

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

RAHUL CHANDULAL SHAH MRCVS

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**DECISION OF THE COMMITTEE ON SANCTIONS**

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1. The Committee now has to consider the appropriate direction under Rule 18 of the 2004 Rules. The Legal Assessor has advised the Committee that it should have in mind the following principles. The primary purpose of sanction is not to punish but to protect the welfare of animals, maintain public confidence in the profession and to declare and uphold proper standards of conduct. The sanction that it applies must be proportionate to the nature and extent of the conduct, and the Committee must weigh the public interest with the interests of the Respondent. The Committee must take account of the matters urged in mitigation, and the testimonials produced. The Committee accepted that advice.

The Submissions

2. Counsel for the College did not make any submission to the Committee as to the appropriate sanction in this case in accordance with normal practice. Counsel for the College referred the Committee to the relevant paragraphs of the Disciplinary Committee Procedure Guidance, which the Committee has considered.
3. Counsel for the Respondent began his submissions by stating, on instructions, that it remained the position of the Respondent that he was guided by the veterinary nurses in this case, and that he would have stayed to talk to the owner if asked to do so by the nurses. The Committee considered this to be a surprising submission having regard to the Committee's previous findings of fact and disgraceful conduct. The Committee has already found that the Respondent has displayed no insight as to his misconduct either in his witness statement or in his oral evidence. This submission indicates to the Committee that the Respondent is impervious to recognising the need for insight.
4. In addition, the Committee notes that in the decision of the Disciplinary Committee in September 2016, that Committee expressed "*grave concerns about Mr Shah's lack of insight into the situation that presented itself*". In imposing the sanction of a reprimand, that Committee urged the Respondent "*in the strongest possible terms*" to ensure that his future conduct by way of training and support systems were such as

to avoid any possibility of a future incident occurring, in order to ensure animal welfare and public confidence in the profession.

5. Counsel for the Respondent submitted that there was no injury to Paz as a result of the Respondent's conduct as set out in the charges. The Committee agrees that the injury to Paz occurred outside the conduct described in the charges. He also submitted that there was no risk of injury to Paz. The Committee disagrees, as set out in paragraph 4 of its Decision on Disgraceful Conduct.
6. Although the Committee accepted the Respondent's position that there was no finding of dishonesty in this case, the Committee has found in its decision as to facts, at paragraph 69, that the Respondent, in giving oral evidence, appeared to embellish the written statements and other information he had previously provided, even when that embellishment conflicted with the previous evidence he had given. He also provided entirely new accounts which did not appear in his previous statement. On one point, it appeared to the Committee that the Respondent was making his account up as he went along. The Committee found that the Respondent was a very poor and unreliable witness.
7. The Respondent submitted that there were no clinical issues as a result of the findings of fact in this case. The Committee disagrees. Charge 1(a) clearly raises clinical issues relating to the need for an examination of Paz. If the Respondent had examined Paz before embarking on anaesthesia, and identified the fact that there was a retained testicle, it is likely that none of the events described would have occurred. The issue of retained testicles is of particular importance in a case of early neutering as in this case.
8. The Respondent's Counsel advanced certain matters by way of personal mitigation.



The Committee accepts that giving evidence before the Committee is a stressful experience for any Respondent, and makes allowances for this.

9. The Committee has considered the five testimonials submitted by the Respondent today. Four of the testimonials deal with the witnesses' experiences of working with the Respondent over short periods of time in 2019. One testimonial is very short and deals with a period of March to June 2017. It was submitted to the Committee by the Respondent that the testimonial from Nishi Jani MRCVS contained an offer of a job. This testimonial states *"it is my understanding that the practice would like to have him back again when he is available and we require a locum to help us"*. This appears to the Committee to be an offer of possible future locum employment if and when a locum was required at that practice. The Committee has taken the testimonials into account.

10. Counsel for the Respondent submitted that the appropriate direction under Rule 18 in this case would be to postpone judgement for a period not exceeding two years, with appropriate undertakings. He suggested that the Respondent could be mentored and supervised by a veterinary surgeon, and said that the Respondent's CPD was up to date. He suggested it would be possible for the Respondent to undertake extra CPD for note-taking and communication.

#### The Committee's Decision on Sanction

11. The Legal Assessor advised the Committee that it should first consider whether it wished to postpone judgement. If it decided not to do so, the options are to:- (1) take no further action; (2) reprimand and/or warn the respondent as to his future conduct; (3) direct that the Respondent's registration be suspended for a specified period; (4) direct the Registrar to remove the Respondent's name from the Register. The Committee was advised that it should consider these sanctions in that order and it is only if the Committee determines that it is not sufficient to protect the welfare of animals, to serve the public confidence in the profession, or to uphold proper standards of conduct at a lower level, that it should go on to consider the next level. The Committee accepts that advice.
12. The Committee first considered whether this was a proper case where it would be right to postpone judgement for a period not exceeding two years. The Committee considered paragraph 37 of the Disciplinary Committee Procedure Guidance 2013 (the Guidance) this states that normally, a postponement of judgement with undertakings from the Respondent veterinary surgeon will be appropriate only when most or all of the following factors apply. These include: (b) the Respondent veterinary surgeon has demonstrated insight into the seriousness of the conduct and there is no significant risk of repeat behaviour; (c) it is possible to formulate undertakings that are capable of being met, appropriate and measurable. Furthermore, paragraph 38 of the Guidance provides that, when deciding to postpone judgement with undertakings from the Respondent, the Committee must be satisfied that this is sufficient to protect animals and the wider public interest.
13. It is clear to the Committee, that in this case, the Respondent has failed to demonstrate any insight into the seriousness of his misconduct, and the Committee feels unable to say that there is no significant risk of repeat behaviour. This is especially the case having regard to the fact that the Disciplinary Committee which administered a reprimand to the Respondent in 2016 was particularly concerned at his lack of insight and gave him a warning "*in the strongest possible terms to ensure that his future conduct by way of training and support systems within his practice are such as to avoid any possibility of a future incident occurring.*" The Committee has no confidence in the willingness or ability of the Respondent to demonstrate that he recognises that his conduct in this case amounted to misconduct. He does not appear, to the Committee, to have made any attempt to comply with the advice he was given in 2016.
14. In these circumstances the Committee does not think that it is possible to formulate undertakings that are capable of being met, are appropriate or measurable, because the Respondent seems unable to accept that he has done anything wrong. In any event, the Committee is not satisfied that postponement with undertakings would be sufficient to protect animals and the wider public interest and uphold the proper standards.
15. The Committee does not consider that taking no further action would be appropriate in this case having regard to the seriousness of this matter.

16. The Committee next considered whether it would be sufficient to protect the welfare of animals and the public interest, and uphold the proper standards, to impose a further reprimand and/or warning as to future conduct. The Committee notes that the Respondent has already been given a reprimand and warning in 2016, which appears to have had no effect. In addition, the Committee notes that in 2018, the PIC gave the Respondent advice in relation to the paragraphs of the Code of Professional Conduct requiring veterinary surgeons to provide care that was appropriate and adequate, and the requirement to keep clear, accurate and detailed clinical and client records. This advice was given some three months prior to the events that occurred in this case, but does not appear to have been heeded. Accordingly, the Committee does not consider a reprimand and/or warning would be appropriate in this case.
17. The Committee next considered whether suspension would be appropriate in the light of the findings of fact, and the consequent disgraceful conduct as explained above. The Committee understands that the sanction of suspension is not imposed as a punitive measure although it will almost invariably adversely affect the veterinary surgeon. The Committee notes, in particular, paragraph 48 of the Guidance which provides that suspension may be appropriate when *“(b) the Respondent veterinary surgeon has insight into the seriousness of the conduct and there is no serious risk of repeat behaviour; (c) the Respondent veterinary surgeon is fit to return to practice (after the period of suspension)”*.
18. As stated above the Committee has found that the Respondent has displayed no insight whatsoever into the seriousness of his misconduct in relation to this hearing, the previous advice issued by the PIC in 2018 or the previous reprimand and warning issued in 2016. The Respondent has maintained his position in relation to this hearing and earlier hearings that he has not been at fault, and that any blame for anything that went wrong was the fault of the nursing staff involved. He maintained that position even after the decision on disgraceful conduct was issued by this Committee.
19. The Committee cannot be confident that there is (i) no significant risk of repeat behaviour in the event that suspension was found to be the appropriate sanction and (ii) that the Respondent is fit to practise after any period of suspension. The Committee has reached this conclusion having regard to the seriousness of its findings in this hearing, and the previous advice and warning given to the Respondent, none of which appears to have been recognised or heeded. Accordingly, the Committee does not consider that suspension from the Register would be a sufficient sanction to protect animal welfare and the public interest and uphold proper standards of conduct in the profession.
20. In these circumstances, the Committee has been driven to the conclusion that the Respondent's misconduct as found in this hearing, and as found by the decisions in 2016 and 2018, was so serious that removal from the Register is the only means of protecting animal welfare, the wider public interest and the need to uphold proper standards of conduct and public confidence in the profession. In this case, the Committee considers that there is evidence of a harmful deep-seated personal attitude problem so far as the Respondent is concerned. His pervasive denial of wrongdoing and lack of insight, in spite of the findings of this Committee, is of grave concern. The Respondent's persistent abdication of personal responsibility and accountability for anything that went wrong, coupled with his sustained blaming of the nursing staff with whom he worked, displays an attitude which is fundamentally incompatible with being a member of the veterinary profession.

21. The Committee has concluded, with regret, that the only sanction which reflects the seriousness of this case, in the light of the previous findings and advice given to the Respondent by the College, is one of erasure. The Committee directs the Registrar to remove the Respondent's name from the Register.

**DISCIPLINARY COMMITTEE**  
**22 JANUARY 2020**