

**ROYAL COLLEGE OF VETERINARY SURGEONS**

**INQUIRY RE:**

**DAVID EDWARD SMITH MRCVS**

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**DECISION ON SANCTION**

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1. The Committee next considered what, if any, sanction to impose. The Committee had regard to the Disciplinary Procedure Guidance on sanction provided by the College and to the advice of the Legal Assessor. The Committee considered what the appropriate sanction would be for the Clinical Charges A-E which were found to amount to disgraceful conduct in a professional respect. It then separately considered Charge F relating to the conviction which the Committee had already concluded rendered Mr Smith unfit to practise veterinary surgery.
2. The Committee took account of the evidence provided regarding Mr Smith's previous regulatory history and it considered the documents and submissions including testimonials provided by Mr Smith.
3. The Committee is aware that its role at this stage is not to be punitive although any sanction may have a punitive effect. It is part of the public interest not to permanently deprive the public of an otherwise competent practitioner. The sanction which the Committee applies must be proportionate to the nature and extent of Mr Smith's conduct and have regard to the conviction. The Committee must weigh the public interest against the interests of Mr Smith.

**Sanction in respect of the Clinical Charges A-E**

4. The Committee took into account the aggravating and mitigating factors identified in this case.

5. In mitigation Mr Smith told the Committee that it had been his childhood dream to be a veterinary surgeon. It accepted that there was no financial gain and he was not financially motivated. The number of testimonials he provided to the Committee demonstrate that there are a number of clients who were satisfied with his treatment of their animals. Those testimonials, however, do not specifically refer to the charges that this Committee was considering.
6. There are numerous aggravating factors in this particular case. There was the lack of treatment for Grace, the wrong treatment for Maisey and by not properly advising Ms Vines to take Poppy to a veterinary surgeon promptly, there was harm caused to Poppy. Mr Smith's repeated poor record keeping had the potential to put animals at risk of harm. By his own admission he did not have the skill to treat diabetic patients but continued to do so. The Committee found that his conduct was careless in the extreme and was repeated. Mr Smith's clients trusted him to make the right decisions for their animals and to give them correct and timely advice. He sought to pass blame to the owners of the animals. As the principal in his Practice he sought to blame or deflect attention from himself when he implicated a junior veterinary surgeon when he wrote to the College. His lack of adequate clinical records and lack of recording of prescribed medicines demonstrated a blatant disregard for the Code. Neither in his written submissions nor in his oral evidence did he demonstrate any insight into his conduct or behaviour. The Committee also noted that Mr Smith had appeared before the RCVS Disciplinary Committee previously and had been removed from the Register.
7. Mr Smith's lack of appropriate care for Grace, Maisey and Poppy and his lack of adequate clinical records combined with his attitude represented a blatant disregard of the role of the RCVS and the systems that regulate the veterinary profession. Mr Smith told the Committee that he had not read the experts' reports in this case. His oral evidence demonstrated neither the desire nor inclination to change his poor practise.
8. The Committee first considered whether to take no further action and it concluded that such action would not be appropriate or proportionate given the seriousness of this Committee's findings. The Committee also considered that a postponement of judgment or undertakings (which were not offered) would be wholly inappropriate in all the circumstances.
9. The Committee next considered whether a reprimand or warning would be an appropriate sanction. In this case there were repeated failures and given Mr Smith's lack of insight the Committee considered that neither would be appropriate as they would not maintain public confidence in the profession or uphold proper professional standards of conduct.
10. The Committee considered whether suspension from the RCVS Register would be sufficient and proportionate in this case. The Committee noted that a veterinary surgeon who has been suspended for a period of time can return to the Register after the defined period of suspension without review. The Committee concluded that a

period of suspension would not be appropriate or proportionate given the serious nature of the findings, the repetition of the behaviour and Mr Smith's lack of insight.

11. Paragraph 53 of the Disciplinary Procedure Guidance indicates that removal from the Register may be appropriate where the behaviour is fundamentally incompatible with being a veterinary surgeon. Mr Smith's lack of treatment for the animals in his care caused harm. Mr Smith demonstrated a total disrespect for the Code of Practice. Further he deliberately lied to his Regulator. He demonstrated deep seated attitudinal issues including a misplaced belief in his own abilities and had no insight or commitment to do anything different in the future. In those circumstances the likelihood of repetition was significant in the Committee's view.
12. The Committee concluded that Mr Smith has fallen far short of the standards expected of a Veterinary Surgeon. The Committee considered that the only appropriate sanction is that of Removal from the Register. Such a sanction is required to protect animals and to send a clear message to Mr Smith, and to all veterinary surgeons, of the unacceptability of the conduct identified in this case. Such conduct undermines public confidence in the profession and fails to uphold proper standards of conduct and behaviour.
13. Accordingly, the Committee has decided that removal from the Register is the only appropriate and proportionate sanction in this case.
14. The Committee directs the Registrar to remove the Respondent's name from the Register.

### **Sanction in respect of the Conviction**

15. The Committee next went on to consider what the appropriate sanction would be in respect of the conviction which the Committee had determined rendered Mr Smith unfit to practise.
16. The Committee again took into account the aggravating and mitigating factors identified in this case.
17. This was a conviction for dishonesty and an aggravating factor identified in this case was the premeditated nature of the conduct. The conduct was repeated over a 4 year period. The Committee has already observed earlier that there was actual harm to animals and people. Some of the riders were novices or children and as a result of their experience they lost confidence in riding a horse. As the independent veterinary surgeon Mr Smith was in a position of responsibility because he was certifying the horses as to their suitability. A particularly aggravating feature in this case is that Mr Smith had previously been removed from the Register for falsely certifying horses for export. Having had such an experience it would be expected as a professional that the accuracy of such certification should have been foremost in his mind. In mitigation the Committee accepts that Mr Smith has been a veterinary surgeon of long standing.

18. The Committee first considered whether to take no further action and it concluded that such action would not be appropriate or proportionate given the seriousness of the conviction but in particular how it relates to Mr Smith's practice as a veterinary surgeon. The Committee also considered that a postponement of judgment or undertakings (which were not offered) would be wholly inappropriate in all the circumstances.
19. The Committee next considered whether a reprimand or warning would be an appropriate sanction. In this case the conduct was repeated over a number of years. The Committee considered that neither a reprimand nor warning would be appropriate as they would not protect animals or maintain public confidence in the profession or uphold proper professional standards of conduct.
20. The Committee concluded that a period of suspension would not be appropriate or proportionate given the seriousness of the conviction.
21. The Committee is of the view that removal is the only appropriate sanction having regard to the Conviction because his conduct went to the heart of veterinary practice and demonstrated a serious and repeated departure from professional standards.
22. The Committee directs the Registrar to remove the Respondent's name from the Register.

## **DISCIPLINARY COMMITTEE**

**15 MARCH 2018**