

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

RCVS

v

DR ALBERTO GIACOMO FIOLETTI MRCVS (Respondent)

DECISION OF THE DISCIPLINARY COMMITTEE ON PROCEEDING IN ABSENCE

1. The Respondent is currently serving a life sentence for murder. He has sent an acknowledgment to the College confirming that he will not attend the hearing (p14). The College invites the Committee to proceed in his absence.

Chronology

2. On 12 December 2023 (pp3 to 4 Proceedings in Absence Bundle), the College wrote to the Respondent, informing him that the College was aware that he had been convicted of murder on 8 December 2023 at the Bournemouth Crown Court, and asking for his comments in advance of the Preliminary Investigation Committee meeting on 6 March 2024. This formal letter was sent by signed-for delivery to HMP Winchester, as the College had been informed that this was where he had begun serving his sentence. Royal Mail tracking information shows that the letter was signed for on 15 December 2023 (p5).
3. On 15 January 2024, the Respondent signed an acknowledgment of service form (p6) that had been sent with the allegation letter. He ticked a box to say that he would **not** be providing a written reply.
4. On 18 April 2024, (p7), the Clerk to the Disciplinary Committee wrote to the Respondent informing him that the hearing would be listed on 6 and 7 June 2024, to be heard remotely. The letter was sent by first class post to HMP Gartree, as the College had been informed that the Respondent had by then been moved to this prison. It was also sent by email.

5. On 25 April 2024, the Notice of Inquiry was served, confirming the dates for the Hearing and that it would take place remotely (pp8 to12). The Notice was sent by first class post to HMP Gartree and also by email.
6. On 30 April 2024, the Respondent signed an acknowledgment of service form (p14) that had been sent with the Notice of Inquiry. He ticked a box to say that he would **not** be attending the hearing and would **not** be represented. This acknowledgment was accompanied by a handwritten note (p13), signed by the Respondent, stating that he accepted the conviction for murder at the Bournemouth Crown Court on 8 December 2023. The acknowledgement and accompanying note were received by the College on 3 May 2024.
7. On 8 May 2024, the College's solicitors sent documents including the Inquiry Bundle and Unused Material bundle to the Respondent. They did so by email and first class post to HMP Gartree (pp15 to 17).

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

(i) Service of notice

8. 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.
9. 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.
10. The Notice of Inquiry was served on the Respondent on 11 January 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

11. 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

12. 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."

13. 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.

14. 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 promotion and protection of animal welfare; and there is a linked public interest in maintaining public confidence in the profession and upholding the reputation of the profession.

The Committee's Decision

15. 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.

16. The Committee is satisfied that the Respondent's absence is voluntary. He has signed an acknowledgment of service form, in effect indicating that he has received that Notice, and has confirmed that he does not propose to attend the hearing, nor to be

represented. He has not asked for any adjournment, nor has he objected to the Hearing going ahead in his absence. An adjournment would serve no purpose, as there is no prospect of the Respondent attending at any point in the future.

17. The allegations relate to matters of the most serious kind. 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 profession.
18. The Committee will therefore proceed to consider whether the Facts alleged in the Charge which has been laid against the Respondent can be proved by the College.

Disciplinary Committee
6 June 2024