Determination on Disgraceful Conduct in a Professional Respect

1. The Committee accepted the test for considering disgraceful conduct in a professional respect, as set out by the Legal Assessor, namely whether the conduct falls far short of that which is expected of a member of the veterinary profession.

2. The Committee noted that it was entitled to take into account the aggravating and mitigating factors in the case provided they did not amount to personal mitigation. The question of whether conduct amounts to disgraceful conduct in a professional respect is a matter of judgement for the Committee, not a matter which is to be decided on a burden or standard of proof.

3. In coming to its decision, the Committee took into account the submissions of Counsel for the College. The Committee considered whether each charge either individually or in combination could amount to disgraceful conduct in a professional respect.

4. In respect of the case of Mr Perez, Counsel for the College invited the Committee to consider its own findings and whether they amounted to disgraceful conduct in a professional respect. She accepted that the findings of the Committee were record keeping failures. Counsel for Mr Perez invited the Committee to conclude that the facts of this case do not amount to disgraceful conduct in a professional respect.

5. In respect of the case of Dr Rafiq, Counsel for the College invited the Committee to find that the facts in that case were serious, involving risk of injury to the puppy and dishonesty. She invited the Committee to consider the level of her insight into her
misconduct. In mitigation Ms Przybylska for the College, accepted that there was no evidence of financial gain. Dr Rafiq was representing herself and expressed remorse for what had happened and she acknowledged that what she did was unjustifiable. Earlier in the proceedings the Committee heard detailed oral submissions from Mr Wells on her behalf that were relevant to this stage of the proceedings. It has taken those submissions where relevant into account.

6. The Committee had regard to the legal advice and also took into account the Code of Professional Conduct for Veterinary Surgeons (the Code) in place at the relevant time together with the Supporting Guidance provided by the RCVS.

7. In coming to its decision, the Committee took into account aggravating and mitigating factors relevant to the conduct found proved.

8. In considering whether the conduct amounted to disgraceful conduct in a professional respect the Committee had regard to the public interest which includes protecting the health and welfare of animals, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

9. The Committee also accepts that not every breach of the Code amounts to disgraceful conduct in a professional respect.

**Decision in respect of Mr Perez Maillo**

10. The findings of this Committee demonstrate that the clinical records were inaccurate. As a veterinary surgeon it was his duty to ensure that the records were accurate and any subsequent veterinary surgeon treating Lila would expect to find accurate clinical records. To this extent the Committee is critical of Mr Perez. It considered that he had a duty to know how many puppies were born and any reasonably competent veterinary surgeon would be expected to record accurately the number of puppies that were born. The Committee considered that Mr Perez should have been more curious about how many puppies he delivered as they were his patients.

11. The Committee concluded that Mr Perez’ conduct fell below expected professional standards of a reasonably competent veterinary surgeon. However, the conduct did not fall so far short that it would amount to disgraceful conduct in a professional respect.

**Decision in respect of Dr Rafiq**

12. Dr Rafiq had admitted from the outset that her conduct amounted to disgraceful conduct in a professional respect. She gave evidence to the Committee where she expressed remorse for her actions. She also said that her actions were motivated by
her desire to care for the puppy as she did not think the owners would be able to care properly for the puppies.

13. The Committee had a number of concerns in respect of Dr Rafiq’s evidence. It found it implausible that if she had animal welfare concerns why these were not raised with colleagues. For example, she should have raised these concerns with Mr Perez or a senior colleague. The Committee also did not accept that her concerns were purely motivated for the care of the puppy. There is no evidence that as a veterinary professional she made a considered evaluation as to what was in the puppy’s best interests. Her actions were reckless by taking the puppy away from the nest, mother, owners and the Practice. Dr Rafiq had a number of opportunities to seek to correct her misconduct in taking the puppy from the practice. She had an opportunity when she had time in the car when the puppy was “fading” to do the right thing and return the puppy to its nest, mother, owners or the Practice. She had an opportunity to confess her wrong doing on 7 December 2017 (4 days later) to the Regional Director of VetsNow when questioned about what had happened. Yet on that occasion Dr Rafiq was dishonest again. She said the puppy had died in the car when it had not. She subsequently did not report that the puppy had died.

14. The Committee accepts that Dr Rafiq has some insight that what she did was wrong but the Committee remained concerned that her level of insight is limited in respect of her wider professional responsibilities. It accepts that there was no financial gain by Dr Rafiq.

15. The Committee considered that the following provisions of the Code of Professional Conduct for Veterinary Surgeons 2012 (the Code) have been breached:

1.1: Veterinary surgeons must make animal health and welfare their first consideration when attending to animals.

2.1: Veterinary surgeons must be open and honest with clients and respect their needs and requirements.

6.5: Veterinary surgeons 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.

16. The Committee also had regard to the Principles of Practice contained within Code and it considered that Dr Rafiq’s conduct breached in particular:

2. Honesty and integrity

5. Professional accountability

17. The Committee concluded that Dr Rafiq’s conduct fell so far short of the standards expected of a veterinary surgeon that she is guilty of disgraceful conduct in a professional respect.
DISCIPLINARY COMMITTEE
7 MAY 2019