

BEFORE THE PROFESSIONAL CONDUCT COMMITTEE OF THE
ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS

v

DR MICHAEL JAMES KETTLE MRCVS (Respondent)

DISCIPLINARY COMMITTEE DECISION ON SANCTION

Submissions on Outcome and Sanction

1. In line with usual practice, Ms Shepherd-Jones, on behalf of the College, made no submissions on sanction. She brought the previous College decision of *RCVS v Dhami [2019]* to the Committee's attention.
2. Mr Jamieson, on behalf of the Respondent, drew the Committee's attention to the bundle of testimonials which had previously been submitted, and proceeded to call two of them, a veterinary surgeon and a veterinary nurse, who both currently work with the Respondent. Ms Jamieson submitted that a reprimand was the appropriate and proportionate sanction in this case. Mr Jamieson brought the previous College decisions of *RCVS v Backhouse [2017]* and *RCVS v Hutton [2023]* to the Committee's attention.
3. The Committee accepted the advice of the Legal Assessor. She advised that the purpose of sanction is not to be punitive, although it may have that effect, but to protect the health and welfare of animals, maintain public confidence in the profession and declare and uphold professional standards of conduct and behaviour. The Legal Assessor cited the case of *Bolton v Law Society [1994] 1 WLR 512* and reminded the Committee of the importance of the public interest considerations in determining sanction. The Legal Assessor also advised that the sanction must be proportionate both in respect of the case and the individual. The Committee took account of all the mitigation submitted on behalf of the Respondent, as well as the oral and written testimonials.

Decision of Outcome and Sanction

4. The Committee bore in mind the aggravating factors which it had identified in its decision on disgraceful conduct, namely that the Respondent's actions had not only placed Bella at risk of injury, but also that they had caused her actual injury.
5. The Committee bore in mind the mitigating factors which it had identified in its decision on disgraceful conduct, namely:
 - a. the circumstances pertaining at the time of the incident;
 - b. there was no element of financial gain; and
 - c. this was a single isolated incident;
6. In addition to the mitigating factors identified in its decision on disgraceful conduct, the Committee considered that the following personal mitigating factors as set out in the Guidance were also relevant in this case:
 - a. A long and unblemished career;
 - b. Open and frank admissions at an early stage;
 - d. Subsequent efforts to avoid a repetition of such behaviour;
 - e. Subsequent efforts to remediate past misconduct;
 - f. Significant lapse of time since the incident;
 - g. Demonstration of insight into the disgraceful conduct committed; and
 - h. Personal character references/testimonials
7. Having identified the relevant aggravating and mitigating factors, the Committee considered how they applied to the facts of this case.
8. All the evidence before the Committee indicated that the Respondent had had a long and unblemished veterinary career and had consistently strived to expand his knowledge and learning, such that he had become highly respected in the field of ophthalmology. He was also valued by colleagues for his knowledge and skill which he was always happy to take time to impart when asked for advice, including to junior colleagues. He was intending to take a teaching position in order to "give back" to the profession. It was clear to the Committee that the Respondent was an asset to the profession.

9. The Committee considered that aside from the initial denial to Ms AB, which he quickly corrected and put down to defensiveness and cowardice, the Respondent had consistently accepted and admitted his actions. Furthermore, the Committee was satisfied that the Respondent had not at any stage sought to minimise the seriousness of his conduct. He was identified as being candid and frank by the chair of the IVC Evidensia disciplinary committee, and the multiple references and testimonials before the Committee identified that the Respondent had not shied away from telling current colleagues and pet owner clients of both his actions and the ongoing RCVS disciplinary proceedings. It was clear to the Committee that the Respondent was deeply remorseful and ashamed of his actions, immediately recognising the seriousness of what he had done. Indeed, it was apparent to the Committee from the Respondent's evidence that this remorse and regret continue to weigh heavily on him.

[REDACTED]

11. The Committee was satisfied that the Respondent had made significant efforts to remediate his past misconduct. In the immediate aftermath, he was offered and accepted a sabbatical period away from the working environment, this also gave him the opportunity to reflect on his actions and how he had allowed himself to have acted so out of character and departed so far from the expected standards. He had also changed his subsequent working patterns so that he undertook a part time role as a veterinary surgeon and a part time role teaching. The Committee also noted that the Respondent had told Ms JB early on that she had done the right thing in reporting him, recognising how difficult it would have been for her, as a student veterinary nurse, to report him, a senior veterinary surgeon. Furthermore, he explained that he did this partly out of concern that Ms JB's witnessing of his actions might have deterred her from going on to have what he saw as a promising career.

12. The Committee recognised that there was a significant lapse of time since the incident in October 2020, when the incident occurred. The significance for the Committee of this lapse in time, was not just the period itself, but also the manner in which the Respondent had conducted himself during that time. He had been working as a

veterinary surgeon and had gained the trust and confidence of his colleagues and client pet owners, and there had been no hint of any poor conduct or repetition of the misconduct. On the contrary, he had performed at a consistently high level and was much admired by colleagues and clients.

13. The Committee was of the view that the Respondent had demonstrated a very significant level of insight in all areas, such that it would struggle to identify any further area where ongoing reflection was required. The Committee considered that the Respondent's insight had developed from the outset, initially by recognising the pressures on him at the time and making changes in his life as a result, through to accepting full responsibility for his actions without seeking to minimise them. He fully understood the impact his actions might have had on Ms JB, the student nurse who reported him and fellow professionals. He had consistently disclosed his past actions, not just to prospective employers as would be required, but beyond what would be required, by disclosing the matters to fellow members of staff and clients, recognising the need for trust and confidence in one's veterinary surgeon. The Committee was of the view that the Respondent's open and genuine reflections had allowed him to achieve such a high level of insight, that he was able to spontaneously reflect upon previously unconsidered public interest elements of his behaviour. It was clear to the Committee that the Respondent fully understood how his misconduct would be likely to damage the trust and confidence members of the public would have in the profession itself. Taking into account all it had read about the Respondent and had heard from him in evidence, the Committee was of the view that the Respondent had demonstrated an exemplary level of insight.
14. The Committee was impressed with the range and depth of references which had been provided, coming as they did both from current and former colleagues and clients, including veterinary surgeons, veterinary nurses and client pet owners. It was clear from the testimonials that the Respondent had been open and honest with them about the charges and was considered to be an excellent, caring and committed veterinary surgeon. The Committee was struck by one common theme running through the testimonials, which was that the Respondent would always take the time to help colleagues, answer any question, no matter how serious or minor, and always "go the extra mile" for others.
15. In relation to the mitigating factor of "*significant efforts to avoid a repetition of such behaviour*", the Committee considered that each of the other mitigating factors identified led to the inescapable conclusion that the Respondent had made significant efforts to avoid a repetition of such behaviour. In particular, the testimonials satisfied the Committee that the Respondent's actions had been totally out of character, and his exemplary insight reassured the Committee that there did not appear to be any risk of repetition.
16. The Committee considered whether it would be appropriate to take no further action in this case. In light of all of the mitigation, and its conclusion that there was no risk of repetition, the Committee was satisfied that there were no ongoing or future animal health and welfare considerations in this case. However, the Committee considered

that the wider public interest considerations of maintaining public confidence in the profession and upholding standards, required the Respondent's misconduct to be marked with an outcome or sanction. It was of the view that to do otherwise would send the wrong message to the public, namely that such actions, which cause actual, albeit temporary, injury to an animal and risk causing more significant harm, would have no consequences with the College. The Committee concluded that an outcome or sanction was required in order to meet the wider public interest concerns raised in this case.

17. The Committee next considered whether to postpone judgement and seek undertakings from the Respondent. The Committee concluded that such an outcome was not appropriate in this case, given its view that there was no risk of repetition and no areas identified which undertakings might address.

18. The Committee went on to consider whether a reprimand and/or warning as to future conduct may be appropriate in the circumstances of this case. It had regard to paragraph 67 of the Guidance which states:

A reprimand might be appropriate if the disgraceful conduct in a professional respect...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 may be appropriate where:

- a. The misconduct is 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.*

19. Given that it had found that the Respondent's conduct had caused some injury to Bella and the risk of causing more significant harm, the Committee did not consider that the misconduct was at the lower end of the spectrum of seriousness, albeit it was mitigated by being a short-lived, single isolated incident. The Committee considered whether this ruled out a reprimand and/or warning, or whether the other factors of "no future risk to animals or the public" and "evidence of insight" meant that a reprimand and/or warning may be appropriate and proportionate in the particular circumstances of this case.

20. The Committee had regard to its conclusion that there was no risk of repetition, which accordingly satisfied it that there was no future risk to animals or the public in this case. In respect of whether there was "evidence of insight", the Committee noted its conclusion in respect of the Respondent's insight. It considered that there was not just evidence of insight, but that it was at a level which the Committee had found to be "exemplary", which was greater than that identified in the Guidance as being appropriate for consideration of a reprimand.

21. In all the circumstances, although the Committee did not consider that the Respondent's misconduct was at the lower end of the spectrum of seriousness, given the absence of future risk to animals or the public, and the evidence of exemplary insight, the Committee concluded that a reprimand was the appropriate and proportionate sanction in this case. The Committee was satisfied that a reprimand would mark the Respondent's misconduct and reassure the public that veterinary surgeons who act as the Respondent had done, would face regulatory consequences and sanction.
22. The Committee did not consider it necessary to issue a warning to the Respondent about his future conduct, on the basis that the Committee has concluded that there is no risk of repetition.
23. In accordance with the recommendation in the Guidance, the Committee went on to consider the next sanction up the scale of sanctions, namely suspension, and whether such a sanction would be proportionate in the circumstances. Given the Respondent's exemplary insight, his extensive efforts to remediate, the absence of risk of repetition, and the consistently high standards at which he had been working in the three years since the incident, the Committee considered that even a short period of suspension would be wholly disproportionate in this case. Indeed, the Committee considered that such a sanction would be unduly punitive.
24. In conclusion, the Committee considers that a reprimand is sufficient in the circumstances of this case to satisfy public confidence in the profession and to uphold proper standards of conduct and behaviour. The Committee therefore imposes a reprimand on the Respondent.

Disciplinary Committee
14 February 2024