

**IN THE ROYAL COLLEGE OF VETERINARY SURGEONS
DISCIPLINARY COMMITTEE**

INQUIRY RE:

GEMMA LOUISE COLE RVN

DECISION ON PROCEEDING IN ABSENCE OF RESPONDENT

1. The Respondent has not attended this Hearing. She has declined to respond to any of the many communications from the College in relation to this Disciplinary Hearing. In the circumstances the College invites the Committee to proceed in his absence.

Chronology

2. The College's attempts to inform the Respondent of these Proceedings included the following.
3. A screenshot of the page from the College's Information Management System showing the Respondent's registered details is copied at page 4 of the Proceeding in Absence Bundle accompanying these submissions. This screenshot shows her registered postal address, email address and telephone number.
4. On 12 June 2023, the College sent a letter to the Respondent by Special Delivery to her registered address (pp5 to 7). The letter informed her that the Hawthorn Veterinary Practice had notified the College of concerns regarding alleged fraudulent insurance claims. The letter asked the Respondent for her comments on the concerns raised. Royal Mail tracking information shows that the letter was delivered on 14 June 2023 (p8).
5. The College did not receive a response to this letter, so, on 4 July 2023, it sent an email to the Respondent (pp9 to10) using her registered email address. The email referred to the letter on 12 June 2023 and asked for a response. The College did not receive a reply to that email, so, on 17 July 2023, it sent another letter by Special Delivery (pp11 to 12). Royal Mail tracking information shows that the letter was delivered on 19 July 2023 (p13).
6. On 4 November 2024, the College wrote to the Respondent again by email using her registered email address, asking for her comments on the conviction (p14 to 16) for consideration by the College's Veterinary Nurse Preliminary Investigation Committee

("VNPIC"). Microsoft Outlook information showed that this email was delivered, but that no delivery notification was sent (p17).

7. On 3 December 2024, the Clerk to the Disciplinary Committee sent a letter to the Respondent by email, again using her registered email address. The letter informed her that the matter had been referred to the Disciplinary Committee and informed her of the proposed dates for the Committee hearing, namely 26 and 27 February 2025. The Clerk asked the Respondent to reply by 10 December 2024 if those dates were impossible (p18). Neither the Clerk nor the College received any response to this letter. On 13 December 2024, the Clerk twice tried to contact the Respondent by telephone, but the calls went straight to voicemail.
8. On 17 December 2024, the Notice of Inquiry was served on the Respondent, by email and recorded delivery. It was sent to her registered postal address and email address (pp19 to 23). It set out the charges against her, together with the date, time and the fact that the hearing would be heard remotely, by Zoom. The Notice also set down a date and time for a virtual Case Management Conference (CMC), namely 3 February 2025 at 17:00. The Respondent did not respond to the Notice of Inquiry.
9. On 23 January 2025, the College's solicitors sent a letter to the Respondent by email and by first class post to her registered address (pp24 to 27). The letter enclosed the Inquiry Bundle and Unused Material Bundle, and made reference to the dates of the substantive hearing and the CMC. The Respondent did not respond to that letter.
10. The date for the CMC was changed from 3 February 2025 to 6 February 2025, and on 28 January 2025, the Clerk to the Disciplinary Committee notified the Respondent by email of the change, sending the link for her to join (p28 to 29). The Respondent did not respond to that communication. The CMC went ahead remotely on 6 February 2025 but the Respondent did not attend.
11. On Monday 17 February 2025, the College's solicitors wrote to the Respondent by special delivery and email enclosing documents which had recently been disclosed to them by the Police, and which they proposed to include in the Inquiry Bundle (pp30 to 32). Royal Mail tracking information shows that the letter was delivered on 18 February 2025 (p33).
12. On Wednesday 19 February 2025, the Clerk to the Disciplinary Committee wrote to the Respondent by email, reminding her of the upcoming hearing, informing her that it would begin at 11:00am, that she could join the remote meeting link from 10:30am, and providing the Zoom link (pp34 to 35).
13. On Thursday 20 February 2025, the College's solicitors attempted to contact Mrs Cole by telephone using her registered mobile number. The call went straight to voicemail. The solicitor left a voicemail message referring to the upcoming hearing starting on 26 February 2025, and asking the Respondent to contact the College or its solicitors (p36).
14. Accordingly, the Respondent has not made any contact with the College or the College's solicitors in relation to the hearing.

The Committee's powers to proceed in the Respondent's absence

- (i) Service of notice

15. The Committee is satisfied so that it is sure that the College has complied with the requirements for service as set out in Rule 5 of the 2004 Procedure Rules.
16. The Committee notes that Section 26 of the Veterinary Surgeons Act provides that service of a Notice may be undertaken by post to the Respondent's registered address, or last known address if it appears to the Registrar that such service will be more effective.
17. The Notice of Inquiry was served on the Respondent on 17 December 2024, containing the information required by Rule 5.2, within the 28 day period required by Rule 5.5; and in accordance section 26 of the Act, namely to the Respondent's last known address.

ii) Proceeding in the Absence of a Respondent

18. The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules 2004 provide, at Part III, Rule 10.4:

"If the respondent does not appear, the Committee may decide to proceed in the respondent's absence, if it is satisfied that the notice of inquiry was properly served and that it is in the interests of justice to do so."

iii) Interests of justice

19. The approach taken by the Committee when considering whether to proceed in the absence of a registrant is that set out by the Court of Appeal in Adeogba –v- General Medical Council (2016) EWCA Civ 162. Sir Brian Leveson, giving the judgment of the Court, stated:

"Assuming that the Panel is satisfied about notice, discretion whether or not to proceed must then be exercised having regard to all the circumstances of which the Panel is aware, with fairness to the practitioner being a prime consideration, but fairness to the GMC and the interests of the public also taken into account. The criteria for criminal cases must be considered."

20. The "*criteria for criminal cases*" include the following (i) the nature and circumstances of the defendant's absence (and in particular whether the absence is deliberate or voluntary), (ii) whether an adjournment might result in the defendant attending voluntarily, (iii) the likely length of any adjournment, (iv) whether the defendant wishes to be represented, (v) the extent of any disadvantage to the defendant in proceeding in his absence, (vi) the general public interest in a trial taking place within a reasonable time, and (vii) the effect of any delay on the memories of witnesses.
21. The Court in Adeogba also noted that Disciplinary Hearings had to be guided by the Regulator's main statutory objective, namely the protection, promotion and maintenance of the health and safety of the public. In this case, the College's objective is the public interest in maintaining public confidence in the profession and upholding the reputation of the profession.

The Committee's Decision

22. It is for the Committee, therefore, to decide whether, in all the circumstances, it is in the interests of justice to proceed in the absence of the Respondent.
23. The Committee is satisfied that the Respondent's absence is voluntary. She has not asked for any adjournment, nor has she objected to the Hearing going ahead in her absence. An adjournment would serve no purpose, as there is no likely prospect of the Respondent attending at any point in the future.
24. The allegations relate to matters of a serious kind, concerning the certification or verification of insurance claims i.e. that a regulatory veterinary process had been carried out in accordance with the requirements of that regulated process. It is in the public interest for serious allegations such as these to be heard as soon as possible, in line with the College's public interest duties to uphold the reputation of the veterinary nursing profession and the confidence which the public should have in the probity of members of the profession.
25. The Committee will therefore now proceed to consider whether the Facts alleged in the Charge which has been laid against the Respondent can be proved by the College notwithstanding the Respondent's absence.

**DISCIPLINARY COMMITTEE
27 FEBRUARY 2025**