

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

BRIAN PHELM MALLON MRCVS

Decision on Sanction

1. The Committee next considered what, if any, sanction to impose. The Committee had regard to the Disciplinary Procedure Guidance on sanction provided by the College and it had regard to the advice of the Legal Assessor.
2. The Committee took account of the submissions made by both Parties. The Committee heard from a number of character witnesses including Mr Daly, Mr Doris and Mr Hardy who are his clients. They spoke of his skill and care as a vet. He is described as a vet with a passion for animal welfare and who would always respond to request to attend an animal be it day or night. He is described as meticulous in what he does and he is held in the highest regard in the local community. The Committee also heard from Dr O' Reilly a veterinary surgeon in practice in Northern Ireland. He stated that he had known Mr Mallon from veterinary school and Mr Mallon had been a locum vet for him in the past. He described him as an excellent and competent vet. He also described him as empathetic, humane and considerate.
3. The Committee also had regard to a bundle of approximately 30 additional testimonials. In particular one specifically referred to how Mr Mallon treated a dog with a terminal diagnosis. Another testimonial referred to his meticulous records of treatments for a herd. All of the testimonials referred to the high regard to which he is held as a vet in his community. They attested to his commitment and dedication to animals in his care.
4. The Committee is aware that its role at this stage is not to be punitive although any sanction may have a punitive affect. It is part of the public interest not to permanently deprive the public of an otherwise competent practitioner. The sanction which the Committee applies must be proportionate to the nature and extent of Mr Mallon's

conduct and the Committee must weigh the public interest against the interests of Mr Mallon.

5. The Committee took into account the aggravating and mitigating factors identified in this case. It noted that Mr Mallon had limited insight into the conduct which the Committee has found proved.
6. In mitigation the Committee noted that in a long career spanning over 30 years he has had no other substantive complaint of any kind. There is also no evidence of any systemic or repeated similar behaviour. The facts of this case relate to one animal and to that extent it is a single isolated event.
7. The Committee first considered whether to take no further action and it concluded that such action would not be appropriate or proportionate given the seriousness of this Committee's findings. The Committee also considered that a postponement of judgment or undertakings would be wholly inappropriate in all the circumstances. It would not be appropriate as it would not maintain public confidence in the profession or uphold proper professional standards of conduct.
8. The Committee next considered whether a reprimand or warning would be an appropriate sanction.
9. The Committee noted that the charges in this case relate to one animal and Mr Mallon's lack of communication with one client. It is regrettable that a veterinary surgeon of over 30 years unblemished practice fell on this occasion significantly short of the standards that are expected of a professional veterinary surgeon. Whilst Mr Mallon's insight is limited the Committee noted that there were glimmers of insight during cross examination. Mr Mallon accepted with hindsight that he or others on his behalf could have written a suitably worded letter to Mrs Lavery. Mr Edis QC in final submission suggested that the only letter he could have written is one stating that he would respond as soon as Mrs Lavery withdrew her threats. The Committee does not accept this and it expects a professional veterinary surgeon to respond to complaints in a professional manner.
10. The Committee also took into account that this is a single isolated incident regarding lack of consent and therefore the risk of repetition is extremely low. Finally the Committee accepted that the lack of clinical notes for Bailey whilst disgraceful, again relates to the one named animal in this charge. There is no evidence of any welfare issues in respect of animals in Mr Mallon's care.
11. The Committee concluded that the appropriate and proportionate sanction is a Reprimand in this case. The Committee is confident that Mr Mallon will not repeat the conduct identified in this case again. The Committee wishes to advise Mr Mallon of the need to reflect on the outcome of this case, the need to have clear communication systems in place at his practice that are effective so as to avoid any possibility of miscommunication. The Committee further advises Mr Mallon of the need to be familiar and comply with all aspects of the Code and its associated guidance, particularly in

respect of keeping clinical records, informed consent and effective complaint management.

12. Accordingly, the Committee directs that Mr Mallon receives a Reprimand and acts upon the advice set out above.

DISCIPLINARY COMMITTEE

16 FEBRUARY 2018