

IN THE ROYAL COLLEGE OF VETERINARY SURGEONS

DISCIPLINARY COMMITTEE

INQUIRY RE:

EMMA KATHLEEN BOWLER

DECISION ON SANCTION

Proceeding in Absence

1. The Respondent was not present for the sanction stage. There was no further medical evidence produced on her behalf. Whilst the Committee accepted she had valid reasons for choosing not to attend the hearing it did not have any evidence that she was medically unfit to attend the hearing.

Summary of the Respondent's submissions

2. Ms Malhotra invited the Committee to sanction by way of suspension and not removal from the Register. She relied on the Respondent's statement dated 23 October 2024 and on written and oral character references and testimonials.
3. Ms Malhotra asked the Committee to take into account various past decisions of the Disciplinary Committee.

The Committee's decision on sanction

4. The Committee took into account Ms Malhotra's written and oral submissions on sanction. It also considered various past decisions but noted that each was factually different to and

distinguishable from the current case and the Respondents had been present in all of those cases.

5. The Committee took into account that the Respondent had no previous disciplinary findings against her.
6. The Committee noted that in January 2021 the Respondent was given advice by the PIC following a complaint about matters that occurred in 2019, that no findings were made against her in respect of that complaint and that the advice post-dated most of the allegations in the present case. The Committee therefore accepted the request made by both Mr Mant and Ms Malhotra not to place any weight on this fact on the basis that advice only had been given and there had been no disciplinary finding against the Respondent resulting from those matters.
7. The Committee had regard to the College's Disciplinary Committee Sanctions Guidance for Veterinary Surgeons (updated August 2020) (DC Sanctions Guidance). It noted that the purpose of a sanction is not to punish the Respondent and that its main purpose is to protect the welfare of animals, maintain public confidence in the profession and declare and uphold proper standards of conduct. The Committee noted that it must consider 'whether the veterinary surgeon may pose a risk to those who use veterinary services in the future' and 'what steps are needed to protect the public' and that 'it must also consider the wider public interest, which includes the maintenance of public confidence in the veterinary profession and the deterrent effect upon other registered veterinary surgeons'.
8. In the Respondent's absence the Committee took into account her statement, the six written and oral character references and testimonials (with particular extracts set out in Ms Malhotra's written submissions). It noted that the Respondent had worked as a veterinary surgeon at Rase Vets after the time period which the charges encompassed, which was between 1 August 2018 and 31 March 2022, a period of 3 years 8 months. The Respondent had also been employed at Medivet Quarrington as lead veterinary surgeon, after working at Rase Vets, and she had worked there without any complaint from September 2022 to August 2024. However, there was no evidence before the Committee about the Respondent's work since leaving Medivet Quarrington (from August 2024 until March 2025,) that her statement dated 23 October 2024 stated she "*was very sad to leave the veterinary profession*" and that Ms Malhotra's written submission indicated that she was no longer working as a veterinary surgeon. The Committee therefore concluded that

the Respondent has been qualified and working as a veterinary surgeon for approximately 12 years and the misconduct spanned over a quarter of that time.

9. The Committee's decision on disgraceful conduct set out its views on the seriousness of the misconduct it had found proved. The Respondent had not submitted any further statement to address her insight into the matters which had been denied and found proved and in particular how the Committee ought to view any future risk that she posed to the public in respect of those matters. The Respondent had demonstrated in her statement, supported by two other witnesses, that she had made improvements in her practice to address some of the concerns set out in the charges. However, she had not addressed the public interest in her statement. The Committee was therefore unable to fully explore the Respondent's insight or what she might do differently if she was faced with similar challenges in the future.
10. The Committee acknowledged that the Respondent had demonstrated some insight in her statement and in her practice at Medivet Quarrington. However, it noted that as part of her defence, she had maintained that it was acceptable for an orthopaedic surgeon to take radiographs without a magnification marker even though those radiographs might be used to plan an orthopaedic surgery. In her absence, the Committee was limited in its ability to fully assess her insight or assess any future risk which she might pose to animals or the public.
11. The Committee determined the following factors aggravated the misconduct it had found proved (in its determination on Disgraceful conduct in a professional respect).
 - *"It decided in respect of Charges 1 and 2 that the conduct it had found proved was aggravated by several animals having suffered unnecessary injury. Where there was no evidence before it that animals had been injured, the Committee decided there was undoubtedly a risk of injury. In total these charges encompassed 18 animals (Charge 1 and Charge 2).*
 - *In respect of Charge 2, the Respondent had acted recklessly in performing the revision surgery for Bear given at this stage she should have recognised she was significantly beyond her surgical ability particularly after everything that had happened in the first surgery.*
 - *For Charges 3 and 4, the Respondent's conduct was aggravated by her lack of integrity in relation to Dr Devon Michael (MRCVS).*

- *Overall, the misconduct in this case spanned approximately 3 years 8 months and involved repetition of egregious failings. The length of time over which the misconduct took place was an aggravating factor.”* (Paragraphs 16-19 of its determination)

12. It found no additional aggravating factors at this stage of the proceedings. It noted that the charges encompassed multiple animals that were either caused injury or were at risk of injury.

13. The Committee had found the following mitigating factors in its decision on disgraceful conduct :

- *She had been working in an atmosphere that generated a highly pressurised working environment, which was also somewhat unsupportive to her.*
- *Regarding clinical record keeping the Respondent had less time available due to her heavy workload.*
- *Her personal circumstances which included [REDACTED] and a pregnancy were bound to exacerbate the pressures she faced at work.*

14. The Committee found further additional mitigating factors at this stage of the proceedings.

15. Ms Malhotra submitted that there had been no financial gain and that this was a mitigating factor. The Committee decided that it had no evidence about the finances of Rase Vets when the Respondent had worked there. It had not seen her contract of employment or any targets that were in place at that time. There was no evidence before the Committee about her salary or any other benefits and as it had not been able to explore this topic with her in evidence, it decided that this was not a factor it could take into consideration in mitigation.

16. Ms Malhotra submitted that the Respondent had a long and unblemished career. The Committee accepted that the Respondent had no previous disciplinary findings against her and that she had worked for several years without any complaints both before and after her time at Rase Vets. Further it took into account the positive character references and testimonials which included some from veterinary colleagues who had worked with her after the date of the charges.

17. The Committee also took into account in mitigation that there had been some partial admissions made by the Respondent in her statement and response to the charges. Further it acknowledged that the Respondent had in an email to the College dated 2 November 2020 apologised to the owners of Bear, Mr and Mrs Sewell, and also in a letter (undated) to the College acknowledged she was and is inexperienced in performing total hip replacements. It also took into account the character references that supported the Respondent and spoke positively about her character and practice both before and after the time that these charges spanned.
18. The Committee further accepted that the Respondent's personal circumstances including her ill-health, [REDACTED], during the time of the disgraceful conduct and that these were factors to take into consideration in mitigation. It accepted that [REDACTED] at that time and it noted the effect of all of her personal circumstances [REDACTED] and that this amounted to significant mitigation. Whilst the Committee acknowledged that the Respondent had worked in a difficult environment with considerable pressure it was difficult for the Committee to unravel how much this had impacted or been causative of the Respondent's misconduct on her written evidence alone.
19. The Committee also accepted that the Respondent had since these charges, subsequently made substantial efforts to avoid repetition of at least some of the matters encompassed in the charges.
20. The Committee considered the evidence before it about the Respondent's insight. Having determined that it could not fully explore her insight in her absence it nevertheless concluded that it could take into account in mitigation that she had shown some insight. It noted that she had reflected on some of her past conduct and that she had accepted some of her shortcomings. Whilst she had accepted some of her failings in relation to some of the charges the Committee had found proved she had not shown full insight because she had not expressed any understanding of the public interest and the impact her misconduct had had on the public or on the profession generally. She had also not responded in any further statement as to how she viewed the Committee's earlier decisions and reasons particularly in relation to those matters for which she had advanced a defence other than for Ms Malhotra to submit that the Respondent accepted the Committee's findings.
21. In particular the Respondent had not shown insight into the impact that her misconduct had on animal welfare or on the public's confidence in the profession as a whole. Neither had she shown any insight into the effect of her misconduct on the owner or on her

colleague Dr Devon Michael MRCVS when she had misled the owner in relation to Charges 3 and 4.

22. The Committee first considered whether it should take 'no further action'. It decided that the seriousness of the disgraceful conduct it had found proved meant that a sanction was necessary to meet the public interest.
23. The Committee then decided whether to postpone judgement. Neither Ms Malhotra and nor Mr Mant had invited the Committee to take this course. The Committee found no good reason to postpone judgement in this case.
24. The Committee then considered whether to sanction by way of a 'reprimand' and/or a 'warning'. It decided that the four charges which spanned a period of 3 years and 8 months and involving 19 animals were too serious overall to allow for a sanction of 'reprimand' or 'warning'. It noted that the DC Sanctions Guidance said that such a sanction was applicable where the misconduct was at the lower end of the spectrum. The Committee's decision on disgraceful conduct indicated the seriousness with which the Committee had viewed the misconduct found proved and it had rejected the submission that this was at the lower end of the spectrum.
25. The Committee also decided that a reprimand and/or warning was not a sufficient sanction to protect animals and the wider public interest.
26. The Committee went on to consider whether a sanction of 'suspension' was a sufficient sanction to protect animals and the wider public interest. It noted that the DC Sanctions Guidance said that suspension may be appropriate where some or all of the following apply:
 - a) *The misconduct is serious, but a lesser sanction is inappropriate and the conduct in question falls short of being fundamentally incompatible with remaining on the register*
 - b) *The respondent veterinary surgeon has insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour and*
 - c) *The respondent veterinary surgeon is fit to return to practice (after the period of suspension).*
27. The Committee decided that it did not have enough evidence that the Respondent had sufficient insight to continue to practise unrestricted in the future. Although Ms Malhotra

had invited the Committee to consider imposing undertakings on the Respondent, Rule 18 of the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004 did not allow the Committee to impose a suspension with particular conditions or undertakings. Furthermore the Committee had no evidence that the Respondent would be fit to return to practise immediately after any period of suspension. Whilst the Committee accepted that the Respondent may be unlikely to repeat such similar conduct again in the future it had no evidence about her current competence or her fitness to practise. Further its concerns regarding her current insight and how she would approach challenges at work in veterinary practice in the future had not been sufficiently explored for it to be persuaded that suspension was an appropriate sanction. The Committee had insufficient evidence upon which to assess the Respondent's insight and future risk in her absence. It also had limited evidence about the Respondent's current [REDACTED] and her current practical competence.

28. The Committee noted that the personal circumstances of the Respondent and the difficulties she faced at the time were considerable. However, the Committee had not been able to explore with her why she had not made referrals to other more experienced veterinary surgeons, for example in the case of Charge 2 for Bear's revision surgery. It therefore continued to have some concerns about her future risk to the public.
29. The Committee had found some considerable positive mitigation in the character evidence and testimonials about her. All of the referees were aware of the charges, and some spoke about her competence after the charges. However, having regard to the seriousness of the proven misconduct, the deficiencies in the Respondent's insight and her stated intention to pursue a career outside the veterinary profession, the Committee was not persuaded that a sanction of suspension would meet the public interest or that it was the proportionate sanction in this case. The Committee acknowledged that the Respondent had provided some evidence that illustrated that she had learnt from some of her mistakes and that she had been an otherwise competent veterinary surgeon but in her absence and without further evidence regarding her current competence, the Committee had not been able to fully explore those matters relating to her current practice, her insight and her future risk to animals or the Continuing Professional Development (CPD) that she had completed since the events to which these charges relate.
30. The Committee further noted that there was an absence of evidence about her abilities as an orthopaedic surgeon in more complex cases or how she would approach radiography

in the future bearing in mind the defence she had advanced in this case in respect of radiography. Although Ms Malhotra submitted that the Respondent had accepted the Committee's previous decisions, findings and its reasons, the Committee had not received any evidence about how the Respondent would approach clinical issues, on which she had advanced a defence in this case, in her future practice. It therefore decided that suspension was not the appropriate sanction in this case having considered the DC Sanctions Guidance.

31. The Committee went on to decide whether the Respondent's conduct was incompatible with remaining on the Register. It decided that the broad range of the Respondent's misconduct which had spanned 3 years 8 months and involving injury or risk of injury to 18 animals, was incompatible with remaining on the Register and the public interest required removal from the Register even when all of the Respondent's mitigation set out above was taken into account.
32. The Committee decided that it did not have sufficient evidence overall on the Respondent's insight, current competence and future risk to persuade it that the lesser sanction of suspension was appropriate in this case.
33. Although the Respondent had shown some insight the Committee decided that she would need to have provided detailed evidence about her current practice before it could decide that she no longer represented a risk to animals in the future.
34. The Committee therefore concluded that 'removal from the Register' was the appropriate and proportionate sanction because there had been a serious departure from professional standards, a reckless disregard for professional standards, multiple cases involving harm or risk of harm to animals and because in the Respondent's absence it had been difficult to unravel whether she had an attitudinal problem. These were all factors in the DC Sanctions Guidance that indicated that a sanction of removal was the appropriate sanction and in the Committee's decision removal from the Register was the only sanction which would meet the public interest. It concluded that a lesser sanction would undermine public confidence in the profession and in the regulatory process.
35. The Committee therefore directs the Registrar to remove the Respondent's name from the Register of Veterinary Surgeons forthwith.

DISCIPLINARY COMMITTEE

3 MARCH 2025