

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

PAUL ANDERSON ROGER MRCVS

DECISION ON DISGRACEFUL CONDUCT IN A PROFESSIONAL RESPECT

1. The Committee found the following charges proved:

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

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

It 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.

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

1(e)(ii) taking repeat blood glucose tests; and/or

1(e)(iii) carrying out urine analysis; and/or

1(e)(iv) carrying out additional blood tests;

1(f) failed to manage Honey's hyperglycaemia;

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;

It 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.

3(g) blood glucose levels.

The College's case

2. Mr Weston, on behalf of the College, submitted that the conduct found proved by the Committee amounted to disgraceful conduct in a professional respect for each individual head of charge. Alternatively, he submitted that if the Committee did not find the conduct fell far short of the standard to be expected but that it fell short of the standard to be expected, he invited the Committee to find that cumulatively the charges amounted to disgraceful conduct in a professional respect.

3. The College relied on the expert evidence of Mr Petrie that such conduct amounted to disgraceful conduct in a professional respect. In summary, Mr Weston submitted that Honey presented with hyperglycaemia which was detected by and known to Mr Roger. However, he submitted that *'Mr Roger by very substantial error confused a stress reaction in cats and did not therefore act on the hyperglycaemia in Honey in the manners found. As such Honey's hyperglycaemia was neither investigated or treated and Honey's owner was not informed of the significance or seriousness of that hyperglycaemia. Further, there was inadequate record keeping. He submitted that those failings strike at the obligations of a veterinary surgeon under the Code and in particular these provisions of the Code:*
- 1.1 Veterinary surgeons must make animal health and welfare their first consideration when attending to animals.*
 - 1.3 Veterinary surgeons must provide veterinary care that is appropriate and adequate.*
 - 2.4 Veterinary surgeons must communicate effectively with clients, including in written and spoken English, and ensure informed consent is obtained before treatments or procedures are carried out.*
 - 2.5 Veterinary surgeons must keep clear, accurate and detailed clinical and client record.'*
4. Furthermore on the facts found Mr Weston submitted that:
- a) Elevated glucose of the levels in Honey ought to have been a clear and obvious marker to Mr Roger that the dog had a serious condition that required management and/or investigation,
 - b) Diabetes obviously ought to have been considered once hyperglycaemia was noted,
 - c) The Owner ought obviously to have been advised as to the issues and consequences,
 - d) Mistaking a sign or symptom in one species for another species (and inaccurately) is no justification but rather an indication of the seriousness of the failing.
 - e) The failings found in fact exposed Honey to the risk of harm; and serious harm
 - f) This is a case of multiple failings in diagnosis, communication, record keeping and treatment.

The Respondent's case

5. Ms Bradley Q.C. submitted that three of the potentially aggravating features of the charges were found unproven by the Committee (the reported history of excessive drinking, putting

on weight and that there was no deterioration in Honey's breathing during blood sampling). This she said mitigated the matters to be considered at stage 2 of the proceedings.

6. She submitted in summary that the matters found proven amounted to a single act of negligence or deficient professional performance but not misconduct or disgraceful conduct in a professional respect. Further she submitted that all the matters found proven stemmed from a single error of clinical judgement in ascribing the elevated blood glucose to stress and the liver problem in combination rather than assuming diabetes mellitus until proven otherwise.
7. Ms Bradley Q.C. submitted on the facts the Committee had found proved, that the conduct and shortcomings in Mr Roger's management of Honey could not properly be described as seriously deficient or falling far below the standard required, notwithstanding that they did fall short of the standard required. She also submitted that the conduct would not be considered by other members of the profession to be deplorable. At their worst they could be described as 'simple professional negligence' which was not sufficient to amount to disgraceful conduct.
8. Ms Bradley Q.C. submitted that the Committee should rely on the opinion of Mr Hall rather than Mr Petrie. In summary she submitted that Mr Hall was a much more experienced first opinion practitioner than Mr Petrie who only had experience of first opinion practice over 30 years ago. She also submitted that Mr Petrie used hindsight when opining on whether or not Mr Roger's conduct amounted to disgraceful conduct.
9. Ms Bradley Q.C. submitted that the Committee should also take into consideration both Mr Roger's unblemished career and good character and the efforts he had made in remediating his knowledge since these events occurred because they were relevant to whether or not his conduct amounted to disgraceful conduct. She also asked the Committee to take into account testimonials and other evidence which had been called and read relating to Mr Roger's previous clinical competence. She invited the Committee to consider this background when considering the fact that this was an isolated incident and in deciding whether or not the conduct found proved amounted to misconduct.

The Committee's decision

10. The Committee proceeded on the basis that conduct is disgraceful in a professional respect when it falls far short of that which is to be expected of a reasonably competent

member of the profession. It noted that its role was to safeguard the health and welfare of animals and to identify those registrants who have fallen far short of the standards to be expected of them; not any registrant who may have made a single error of clinical judgement.

11. The Committee took into account the written submissions and oral submissions from Mr Weston and Ms Bradley Q.C. on whether the proven charges amounted to disgraceful conduct in a professional respect.
12. The Committee accepted the advice on the law as given by the legal assessor. The legal assessor advised the Committee that in determining whether the proven conduct amounted to disgraceful conduct in a professional respect it could take into account Mr Roger's past unblemished history in deciding whether Mr Roger's failings amounted to serious professional misconduct. Ultimately it is the conduct in respect of the proven charges that the Committee should consider and whether they amounted to misconduct and not Mr Roger's earlier conduct. (*Clery v Health and Care Professions Council* [2014] EWHC 951 paragraph 26). In fact the Committee's deliberations and conclusions on disgraceful conduct in a professional respect were made without reference to the good character and unblemished record of Mr Roger.
13. In relation to whether it took into account Mr Roger's efforts to remediate and learn from this case, the Committee accepted the advice from the legal assessor that remediation was not relevant to whether or not the proven allegations amounted to disgraceful conduct in a professional respect.
14. The Committee considered the evidence of Mr Petrie and Mr Hall when deciding whether each charge or particular amounted to disgraceful conduct in a professional respect but it also exercised its judgement having considered all the evidence. It decided that the opinion of Mr Hall was to be preferred over Mr Petrie's opinion when determining disgraceful conduct in a professional respect because Mr Petrie had not worked as a first opinion practitioner for over thirty years and his experience as one was limited to one year whereas Mr Hall had considerably more experience in first opinion practice. Furthermore the Committee noted that much of Mr Petrie's opinion had been predicated on charges the Committee had found not proved.

Charge 1d), 1e)(i), 1e)(ii), 1e)(iii), 1e)(iv), 1f

15. The Committee considered each particular individually and found that each particular was conduct which fell short of the standard to be expected of the reasonably competent veterinary surgeon, both in respect of Mr Roger's failure to pay adequate regard to Honey's elevated blood glucose levels and in his failure to investigate further Honey's hyperglycaemia and in his failure to manage Honey's hyperglycaemia.
16. The Committee took into consideration all of the facts Mr Roger faced at the time he saw Honey. It noted that Mr Roger made a working diagnosis following a clinical examination and that his initial diagnosis of liver damage and infection was based upon that consultation and blood tests. Although Mr Roger made an error in his clinical judgement about the hyperglycaemia by confusing the levels of hyperglycaemia due to stress in cats with those in dogs with the liver problems combined, the Committee was satisfied that such conduct was a clinical mistake in a case which was complicated. Such cases could ordinarily have a necessity to be referred. The Committee was not persuaded that the elevated blood glucose levels combined with the other clinical findings were compatible with a diagnosis of uncomplicated diabetes mellitus.
17. The Committee considered that the failures it had found proved were matters which it was prudent for Mr Roger to carry out but those failures did not amount to serious professional misconduct. It noted that Mr Hall stated in his report that *"It would have been prudent to have suggested the testing of a urine sample, further blood glucose tests, a fructosamine assay, or all three, so as to be less likely to miss a diagnosis of diabetes mellitus. Failure to perform further tests, even in the absence of polydipsia amounted to an error of judgment and Mr Roger's conduct falling below, but not far below, the standard expected of a reasonably competent veterinary surgeon in first opinion practice."*¹ The Committee considered this opinion accurately represented its own view of Mr Roger's conduct on Charge 1.

Charge 2a), 2b), 2c).

18. The Committee was satisfied that the failure to communicate adequately with Ms LP was conduct that fell below the standard to be expected of the reasonably competent veterinary surgeon but not far below the standard to be expected. The fact that Mr Roger did not explain more fully the reasons for the elevated blood glucose levels and the significance of the hyperglycaemia meant that he could not fully outline the options for the investigation

¹ paragraph 8.15

and management of the hyperglycaemia with Ms LP. His failure in that regard meant that Ms LP was not fully informed about Honey's clinical picture and the options for Honey's treatment. This was regrettable but the Committee did not consider that those failures amounted individually or cumulatively to disgraceful conduct in a professional respect. The Committee decided that this was a complex case so the failures in communication were less serious in the context of Mr Roger's clinical error and misjudgement.

Charge 3a) and 3g).

19. In the Committee's judgement Mr Roger's failure especially as a locum veterinary practitioner to fully document in the clinical records presenting signs and blood glucose levels could create difficulties in understanding Honey's case for those veterinary surgeons who would later review them. Mr Roger made some attempt to document his findings and clinical plan but these were in the Committee's view not sufficiently detailed to explain to another veterinary practitioner all of the information that they would need to understand how to continue Honey's treatment.

20. The Committee noted that Mr Hall stated

"Paragraph 13.1 of the RCVS guidance on clinical record keeping indicates the elements that should be included in clinical notes, and there is reference to most of these in Mr Roger's notes, albeit briefly. There are some details of examination, of treatment administered, of the diagnostic procedure undertaken, of medication prescribed and/or supplied, of the results of the diagnostic test performed, of the provisional diagnosis, and of advice given to the client over the telephone. They also indicate an outline plan for future treatment or investigation, and details of proposed follow-up care. There is, however, a chaotic presentation of the clinical and other components of the notes, and the clinical information recorded is lacking..... Nevertheless, on balance and in this regard, I conclude that Mr Roger's conduct fell below, but not far below, the standard expected of a reasonably competent veterinary surgeon in first opinion practice"

21. The Committee was satisfied that Mr Hall's opinion fairly represented the position. It further noted that Mr Petrie had modified his opinion during his evidence on this matter.

22. The Committee therefore found that Mr Roger's conduct individually or cumulatively under Charge 3 did not amount to disgraceful conduct in a professional respect because whilst he failed to adequately note some information in his notes, he did record other salient matters.

23. The Committee noted that all the matters related to one animal in a complicated internal medicine case. Mr Roger had examined Honey, chosen a treatment pathway and he had communicated with Ms LP. In the Committee's judgement Mr Roger had made a clinical error regarding the elevated blood glucose but overall his conduct was not sufficient to amount individually or cumulatively to serious professional misconduct or disgraceful conduct in a professional respect. The Committee also did not consider that fellow members of the profession fully appraised of the failings by Mr Roger in the context of the case as a whole would regard Mr Roger's conduct as deplorable.

24. In conclusion the Committee found that the charges and particulars it had found proved did not amount to disgraceful conduct in a professional respect either individually or cumulatively. In its judgement the conduct found proved fell short of the standard to be expected of a reasonably competent veterinary surgeon but not far short of the standard which is expected of the reasonably competent veterinary surgeon.

Disciplinary Committee

25 April 2022