

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

INQUIRY RE:

GEMMA LOUISE COLE RVN

DECISION ON UNFITNESS TO PRACTICE

1. At this Second Stage of its deliberations the Committee has to consider and determine whether, the facts found to be proved render the Respondent unfit to practice as a veterinary nurse.
2. When considering whether a conviction renders a Respondent unfit to practice, the Committee has applied the same test as it is required to do when assessing whether the behaviour amounts to disgraceful conduct in a professional respect. Disgraceful conduct in a professional respect means conduct which falls **far** short of that which is to be expected in a member of the veterinary profession. This test was approved in the decision of the Privy Council in McLeod v. RCVS [2005]
3. In reaching its decision on the issue of unfitness to practice the Committee has proceeded on the basis that there is no burden or standard of proof involved in its determination of the issue of fitness to practice – instead it is a matter for the Committee’s judgment.
4. The Veterinary Nurse Conduct and Discipline Rules 2014 provide that this Disciplinary Committee shall adopt with any necessary modifications, the rules and procedures of the Veterinary Surgeons Disciplinary Committee. As to that the Veterinary Surgeons Disciplinary Committee’s Procedure Guidance (August 2020) provides (paragraph 25):
“A conviction may be related to professional or personal behaviour and whether it renders a respondent veterinary surgeon unfit to practise is a matter of judgment for the Disciplinary Committee. Behaviour unconnected with the practice of veterinary surgery can cause concerns about the protection of animals or the wider public interest.”
5. In its Written Submissions the College has set out a number of propositions which the Committee accepts and has adopted during the course of its Stage 2

deliberations. These include the proposition that, when deliberating the question of whether the conduct established by the certificate of conviction does or does not amount to conduct which renders the Respondent unfit to practice veterinary surgery, the Committee should consider the following matters:

- (1) The “*wider public interest*” referred to in the Procedure Guidance of 2020 includes upholding the reputation of the profession of veterinary surgeons and maintaining public confidence in the profession. A veterinary surgeon may be unfit to practice as a result of conduct which is of such an egregious nature that it has the potential to bring the profession into disrepute and undermine public confidence in the profession.
- (2) In the Privy Council decision of Kirk v Royal College of Veterinary Surgeons [2004] UKPC 4, the appellant, Mr Kirk, had been convicted on four occasions, of matters including common assault and public order offences. Lord Hoffmann stated (para.33):
“veterinary surgeons as professionals have wider duties than the care of animals. They are expected to conduct themselves generally in accordance with the standards of professional men and women and failure to do so may reflect upon the reputation of the profession as a whole...”
- (3) The Committee may take into account aggravating and mitigating factors at this Second Stage, as long as those factors relate directly to the circumstances of the conviction itself (and are not, for example, purely personal mitigation). The College invites the Committee to consider the following as relevant aggravating factors at the unfitness to practice stage (paragraph 39 Procedure Guidance):
“e. Premeditated misconduct (if satisfied that the commission of this offence was premeditated)”
- (4) The Committee should consider the nature and circumstances of the offence of which the Respondent was convicted. These are set out in paras 11- 14 of the College’s Written Submissions. The Sentencing Judge’s remarks and findings may also be considered relevant in this connection. The material extracts are again set out in the College’s Written Submissions at para 15. An additional potentially aggravating factor, if accepted by the Committee, could lie in what is set out at para 16 of those same Written Submissions, where it is stated that the Respondent would often make use of staff members’ accounts to add entries to her pets’ clinical records or prescribe medication and then pocket the payouts.
- (5) The Veterinary Nurses Code of Conduct provides that one of the 5 key principles that must be maintained by such Nurses is “honesty and integrity” and as regards the importance of honest and accurate certification it includes the following:

6.2 Veterinary nurses must report facts and opinions honestly and with due care, having taken into account the 10 Principles of Certification.

- (6) There is also supporting guidance specifically linked to insurance. Although the wording relates to veterinary surgeons, it is equally applicable to veterinary nurses:

“9.32 An animal insurance policy is a contract between the animal owner (the client/policy holder) and the insurer and as such the only person that has the right to submit a claim under the policy is the client/policyholder. The veterinary surgeon may invoice the insurer for the submitted claim when authorised to do so by the client/ policyholder. The veterinary surgeon’s role is to provide factual information to support the claim, and/or invoices if authorised. Animal insurance schemes rely on the integrity of the veterinary surgeon, who has a responsibility to both the client and insurance company.

9.33 Veterinary surgeons must act with integrity in all dealings with an animal insurance policy. They must complete claim forms carefully and honestly. A veterinary surgeon who acts dishonestly or fraudulently may be liable to criminal investigation and/or disciplinary action....

- (7) Finally, the Nurses Code provides that:

“6.5 Veterinary nurses 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.”

6. The Committee’s conclusions as regards the Respondent’s conduct which led to her plea of guilt to the offence of fraud by abuse of position can be set out in short order.
7. The Respondent’s conduct as proved by the contents of the Police witness statements was plainly dishonest and contravened a fundamental tenet of the profession. She abused her professional position in order to commit the offence. The dishonest conduct in this case related directly to the Respondent’s professional life, as she was working as a veterinary nurse when she completed and submitted the fraudulent claims.
8. Her conduct also constituted a breach of the trust owed to her employer and to the insurance company to which her dishonest claims were submitted. She put her professional colleagues at risk as their names were used on the clinical records which purportedly supported her dishonest claims.
9. Her misconduct was repeated and sustained over a period of many years. Her modus operandi was sophisticated and premeditated.
10. Her criminal conduct resulted in her securing a significant financial gain – some £13,334 odd.
11. The Respondent’s conduct clearly had the potential to bring the profession into disrepute and to undermine public trust in the profession. A member of the public would be rightly appalled to learn that a veterinary nurse had abused her position by submitting false claims in this way.

12. The clear breaches of the governing Codes of Conduct and the aggravating factors identified above add significantly to the seriousness of the Respondent's misconduct.
13. Accordingly, the Committee has been driven to the clear conclusion that the Respondent's conduct fell far short of the conduct expected of a member of her profession and renders the Respondent unfit to practice as a veterinary nurse.
14. It will now proceed to Stage 3 and consider the issue of the appropriate Sanction in this case.

**DISCIPLINARY COMMITTEE
27 FEBRUARY 2025**