ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

PAUL ANDERSON ROGER MRCVS

DECISION ON FINDINGS OF FACTS

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1. Mr Roger is a veterinary surgeon who was working as a locum at the veterinary practice of Medivet Pontefract, at 58, Northgate, Pontefract, WF8 1HJ (the Practice) on 30 January 2019.

2. The charges are in summary, that Mr Roger is guilty of disgraceful conduct in a professional respect by reason of his failures in his management of Honey a Shih Tzu dog in his care that belonged to Ms LP, on 30 January 2019. The charges are particularised as follows:

   1) Failed to provide appropriate and adequate care to Honey, more particularly in that you:

      a) failed adequately to take and/or consider Honey's history and/or presenting signs;

      b) failed to weigh Honey;

      c) failed adequately to investigate:

         i) Honey's swollen abdomen/fluid thrill (for example by ultrasound scan);

         ii) Honey's laboured breathing and/or respiratory difficulties (for example by radiograph);

d) failed to recognise and/or pay adequate regard to Honey's elevated blood glucose levels

e) failed to investigate further Honey's hyperglycaemia, more particularly by:

i) making enquiries with LP whether Honey had any signs of diabetes mellitus;

and/or

ii) taking repeat blood glucose tests; and/or

iii) carrying out urine analysis; and/or

iv) carrying out additional blood tests;

f) failed to manage Honey's hyperglycaemia;

g) discharged Honey with a request for re-assessment in seven days when more urgent investigations and/or treatment were indicated;

2) Failed to communicate adequately with LP with regards to Honey, in that you failed to communicate:

a) Honey's blood glucose levels;

b) the significance of the hyperglycaemia;

c) the options for the investigation and/or management of the hyperglycaemia;

3) Failed to keep adequate clinical records in relation to Honey, in that you failed to record adequately or at all her:

a) history and/or presenting signs; and or the duration, magnitude, and severity of the presenting signs;

b) weight and/or body condition;

c) heart rate;

d) respiratory rate;

e) temperature;

f) mucous membrane colour and capillary refill time;

g) blood glucose levels;

AND that in relation to the above, whether individually or in any combination, you are guilty of disgraceful conduct in a professional respect.

Admissions

3. At the outset of the hearing, Mr Roger admitted the following charges: 1(e)(i), 1(e)(ii), 1(e)(iii), 1(e)(iv), 2(b), 2(c), 3(g).

Background

4. In January 2019 Honey was nearly ten years old (having been born in February 2009).

5. Ms LP stated that on Wednesday, 30 January 2019 she was concerned that Honey was not 100% well and she said that in the 3-4 weeks preceding that day, Honey had been drinking a lot . She also thought that Honey had put on weight over the last year. She said she therefore made an appointment with the Practice by telephone. Her appointment at the Practice was with the Respondent, Mr Roger.

6. Ms LP's recollection of the appointment consultation was that she told Mr Roger that Honey was drinking a lot of water, she had seemed to have put weight on and that she was not herself. She said she mentioned the drinking of water several times during the consultation because she considered (against a background of working 25 years previously as a veterinary assistant) that diabetes mellitus might be an issue. She said she did not say anything directly regarding her suspicion of diabetes mellitus to Mr Roger.

7. Ms LP said that Mr Roger made multiple attempts to take the first blood sample which subsequently clotted and therefore another blood sample had to be taken later on that day. At the first sampling, Ms LP said that Mr Roger did not weigh Honey. The second sample from Honey was taken later that morning, not in Ms LP's presence; when Ms LP brought Honey back to the Practice.

8. Mr Roger told Ms LP to take Honey home and that he would telephone with the blood test results. Ms LP says that Mr Roger asked her to return with Honey in seven days.

9. Following the appointment Ms LP said that she received a call from Mr Roger in which he said words to the effect that the bloodwork had been done, that Honey had a liver infection and some fluid but 'all else was working as he would like it to be'. She said that Mr Roger said he would provide some antibiotics and water tablets for Honey for collection. Ms LP specifically stated that she was not told anything about an elevated blood glucose result.

10. Mr Roger prescribed a cholagogue (ursodeoxycholic acid), an antibiotic (Synulox) and a diuretic (Frusemide). Ms LP said she administered those three prescribed medications although she does not recall Honey being prescribed a cholagogue.

11. In the typed note of the consultation Mr Roger wrote in abbreviated text notes to the effect of: 'swollen abdomen, fluid thrill and difficult to palpate, advise biochemistry to check liver function; chest slight congestion on right hand side but heart rate good and rhythm regular, no murmur detectable, temperature and pulse normal and respiration laboured because of abdominal pressure'. He also wrote that he 'told the owner that bloods show liver damage and infection so treat initially and review in one week to reassess, if not improving scan abdomen. Given high dose Synulox to ensure penetration into hepatic tissues'.

12. The printout of Honey's blood results on 30 January 2019 was seen by the Committee. The results showed that there was an elevated blood glucose[1], an elevated white blood cell count[2], an elevated ALT[3] and an elevated ALP[4] (which Mr Roger took to be indicative of liver damage secondary to infection). The blood results were not written into the narrative of the clinical notes.

13. Mr Roger's recollection of the appointment and phone conversation was different to Ms LP's. Mr Roger said that Ms LP definitely did not tell him that Honey was drinking a lot of water as, had he been told that, he would have chosen a different treatment path and he would not have prescribed a diuretic. Mr Roger also said he was not told by Ms LP that Honey had put on weight. He agreed the notes were silent on both these topics.

14. Mr Roger explained that although he wrote in the clinical note 'laboured breathing' he had since reflected upon that note and he considered that Honey's breathing was shallow rather than laboured due to abdominal pressure. He cannot specifically remember weighing Honey but he said it is possible that she was weighed.

15. Mr Roger said when he later telephoned Ms LP about the blood test results, he did mention in passing that the blood glucose was elevated. He said he asked Ms LP to return in a week or so, so that Honey could be reviewed but that if she was worried or Honey's condition deteriorated then she should contact the practice.

[1]Result of GLU was 28.7 with a normal range of 3.3- 6.1 mmol/L
[2] Result of WBC was 28.98 with a normal range of 6-17 10^9/l, NEU 21.67 with a range level of 3-12 10^9/l
[3] Result of ALT was 124 with a normal range of 0-88 U/L
[4] Result of ALP was 1474 with a normal range of 0-212 U/L

16. Over the following couple of days Ms LP felt that Honey was lethargic and quiet, and that she was not her usual happy self. On Saturday, 2 February 2019, Ms LP thought Honey had 'horrendous' breathing so she took her to the Practice. A different veterinary surgeon examined Honey, looked at Honey's notes and said to Ms LP words to the effect of 'don't you know?' to which Ms LP replied 'know what? The reply was that Honey's 'blood sugar result was 28' when tested on 30 January 2019. The veterinary surgeon performed a scan, stated that Honey's liver was 'not right' and told Ms LP to take Honey to the Medivet hospital at Dearne Valley straight away.

17. On arrival at Dearne Valley, Honey had a blood glucose reading of 37. A dorso-ventral chest radiograph was taken which showed free fluid in the pleural cavity. Ms LP said she was told that Honey was drifting in and out of a diabetic coma. Ms LP and her husband left Honey at the hospital. Sadly later that day, Honey died.

18. Following the death of Honey, Ms LP complained to Medivet and Mr Roger responded in writing to that complaint. Ms LP said in her statement to the College that she had not been told about Honey's elevated blood glucose result until the 2 February 2019.

19. Mr Grant Petrie MRCVS an expert called by the College, gave evidence as to what he considered were the failures by Mr Roger. In summary, Mr Petrie said that Mr Roger failed to provide appropriate and adequate care to Honey, and that if the Committee found that Mr Roger did not communicate Honey's glucose levels that was a failure to communicate adequately with Ms LP. In addition he said that Mr Roger failed to keep adequate clinical records or to record matters when he should have done. He concluded Mr Roger's conduct fell far below the standard expected of a reasonably competent veterinary surgeon in a number of respects and therefore amounted to disgraceful conduct in a professional respect. He also found that in other respects some of Mr Roger's conduct fell below the standard expected of a reasonably competent veterinary surgeon, but not far below the standard.

20. Mr Martin Hall MRCVS an expert called by the Respondent, gave evidence as to what he considered were the failures, if any, by Mr Roger. In summary, Mr Hall said that notwithstanding Mr Roger's admitted failures, he believed Mr Roger made an error of judgement in his interpretation of the hyperglycaemia from Honey's blood test results and those failures Mr Roger did make, did not individually or cumulatively amount to serious professional misconduct or disgraceful conduct in a professional respect. Mr

Hall stated that Mr Roger's conduct in some respects fell below but not far below the standard expected of a reasonably competent veterinary surgeon.

Findings of Fact and Reasons for the Decision

21. Mr Roger admitted charges 1(e)(i), 1(e)(ii), 1(e)(iii), 1(e)(iv), 2(b), 2(c), 3(g). Having considered the admissions made by Mr Roger and in accordance with Rule 23.5 of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004, the Committee found charges 1(e)(i), 1(e)(ii), 1(e)(iii), 1(e)(iv), 2(b), 2(c), 3(g) proved.

Expert Evidence

22. Before determining any of the facts, the Committee considered submissions made by both Counsel regarding the experts called in the case. The Committee took into account the submissions made by both Counsel and it concluded that both experts could be relied upon because they each had sufficient experience in first opinion practice to be able to express an opinion on Mr Roger's conduct and whether any failings fell below the standard expected of a reasonably competent veterinary surgeon in first opinion practice.

23. The Committee was satisfied that Mr Petrie had sufficient experience of first opinion practice. Although he was not regularly or currently working in first opinion practice full time, he saw a large number of first opinion referrals from different veterinary surgeons and he was knowledgeable about first opinion practice and communicating with first opinion practitioners. The Committee decided that the ambit of his experience may well pertain to whether or not the Committee was willing to accept his opinion in its entirety and specifically regarding whether any failings by Mr Roger fell far below the standard expected of the reasonably competent veterinary surgeon. However, the Committee did not find that the experience he had meant that his opinion should be discounted, as Mr Roger's Counsel had submitted.

24. The Committee was further satisfied that Mr Petrie had complied with the duties of an expert as set out fully in Civil Procedure Rule (CPR) 35.3. It noted that Mr Petrie had referred to an email containing Ms LP's first complaint to the College, which formed part of the College's unused material bundle, in his expert report even though his PIC report (which had been disclosed to Mr Roger's counsel) contained further details

about that email. The fact Mr Petrie had not focussed on the email of the first complaint by Ms LP, did not mean in the Committee's view, that Mr Petrie had failed to comply with his duties as an expert witness because he had referenced receiving it and full disclosure about it had been made.

25. The Committee was also satisfied that Mr Hall had sufficient experience of first opinion practice because he had been employed as a first opinion practitioner regularly throughout his career of 35 years.

26. The Committee was further satisfied that Mr Hall had complied with the duties of an expert as set out fully in CPR 35.3. It did not consider that he was lacking independence, noting that he had been prepared to delete words from his report upon reflection during cross examination and that he had been willing to amend his opinion when giving evidence on certain points.

Charge 1(a)

27. The Committee noted that there was a conflict of fact between Mr Roger and Ms LP about whether Ms LP had told Mr Roger on 30 January 2019, that Honey was drinking excessively or that Honey had put on weight.

Drinking excessively

28. The Committee firstly considered Ms LP's email dated 12 February 2019 forwarded to the College. As far as the documentary evidence was concerned the contents of the email dated 12 February 2019 appeared to be the first complaint made by Ms LP and her husband which Ms LP had forwarded by email to the College on 5 July 2019. Ms LP told the Committee in her evidence that the email was written by her husband. The email was written in both the first and third person. It made no mention about why Ms LP took Honey to the Practice on 30 January 2019. The Committee did not consider that this 'first' account explained why Honey went to the Practice on 30 January 2019 because it made no mention of the presenting history within it. The Committee further noted that Ms LP's statement dated 19 August 2020 in which she mentioned that she had told Mr Roger on 30 January 2019 that Honey was drinking excessively was written some considerable time after the events and particularly after Honey had died and after Ms LP had been told about the blood glucose results and the diabetes

mellitus on 2 February 2019. The Committee therefore found Ms LP's recollection may have been tainted with the benefit of hindsight.

29. In her evidence Ms LP told the Committee that she recalled that Honey was drinking excessively because Honey had got up from Ms LP's bed more frequently during the night and Ms LP had to fill her water bowl more frequently. This detail, whilst not disputed, was not contained in Ms LP's statement or email both of which were written closer to the time of the events. Also, although Ms LP said she had told Mr Roger during the consultation on 30 January 2019, in front of the Practice nurse, that Honey was drinking more frequently several times, the College had only called Ms LP as a witness to substantiate what was told to Mr Roger on the 30 January 2019.

30. The Committee further noted that Ms LP stated that she did not repeat that Honey was drinking excessively when she saw another veterinary surgeon on 2 February 2019 and that in answer to his question about whether Honey was eating, drinking, defecating and urinating she said that Honey was doing all four but she gave no further detail. She said that she had not repeated 'drinking excessively' at that time because she assumed it would have been in the clinical notes from 30 January 2019. The veterinary surgeon on 2 February 2019 had therefore recorded in the clinical notes 'EDDU ok' and he made no further reference to the frequency or volume of Honey's drinking or urination because he had no further detail from Ms LP.

31. Therefore for all these reasons, the Committee was not sure that Ms LP had told Mr Roger on 30 January 2019 that Honey was drinking excessively. It concluded she might have thought she had told Mr Roger this after she believed a diabetes diagnosis had been made. Mr Roger was also questioned as to whether he would have prescribed a diuretic with the knowledge that Honey was drinking excessively and he said that he would not have done. The Committee found that to be a credible explanation because it was unlikely Mr Roger would have prescribed a diuretic for a dog that he had been told was drinking excessively. The Committee found it likely that Mr Roger would have realised that Honey had a potential diabetes mellitus diagnosis with an elevated blood glucose of 28. Mr Roger explained he had believed that the elevated blood glucose was due to the stress Honey had undergone in taking the blood samples. The Committee found that Mr Roger's actions on 30 January 2019 did not indicate a complete failure by him to notice the elevated blood glucose because he had explained he believed at the time it was due to stress.

32. The Committee found the clinical notes were lacking in detail, but it concluded it was likely that Mr Roger would have recorded any concern about Honey drinking excessively in the clinical note had it been mentioned several times, as Ms LP said it was. The Committee further noted that neither Ms LP's husband or her son had mentioned that Honey had been drinking excessively when they came to the Practice on 9 February 2019.

33. The Committee noted that in Ms LP's statement she thought Mr Roger had heard her when she mentioned 'drinking excessively' but she said that he did not respond. This raised the possibility in the Committee's view that Ms LP believed she had told Mr Roger that Honey was 'drinking excessively' but that she had not necessarily done so because Mr Roger had not responded to her. Further, the Committee considered that the possibility of Honey drinking excessively may have been part of the history which Ms LP later recollected because she knew excessive thirst was a symptom of diabetes mellitus and it was a later diagnosis that she said was given to her on 2 February 2019.

34. For all these reasons the Committee could not be sure Ms LP had told Mr Roger that Honey was drinking excessively as part of the history when she presented Honey to Mr Roger on 30 January 2019.

Put on weight

35. The Committee noted that Honey's weight did not appear in the narrative of the clinical notes on 30 January 2019. It was also not referred to in the email sent by Ms LP to the College which was the first account of what happened regarding Honey. When questioned by the Committee Ms LP described Honey's tummy as 'looking a bit podgy/swollen'. A swollen abdomen was noted in the clinical notes for 30 January 2019 although it was unclear if this was part of the presenting history by the owner or part of the clinical findings by Mr Roger. Mr Roger told the Committee that when he wrote swollen abdomen he thought he did so because that was what Ms LP told him but he could not be certain it was not a clinical finding. The Committee decided that the note as recorded would be unclear to a veterinary surgeon reviewing the notes afterwards as the note of "swollen abdo" did not make clear whether that was a clinical finding or part of the owner's history. However, there is no dispute that Honey had a swollen abdomen and this clinical sign was not missed by Mr Roger.

36. The Committee noted that Honey was an obese dog that had been obese for some time. In the Committee's judgement Honey's weight would therefore not have been the most important clinical note for a veterinary surgeon to record if the dog had been previously noted to be obese. Mr Roger said he could not recall if Honey was weighed that day.

37. The evidence presented to the Committee from the computerised system used at the Practice left open the possibility that Honey had been weighed on 30 January 2019 because not all of the records and tabs from that system were visible to the Committee. An email dated 17 November 2021 sent by the College to Medivet requesting further clarification on the weight of Honey recorded on the computer system (following the evidence given by Mr Hall) did not confirm conclusively one way or another whether Honey had been weighed on 30 January 2019, although it indicated she had not been.

38. The Committee considered that it was therefore reasonably possible that Honey had been weighed on 30 January 2019 and that her weight may have been noted on the system but not in the narrative of the clinical notes. The evidence given in the Committee's view had left open the possibility that the Nurse weighed Honey when Honey's second sample was taken which had not taken place in Ms LP's presence or that Mr Roger had weighed her at some point on 30 January 2019. The Committee also decided that it was possible to assess Honey's body condition and weight without necessarily weighing her and that in any case the amounts of medication that Honey was prescribed were not determined by her exact weight.

39. The Committee noted that it was only in Ms LP's statement dated August 2019 that Ms LP first mentioned excessive weight. It was not mentioned in the email dated 12 February 2019. In Ms LP's statement she said she told Mr Roger that Honey had put weight on, but in evidence she described this concern as her 'tummy looked podgy' and that she was 'bloated'. Ms LP confirmed that Mr Roger had examined Honey by looking in her eyes, mouth and examining her stomach.

40. The Committee referred to the expert evidence and noted that Mr Petrie said it was not possible to establish from the clinical notes what Honey's presenting complaints were and that Mr Hall said the evidence suggested that Mr Roger took a history and carried out a clinical examination recording his principal finding as a swollen abdomen.

41. The Committee decided that it was possible that Ms LP had mentioned Honey's weight to Mr Roger but it was equally possible that she had simply said her tummy was podgy

and swollen. The Committee therefore could not be sure that Mr Roger had been told that Honey had put on weight on 30 January 2019.

42. The Committee therefore concluded that Mr Roger had not failed to adequately take or consider Honey's history and/or presenting signs. It could not be sure that the report by Ms LP of Honey 'drinking excessively' was made to Mr Roger on 30 January 2019 and it was also not sure that Ms LP specifically mentioned Honey putting on weight.

43. Further, Mr Roger gave evidence that he had carried out a full and adequate clinical examination which is his usual practice and the Committee accepted this as being likely to have occurred on 30 January 2019. Having considered the examination that Ms LP said Mr Roger conducted on Honey and the note Mr Roger made, the Committee concluded that Mr Roger had adequately considered Honey's history and presenting signs and that he had not therefore failed to provide appropriate and adequate care to Honey. It therefore found Charge 1(a) not proved.

Charge 1(b)

44. This Charge referred to whether or not Honey was weighed by Mr Roger on 30 January 2019. Mr Roger could not remember if Honey was weighed thereby leaving open the possibility that she was. Ms LP was not with Honey throughout the time Honey was seen at the Practice on that day since Honey's second blood sample was not taken in the presence of Ms LP. The computer record did not determine to the Committee's satisfaction so that it was sure, that Honey was not weighed. The email response from Mr John Beel to the College about the Medivet computerised record on 17 November 2021 said "*However there is sometimes a graphic form that I can call up (weight history – not sure it has more information on it though) unfortunately I can only access that tab from within a clinic and not on my laptop for some reason*." The email produced showed Honey's weight was taken on 30.08.18 and 23.08.18 but the Committee was aware that the narrative showed a weight for Honey on 2 February 2019 on the inpatient sheet. This weight is the same as on the front page of the records and may have been copied from there. It is therefore not possible to be sure that Honey was weighed on 2 February 2019 either. Further to this, no weight for Honey on 2 February 2019 was evidenced by Mr Beel in his email to the College.

45. For all these reasons the Committee was therefore not sure if Mr Roger failed to weigh Honey on 30 January 2019 and it therefore concluded that Charge 1(b) was not proved.

Charge 1(c)(i)

46. Mr Roger noted in the clinical notes that there was a swollen abdomen and a fluid thrill. He prescribed a diuretic and advised that Ms LP should return in seven days and if no improvement an ultra sound scan would be performed. He also said if there was a deterioration Ms LP should return Honey to the Practice sooner. Mr Roger agreed in evidence that if presented with such symptoms again he would use an ultrasound scan to aid diagnosis straight away.

47. Mr Petrie said that an ultrasound scan should have been performed to confirm the suspicion of free abdominal fluid on 30 January 2019 because 'there are no good circumstances where a patient has a large volume of abdominal fluid. If present, Honey must have had serious disease. Haemorrhage into the abdomen or the presence of septic fluid could be imminently life threatening.'

48. Mr Hall said that 'having been able to clinically exclude some important possible causes from other examination findings, it was not wrong to opt for blood tests first and then having made a provisional diagnosis to treat accordingly and arrange a revisit whereupon a scan may have been performed later.'

49. The Committee noted the differences in the opinions of both experts but it was not persuaded that Mr Roger's decision not to scan Honey immediately was a failure to adequately investigate her swollen abdomen. It was satisfied that Mr Roger's decision to prescribe a diuretic and to wait seven days was a reasonable one when considering the blood test results, clinical examination and presenting history. Biochemistry and haematology bloodwork is useful when considering abdominal fluid as it can rule out certain conditions, as was the case with Honey. In any case the ultra-sound would not have told Mr Roger the nature of the fluid. The Committee concluded that Mr Roger's decision to postpone carrying out a scan could not therefore be a failure by him to adequately investigate Honey's swollen abdomen/fluid thrill. The Committee decided that the opinion of Mr Hall was reasonable and supported Mr Roger's decisions that day. Even though Mr Roger has since said that he would perform an ultrasound scan in similar circumstances in the future, the Committee was not sure that Mr Petrie's opinion was proportionate to the clinical presentation.

50. The Committee was also not persuaded that carrying out a paracentesis as an alternative investigation was reasonable due to the possible risks associated with that procedure taking into account the clinical presentation of Honey.

51. The Committee further took into consideration that Honey presented as a relatively bright dog on 30 January 2019 even though Ms LP said Honey 'wasn't herself'. The Committee therefore decided that Mr Roger's decisions regarding investigating her swollen abdomen and fluid thrill were reasonable in the circumstances. It therefore preferred the opinion of Mr Hall on this part of the evidence because he balanced the clinical findings with Honey's presenting signs. The Committee decided that Mr Petrie's opinion on this aspect was closer to that of a second opinion practitioner, where it is common practice to do multiple investigations on the same day, rather than a first opinion veterinary surgeon where a more a 'stepwise approach' is often taken. The Committee decided that Mr Roger's plan to conduct a scan in seven days if there was no improvement was a reasonable clinical judgement to have made.

52. The Committee therefore concluded that Mr Roger had not failed to adequately investigate Honey's swollen abdomen and fluid thrill and found Charge 1(c)(i) not proved.

Charge 1(c)(ii)

53. The Committee first considered the clinical notes of 30 January 2019. According to the abbreviated clinical notes Mr Roger's clinical examination of the chest revealed 'slight congestion on right hand side, but heart rate good and rhythm regular, no murmur detectable and that respiration was laboured because of abdominal pressure'. Furthermore in Honey's clinical history Honey had presented previously with crackles in her chest, which had responded favourably to diuretics. Mr Roger also stated that on reflection Honey's breathing was shallow rather than laboured. Both Ms LP and Mr Roger agree that despite the considerable stress of several attempts at blood sampling there was no deterioration in Honey's breathing during blood sampling. In addition Ms LP did not recall difficulty in breathing as being a presenting sign on 30 January 2019 in comparison to 2 February 2019 when it was the primary presenting sign.

54. Mr Petrie stated that *"it cannot be determined if the laboured breathing was due to thoracic cavity disease (pneumonia, pulmonary oedema, pleural effusion etc.) at that stage. However it would have been appropriate to obtain chest radiographs (X-rays) on 30 January 2019."*

55. Mr Hall stated "*that the evidence from Ms LP and Mr Roger did not appear to suggest that Honey's breathing was of sufficient concern that further investigation was immediately indicated."* Mr Hall accepted that looking for free fluid in the chest cavity did not require precise radiographs.

56. The Committee considered Mr Petrie's evidence and agreed that to differentiate between the conditions outlined by Mr Petrie would require chest radiographs. However, to obtain radiographs of the quality necessary to diagnose for example, the difference between pneumonia and lung oedema would have required anaesthesia or sedation. In saying this, the Committee also accepts Mr Hall's contention that in emergency situations such as on 2 February 2019, imprecise radiographs can be obtained in a conscious dog that may be of some clinical value. However on 30 January 2019 from what both Ms LP and Mr Roger have stated Honey was sufficiently active that obtaining diagnostic radiographs of the quality needed to differentiate between the conditions outlined by Mr Petrie would have required sedation or anaesthesia.

57. The Committee thought Mr Petrie's approach was that of a second opinion clinician on this aspect and it preferred Mr Hall's evidence because it was more in keeping with the 'stepwise approach' taken in a first opinion setting. The Committee considered that Mr Roger's decision to not undertake radiographic imaging was reasonable on 30 January 2019. That is not to say that radiography should not have been carried out, but rather that the Committee decided that to take diagnostic images on 30 January 2019 when Honey was lively enough to go for a walk would have been difficult without sedation or general anaesthesia. Both those procedures have some risk and Honey's blood test results, age and obesity increased the risk of carrying out either which had to be balanced against the clinical presentation at that time. The Committee concluded that on 30 January 2019 Mr Roger's investigation by listening to Honey's heart rate and noticing there was no murmur, auscultating her chest and examining her mucous membranes was an adequate investigation and examination in the circumstances. It considered the evidence about Honey's breathing as reported by Mr Roger was such that it was a reasonable clinical judgment to determine that no further investigation was necessary at that time, particularly as diagnostic radiography to differentiate between complicated chest pathology would have required either sedation or general anaesthetic and it was not unreasonable for Mr Roger to consider the potential risks

outweighed the potential benefit on 30 January 2019. It therefore preferred the opinion of Mr Hall on this issue.

58. The Committee also took into account that Honey was well enough to go out for a walk on 30 January 2019 even though a pram was used for some of the time to be kind to Honey.

59. The Committee was therefore not persuaded that a failure to radiograph Honey amounted to a failure to adequately investigate Honey's laboured breathing and/or respiratory difficulties and it found Charge 1(c)(ii) not proved.

Charge 1(d)

60. Mr Roger had admitted this Charge in part. He said that if the words 'recognise and/or' were deleted from the charge he would admit the remainder, namely that he failed to pay adequate regard to Honey's elevated blood glucose having reflected on his erroneous clinical judgment. Mr Roger told the Committee he mentioned the elevated blood glucose shown in the blood test results with Ms LP in passing on 30 January 2019 but he said he did not pay it adequate regard because he believed the elevated blood glucose could be explained by the liver problems and stress combined.

61. Ms LP said Mr Roger did not tell her anything about the elevated blood glucose on 30 January 2019.

62. The College also relied on a later recording made on a mobile telephone to support Ms LP's account. The recording was made covertly by Ms LP's son and husband and they expressed concern that they were not told about the elevated blood glucose result before the 2 February 2019.

63. The Committee found that Mr Roger, on the basis of his admission, had failed to pay adequate regard to Honey's elevated blood glucose although it was satisfied that he had recognised the elevated blood glucose as existing at the time.

64. Mr Roger explained he believed the elevated blood glucose of 28 was associated with Honey's stress rather than diabetes mellitus. Mr Petrie explained that although a cat under stress might have an elevated blood glucose in the 50's a dog would only ever have a blood glucose of up to 10 resulting from stress.

65. Mr Roger disputed that he had failed to recognise the elevated blood glucose because he said that he had mentioned it in passing to Ms LP. The Committee noted that it was Mr Roger's word against Ms LP as to whether it was mentioned at all. The Committee considered that if Ms LP had been told about the blood glucose on 30 January 2019, she would not have been surprised when she was told it was elevated on 2 February 2019. The Committee also took into account Mr Roger's explanation as to why he had failed to pay more attention to the blood glucose. It concluded that the explanation he gave was the reason why he did not say more about the elevated blood glucose to Ms LP. It decided that Mr Roger may have mentioned it in passing to Ms LP but that she may not have heard him and so she did not acknowledge it.

66. Further, since Mr Roger had proffered an explanation for the elevated blood glucose, the Committee was satisfied that Mr Roger had recognised the elevated blood glucose, albeit for the wrong reason. It therefore found Charge 1(d) proved on the basis of Mr Roger's admission, in that he failed to pay adequate regard to Honey's elevated blood glucose. It further found that this amounted to a failure to provide appropriate and adequate care to Honey. The Committee did not find this charge proved on the basis that Mr Roger failed to recognise the elevated blood glucose.

Charge 1(f)

67. Mr Roger admitted in evidence to the Committee that with the benefit of hindsight he would have chosen an alternative clinical pathway. He accepted that it was a misjudgement not to further investigate the hyperglycaemia in order to establish if it was persistent and required treatment. However his Counsel asked the Committee to find this charge not proven on the basis that Mr Roger had not ignored the elevated blood glucose just because he had chosen a different clinical pathway.

68. Mr Petrie considered that the elevated blood glucose of four times the normal range should have led Mr Roger to make further enquiries of Ms LP to check for any confirmatory history or symptoms. In Mr Petrie's opinion "*Irrespective of the reality of Honey's disease(s), she needed insulin therapy. The implication for a dog with diabetes mellitus that is not recognised and is not treated is the risk of progression to a life threatening state. Mr Roger failed to address this need*."

69. Mr Hall stated that "*it was Mr Roger's intention to manage what he believed at that time to be the primary issue, the liver damage and infection, and not what he believed at that time to be a finding of lesser significance*." Mr Hall said in his report that the

elevated blood glucose level should have prompted Mr Roger to follow up with further investigations either by blood testing or urine testing. In evidence Mr Hall qualified this by saying that 'should' meant highly desirable but it was not mandatory to do so although he accepted that he would not leave such a level un-investigated or unmanaged.

70. The Committee found that Mr Roger had noticed the elevated blood glucose and that he therefore could have managed Honey's hyperglycaemia more effectively, but he did not because of an erroneous explanation he had formed for the elevated blood glucose. He failed to provide appropriate management for the elevated blood glucose. The clinical records recorded no plan for its management. The fact that Mr Roger explained why he did not act on the elevated blood glucose result (due to stress) was also not documented within the clinical notes. Mr Roger did not carry out any further tests as he should have done and he did not document a plan to do so other than recording that Honey should return within seven days.

71. Whilst the Committee accepted that Mr Roger may have made an error of judgment when considering the elevated blood glucose it was satisfied so that it was sure that he had therefore consequently failed to manage Honey's hyperglycaemia either by treating it or by documenting an appropriate plan to do so. The Committee was satisfied so that it was sure of the opinion of Mr Petrie, that Mr Roger should have responded to the elevated blood glucose in some way either by performing further tests, administering insulin and/or documenting a more targeted plan of action. It was not persuaded by Mr Hall that Mr Roger's pursuance of a presumptive diagnosis of liver damage and infection obviated the requirement for him to consider the elevated blood glucose further. Further, Mr Hall had agreed that he would not leave an elevated level such as this un-investigated or unmanaged. His qualification of it being highly desirable to investigate further, also led the Committee to conclude that Mr Roger had not managed Honey's hyperglycaemia appropriately.

72. Mr Roger's erroneous judgement amounted in the Committee's view to a failure to provide appropriate and adequate care to Honey.

73. Accordingly, the Committee considered this amounted to a failure to manage Honey's hyperglycaemia and also a failure to provide appropriate and adequate care to Honey; it therefore found Charge 1(f) proved.

Charge 1(g)

74. The matter in issue between the College and Mr Roger on this Charge was the use of the word ‘discharged’. The College submitted Honey was discharged into the care of Ms LP when she was sent home on 30 January 2019 with the proviso that Ms LP return in seven days or earlier for a review. Mr Roger submitted that Honey was not discharged because he recommended a review in seven days or sooner if required.

75. Mr Petrie stated that he would expect a reasonably competent veterinary surgeon to ask to re-examine Honey in 1-2 days in this situation. He also said it was inappropriate and inadequate to advise for re-examination in 7 days, given the number and severity of problems that Honey was exhibiting. He said he would not expect the reasonably competent veterinary surgeon to leave an owner to make the decision if or when to come back as it was the role of the veterinary professional to provide appropriate guidance to owners.

76. Mr Hall stated that it was not unreasonable for Mr Roger to initiate treatment and then to arrange for a revisit after seven days.

77. The Committee did not consider that a diabetic coma was likely to occur immediately from a blood glucose of 28 combined with Honey’s clinical presentation. The plan made by Mr Roger was to see Honey in seven days or earlier if her condition worsened. The Committee preferred the opinion of Mr Hall to Mr Petrie’s because Mr Roger had told Ms LP to bring Honey back if her condition worsened; something which Ms LP did in fact do. He gave the correct advice and Ms LP had followed it. The Committee did not find that the presentation alongside the blood results which Mr Roger considered on 30 January 2019 required more urgent investigations or indicated further treatment was necessary without the benefit of hindsight in knowing that Honey died three days later.

78. Further, the Committee decided the use of the word ‘discharged’ meant that it was not sure that Charge 1(g) was proved because the instructions given to Ms LP which she followed resulted in her returning to the Practice. The Committee considered that it would have been premature to admit Honey on 30 January 2019 and it concluded that she was not technically discharged to Ms LP when she left the Practice on that day.

79. Accordingly the Committee found Charge 1(g) not proved.

Charge 2(a)

80. Mr Roger accepted that no numerical values were given to Ms LP, but he said he did mention in passing to Ms LP, that Honey's blood glucose was raised when he spoke to her on the phone. The Committee has already determined that Mr Roger may have mentioned the elevated blood glucose in passing to Ms LP.

81. Mr Petrie stated that there was no evidence that the owners were informed about the elevated blood glucose and the potential implications of it so this did not amount to adequate communication.

82. Mr Hall said it was understandable that Mr Roger did not say anything about the potential significance of the finding nor that any reference was made to an urgent need for further investigations, given Mr Roger's conviction that the primary problem was liver damage and infection, and that hyperglycaemia was incidental.

83. The Committee took into account that Mr Roger admitted Charge 2(b) and his failure to communicate adequately the significance of hyperglycaemia but the Committee decided that even if Mr Roger mentioned the elevated blood glucose in passing this was not adequate communication.

84. The Committee was therefore sure that Mr Petrie's opinion that the owners should have been informed about the potential implications of the elevated blood glucose was correct. It was not persuaded by Mr Hall's opinion that Mr Roger's assessment that the primary problem of liver damage and infection obviated a need to communicate adequately further about the elevated blood glucose and the reason for it. The Committee decided that more explanation was required about the elevated level so that Ms LP could understand why the level was elevated and what Mr Roger's opinion about that was; this was irrespective of Mr Roger's opinion about the liver results. It therefore found that this was a failure to communicate adequately with Ms LP about Honey's elevated blood glucose.

85. Accordingly the Committee found Charge 2(a) proved.

Charge 3(a)

86. Mr Roger said he was unsure if the entry in the clinical records of ‘swollen abdomen’ was from the clinical history from Ms LP or from his clinical examination of Honey. Mr Roger accepted that he did not record the presenting history and its duration, magnitude and severity. He said that if excessive drinking had been mentioned he would have recorded it.

87. Mr Petrie stated that “in addition to not defining the presenting problem(s) in the records, there was no indication of the duration, magnitude, and severity of those problem(s)’.

88. Mr Hall referred to Paragraph 13.1 of the RCVS guidance on clinical record keeping which indicates the elements that should be included in clinical notes. Whilst noting what elements were present Mr Hall went on to say that “there is however a chaotic presentation of the clinical and other components of the notes and the clinical information recorded is lacking”.

89. The Committee considered that the clinical notes should allow another veterinary surgeon to be able to take over a case without further information. By omitting to include in the narrative of the clinical notes the elevated blood glucose, Mr Roger had not explained what he believed the reason for that level was. The notes at their best indicated that the owner had presented a dog with a swollen abdomen on 30 January 2019, but nothing further. This was not an adequate history of the presenting complaint. Why the owner had brought the dog into the Practice was a necessary piece of information for a veterinary surgeon to record. Mr Roger said in his statement that Ms LP told him Honey was ‘out of sorts’ but this is not recorded in the notes nor was it recorded how long Honey had been ‘out of sorts’ for. At the very least in the Committee’s view Mr Roger should have recorded that Honey was ‘out of sorts’ or ‘wasn’t herself’ as this is what Ms LP had reported and how long any other symptoms had existed for. Both experts had criticised the content of the presenting history in the clinical notes.

90. Mr Roger’s note of swollen abdomen also did not record whether this was reported by the owner or whether it was a clinical finding or how long the abdomen had been swollen for.

91. Accordingly the Committee found Charge 3(a) proved on the basis that Mr Roger failed to keep adequate clinical records by failing to record adequately the history and presenting signs of Honey as given by Ms LP and the duration of Honey being 'out of sorts' or how long Honey's abdomen had been swollen for. Since the Committee was not sure that Ms LP said that Honey was drinking excessively or had put on weight it could not be sure that Mr Roger had failed to record those aspects.

Charge 3(b)

92. Mr Roger acknowledged that his clinical notes relating to his consultation with Honey were somewhat deficient accepting that it would have been best practice to record Honey's weight or body condition on 30 January 2019; however he denied that this amounted to inadequate clinical record keeping.

93. Mr Petrie stated that knowing the weight and girth measurement on 30 January 2019 would have allowed for a comparison to be made at a later date and would have helped to determine the progression of any disease and/or response to treatment.

94. Mr Hall stated that body weight and condition were not recorded in the clinical notes.

95. The Committee was not satisfied so that it was sure that Ms LP told Mr Roger that Honey had put on weight on 30 January 2019. The Committee therefore considered the adequacy of the clinical notes in the context of an obese dog with a swollen abdomen. It was satisfied that weighing and measuring Honey may have been good practice but in this context it concluded that this did not amount to a failure by Mr Roger. The Committee was not persuaded a note as to Honey's girth or body condition or weight was a failure to keep adequate clinical records on the basis of Honey's clinical presentation and examination.

96. Accordingly the Committee found Charge 3(b) not proved.

Charges 3(c), 3(d), 3(e), 3(f)

97. Counsel for the College indicated that the College no longer pursued these charges because of the explanation given by Mr Roger in evidence regarding abbreviations made in the clinical notes which indicated that these matters were adequately

recorded. The explanations regarding the abbreviations were accepted by Mr Petrie. The Committee also agreed that those explanations made sense.

98. Accordingly the Committee found Charges 3(c), 3(d), 3(e), 3(f) not proved.

99. The Committee therefore invited submissions from the College and Counsel for Mr Roger regarding whether individually or cumulatively in respect of the matters it had found proved Mr Roger was guilty of disgraceful conduct. Those matters in summary were Charges 1(d), 1(e)(i), 1(e)(ii), 1(e)(iii), 1(e)(iv), 1(f), 2(a), 2(b), 2(c), 3(a) and 3(g).

Disciplinary Committee
20 December 2021