extended driving test, and ordered to undertake 200 hours of unpaid work within 12 months, and to pay a victim surcharge of £187;

AND it is alleged that the conviction above renders you unfit to practise as a veterinary nurse.

Preliminary matters

Admissions

2. Mr Kane admitted the facts as contained within the charge. He did not accept that the conviction rendered him unfit to practise as a Veterinary Nurse.

Background

3. At all times material to the charge before the Committee, namely the date of the conviction, Mr Kane was (and still is) registered as a Veterinary Nurse.
4. The circumstances of the offence are taken from the transcript of the sentencing hearing in the Crown Court.
5. On 26 February 2023, a family of four were driving on the A370 in the Bristol area, heading home. The mother, Mrs A, was driving, and the father, Mr A, was sitting beside her. Their two children, aged 12 and 9 at the time, were sitting in the back seat. Mr Kane was at that time travelling home from a morning shift at the veterinary practice where he worked as a locum veterinary nurse. The weather conditions were clear and bright. Shortly after 2:00pm, Mr A saw Mr Kane's car, which was coming in the other direction, cross over the central white line and move into the on-coming carriageway. He pointed this out to his wife, but there was insufficient time for her to avoid a collision with Mr Kane's car.
6. The impact was substantial and the family's car, a Ford Fiesta, landed in a ditch at the roadside. The car began filling with water. Mr A, despite serious injury, managed to extricate himself from the vehicle and to get out his two children. Mrs A had broken her arm, which meant that she could not release her seatbelt and so struggled to get out of the vehicle. She remained trapped in her seat, in water, until the emergency services arrived, by which point she had hypothermia.
7. When the emergency services arrived, Mrs A was removed from the car and taken to hospital. She stayed there for eleven nights. She had a fractured humerus, which caused nerve palsy, affecting the nerves down her left side. She also sustained a fracture to the right side of her pelvis, a broken rib and three fractured vertebrae. This caused significant pain in her lower spinal area.
8. Mr A's injuries were the most significant of the three. He underwent surgery to remove his spleen and part of his upper bowel. He had also sustained a broken left collarbone. Whilst in hospital, he suffered a heart attack and a stroke. During the first twenty-four hours after the accident, his family were told to "*expect the worst.*" Fortunately, the next day he regained consciousness and he managed to recover. He spent thirteen days in hospital in total and was discharged with a stoma bag in place.

9. Their son sustained three fractured ribs and a fractured sternum, and was kept in Bristol Children's Hospital for five nights. After his discharge, he had issues with his eyesight and had to spend a further period in hospital. He suffered from a squint and had to wear a patch. Fortunately, the couple's other child only suffered minor injuries and was discharged from hospital after a short period.
10. After the incident, Mr Kane was interviewed voluntarily at his home address. He stated he could not recall what had happened, explaining that he had lost his memory of events before the crash. He said that his last memory prior to the crash was coming off the motorway at the motorway junction, then passing a speed camera. He admitted that crossing the carriageway was dangerous and that his actions had caused serious injury to three occupants of the Fiesta.
11. Prosecution counsel in the criminal proceedings noted that Mr Kane was of good character. She highlighted the fact that from the outset, even when trapped and injured in his car, Mr Kane's primary concern had been for those in the other car as was noted and commented favourably on in the Pre-Sentence Report ("PSR") prepared by the Probation service. It was also said that Mr Kane was deeply and genuinely sorry for the consequences of his actions that day. Much of his mitigation is reflected in the Judge's comments below, so not repeated here.
12. The sentencing Judge, when addressing Mr Kane at the time of sentencing stated as follows:

"... there is no doubt at all that this was a very tragic event and I am going to start off by referring to the [A] family who were travelling in the other car.

I have read with some care the Victim Personal Statements that [Mr A] and [Mrs A] have written, and I have also read the statements that were made by the medical professionals who treated them at the time, and it is clear that the [A] family suffered an unimaginable trauma as a consequence of this event. I do not want to add to their trauma, or indeed to your trauma by anything I say today, but I have to note that the severity of the harm that they suffered was exacerbated by the presence of their children in the car at the time and by the fact that one of the children is one of the people who was seriously injured, in relation to whom I have to pass sentence.

Their son had to spend some nights away from his family when both his parents were in hospital in serious medical conditions themselves, and he now has a medical condition which requires continuous monitoring until he becomes an adult. [Mrs A] who was driving the car, was trapped in the car for quite some time, was submerged in water and must have been severely frightened and traumatised at that point in time, and

suffered hypothermia as a result. And she has faced, and continues to face, a very long road back to full physical recovery, and she has faced a huge change in her family life and responsibilities as a consequence of what happened.

And the harm suffered by her husband [Mr A] has been very clearly expressed by him again in his statements to the court. I do not want to go through those in detail but, as has been opened by the Crown, he had life-threatening medical complications when he was first admitted to hospital, he has had to live through multiple surgeries and he has had many months' forced inaction with life-limiting consequences for his activities because of the injuries he sustained. And I have to say, though they are not at court today, I have to offer this family my sincere sympathy for the journey that they, and harm they suffered, and I know that that is something that you do too, from everything I've read about you. [sic]

It is sometimes difficult to assess somebody's character other than looking at how they respond in really difficult circumstances and I am going to start off by talking about [Mr A], who, despite being gravely injured from this collision, pulled his children from the submerging car and did what he could to comfort his wife. And I note as well that [Mrs A] writes in her Victim Personal Statement that the family try to see themselves as survivors rather than victims, and they are both to be commended for the courage they have shown. It is clear they are part of a loving, resilient and supportive family and they will hopefully continue to work forward from their recovery from these events."

13. The Sentencing Judge continued:

"I am satisfied that everything I have read about you tells me that this was just a momentary blip and a momentary inattention on your behalf. I have read the references and I have read your letter to me, and I absolutely take on board everything that has been said about you. It is clear to me that you are an inspiration to your siblings and that you are a hard-working and valued family member and friend. You are also somebody who is determined and resilient.

Although you have embarked on your self-funded second degree since this incident I am satisfied this was not you being callous and just getting on with your life, not caring about the family. It is clear to me that you cared about them deeply but nevertheless you are somebody who is demonstrating their character by how they have responded to this incident. There is no reference in the Pre-Sentence Report to you being worried about the consequences for yourself, there are only references to you being worried

about the consequences for the family, and I have to say it reflects exceedingly well on you given most of the reports that are read by judges in this court.

As I have already said, I have no doubt at all that the remorse you have expressed is absolutely genuine and this, this accident was the result of a momentary lapse by yourself, and one of the reasons I wanted the video to be played in court is so that you and your, your family and friends understand how short this lapse was, because this is not something you should let define you. It was a mistake, and people do make mistakes, and you are now taking responsibility for that mistake in court.

I am satisfied that the appropriate sentence after trial, taking into account the three offences and all of those personal factors I have, I have outlined, and also the delay in this case coming to court, would be one of 3 years in prison. I then reduce that by a third to reflect your early guilty plea, which means that the sentence passed is one of 2 years in prison. That is in relation to all three charges, concurrently.

I then have to consider the suspended sentence criteria and I am satisfied, as has already been outlined in submissions, that you are somebody who presents no risk or danger to the public, in fact the opposite. You are somebody who is working hard to be a useful member of society and to serve the community in which you live. You have no history of poor compliance with court orders because you have never been in trouble before and there is more than a realistic prospect of rehabilitation because you are somebody who has taken responsibility for that yourself. You are continuing with your training and your career development, and you are somebody who is assessed by the Probation Service as needing no rehabilitation activities whatsoever.

Although the separation from your family would obviously be a matter of some upset, I am not satisfied that your immediate custody would result in a significant harmful impact on others, but you are somebody with very strong personal mitigation and that leaves me by, to think about whether appropriate punishment in your case could only be achieved by immediate custody. It seems to me that the serious aspect of the charges for which you have to be sentenced is the harm that was caused to the family, there is nothing else in this offence which would attract that type of consideration, and the harm caused to them has already been reflected in the selection of sentence under the Sentencing Guidelines. [sic]

Therefore I am satisfied that, exceptionally for these charges, given your personal circumstances and your personal situation, this is a sentence in which appropriate

punishment could not only be achieved by immediate in prison and I am going to make a Suspended Sentence Order. This means for the offence of causing serious injury by dangerous driving there will be a Suspended Sentence Order of 18 months duration. There will be a custodial term of 2 years which will be suspended for these 18 months."

14. Mr Kane reported the conviction to the College. By letter dated 29 October 2024, the College asked him for comments on the conviction. He replied by letter dated 25 November 2024, attaching a letter he had sent to the Sentencing Judge. In his letter to the College, he stated:

"I feel a significant amount of regret for the pain that I caused that family, and not a single day goes by where I do not think about how they were affected by that day. Whilst I don't remember the accident or the events leading up to it, I accept full responsibility for it, and the pain and injuries caused as a result. I have attached the letter that I wrote to the judge as I feel it is relevant to the committee to understand how I feel with regards to that day and the period afterwards.

Since the accident in February 2023, I have gone back to university to study Veterinary Medicine on the AGEP programme at the University of Bristol. I locum alongside my studies to pay for the cost of the course and my living expenses, alongside completing my community service hours every Saturday. Whilst I understand that I have committed a criminal offence, I do however feel that it does not and has not affected my ability to provide good, safe and professional care to animals that I work with. I have worked at a wide range of practices since the accident, and since being given my criminal sentence, with no complaints about my standard of work.

As a result of the criminal proceedings against me, I received a 2 year prison sentence suspended for 18 months, 200 hours of community service, and a 2 year driving ban. I would like to make it clear that I will accept any action that the disciplinary committee decides to take against me."

15. In a statement for these proceedings, dated 2 May 2025, Mr Kane now 26 years old (24 at the time of the accident) provided some background detail of his progress towards qualifying as a Veterinary Nurse in 2022. Having qualified he was accepted on to the Accelerated Graduate Entry Veterinary programme at the University of Bristol, but decided to defer his place until 2023 to first practise as a Veterinary Nurse. He started working as a Veterinary Nurse at a Practice in August 2022 and it was following a weekend shift at the Practice, in February 2023, that he was involved in the accident.

16. Of the accident Mr Kane said, *"this was a normal day for me, I was due to work a scheduled weekend shift at the vet practice where I worked as a Veterinary Nurse. I was coming home after the shift to meet my friends to go food shopping when the accident occurred, I was in no rush to get home."* He added that as a result of the accident, he had to be freed from his vehicle by the emergency services and was taken to hospital where he was admitted. Mr Kane said he was in hospital for five days, with some memory loss and internal bleeding that was being monitored. He added that he was *"extremely conscious that my injuries are not of importance but mention these to provide context as to why I have no recollection of the collision or the time leading up to it. I have accepted full responsibility for my role and the serious harm that resulted as a consequence."*
17. Mr Kane said it took 18 months between the accident and the final court appearance in September 2024. During that time he continued to work as a Veterinary Nurse, including as a locum from September 2023, when he began his studies in veterinary medicine.
18. At the time of writing his statement Mr Kane only had 10 hours left of his 200 hours Unpaid Work Order.
19. When reflecting on the accident, Mr Kane said:

"The events of 26 February 2023 are always with me. I feel so much guilt for the pain I have caused everyone involved. From a young age, it has been instilled in me the consequences of dangerous driving. Both my parents have lost friends in traffic accidents.

There is not a single day that has passed since that accident where I have not thought about the family that was affected by my actions, and the lifelong consequences that they will now face. I deeply regret that my actions caused such a great deal of harm and trauma, not only to the family involved, but also to their own extended family and friends. As well as the impact it has had on my own family who have sacrificed so much to support me through this process. I understand that as a member of a trusted profession, my conduct must reflect not only my clinical competence, but also my integrity and accountability.

This accident has led to an extensive period of self-reflection on the incident and the life changing consequences for everyone involved as a result. This has not been an easy period of reflection, but it has given me a deeper sense of duty, empathy, and awareness of my actions. I have sought to recognise and address the consequences

of my actions. I am determined to make a positive contribution to society and to the profession. I recognise this requires an ongoing commitment to self- improvement, and I am prepared to put in the work to achieve this.

Since joining this profession, I have strived to hold myself to a higher standard, demonstrated to me by a number of mentors, colleagues, and friends that I have met and worked with on my professional journey. Despite this deeply regrettable incident, I have continued to act professionally and ethically in all aspects of my clinical work and studies. I understand the high standards expected of veterinary professionals, and I am determined to uphold them going forward.

I would like to respectfully ask the committee to consider the steps I have taken, the remorse I have demonstrated, and the professional conduct I have maintained throughout and following this tragic accident. I continue to take full responsibility for my actions and the harm they have caused. I am not asking for forgiveness, but for the opportunity to continue serving this profession, and the animals and clients under my care, with humility, empathy, responsibility, and the highest standard of care that I can achieve. I am committed to using this experience to grow into a more empathetic and resilient practitioner.”

The Charge

20. The Charge being admitted, there was no necessity for the parties to make any further submissions on the facts.

The Committee’s determination on the Charge

21. The Committee found the charge proved on the basis of Mr Kane’s admission, as supported by the evidence relied on by the College, namely the Certificate of Conviction.

Fitness to Practise

22. Miss Curtis, on behalf of the College, submitted to the Committee that the nature and circumstances of the offence, which led to the conviction, were such as to render Mr Kane unfit to practise as a Registered Veterinary Nurse.

23. Ms Curtis advised the Committee that the Veterinary Nurse Conduct and Discipline rules 2014 provide:

“13. The Veterinary Nurse Disciplinary Committee shall adopt, with any necessary modifications, the rules and procedures of the Disciplinary Committee.”

24. Ms Curtis submitted that the Committee should therefore apply the relevant rules and procedures for the Veterinary Surgeons' Disciplinary Committee. These include the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules 2004 (“the Rules”), with assistance from the Disciplinary Committee Procedure Guidance (2020).

25. Ms Curtis submitted that the Rules make clear that in determining whether or not a conviction renders a respondent unfit to practise, the Committee should consider the *“nature and circumstances of the offence.”*

26. Ms Curtis informed the Committee that the Disciplinary Committee's Procedure Guidance explains that determining the issue of fitness to practise is a matter for the Committee's judgment (there is therefore no standard of proof to be applied in relation to this issue). It also makes clear that, for a conviction to render a person unfit to practise as a veterinary nurse, it need not relate to conduct in his professional practice. Paragraph 25 of Procedure Guidance provides:

“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.”

27. Ms Curtis submitted that the *“wider public interest”* includes upholding the reputation of the profession of Veterinary Nurses, declaring and upholding proper standards and maintaining public confidence in the profession. She referred to the Privy Council decision in Kirk v Royal College of Veterinary Surgeons [2004] UKPC 4, in which the appellant, Mr Kirk, had been convicted on four occasions, for matters including common assault and public order offences. Lord Hoffmann stated (para.33):

“...veterinary surgeons as professionals have wider duties than the care of animals. They are expected to conduct themselves generally in accordance with the standards of professional men and women and failure to do so may reflect upon the reputation of the profession as a whole...”

...it is difficult to say that violent or anti-social behaviour of the kind involved in Mr Kirk's convictions cannot in principle be a ground for a finding that he is unfit to practise as a member of the profession."

28. Ms Curtis said the Procedure Guidance explains that the Committee may take into account aggravating and mitigating factors at this stage, as long as those factors relate directly to the circumstances of the conviction itself (and are not, for example, purely personal mitigation). Matters likely to be purely personal mitigation (and so not relevant at this stage) include youth and inexperience, full and frank admissions at an early stage, efforts to avoid repetition, efforts at remediation, demonstration of insight into the offence and personal character testimonials/ references.
29. Ms Curtis submitted that the conviction renders Mr Kane unfit to practise, on the basis that it has the potential to undermine the reputation of the profession and public confidence in the profession. She invited the Committee to consider the seriousness of the conduct, as reflected in the fact that a lengthy custodial sentence was imposed by way of sentence, albeit one that was suspended. Ms Curtis further submitted that any mitigating features relating to the incident itself are outweighed, in terms of fitness to practise considerations, by the extreme severity of the conduct and its consequences.
30. The main aggravating feature of this case, said Ms Curtis, was the serious injury caused to three people as a result of Mr Kane's conduct, albeit it momentary conduct. The injuries to the three individuals, particularly Mr A, were extensive and extremely serious. Mr A's injuries led to multiple surgeries and were life-changing in nature. The injuries to the As 'child were also severe and had a significant impact on his life. In addition, Mrs A sustained serious injuries, and had to endure extremely difficult circumstances whilst waiting for the emergency services to arrive and free her from her vehicle.
31. Ms Curtis submitted that having regard to the list of potential aggravating features at paragraph 39 of the Procedure Guidance document, the Committee may consider that Mr Kane's conduct was reckless to the point of being dangerous. There was also, she said, actual harm to a number of people. Ms Curtis said that whilst it is right to say that the conduct did not arise as part of Mr Kane's professional practice, it was of note that he was driving back from work as a veterinary nurse at the time of the offence, so there is, she submitted, some - albeit tangential - connection to his profession. She said it was also of note, when considering the reputation of the profession, that reference to his work as a veterinary nurse was made in public criminal proceedings.

32. Ms Curtis invited the Committee to take into account the case of CHRE v GDC and Fleischmann [2005] EWHC 87 (Admin), which provided that, as a general principle, a professional who has been convicted of a serious criminal offence should not be allowed to practise until such time as satisfactory completion of their sentence. There is reference to this case at paragraph 72 of the Procedure Guidance. The decision in Fleischmann has been considered and clarified by the Court in Professional Standards Authority v GDC and Patel (2024) EWHC 243, which emphasised that the principle identified in Fleischmann was just that, namely a principle; it should not be applied as a strict rule. The Court in Patel noted that a suspended sentence could involve a short custodial sentence imposed for a relatively long period of time; and that the public could conclude that a suspended sentence was a less serious sentence than one of immediate custody. If the comments in Fleischmann were applied as a rule rather than a general principle, it might have the effect of someone who had been given a short period of custody, suspended for a long period, being treated more harshly by a regulatory sanction than someone who had been sentenced to a period of immediate custody. Ms Curtis pointed out that Mr Kane's sentence will not expire until 2 March 2026.
33. Ms Curtis submitted that an offence of such seriousness, attracting the significant penalty of two years 'custody, albeit suspended, renders Mr Kane unfit to practise, as it necessarily has an impact on the reputation of the profession and public confidence in the profession. She said that a reasonable, well-informed member of the public would expect a professional's regulatory body to take such a conviction seriously and acknowledge its impact on the reputation of the profession by marking it with a finding of unfitness to practise. There is, submitted Ms Curtis, a clear public interest in acknowledging the severity of such conduct.
34. Mr Keating KC, on behalf of Mr Kane submitted that Mr Kane's conviction did not render him unfit to practise as a Registered Veterinary Nurse. He said Mr Kane was involved in an accident, where a momentary loss of concentration had significant consequences. Mr Keating KC said the sentencing remarks of the Judge make clear that this was a conviction where the culpability was low. Mr Keating KC submitted that the Committee should take particular care to focus on Mr Kane's conduct rather than place undue weight on the consequences. It is, he said, the former, that the Committee is considering when determining fitness to practise. Mr Keating KC submitted that when the facts and circumstances of this case are objectively considered, any fair-minded member of the public learning of them would react without condemnation, but rather understanding that this was a dreadful accident; and that no such finding is required.
35. By way of background, Mr Keating KC said Mr Kane was aged 24 at the time of the incident and aged 25 at the time of the sentence hearing. Save for the conviction in these proceedings, he has no other conviction and was a man of good character at the time of the incident. He had a

good driving record. He has practiced as a Veterinary Nurse since August 2022. He has had no previous hearings before the College, nor have any complaints or concerns ever been raised about the standard of his Veterinary Nursing Practice.

36. Mr Keating KC said that it was a feature of the conviction (to be distinguished from general matters of mitigation) that Mr Kane made admissions of responsibility to the police in a voluntary interview on 14 August 2023, notwithstanding the absence of an independent recollection of events immediately before the collision.

37. Mr Kane pleaded guilty at the first opportunity at the Magistrates' Court on 5 August 2024 and his case was sent to the Crown Court for sentence. Mr Keating KC said it is acknowledged that by his pleas, Mr Kane accepts causing serious harm to the occupants of the other car involved in the accident. There was, said Mr Keating KC, no attempt by Mr Kane to leave the scene nor was he under the influence of any substance at the material time.

38. Mr Keating KC indicated that sentence was passed by HHJ Macmillan at Bristol Crown Court on 3 September 2024 in what she termed a '*sensitive case*' and the '*very sad and tragic consequences*'. Having considered all the material, the learned Judge determined the relevant facts of the conviction to be as follows:

- There were no concerns regarding Mr Kane, his driving, vehicle or conduct in the period preceding and up to the accident.

- The Judge said:

"There is no clear explanation for this accident. You were not intoxicated. You were not using your phone, you were not attempting any type of manoeuvres, your vehicle was not in a dangerous condition, and you were given no warnings or there was no concern about the matter of driving"

- The parties accepted that the nature of the driving '*just crosses the distinction between careless and dangerous driving*'. The Judge endorsed this assessment saying, "*I am satisfied that allowing your car to drift into the opposing carriageway meets that threshold.*" There were, she said, no aggravating features.
- The learned Judge, on more than one occasion emphasised "*what a momentary lapse of attention this was*".

- *“Your car drifts into the opposing lane of traffic for a couple of seconds and there is then a catastrophic collision”*
- *“... the course of the dangerous driving was so brief, just a couple of seconds”*
- *“I am satisfied that everything I have read about you tells me that this was just a momentary blip and a momentary inattention on your behalf.”*
- *“This accident was the result of a momentary lapse by yourself, and one of the reasons I wanted the video to be played in court is so that you and your, your family and friends understand how short this lapse was, because this is not something you should let define you. It was a mistake, and people do make mistakes, and you are now taking responsibility for that mistake in court.”*
- *“I do wish you all the very best going forward. This was a traumatic event for you and your family as well. Please do not let it define you. Please carry on doing what you are doing...”*

39. Mr Keating KC referred to three cases of a not dissimilar nature that have appeared before the Disciplinary Committee since 2019, that either resulted in no finding of impairment, or a finding of impairment with no further action being taken. They were as follows:

- 26 February 2019: Simone-Claudia Panait MRCVS, convicted on 3 April 2018 of causing serious injury by dangerous driving and sentenced on 15 May 2018 to ten months' custody. Finding of unfitness to practise but no further action taken;
- 28 May 2019: Colm Doherty MRCVS convicted on 13 November 2018 of careless driving causing death; and sentenced on 23 November 2018 to 18 months' imprisonment, suspended for 2 years. Finding that the conviction did not render the Respondent unfit to practise;
- 12 October 2020: Stephen Lomax MRCVS, convicted on 18 July 2019 of careless driving causing death; and sentenced on 16 August 2019 to 12 months' Community Order. Finding that the conviction did not render the Respondent unfit to practise.

40. Mr Keating KC said that Mr Kane appears before the Committee in relation to a single conviction concerning events 27 months ago. He pleaded guilty to that offence and notified the College of

the conviction. He was sentenced to a period of suspended imprisonment and unpaid work. He has complied with the terms of that Order to date. Despite the significant other work and study pressures and responsibilities, he is due to complete the unpaid work three months early. This, said Mr Keating KC, is confirmed by his supervising Probation Officer.

41. Mr Keating KC said the offence is unrelated to the practice of Veterinary Nursing. It casts no shadow on either Mr Kane's devotion and care for animals in the broad sense, nor in his professional skills and abilities in the particular context of his profession.
42. On the question of culpability, Mr Keating KC said the court determined that Mr Kane's culpability for the incident was at the lowest possible level. He did not cause this harm intentionally. The standard of driving was just over the threshold for dangerous driving. The Judge was at pains to emphasise that this was '*a momentary lapse*' and conduct that lasted '*a couple of seconds*.' There were no concerns regarding Mr Kane's conduct, driving or vehicle in the lead up to the incident. Mr Keating KC submitted that there is no basis to suggest, as the College sought to do, that '*recklessness*' was an aggravating factor. The culpability, he said, in light of the findings of the Judge, as set out above, was less than this.
43. Mr Keating KC went on to say that the '*genuine remorse*' cited by the Judge chimed with the assessment of the author of the PSR and the positive view the author formed as to Mr Kane's insight. Mr Keating KC submitted this was powerful material that can be considered when considering the nature and circumstances of the conviction. It can, he said, be contrasted with an individual who may minimise their conduct, deny responsibility and plead not guilty.
44. When considering future risk, said Mr Keating KC, the Judge considered that Mr Kane posed no risk to the public. As the Judge recognised, Mr Kane has been impacted by events and the toll of the consequences of his driving remain with him. Mr Keating KC submitted that if punishment were merited, Mr Kane has already been punished by the criminal proceedings; and it is not the purpose of regulatory proceedings to inflict further punishment upon him. He submitted that no possible public good can come of depriving animals of Mr Kane's services as a Veterinary Nurse, or the clear potential he provides to the wider profession via his ongoing training to be a Veterinary surgeon.
45. With regards to the case of Fleischmann (*ibid*) referred to by Ms Curtis, Mr Keating KC said the clarification provided by the Courts in relation to this in Patel (*ibid*) is of note. This, he said, makes clear that it is a principle, not a strict rule, that a professional who has been convicted of a serious criminal offence should not be allowed to practise until such time as they have satisfactory completed their sentence. Of significance, in Patel the court noted that a distinction could be drawn from immediate imprisonment and suspended imprisonment. The court added that the

public could conclude that a suspended sentence was a less serious sentence than one of immediate custody.

46. Mr Keating KC submitted that the decision in Patel rightly recognises the distinction between immediate and suspended sentences of imprisonment. Whilst both serious, the fact that a sentence can be and is suspended is a distinguishing mitigating factor. Here, it should be noted that the suspension period of eighteen months, is less than the maximum period the criminal law permits. The Committee, said Mr Keating KC, has the benefit of an update from the supervising Probation Officer produced in the defence bundle. This, he said, would reassure any member of the public that this is a Registrant, who has complied with his Order and supervision and almost completed his Unpaid Work requirement in a quicker time frame than required. Mr Keating KC submitted that the fact that the suspension period is still live is not a factor which should necessitate a finding of being unfit to practise in the public interest. To do so, he suggested, would perversely contradict the judicial guidance in Patel.

47. In conclusion, Mr Keating KC invited the Committee to conclude that Mr Kane was fit to practise.

The Committee's Determination on Fitness to Practise

48. The Committee considered the submissions made by the parties. The Committee accepted the advice of the Legal Assessor and also took into account the Code of Professional Conduct for Veterinary Surgeons (The Code).

49. The Committee found Mr Kane had breached the following part of the Code by causing serious injury by dangerous driving, resulting in a conviction and a prison sentence (albeit suspended):

6.5 Veterinary surgeons [in this case 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.

50. The Committee was satisfied, following the advice of the Legal Assessor, the case law referred to and the guidance provided in the Disciplinary Committee Procedure guidance, that a Veterinary Nurse can be unfit to practise as a result of a conviction for matters unconnected with their professional practice. This is because behaviour not directly connected with the practice of a Veterinary Nurse can cause concerns about the protection of animals or, more particularly in this case, the wider public interest. The “*wider public interest*” includes upholding the reputation of the veterinary profession and maintaining public confidence in the profession.

51. The Committee went on to consider what factors either aggravated or mitigated the actual offence committed by Mr Kane. The Committee did not agree with the suggestion by Ms Curtis that there might have been an element of recklessness. The Judge did not consider that to be the case, but rather described it as '*a momentary lapse*' and a '*mistake*'. Ms Curtis also suggested actual harm to a person as an aggravating factor, but since the conviction itself makes reference to actual harm to a person, to include it as an aggravating factor would be to count it twice. This would be unfair and is not permitted. As for the '*tangential link*' of Mr Kane being on his way home from work as a Veterinary Nurse, the Committee considered this so tangential as to be of no consequence.
52. The Committee did not, therefore, find there to be any aggravating factors to consider at this stage.
53. In terms of factors that might mitigate the actual conduct, rather than being purely personal mitigation, the Committee found there to be none. Whilst there has clearly been a great deal of insight and remorse, as referred to by Mr Keating KC, these post-date the conduct and cannot, therefore, be mitigation at this stage of the process.
54. The Committee considered the case of Fleischmann (*ibid*), as qualified by the case of Patel (*ibid*) and decided it had no application in the circumstances of this case. The Judge had referred to it being an exceptional case and the Committee agreed. It was undoubtedly tragic and the Committee shared the Judge's concern and sympathy for the A family, for whom this collision has been life-changing in the most devastating of ways, as reflected in the sentence passed by the Judge. It would be insensitive and inappropriate for this Committee to ignore those consequences and it does not do so. However, this is not the Criminal Court and this Committee has different considerations to take into account. A criminal conviction marks a breach of criminal law, whereas a finding of unfitness marks a breach of professional standards. The context of the collision and the culpability of Mr Kane are key to this decision and the Committee focussed on these rather than the consequences. This is not a case involving animals or Mr Kane's practice as a Veterinary Nurse. It is all about the impact of his conduct on public perception and whether a finding of unfitness to practise is required in order to maintain standards and to maintain public confidence in the profession and the RCVS as Regulator.
55. The Committee thus examined closely the context of this case, as referred to in detail above. It includes the following relevant factors:
- there was no explanation for the accident;
 - Mr Kane was not intoxicated, nor was he distracted by using his mobile phone;

- he was not carrying out any type of manoeuvre, for example overtaking where he shouldn't;
- his car was not in a dangerous condition;
- no concerns had been raised about the manner of his driving, other than the moment immediately before the collision;
- as the Judge repeatedly said, this was a '*momentary lapse of attention*', whereby Mr Kane's car drifted into the opposing lane of traffic for a couple of seconds and there is then a catastrophic collision;
- whilst the consequences were severe, the culpability, said the Judge, was low and just crossed the threshold between careless and dangerous driving;
- the Judge found there to be no aggravating features;
- the Judge, who had the benefit of watching dash-cam footage from another car that captured the collision, described it as a '*mistake*'.

56. The Committee was referred to three previous cases of the Disciplinary Committee where Respondents had been convicted of not dissimilar offences and the Disciplinary Committee had either found the Respondents fitness to practise not impaired or, in one case, that it was impaired, but it then took no further action. The Committee found reference to these cases helpful and it recognised the importance of consistency in Committee decisions, but at the same time did not feel bound by them.

57. The Committee was referred to the case of the Royal College of Veterinary Surgeons v Samuel (2014) UKPC 13, regarding convictions and unfitness to practise, which it considered to be particularly helpful when considering the '*public interest*' in finding unfitness. In that case, it was held that the circumstances of an offence are crucial to a determination of whether a Veterinary Surgeon is unfit to practise. Although that case included convictions for theft and public disorder, the finding of unfitness was quashed because it could not be said that the convictions - when put into their proper context - impacted upon the registrant's fitness to practise as a Veterinary Surgeon.

58. The question for this Committee was whether Mr Kane's conviction of causing serious injury by dangerous driving, when put into proper context, rendered him unfit to practise as a Veterinary Nurse. This was not a conviction in any way linked to his practise as a Veterinary Nurse. There was no suggestion that he represented any sort of a risk to animals in his care. The Committee was not, therefore, concerned with any issues arising out of the need to protect animals, but rather with whether a finding of unfitness to practise were needed in order to uphold standards of conduct and behaviour in order to maintain public confidence in the profession.

59. The Committee took into account the public interest which includes maintaining public confidence in the profession and the Regulator and upholding proper standards in the profession. The public interest also includes allowing an otherwise competent Veterinary Nurse to continue in practice, where appropriate. Agreeing with the Judge that this was indeed an exceptional case, the Committee did not consider that Mr Kane's conduct was liable to have a seriously detrimental effect on the reputation of the profession and concluded that the public, in full knowledge of the circumstances of this particular case, would not expect a finding that the conviction renders him unfit to practise as a Veterinary Nurse. Rather, the public would recognise that whilst the consequences were appalling and tragic for the A family, in terms of Mr Kane's culpability this was a momentary piece of dangerous driving, categorised by the Judge as a '*mistake*' rather than anything more blameworthy.
60. The Committee therefore concluded that Mr Kane's conviction does not render him unfit to practise as a Veterinary Nurse. This is not to in any way detract from the catastrophic consequences for the A family, but rather is to reflect the context, exceptional circumstances and level of culpability in this case.

DISCIPLINARY COMMITTEE

20 May 2025