

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

MRS D, RVN

ANNEX 1

1. Application for Anonymity

1.1 The Respondent applied for a direction that would prevent any disclosure of information that would identify herself, her children or her place of employment at the time of the events alleged in the Charges.

1.2 [Her grounds of application included matters relating to her health and family circumstances.]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.3 The Respondent referred in her written application to medical evidence

[REDACTED]

[REDACTED]

1.4

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.5

[Redacted text block]

1.6

[Redacted text block]

1.7

[Redacted text block]

[REDACTED]

1.8 The Committee also had regard to an account given by the Respondent's husband.

[REDACTED]

[REDACTED]

He emphasised that, in his view, public identification of the Respondent, with the effect that it would have upon the Respondent, could be catastrophic for the whole family.

2. The College's position

2.1 The College adopted a neutral position in relation to the application. Mr Mant set out, for the assistance of the Committee, the principles which, he submitted on behalf of the College, the Committee should apply.

2.2 The College accepted that the Respondent's rights under Articles 2 and 8 of the European Convention were potentially engaged and that the Committee would have to consider the implication of these rights as well as the impact which a decision to allow the Respondent's application would have on the rights conferred by Article 10 of the Convention, which supported full reporting of hearings of this nature.

2.3 The College did not accept that Article 3 was engaged in the present circumstances, nor did it accept that shame or embarrassment caused to the Respondent's family was a reason to grant anonymity. Mr Mant pointed out that there was no evidence that the impact on the Respondent's children would be so grave as to justify departure from the principle of open justice.

2.4 Mr Mant drew the Committee's attention to a number of relevant authorities, in particular *YSA (Anonymity of Barristers)* [2023] UKUT 00074(IAC) at [55] and [56]

and *GMC v X* [2019] EWHC 493 (Admin) at [120] and [128]- [129] in support of the suggested approach.

- 2.5 The College submitted that the Committee would need to decide (a) whether the evidence filed by the Respondent was sufficient to establish a real and immediate risk to life and (b) if so, whether the extent of the risk was sufficient to justify departure from the principle of open justice.

3. Legal advice to the Committee

- 3.1 The Legal Assessor reminded the Committee that the applicable rules in relation to registered veterinary nurses are Rules 21.1 and 21.2 of the *Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004* (“the Rules”) provided that hearings “*shall be held in public*” but that “*The Committee may direct that the public shall be excluded from any proceedings or part of proceedings, where it appears to the Committee that this would be in the interests of justice*”. In *SRA v Spector* [2016] EWHC 37 (Admin) the High Court accepted that:

“.... where a Court or Tribunal has the power to sit in private, it has, inferentially, the power to adopt a procedure which is less intrusive on the principle of open justice and so, if the circumstances require, it may allow a witness or party to be referred to by a pseudonym or cipher..... However, even then, the Court must proceed with caution”.[24]

- 3.2 The Legal Assessor reminded the Committee of the fundamental importance of open justice, and that this concept included identification of the parties to proceedings. The importance of this principle had been repeatedly emphasised by the higher courts.
- 3.3 In *XXX v London Borough of Camden* [2020] EWCA Civ. 1468, the Court of Appeal had stated, in connection with orders for anonymity of parties and witnesses, and after emphasising the importance of public hearings, that;

[19] The common law has long recognised a duty of fairness towards parties and persons called to give evidence.... and balanced that against the public interest in

open justice in specific cases. Under the common law test subjective fears, even if not based on facts can be taken into account and balanced against the principle of open justice. This is particularly so if the fears have adverse impacts on health, ...

[20] With the impact of the Human Rights Act 1998 the Courts have also been able to give effect to the rights of parties and witnesses who may be at real and immediate risk of death or a real risk of inhuman or degrading treatment if their identity is disclosed, engaging Articles 2 and 3 of the ECHR. A person's private life may also be affected by Court proceedings, engaging Article 8 of the ECHR. The common law rights of the public and press to know about court proceedings are also protected by Article 10 of the ECHR.

3.4 In relation to the potential engagement of Article 2, the Committee was advised that it would need to determine whether there was a real and immediate risk to life arising from publication of the Respondent's identity and, if so, whether that justified the departure from the principle of open justice which the Respondent sought. It was difficult to see how Article 3 could be engaged. The Committee would also need to consider the competing interests summarised in Articles 8 (Right to respect for private and family life) and Article 10 (Freedom of Expression). It might wish to have regard to the fact that any proceedings of this type were, almost invariably liable to cause distress and embarrassment.

4. The Committee's decision

4.1 The Committee accepted the advice of the legal assessor, and also the general approach set out in the helpful submissions of the College.

4.2 The Committee had regard to all of the medical evidence it had received. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4.3 [REDACTED]

4.4 [The Committee allowed the Respondent's application on grounds which related to her health.] [REDACTED]

4.5 The Committee did not consider that Article 3 had any application to this case.

4.6 The Committee would not have directed anonymisation on the basis of any embarrassment or distress caused to the Respondent or to members of her family. There was in any event no specific independent evidence before the Committee relating to the impact which publication of the Respondent's identity would have upon her children. In the Committee's judgment, and on the basis of the information before it, a direction on this basis would be an inappropriate departure from the principle of open justice.

4.7 [REDACTED] [In light of the medical evidence,] the Committee directs that the Respondent's identity is anonymised in these proceedings and that any information in relation to her children or her place of work at the time of the events alleged in the Charges is redacted so as to prevent identification of the Respondent.

Disciplinary Committee
19 March 2024