

BEFORE THE PROFESSIONAL CONDUCT COMMITTEE OF THE
ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS

v

DR ROBERT WILLIAM RUSSELL MRCVS (Respondent)

DISCIPLINARY COMMITTEE DECISION ON SANCTION

Facts underlying the Respondent's Conviction

1. These have been set out in the Committee's Decision on Facts and Fitness to Practice. Accordingly, they do not require repetition here.
2. It was not suggested before the Crown Court – and it is not suggested before this Committee - that the offences of "*making or possessing indecent photographs*" involved the Respondent having taken part in the original production of the images. The act of downloading an image to a computer, knowing that the image was, or was likely to be, an indecent image of a child, is sufficient to render a person guilty of an offence of making that image.
3. The Sentencing Remarks and Findings of the Crown Court Judge at the Hearing at Winchester Crown Court on 13 June 2023 set out all the material factors which now fall to be considered, as regards the seriousness of the Particulars of Offence contained within the Charge to which the Respondent had earlier pleaded Guilty.

Factors taken into Account

4. The Committee at this Sanction Stage may take into account aggravating and mitigating factors. The College invited the Committee to consider the following as relevant aggravating factors which were present in this case:
 - a. Actual injury to an animal or human (here animals and children)*
 - b. Risk of injury to an animal or human (here animals and children)*
 - e. Premeditated misconduct*
 - i. The involvement of a vulnerable client (here a non-client)*
 - k. Sexual misconduct."*

5. The Committee also had regard to the following passage in the “Available Outcomes and Sanctions” section of the Guidance:
“77. Removal from the register may be appropriate where behaviour is fundamentally incompatible with being a veterinary surgeon, and may involve any of the following (the list is not exhaustive):
 - *Serious departure from professional standards as set out in the RCVS Code of Professional Conduct for Veterinary Surgeons...*
 - *Causing serious harm (or causing a risk of serious harm) to animals or the public, particularly where there is a breach of trust;*
 - *Offences of a sexual nature;”*
6. The Committee has also had regard to the decision of the Administrative Court in The Council for the Regulation of Health Care Professionals v General Dental Council (Fleischmann) [2005] EWHC 87 (Admin) (referred to at paragraph 49 of the Disciplinary Committee Procedure Guidance), where Newman J substituted an order for erasure and stated:
“I am satisfied that, as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine. The rationale for the principle is not that it can serve to punish the practitioner whilst serving his sentence, but that good standing in a profession must be earned if the reputation of the profession is to be maintained.”
7. In this case, the Respondent is subject to a two-year community penalty which does not expire until June 2025; and five-year sexual harm prevention and barring orders that do not expire until June 2028.
8. The misconduct in this case does not relate to one single image. It involves thousands of prohibited images in total. There were 104 category A indecent images of children, 40 category B indecent images of children, 132 category C indecent images of children and 2,280 prohibited images of children. Some of the children depicted in the images were as young as 4 years old. In the College’s submission, possession of such images is disgraceful conduct of the most grievous and reprehensible kind.
9. The Committee also considers that the misconduct raises serious concerns about animal welfare and the reputation of the profession in terms of promoting animal welfare. The Respondent was convicted of possessing 109 extreme pornographic images portraying sexual acts with an animal. Such acts are by their very nature abusive and run contrary to the very essence of the practice of the profession of veterinary surgery, which is intended to protect and enhance the welfare and well-being of animals.
10. The College submits, and this Committee agrees, that when consideration is given to the nature and the number of the images underlying these convictions, there can be no

doubt that members of the public would find it abhorrent for a veterinary surgeon to have acted in this way.

11. The Committee considered carefully all of the submissions of both the College and the Respondent, and had regard to the personal circumstances of the Respondent including his current, post-conviction, mental ill health, as referred to in the Medical Notes forwarded to the College – the details of which are of a highly confidential nature but are to be found in the Proceedings in Absence Bundle presented to the Committee yesterday, 12 March.

Approach Adopted

12. The Committee accepted the advice of the Legal Assessor. The Committee has, therefore, had in mind that the primary purpose of sanction is not to punish, but to protect the welfare of animals, maintain public confidence in the profession and declare and uphold proper standards of conduct. The sanction which it applies must be proportionate to the nature and extent of the conduct, and must weigh the public interest with the interests of the Respondent.
13. The Committee is satisfied that the aggravating factors which the College identified and relied on are present in this case. These factors and their seriousness have been addressed in the Committee's Decision on Stage 2 – Unfitness to Practise Decision at paragraphs 33. They do not warrant further repetition here.
14. As regards mitigating factors, the Committee has identified and considered the following:
 - The Respondent has no previous criminal convictions;
 - The Respondent's long unblemished career as a veterinary surgeon. The College has no matters recorded against him;
 - The Respondent has secured no financial gain by his misconduct;
 - The Respondent's mental health has undergone a significant deterioration since his conviction. This is not considered to be a significant mitigating factor as it post-dates his conviction and is a not uncommon consequence of the publication of the offence he committed;
 - There has been a not insignificant delay between the date when the offence came to light with the search of his house by the Police in January 2020 and the commencement of this Disciplinary Hearing in March 2024. The prospect of losing his right to practice as a veterinary surgeon has therefore been hanging over him for an extended period of time.
15. When it comes to the question of sanction, the Committee has considered first whether it wishes to exercise its power to postpone judgement for a period not exceeding two years. For the reasons already identified in the Decision not to Adjourn this Hearing, the Committee decided that this is not appropriate in this case. In any event, there is nothing to indicate that, if the Hearing were to be postponed, the Respondent would engage with the disciplinary process.

16. The Committee also has no doubt that this case is too serious for it to resolve to take no further action.
17. The Committee did not consider that a reprimand or a warning as to future conduct is appropriate. This is a matter which resulted in serious criminal convictions in the Crown Court. The matters which the Committee has accepted do not suggest that a warning as to future conduct is a measure which is indicated. Moreover, such a sanction is insufficient to reflect the gravity of the offence and does not properly address the issue of the public interest and/or the reputation of the profession and the College.
18. The Committee next considered whether a long period of suspension to run concurrently with the Community Sentences imposed by the Crown Court was appropriate. Given the continuation of the sexual harm prevention and barring order imposed by the Crown Court, which extends to 2028, any order of suspension would need to extend well beyond the standard period of no more than 2 years. [A two-year period of suspension is considered the maximum acceptable period because those Registrants who are made the subject of an Order removing them from the Register are permitted by the Governing Procedure Rules to apply for Restoration after a period of 10 months has elapsed]. The Committee is additionally concerned that, even after a long period of suspension, the Respondent's return to the Register would be automatic and would occur without any ability for the College to review his fitness to practise. Therefore, the Committee did not consider suspension was an appropriate sanction in this case.

Decision

19. Notwithstanding the mitigatory factors referred to above, in particular those referred to in his Medical Notes, the Committee has reached the conclusion that the Respondent's behaviour is fundamentally incompatible with being a veterinary surgeon (Para 77 of the Sanctions Guidance 2020) namely grave offences of a sexual nature. The Respondent's behaviour was so serious that removal of professional status and the rights and privileges accorded to that status is considered to be the only means of protecting the wider public interest and of maintaining confidence in the profession.
20. The Committee has not taken this decision lightly, and, lest it be misinterpreted, it has not taken it in order to satisfy any notional public demand for blame and punishment. It has taken the decision because, in its judgment, the reputation of the profession has to be at the forefront of its thinking and ultimately this is more important than the interests of the Respondent. The decision is not simply based on the fact that these offences were of a sexual nature but because they were repeated over a significant period of time and at a time when the Respondent must have known, on his own plea of Guilty, that what he was doing was wrong. Further, the Committee can discern no evidence that the Respondent has insight into the gravity of the offence he has committed.
21. The Committee therefore will direct the Registrar to remove the Respondent's name from the Register forthwith.

Disciplinary Committee
13 March 2024