

# ROYAL COLLEGE OF VETERINARY SURGEONS

- v -

**ANNE MARY MULLEN MRCVS**

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## **DECISION OF THE DISCIPLINARY COMMITTEE ON DISGRACEFUL CONDUCT IN A PROFESSIONAL RESPECT**

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1. It is now for the Committee to decide whether, on the basis of the Facts found proved, the Respondent has been guilty of disgraceful conduct in a professional respect. The Legal Assessor has advised the Committee that disgraceful conduct in a professional respect has been defined as conduct falling far below that which is expected of a reasonably competent member of the veterinary profession, or alternatively, serious professional misconduct. This is a matter for the Committee's judgement, and there is no burden or standard of proof to be applied at this stage.
2. The College made written submissions to the Committee in relation to the relevant matters that the Committee should properly take into account in exercising its judgement.
3. The Committee is entitled to consider the facts on a cumulative basis: something which in its own right might not fall far below the relevant standard might do so when considered in conjunction with other failings that have been found proved.
4. The Committee may take into account the opinion of the expert witness, Dr Shield, but is not bound to do so. It may also take into account the veterinary knowledge and experience of the members of the Committee.
5. The Committee has had regard to relevant sections of the Code of Professional Conduct for Veterinary Surgeons (the Code). The College submits that there were numerous key sections of the Code that were breached in this case.
6. The Committee has also taken into account the aggravating and mitigating factors at this stage. The Committee considers that the aggravating factors relevant to this case are as follows:
  - Actual injury to an animal
  - Risk of injury to an animal
  - Misconduct sustained or repeated over a period of time

- Conduct contravening advice issued by the RCVS, including the Preliminary Investigation Committee and Professional Conduct Department or other appropriate authority
  - Blatant or wilful disregard of the role of the RCVS and the systems that regulate the veterinary profession
  - Previous adverse findings of the Disciplinary Committee
7. The Committee was unable to find any mitigating factors in this case.
  8. The Committee has no doubt that the promotion of animal welfare lies at the heart of the veterinary profession. The College submits that the Respondents conduct relating to the treatment and care of Cleo and Boycie constitutes a breach of this most fundamental tenet of the profession.
  9. Informed consent is a cornerstone of the profession. It is key that members of the public are provided with information about potential risks before agreeing to a procedure for their animals. The College submits that the Respondent has failed to adhere to this important principle of the profession by not ensuring that Boycie's owners were aware of the nature and risks of the surgery and anaesthetic.
  10. The failure to provide details about out of hours' cover more generally risked harm to other animals. It is key that clients are aware of arrangements for providing care to their animals in an emergency.
  11. The Committee has found that the Respondent failed to have in place Professional Indemnity Insurance (PII) over the relevant period. PII is important in ensuring that veterinary surgeons and members of the public are protected in the event of a claim for compensation against a veterinary surgeon. PII also contributes to public confidence in the profession. The Committee has been informed that there is a previous finding of the Disciplinary Committee in 2017, in relation to failure to have in place PII. The Committee has considered a bundle of documents relating to that previous hearing in which the Respondent was found to have been guilty of disgraceful conduct in a professional respect, in failing to have PII in place for a period of 12 months. The Respondent failed to remedy the situation when advised by the College that she was in breach of the Code. The Respondent had chosen not to read the Code, or the Supporting Guidance until shortly before that hearing. She argued that she had equivalent arrangements for PII in place, but this was rejected by the Committee. The Respondent was suspended for a period of two months.
  12. In relation to the Respondent's failure to respond to the College's requests for information and for failure to respond with details of her Continuing Professional Development (CPD), it is clear to the Committee that the Respondent had a flagrant disregard for her obligations.
  13. The Committee's decision as to disgraceful conduct in relation to each of the Charges is set out below.

## **Charge 2 – Cleo**

### **(a)**

14. Having considered all the evidence in relation to this Charge the Committee was of the same opinion as Dr Shield. In the view of the Committee, to discharge Cleo on 19 July 2019, when she was unfit to be discharged was conduct that fell below the standard expected of a reasonably competent veterinary surgeon.

### **(b)**

15. The Committee was of the view that, to discharge Cleo with an inappropriate and/or inadequate abdominal dressing was conduct that fell below the standard expected of a reasonably competent veterinary surgeon. Dr Shield is of the same opinion.

### **(d)(iii)**

16. It was the opinion of Dr Shield that the information about the Respondent's out of hours' arrangements should have been included on her answerphone message and on a post-operative guidance sheet, at the very least. The failure to do so fell far below the expected standard. The Committee considered that it was wholly unacceptable for the Respondent to fail to provide adequate arrangements for her out of hours' emergency cover, and in its judgement, this conduct fell far below the standard to be expected of a reasonably competent veterinary surgeon.

### **(e)**

17. The Committee has found that there were no clinical records, contemporaneous or otherwise, made by the Respondent in relation to the care of Cleo. It regards this as a fundamental failing. Accordingly, in the Committee's judgement the Respondent's conduct in this regard falls far below the standard to be expected of a reasonably competent veterinary surgeon. Dr Shield is of the same opinion.
18. In relation to the Charges relating to Cleo, the Committee has found that Charges 2(a) and 2(b) fell below the standard to be expected of a reasonably competent veterinary surgeon, and that Charges 2(d)(iii) and 2(e) fell far below that standard. Taking all the Charges in relation to Charge 2 as a whole, the Committee, in its judgement, finds that the Respondent's conduct in relation to these Charges amounts to disgraceful conduct in a professional respect.

## **Charge 1 – Out of hours' cover – April and July 2019**

19. This Charge relates to the Respondent's failure to provide adequate arrangements for her out of hours' cover over the easter weekend in April 2019 and on 25 and 26 July 2019. The Committee considered that it was wholly unacceptable for the Respondent to fail to provide adequate arrangements for out of hours' cover for these dates. For the same reasons as set out in relation to Charge 2(d)(iii) above, in the Committee's judgment this conduct fell far below the standard to be expected of a reasonably competent veterinary surgeon.

### **Charge 3 – Boycie**

#### **(a)**

20. Dr Shield was of the opinion that the Respondent's failure to obtain informed consent for anaesthesia and/or surgery to Boycie fell below the standard to be expected. The Committee considers that it is vitally important that clients should be made aware of the potential risks before agreeing to surgery for their animals, including the risks of anaesthesia. This is crucial for maintaining confidence in the profession. The Committee notes that informed consent is dealt with in some detail in Section 11.2 of the Code, and the Respondent made no attempt to comply with that section of the Code. The Committee, in its judgement, considers that this conduct fell far below the standard to be expected of a reasonably competent veterinary surgeon.

#### **(b)**

21. In her written report, Dr Shield was of the opinion that failing to ensure that Boycie had adequate monitoring whilst recovering from anaesthesia fell below the standard to be expected. In her oral evidence, Dr Shield said she had to think long and hard about her opinion in relation to this Charge and whether it actually fell far below the standard to be expected of a reasonably competent veterinary surgeon. English Bulldogs are a breed which are known to suffer from respiratory issues. The Committee considers that leaving such a dog without constant monitoring whilst recovering from anaesthesia is wholly unacceptable and in fact, was the cause of brain damage to Boycie. The Committee was in no doubt that the Respondent's conduct in relation to this charge fell far below the standard to be expected of a reasonably competent veterinary surgeon.

#### **(c)**

22. Dr Shield's opinion was that the Respondent's failure to offer an adequate range of options for Boycie's overnight care between 15 October 2019 and 18 October 2019 fell far below the standard to be expected of a reasonably competent veterinary surgeon. The Committee considers that this was a very serious failing, as the owners were unable to make an informed decision as to the level of care required for their seriously impaired dog. In the Committee's judgment this conduct fell far below the standard expected of a reasonably competent veterinary surgeon.

#### **(d)**

23. Dr Shield's opinion was that the Respondent's failure in leaving Boycie overnight on 15 October 2019, 16 October 2019 and 17 October 2019 when he was not in a fit condition to be so left was conduct that fell far below the standard to be expected of a reasonably competent veterinary surgeon. The Committee concludes that the Respondent had failed to promote Boycie's welfare, which is one of the fundamental tenets of the profession. In the Committee's judgement this conduct fell far below the standard expected of a reasonably competent veterinary surgeon.

#### **(e)(i)**

24. In her oral evidence, Dr Shield said that the Respondent's conduct in failing to provide information to ZL and VL relating to caring for Boycie at home fell far below the standard

to be expected of a reasonably competent veterinary surgeon. Boycie suffered significant damage in the Respondent's care. Dr Shield would have expected the Respondent "to go the extra mile" in Boycie's best interests, but she did not. In the Committee's judgment this conduct fell far below the standard expected of a reasonably competent veterinary surgeon.

**(e)(ii)**

25. In her oral evidence, Dr Shield said that failing to provide adequate details to ZL and VL regarding arrangements for her out of hours' emergency cover was conduct which fell far below the standard to be expected of a reasonably competent veterinary surgeon. Every practitioner has clear obligations under the Code to ensure that clients have access to a veterinary surgeon out of hours' and know how to gain that access. In the Committee's judgment this conduct fell far below the standard expected of a reasonably competent veterinary surgeon.

**(f)**

26. In her oral evidence, Dr Shield said that every veterinary surgeon was obliged to keep contemporaneous clinical records of their treatment of an animal. If such records do not exist, the veterinary surgeon's conduct has fallen far below the standard to be expected of a reasonably competent veterinary surgeon. Apart from a retrospective narrative account, the Committee has seen no clinical records relating to Boycie. Accordingly, in the Committee's judgment the Respondent's conduct in this regard fell far below the standard to be expected of a reasonably competent veterinary surgeon.
27. Dr Shield was in the view that as a whole, the Respondent's conduct in relation to Charge 3 fell far below that to be expected of a reasonably competent veterinary surgeon. In relation to each of the Charges 3(a) to (f), the Committee, in its judgement, has decided that the conduct of the Respondent fell far short of the standard to be expected of a reasonably competent member of the veterinary profession. The Committee is in no doubt that the conduct of the Respondent in relation to Charge 3, taken individually and as a whole, amounted to disgraceful conduct in a professional respect.

**Charge 4 – PII, Continued Professional Development and failure to respond to requests from the College**

**(a)**

28. The Respondent has a previous finding of misconduct by the Disciplinary Committee in 2017, relating to a failure to have in place adequate PII, and, as set out above, was suspended for two months. The Respondent faces an almost identical charge in this hearing. It is clear to the Committee that the Respondent has completely ignored the advice given to her at the time of the previous hearing. She has shown no insight into her failings in this regard. The Committee considers that the Respondent's failure to have in place adequate PII or equivalent arrangements, as alleged in this Charge,

amounted to conduct which fell far below the standard to be expected of a reasonably competent veterinary surgeon.

**(c),(d),(e)**

29. In relation to these three Charges, the Committee considers that they demonstrate that the Respondent has shown a flagrant disregard for her obligations under the Code, and her obligations to respond to reasonable requests from the College in a timely manner. The Respondent has abdicated all responsibility in this regard. The Committee concludes that her conduct is inexcusable, and falls far below the standard to be expected of a reasonably competent veterinary surgeon in each case.

30. For the reasons set out above, the Committee has decided that the Respondent's conduct in relation to the Charges found proved, taken in combination, amount to disgraceful conduct in a professional respect.

**Disciplinary Committee**

**7 February 2022**