This is the Committee's decision on sanction, Mr Porter having been found guilty of disgraceful conduct in a professional respect in relation to the Facts Found proved on Charges Charges A1 to A4, C1, C2, C3 and C4, Di and Dii. This exercise has been undertaken in accordance with the requirements of paragraph 18 of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004.

As previously stated, these Charges concern three types of conduct. Charges A1, A2, A3 and A4 concern his wholly unacceptable exchanges with other veterinary surgeons and veterinary nurses and ancillary practice staff members with whom he was working on the dates in question. Charges C1, C2, C3 and C4 concern his seriously deficient clinical standards when treating animals under his care. Charges Di and Dii concern his refusals to respond to the legitimate requests of his Regulatory Body for confirmatory information pertaining to his claimed qualifications and experience and for his refusal to respond to requests for responses to the investigatory questions, which the complaints received against Mr Porter, necessitated.

It will be apparent from the Committee’s decision and reasons on disgraceful conduct that it regards Mr Porter’s conduct as deserving of very serious criticism. The reasoning which has led the Committee to its decision on sanction is set out below.

As to the approach the Committee has adopted when considering sanction, it is as follows. In its approach to the issue of what is the appropriate sanction the Committee bears in mind that the primary purpose of its sanction should not be to punish Mr Porter but should be to protect the welfare of animals, to maintain public confidence in the profession and to declare and uphold proper standards of conduct.

The Committee only moved to consider a higher potential sanction after reaching the conclusion that those objects would not be adequately achieved by a sanction at a lower level.

In accordance, therefore, with the advice of the Legal Assessor the Committee has considered the exercise of its powers in the following order. First, postponement; second, no further action; third, a reprimand or warning; fourth, suspension; and lastly, a direction to the Registrar to remove the Respondent’s name from the Register. The conduct and actions of Mr Porter, as we have found them to be, clearly demand more than a reprimand or warning as to future conduct. The choice before this Committee is, therefore, a choice between suspension from practice for an appropriate period of time or removal from the Register.
7. The Committee has considered with care the submissions advanced by Mr Porter in mitigation, which we have treated as ‘evidence’ in support of his case, even though he did not take an oath or affirmation when advancing them. Many of Mr Porter’s submissions consisted of a repeat of his assertion that he was not guilty of any of the remaining Charges and that those who had given evidence against him in relation to the facts which founded those charges were not telling the truth. Nonetheless, the Committee has made every possible allowance for his unfamiliarity with the disciplinary process and his apparent inability to move on to the issue of sanction as a separate question which required to be addressed as an issue which was predicated on the Findings of Fact and Disgraceful Conduct already made by this Committee. That said, we found it telling that Mr Porter was, even at this late stage of the process, unable to accept that his conduct vis-à-vis his Regulatory Body was unacceptable by any measure, and wholly unacceptable when measured against the obligations on a professional person whose practices required to be superintended and investigated by his professional Regulatory Body - precisely because they brought him into contact with animals and the members of the public who owned them.

8. As regards Mr Porter’s submissions, it suffices to say that he expressed little regret for the conduct which formed the basis of the Findings of Fact and Disgraceful Conduct made against him. Instead he sought to continue to argue that his standards of competence were good and above average, despite the findings of the Committee that they were not on the occasions covered by Charges C1 to C4. As to the standards of professional competence displayed by Mr Porter on those occasions the Committee has had the benefit and assistance of its Veterinary Surgeon members who were much concerned by the extent to which his clinical standards fell well below that to be expected of a reasonably competent veterinary surgeon in general practice.

9. The mitigating factors to which Mr Porter can ask the Committee to have regard are his hitherto unblemished career and the content of his supportive references. However, the reality is that, given the findings this Committee has made as set out in its various written Rulings and Decisions, there was nothing else that Mr Porter could profitably advance in mitigation of his conduct and failings as found.

10. For the reasons we shall now set out we are entirely satisfied that Postponement is not an appropriate course to follow. There is nothing that could or would be achieved by postponing a consideration of sanction in Mr Porter’s case. He has shown no insight into the failings which have resulted in the preferment of these charges – a matter which we address below. In particular, what he has done and not done in response to the College’s requests for information (Charges Di and Dii) are matters falling in the past. What Mr Porter chose to do and not do requires to be dealt with now. It follows that a warning as to future conduct is not an appropriate sanction.

11. The Committee considers that Mr Porter’s conduct on Charge Di and Dii is conduct of the most serious kind. It follows that a reprimand would not meet the needs of this case. His reactions to these perfectly proper requests by the College were little short of contemptuous. As we state in paragraph 5 of our Ruling on his Application to Adjourn his Disciplinary Hearing and our Decision to proceed in his absence and in our Decision on Findings of Fact at paragraphs 135-139, we are entirely satisfied that Mr Porter had reached a deliberate decision not to co-operate with the College and not to respond to its requests for information. His settled intention,
instead, was to refuse to provide the information requested unless and until the College provided to him responses on the complaints which he had registered with the College concerning those individuals who had lodged complaints against him or had given witness statements to the College which were relevant to and supportive of those complaints. In acting thus we have found that Mr Porter was of the view that he could choose to dictate what the College would be able to do to further the complaints against him. The evidence we have heard and our assessment of Mr Porter (having seen and heard him argue his case before us once this Hearing had proceeded to Stage 2) is that he had also chosen to attempt to defeat the disciplinary process by evading service or asserting falsely that he had not received documents which the College had sent to him, when he had in fact received them.

12. Accordingly, we hold that Mr Porter's conduct was completely unacceptable conduct for a Veterinary Surgeon to indulge in. We consider that it is of the greatest importance that the requests of the College, as the body designated by Parliament to regulate the conduct and practices of veterinary surgeons and to implement and oversee the process of bringing before this Committee those Registrants who it is considered should answer to charges, should be answered promptly and fully by all veterinary surgeons and that any veterinary surgeon should co-operate with the College so as to enable the College to fulfil its regulatory and disciplinary duties. What Mr Porter chose to do was to attempt to obstruct the College in its attempts to investigate the complaints laid against him and, thereafter, its attempts to bring him before the Committee to answer the charges preferred against him. In short, he has directly questioned, and then disregarded and thwarted, the legitimate role of his professional regulatory body.

13. We consider that all right thinking veterinary surgeons would be of the view that conduct such as Mr Porter has indulged in should be met with the most serious of consequences. It is their expectation that, if they judge that it is appropriate to notify their College of concerns about the clinical competence or behaviour of a fellow veterinary surgeon, the College will be able to pursue his/her complaint and receive the active co-operation of the veterinary surgeon complained against. Further, it is of the greatest importance that the public should be able to retain confidence in the College's ability to investigate and to process complaints lodged against members of the profession. The efficient investigation and pursuit of properly based complaints requires the provision of prompt and full responses to the College's enquiries. Both the public and other members of the profession must be entitled to rely on the expectation that all veterinary surgeons, as responsible professional persons, will co-operate fully and promptly with all proper enquiries made of them by the College. This is the wider public interest factor which means that deliberate attempts to thwart the College's enquiries into complaints must, in our judgment, come at the top end of the spectrum of gravity of disgraceful conduct in a professional respect.

14. There is a further factor to which regard must be had and that stems from Mr Porter's refusal (or inability) to produce evidence of the qualifications he has obtained. This refusal (or inability) means that he poses a real or potential risk of harm to others - animals and people (in that he may be unqualified to undertake the procedures that he holds himself out as being qualified and capable of doing). Both the professional regulator and the public have to rely, and do rely, on the truthfulness of a veterinary surgeon's assertions as to qualifications, competence and experience, and on the authenticity of the documents he provides. Mr Porter's refusal to
comply in this regard has undermined or has a real potential to undermine the reputation of the profession and the public’s confidence in the integrity of the profession. The gravamen of his misconduct lies in the fact that this refusal or inability to produce the documents requested and sought by the College has been persisted in over a period of years. Even when it came to the stage of mitigation, Mr Porter still refused or failed to produce the documents which would evidence the correctness of all of the qualifications, competence and experience he claimed to possess or which would evidence that he had undertaken all of the CPD courses referred to in his CV.

15. The Committee holds to that view and considers that Mr Porter’s conduct, as revealed by the evidence supporting Charges D1 and Dii, can only be visited with a sanction which entails his removal from the Register. A sanction of suspension would not, certainly not in this instance, meet the gravity of his misconduct. Mr Porter has made it clear to the Committee that if he is not permitted to practice as a veterinary surgeon in this jurisdiction he will either move abroad to practice there as a veterinary surgeon or resume work as an engineer. It follows that a period of suspension would, in his case, amount to no significant sanction at all. We further consider it is important that, if Mr Porter is to seek to resume practice in this country that he should be required to re-apply to be restored to the Register, at which stage the restoration Committee hearing can consider what steps he has taken to remedy his clinical shortcomings, whether he has undergone a change of attitude as regards his relationship with his Regulatory Body and whether he has gained insight into the seriousness of his conduct which has led to the charges which have been found proved in this case.

16. We turn next to the Charges affecting the Respondent’s clinical performance, namely Charges C1 to C4. Our findings on these Charges are set out at paragraphs 77 to 110 of our Decision on Findings of Fact. Not all of these Charges reveal conduct which is of equal concern. However, each set of the facts we have found proved confirm that Mr Porter has not been following practices which comply with modern standards or experience.

17. Mr Porter’s failure to scrub up on the occasion covered by Charge C1, as we have already stated in our Decision on Disgraceful Conduct, reveals a “shocking” failure of basic hygiene requirements.

18. Mr Porter’s decision to insert undiluted surgical spirit, under pressure, into the ear of the dog he was treating – as found proved in relation to Charge C2 – we find inexplicable. Mr Porter considered none of the potential consequences for the dog’s welfare or the dog’s likely reactions. There was absolutely no call for what he chose to do and his failures were manifestly unacceptable.

19. Mr Porter followed a similarly unacceptable approach to his treatment of the rabbit, Theo Lipton – Charge C4. Here, too, he paid scant regard to the pain that was likely to be caused to the animal he was called upon to treat on this occasion. He undoubtedly caused the rabbit pain by using a gag, as confirmed by its reaction. He did not consider or seek to administer a sedative or anaesthetic to the rabbit before using the gag.

20. Accordingly, we consider that Mr Porter’s clinical standards fell far below that which should be attained by all well informed and competent veterinary surgeons on the occasions covered by Charges C1, C2 and C4. They were, in short, completely unacceptable methods of examination or ‘treatment’ which merit condemnation.
21. Mr Porter's apparent willingness to follow courses of treatment which did cause pain to the two animals identified in Charges C2 and C4, is in stark contrast to his unwillingness to implement a clear request by a client that Mr Porter euthanase his sorely distressed and disabled dog (in circumstances where there were no other mitigating circumstances not to do so) – Charge C3. This was the case when Mr Kitching made his urgent request for assistance on 27 April 2013 in putting his dog to sleep. As we stated at paragraph 8 of our Decision on Disgraceful Conduct, it was Mr Porter's undoubted duty as a veterinary surgeon to fulfil the requests of a client that his dog be put to sleep, especially when the client was distressed by his dog's unhappy state. The refusal by Mr Porter to assist resulted in further distress to the client, Mr Kitching, who was thereby compelled to seek an alternative veterinary surgeon very shortly before ordinary closing time. The prospect of having to extend the period of his dog's distress over a weekend and of having to witness his dog's paralysis and loss of bodily functions would have been a wholly unacceptable burden to inflict on a client. As we have found Mr Porter was motivated instead by his desire to avoid having to euthanase this dog and, so, he put his personal wishes before his duty to his client. We have been reaffirmed in this finding by what we have heard from Mr Porter during the course of his submissions. We remain of the view that, in this particular instance, this is a serious dereliction of duty by a practising veterinary surgeon.

22. Members of the public are entitled to be able to place absolute confidence in a veterinary surgeon's unqualified willingness to implement a well-considered request that their pet be put to sleep in circumstances where the purpose is to put an end to an animal's unnecessary suffering. Mr Porter's refusal to implement Mr Kitching's request was wholly without justification.

23. We acknowledge that, if viewed in isolation and separately from Charges D and A, each of the Charges C1 to C4 is not, of itself, at the most serious end of the scale of professional shortcomings. That said, the animals affected by Charges C2, C3 and C4 were caused unnecessary suffering. Further, the concerning feature about each of these charges is Mr Porter's lack of insight into his failings and his continued insistence that his actions on each occasion were correct and compliant with current standards of practice. This lack of insight into why fellow veterinary professionals (and Mrs Ding, the expert who gave evidence before the Committee) had serious concerns is, in the view of this Committee, an important factor when giving consideration to the appropriate sanction. Given that there is no evidence that Mr Porter has taken steps to reform himself or that he has or intends to bring himself up date with training on acceptable practices, we conclude that, applying the sanction factors which require to be taken into account, nothing less than erasure is warranted for these Charges.

24. A sanction of Suspension would allow Mr Porter back into practice after a set period of time, whereas removal means he must demonstrate that he has undertaken appropriate CPD courses, has acquired an understanding and insight into his previous clinical failings and that he can demonstrate that if restored to the Register the Committee can have confidence that he will in future fulfil his professional duties in accordance with current clinical standards.

25. The facts pertaining to Charges A1 to A4 that the Committee has found proved reveal that, when challenged or contradicted, Mr Porter loses self-control in an unpredictable way – see our Findings of Fact Decision paragraphs 29-31, 34, 38, 41, 53-4 and 61 and our Decision on Disgraceful Conduct in a Professional Respect paragraphs 30-34. He has done it on several occasions and over a not insignificant period of time. The language and behaviour used
towards professional colleagues on these occasions is echoed in his overblown, aggressive
and unrestrained responses to allegations made of him throughout these proceedings and the
derogatory way in which he has described, and continues to describe, the standards and
motives of the professionals with whom he has worked, as well as members of staff at the
RCVS.

26. We are obliged to observe that there is little, if anything, in the many hundreds of pages
submitted by Mr Porter or in the submissions made by him in person which have shown any
reflection by him of the impact of his behaviour in a professional context towards others. It is
this aspect which the Committee finds most concerning, as it does not bode well for his future
professional conduct and raises the prospect that, in absence of any marked change in attitude
by him, professional colleagues are likely to continue to be subjected to verbal attacks and
unprofessional behaviour if they challenge Mr Porter.

27. The concerning features of these Charges are that the behaviour occurred on four different
occasions over more than a year and that Mr Porter has shown absolutely no insight into how
his behaviour has affected those who have been subjected to these incidents of loss of proper
control. What is an aggravating factor, in the Committee’s view is that Mr Porter has conducted
a smear campaign against all those who have ‘crossed him’ (both professionals and clients)
and he has failed to grasp the impact of his continuing unprofessional behaviour on those
individuals.

28. This lack of insight factor concerns the Committee for, even when a sanction of Suspension is
under consideration, it would be examining whether the individual did have insight into the
causes for the Charges laid. It would also be considering whether there was a significant risk
of repeat behaviour. As ‘insight’ is entirely lacking in Mr Porter’s case, and whilst the conduct
covered by Charges A1 to A4 might not, if they were the only charges proven, separately
warrant removal from the Register, the lack of insight factor is an important one which must be
considered in conjunction with the conduct found proved on Charges Di and Dii and C1 to C4.

Conclusion

29. In reaching our conclusion as to the sanction which is merited in this case we have taken into
account the totality of Mr Porter’s conduct and failings. We consider that the conduct pertaining
to Charges Di and Dii, even when viewed separately, demand the imposition of a direction for
the removal of Mr Porter’s name from the Register. When that conduct is considered in
conjunction with the other misconduct found proved in relation to Charges C1 to C4, which
identify his clinical failings, and Charges A1 to A4, which demonstrate unprofessional behaviour
in the work-place, we unhesitatingly conclude that there is no other sanction that could be
considered sufficient, other than that of erasure.

30. In so concluding we have viewed the question of sanction from the perspective of the need to
protect the welfare of animals and the interests of the public in the efficient regulation of and
maintenance of proper standards in the profession. As stated above, a sanction of Suspension
would allow Mr Porter to return to practice after a set period of time without having to show that
his behaviour towards fellow professionals will improve significantly, that his clinical
performance will comply with current standards and professional requirements and/or that his
attitude towards his Regulator has undergone a complete re-think such that he will comply promptly and fully with all proper requests for information and co-operation from him. A sanction of Removal from the Register, on the other hand, will require Mr Porter to satisfy a Committee that he is a fit and competent person who merits a return to the Register. Above all Mr Porter will have to show that he has secured the DVM and BSc qualifications that he claims to have attained and that he has undertaken appropriate CPD courses, that he has understanding and insight into his previous behaviour and what he has done to alter it, that he recognises the importance of the regulatory role and disciplinary investigation obligations of the RCVS and the importance of complying with it and its Code of Conduct. Given Mr Porter’s conduct as we have found it to be, it is only through such a set of requirements that public confidence in the profession, its standards and its role to protect animal welfare can be maintained.

31. Accordingly, The Committee directs that the Registrar remove Mr Porter’s name from the Register.

DISCIPLINARY COMMITTEE

21 OCTOBER 2015