

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

RCVS

v

MR BRIAN CULLEN BOWLES MRCVS (Respondent)

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DECISION OF THE DISCIPLINARY COMMITTEE ON DISGRACEFUL CONDUCT

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**Stage 2**

1. This is the Committee's decision on whether the conduct it has found proved against the Respondent makes him guilty of disgraceful conduct in a professional respect.
2. In accordance with the advice of the Legal Assessor, the Committee is required to make a judgement about this matter in the light of its findings, considering the nature and duration of the conduct in those Heads of Charge found proved against the Respondent, but without reference to matters of purely personal mitigation.
3. The Committee's deliberation has 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 member of the profession. In adopting this approach the Committee has examined the issue of whether the Respondent's conduct in relation to the facts found proved on each of the proven Charges amounts to serious professional misconduct and declined to reach such a conclusion where it is not so satisfied. As is clear from the Decision on Findings of Fact, in this case, it has found proved each of the facts in each of the Charges.
4. The Committee has viewed the conduct in relation to each separately and reached a separate finding on the question of whether the conduct found proved on each Charge amounted to Disgraceful Conduct in a Professional Respect, being conduct which falls far below that to be expected of a reasonably competent veterinary surgeon.

5. That said, it is plain that the conduct specified in Charges 1 and 2 are related to the conduct specified in Charge 3. Charges 1 and 2 allege that the conduct of the Respondent, when he certified to APHA the results of the ICT test when the measurements for Day 1 had not all been measured accurately, was conduct which risked undermining government testing procedures designed to promote public health and/or animal welfare; was misleading; and was dishonest.
6. Integrity of OV Certificates: The Respondent has accepted in some of his responses to XL Farmcare and to APHA that his conduct when testing Mr M's cattle in May 2020 did not comply with the OV Instructions that were to govern TB testing procedures. These admissions are set out in paragraphs 19, 35 and 39 of the Decision on Findings of Fact and form part of the reasons for the Findings of the Committee that Charges 1 and 2 have been proved to the requisite standard. The Committee was satisfied so that it was sure that without the use of callipers to measure skin thickness of cattle on both test days the Respondent was not entitled to certify the test. The Committee has set out at paragraphs 40-41 its reasons for deciding that the Respondent's decision to conduct the test of Mr M's cattle in the manner that he did was, to his knowledge, manifestly impermissible conduct on the part of a certifying OV and that the Respondent did not hold an honest belief that his testing procedures were permissible or that they produced results which could properly be relied upon by APHA.
7. The College submits that the integrity of the veterinary certification process is of the utmost importance. In doing so it relies on Section 6.2 of the RCVS Code of Conduct for veterinary surgeons which provides:

*“Veterinary surgeons must certify facts and opinions honestly and with due care, taking into account the 10 Principles of Certification.”*

The College also contends that the Code's Supporting Guidance makes it clear how important this is. That Guidance document states:

*“21.3 Veterinary certification plays a significant role in the control of animal health and welfare, the continuity of European and international trade and the maintenance of public health. Veterinarians have a professional responsibility to ensure the integrity of veterinary certification. The simple act of signing their names on documents should be approached with care and accuracy.*

*21.4 Veterinarians must certify facts and opinions honestly and with due care, taking into account the 10 Principles of Certification set out below. They should not sign*

*certificates which they know or ought to know are untrue, misleading or inaccurate. This applies equally to hand-written, printed and electronic certificates.”*

8. The Committee accepts those contentions and considers that by virtue of their professional status, OVs are entrusted with particular powers and privileges in relation to TB test certifications. It holds to the view that it is of critical importance that they use those powers responsibly and honestly and that to abuse that privilege inevitably has a detrimental effect on animal welfare, public health and in turn public confidence in the profession.
9. In his capacity as an OV, the Respondent was acting in a position of trust, as a representative of the government, and he breached that trust by failing to comply with the requirements of the test and by asserting that his testing could still be “valid”.
10. As the Committee has found the Respondent’s conduct was misleading, in that any interested or affected party - in particular APHA - would have relied on his test results, in order to determine the need for testing in the area, thus potentially implicating other farms and affecting the specific need for TB testing in this area. It was the Respondent’s responsibility to ensure that his testing was compliant, accurate and reliable, so that others could properly rely on it, without being misled.
11. The Committee also accepts that, as stated by Dr Collins, and recorded in the Decision on Findings of Fact, at paragraph 44:

*“Non-adherence to TB testing protocols is particularly important because such action undermines the government’s efforts to find and eradicate disease...”*
12. The Committee considers that these certifying principles and guidance statements are of great importance because they underline the public’s reliance on the accuracy of acts of certification which are undertaken by a professional person. The statutory scheme for TB test certification was designed to enhance animal welfare protections and public confidence in public health standards. When the Respondent certified the ICT test he was stating that as an Official Veterinarian he was satisfied that the required measurements for Day 1 had all been taken and recorded accurately and that APHA, which was the regulating authority with responsibility for ensuring public health and animal welfare, could safely and properly rely on his certification of the ICT test results.

13. The Respondent could have been in no doubt about the importance which The RCVS attaches to the accuracy of all aspects of a certification process for in paragraph 21.4 of the Supporting Guidance to the Principles of Certification it is stated “... *veterinary surgeons’ professional reputations and livelihoods may be at stake if their signatures on certificates are open to challenge...*”.
14. In the judgement of the Committee, in breaching the Principles of Certification in relation to these public health and regulated test results, the Respondent was guilty of serious professional misconduct. His conduct had the effect of bringing the veterinary profession into disrepute and, further, had the effect of undermining public confidence in the integrity of its members.
15. Animal Welfare: The first requirement set out in the Code of Professional Conduct for veterinary surgeons is that:  
*“ 1.1 Veterinary surgeons must make animal health and welfare their first consideration when attending to animals.”*
16. The Committee has already found that by failing to properly adhere to the requirements of undertaking measurements of animals using callipers and failing to record their measurements, he risked some animals being recorded as clear when they were not. Failing to undertake the test in accordance with government requirements by failing to take proper measurements gives rise to a potential for reactors to be missed and therefore a possibility for the disease to spread.
17. Similarly, failing to take accurate measurements has a potentially adverse effect on animal welfare generally. As the Respondent did not undertake measurements with callipers none of the Day 1 “measurements” were reliable. This rendered the results of the test unreliable and, again, had the potential for reactors to be missed or wrongly identified.
18. The Respondent’s conduct therefore potentially jeopardised animal welfare and risked undermining the reputation of the profession and public confidence in the profession.
19. Public Health: The Respondent’s conduct also had the potential to compromise public health. The systems and processes in place in relation to the control of TB in livestock are designed not only to promote animal welfare, but also to ensure that animals

entering the human food chain are safe. A failure to undertake tests properly undermined the integrity of that process.

20. Dishonesty: The College submits that dishonesty represents a breach of one of the fundamental tenets of the profession. The Code of Professional Conduct for Veterinary Surgeons provides that one of the five key principles that must be maintained by registrants is "*honesty and integrity*". Section 6.5 of the Code provides: "*Veterinary Surgeons must not engage in any activity or behaviour that would be likely to bring the profession into disrepute or undermine public confidence in the profession.*"
21. The Disciplinary Committee's Guidance document, August 2020 (paragraph 76) also provides:

*"Proven dishonesty has been held to come at the top end of the spectrum of gravity of disgraceful conduct in a professional respect."*

#### The Committee's Findings in respect of each Charge

22. Charge 1: The Committee has set out at paragraphs 40-41 its reasons for deciding that the Respondent's decision to conduct the test of Mr M's cattle in the manner that he did was, to his knowledge, manifestly impermissible conduct on the part of a certifying OV. The reason he knew it was manifestly impermissible conduct is because the authorities had expressed concerns over an extended period of time about the manner in which he was conducting his TB tests. He had been made the subject to audits, suspensions and re-training from 2014 onwards. The measures taken to try to ensure that the Respondent would comply with the requirements of the OV Instructions issued by APHA are detailed in paragraph 46 of this Committee's Decision on Findings of Fact. Those measures reveal that in the year preceding his visit to Mr M's farm in May 2020 the Respondent had been subjected to an unannounced audit after which he had again been given advice concerning the correct procedures to be followed when undertaking TB tests. In August 2019 the Respondent was suspended and required to enrol for online training. The Respondent's reflection was that the course had "*emphasise[d] the need for being meticulous*". He was audited on 20-23 August 2019 - just days after the retraining -and demonstrated fully his ability to comply with the TB test requirements.
23. These events and outcomes confirm to the Committee's satisfaction that the Respondent well knew that compliance with the OV Instructions was of critical

importance to the validity of TB test results and that he could not have passed an audit his test practices if he had not demonstrated his ability to strictly with the terms of his OV Instructions. Nonetheless and despite this knowledge and recent re-training the Respondent chose to ignore those OV test requirements when he undertook the testing of Mr M's cattle in May 2020. The Respondent acknowledged that his conduct in May 2020 constituted a "... *serious error of judgement*" and that he "*should either have performed the test exactly as required by the instruction to OVs, or I should have abandoned the test*". This Committee agrees with the Respondent's concession that his conduct constituted a serious error of judgement and was one which involved a conscious and deliberate decision on his part to ignore the OV Instructions.

24. These factors drive the Committee to the conclusion that the Respondent's conduct when undertaking the testing of Mr M's cattle on 12 and 15 May 2020 constitutes conduct which falls far short of what is expected of a member of the profession.
25. Charge 2: The misconduct of the Respondent covered by this Charge relates to improper certification of the test results pertaining to Mr M's cattle. The Committee has found that, having not used callipers on 12 May to measure the skin fold thickness of these cattle, the Respondent was not entitled to certify the test as he purported to do. The excuse advanced by him for not using callipers has been rejected – he raised no safety issues or concerns with Mr M on 12 May 2020 and, even if he had genuinely been concerned about his safety when conducting his tests, the OV Instructions confirmed that the proper course for him to follow was to abandon the test.
26. As stated above the Committee considers that, by virtue of their professional status, OVs are entrusted with particular powers and privileges in relation to TB test certifications. It holds to the view that it is of critical importance that they use that power responsibly and honestly and that to abuse that privilege inevitably has a detrimental effect on animal welfare, public health and in turn public confidence in the profession.
27. In his capacity as OV the Respondent was acting in a position of trust, as a representative of the government, and he breached that trust both by failing to comply with the requirements of the test and by failing to certify the TB test results of Mr M's cattle correctly and honestly.

28. The Committee, having rejected the only excuse which the Respondent has sought to advance to explain his decision not to use callipers despite all his re-training, concludes that this conduct also falls far short of the conduct expected of a member of the profession.
29. Charge 3: The Committee's decision in relation to the question of whether the facts found proved which pertain to this Charge constitute disgraceful conduct in a professional respect can be stated shortly. The Committee has found that in acting as he did on 12 and 15 May 2020, when purporting to undertake OV testing of Mr M's cattle, the Respondent acted dishonestly, that his conduct was misleading and his conduct risked undermining government testing procedure which were designed to promote public health and animal welfare.
30. The reasons for reaching these conclusions are set out in detail in the Committee's Decision on the Facts at paragraphs 33-45. The Committee has found that the Respondent's decision to conduct the test in the manner that he did and without using callipers was to his knowledge manifestly impermissible for an OV tester and that he did not hold an honest belief that his alternative testing procedures were permissible or that they produced results which could properly be relied upon.
31. Such conduct offends the requirements of Section 6.2 of the RCVS Code of Conduct for veterinary surgeons and the 10 Principles of Certification as well as the contents of paragraphs 21.3 and 21.4 of the Code's Supporting Guidance.
32. Being conduct concerning dishonest certification, the Committee has no hesitation in concluding that the Respondent's conduct in relation to this Charge 3(i) constitutes disgraceful conduct in a professional respect.
33. The Committee has also found Charge 3(ii) proved. This Charge concerns the misleading nature of the Respondent's purported test certification. This was based on his conduct in estimating the skin fold thicknesses instead of measuring the same with callipers when purporting to certify the test results pertaining to Mr M's cattle.
34. The Respondent's conduct was misleading in that any interested or affected party - in particular APHA - would have relied on his test results, in order to determine the need for testing in the area. His test results had implications for other farms and the

prospect for prolonging the specific need for TB testing in this area. Others were entitled to rely on his test results as accurate and without being misled.

35. As other interested parties, in particular APHA, could not properly rely on the Respondent's certified test results the Committee concludes that his misleading conduct constitutes disgraceful conduct in a professional respect.
36. The Committee has additionally found that the Respondent's conduct when certifying the test results of Mr M's cattle following the impermissible test procedures he adopted in May 2020, risked undermining government testing procedures designed to promote public health and/or animal welfare. The APHA test procedures are stringent in their terms. That is because TB is a serious and notifiable disease in animals which is transmissible to humans. Accurate and reliable test results are critical to the government's efforts to find and eradicate the disease.
37. The Respondent acted dishonestly, and in a manner which he knew was misleading, when purporting to certify the test results on Mr M's cattle, despite the effects which he must have known his test results could have in undermining the validity of the government's testing procedures and the public's confidence in the robustness of those testing procedures.
38. The Committee is therefore entirely satisfied that in undermining confidence in the government's testing procedures by conducting his tests of Mr M's cattle in the improper manner that he chose to do, the Respondent's conduct amounted to conduct which fell far short of that expected of member of the profession.
39. Charge 4: The wording of this Charge refers back to the conduct charged in Charges 1 and/or 2. It does not identify further acts of misconduct on the part of the Respondent. Instead it cites a series of events which pre-date the acts complained of in Charges 1 and 2.
40. The Committee takes the view that the events identified in Charge 4, whilst they comprise matters which render more serious the misconduct alleged in Charges 1 and 2, they do not amount to separate acts of misconduct. They are relevant to the Committee's considerations in relation to Sanction but they do not amount to events which could constitute disgraceful conduct in a professional respect.



## Conclusion

41. For the reasons stated above, the Committee judges the facts found proved in relation to Charges 1, 2 and 3 do amount to disgraceful conduct in a professional respect, being in each instance conduct which falls far below that to be expected of a reasonably competent veterinary surgeon.
  
42. This case will, therefore, proceed to a consideration of Sanction in relation to each of Charges 1, 2 and 3.

**Disciplinary Committee**  
**10 October 2024**