

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

RCVS

v

DR SUSAN CATHERINE MULVEY MRCVS (Respondent)

DECISION OF THE DISCIPLINARY COMMITTEE ON DISGRACEFUL CONDUCT

The Committee went on to decide whether, by reason of the facts found proved, Dr Mulvey has been guilty of disgraceful conduct in a professional respect. The Legal Assessor advised the Committee that disgraceful conduct in a professional respect has been defined as conduct falling far below that which is expected of a reasonably competent member of the veterinary profession.

This is a matter for the Committee's judgment, there is no burden or standard of proof to be applied.

Ms David made written and oral submissions in relation to the relevant matters that the Committee should properly consider at this stage.

The Committee is entitled to consider the facts on a cumulative basis: something which might not fall far below the relevant standard might do so when considered in conjunction with other failings that have been found proved.

The Committee may take into account the opinion of the expert witness, Dr Shield, but is not bound to do so. It may also consider the veterinary knowledge and experience of the members of the Committee.

The Committee had regard to relevant sections of the Code of Professional Conduct for Veterinary Surgeons (the Code).

The Committee also considered the aggravating and mitigating factors at this stage.

The Committee considers that the aggravating factors relevant to this case are as follows:

- Actual injury to animals, including death and amputation.
- Risk of injury to animals by reason of delays to treatment.
- Dishonesty, lack of probity and integrity (for example, staff were instructed to lie to clients, Dr Mulvey repeatedly stated she had done, or would do, things she did not do e.g. sent out clinical records ...).
- Recklessness.
- Breach of client trust.
- Abuse of professional position (for example, asking staff to lie).
- Misconduct was sustained and repeated over a period of time.
- Blatant or wilful disregard of the role of the RCVS and the systems that regulate the veterinary profession.
- Dr Mulvey has not shown any insight into her conduct.
- Previous adverse findings of the Disciplinary Committee for similar concerns.

The Committee was unable to find any mitigating factors in this case.

The Committee divided the charges into the following categories:

- 1. Clinical matters:** *Charge 1, Millie; Charge 3, Suki; Charge 8: Milo*

The Committee considered the following paragraphs of the Code relevant:

“1.1 Veterinary surgeons must make animal health and welfare their first consideration when attending to animals.

“1.2 Veterinary surgeons must keep within their own area of competence and refer cases responsibly.

“1.3 Veterinary surgeons must provide veterinary care that is appropriate and adequate. [...]

“2.4 Veterinary surgeons must communicate effectively with clients, including in written and spoken English, and ensure informed consent is obtained before treatments or procedures are carried out.”

The following provisions in the supporting guidance are also relevant:

“2.2 Veterinary surgeons and veterinary nurses are personally accountable for their professional practice and must always be prepared to justify their decisions and actions. When providing care, veterinary surgeons and veterinary nurses should:

- a. take all reasonable care in using their professional skills to treat animals;*
- b. ensure that a range of reasonable treatment options are offered and explained, including prognoses and possible side effects;*
- c. make decisions on treatment regimes based first and foremost on animal health and welfare considerations, but also the needs and circumstances of the client; [...]*
- f. consider the welfare implications of any surgical or other procedure and advise or act appropriately; [...]*

“2.5 Having reached a provisional diagnosis, taking into account the animal’s age, the extent of any injury and disease and the likely quality of life after treatment, veterinary surgeons should make a full and realistic assessment of the prognosis and the options for treatment or euthanasia and communicate this to the client.”

Millie: The Committee determined that Dr Mulvey's conduct in these charges fell far below that to be expected of a reasonably competent member of the veterinary profession. Millie's death, when she was an "*excellent candidate*" for surgery, was wholly unnecessary. The Committee accepted Dr Shield's evidence that the failure to operate on Millie's pyometra for a period of ten days following "*the diagnosis, despite the dog's lack of any significant and continued improvement on medical treatment, was almost certainly the cause of her death and that this outcome was predictable*". This failure is clearly conduct falling far below that to be expected of a reasonably competent veterinary surgeon. In addition, Dr Mulvey's insistence on performing the dental surgery at the same time resulting in the delay, contributed to Millie's death and was an outcome that Dr Mulvey could and should have foreseen. This too was conduct far below that to be expected. Dr Mulvey's failure to make adequate attempts to secure oxygen from another source constitutes conduct falling far below that to be expected of a reasonably competent veterinary surgeon. Further, Ms TP had recognised that urgent treatment was required and considered going to another practice. However, Dr Mulvey did not communicate the degree of urgency required, which prevented Ms TP from making a fully informed decision about taking Millie to a different practice. The Committee finds that this too constitutes conduct falling far below that to be expected.

Suki: The Committee noted Dr Shield's evidence on Suki where she acknowledged in her oral evidence that the question of whether the failure to provide blood test results fell "*below*" or "*far below*" the standard to be expected was a "*fine distinction*". She applied what she described as her "*predictability test*" whereby based on the facts presented to Dr Mulvey at a particular point in time (rather than with the benefit of hindsight), the outcome (such as impact on animal welfare) was predictable. It was Dr Shield's opinion that Dr Mulvey's conduct in respect of this charge, when considered only in isolation, does not constitute conduct falling far below the standard to be expected of the profession. However, and with respect, the Committee disagree with this interpretation of the evidence. The Committee finds that there was wholesale failure by Dr Mulvey to communicate with Mr SC in relation to the blood test results and this did have a detrimental impact on Suki's welfare. It was important for Dr Mulvey to obtain the blood test results. Dr Mulvey took a second blood sample but never communicated the result. Even had there been no detriment to Suki, failure to provide information after repeated and persistent requests was wholly unacceptable. Dr Mulvey's conduct caused the animal to suffer and undermines trust in the profession. The Committee noted that in the 2018 proceedings there was a specific charge relating to the failure to provide laboratory test results which was found proved and found to constitute disgraceful conduct in a professional respect. She has not taken steps to address

this conduct. The Committee therefore finds that her conduct in respect of Suki did fall far below that to be expected.

Milo: Dr Mulvey's conduct had an obvious and direct detrimental impact, it led to the amputation of Milo's leg. Dr Mulvey's repeated delays in undertaking the surgery and her failure to consider a referral for fracture repair surgery (either because she was genuinely unable to obtain screws or due to the nature of the fracture) led to unnecessary suffering, and a significant amount of distress and financial prejudice to his owner. The Committee finds that Dr Mulvey's failures in her care and treatment of Milo fell far below the standard to be expected.

2. Failures to respond to reasonable requests from the RCVS: *Charge 1(b) Millie; Charge 2(d) Penny; Charge 6(b) Ruby, Charge 7 Poppy, Charge 8(d) Milo*

The Committee considered the following paragraphs of the Code relevant:

Paragraph 5.4: *"Veterinary surgeons, and those applying to be registered as veterinary surgeons, must comply with reasonable requests from the RCVS as part of the regulation of the profession, and comply with any undertakings they give to the RCVS."*

The College has a statutory responsibility to investigate concerns raised about veterinary surgeons. As part of its standard processes, adopted to fulfil that responsibility, the College seeks comments from the veterinary surgeon in question. This enables the College to discharge its statutory functions properly and appropriately, with regards to promoting animal welfare and upholding the public interest, by ensuring that veterinary surgeons are fit to practice. There is both a responsibility and an obligation on professionals to engage with their professional regulator in relation to the investigation and resolution of allegations against them. Dr Mulvey was given many opportunities to engage in the investigation of the allegations against her and to respond to the specific charges, but she has failed to do so. Her conduct has therefore undermined public confidence in the profession and in the College as a regulator. The Committee determined that her conduct in this regard fell far below that to be expected of a reasonably competent veterinary surgeon in respect of these charges individually, cumulatively, and when considered alongside the Disciplinary Proceedings from 26 April 2018 and 10 May 2019.

3. Clinical histories: *Charge 2(b) Penny; Charge 4 (Sage); Charge 5(b) Pepsi; Charge 6(a) Ruby, Charge 8(b) Milo*

The Committee considered the following paragraphs of the Code relevant:

By paragraph 2.5 of the Code, veterinary surgeons are required to “*keep clear, accurate and detailed clinical and client records.*” The supporting guidance in relation to this requirement provides as follows:

“Under RCVS guidelines, at the request of a client, veterinary surgeons and veterinary nurses must provide copies of any relevant clinical and client records.”

“Relevant clinical information should be provided promptly to colleagues taking over responsibility for a case”.

In relation to Penny (charge 2b), the Committee noted the evidence of Dr Shield and her opinion that this allegation on its own constitutes conduct falling below, but not far below, the conduct to be expected. She justified her opinion on the grounds that there was little impact on animal welfare and therefore, only when viewed as an isolated incident, did she consider that it did not fall far below the conduct expected. The Committee, with respect, disagrees. This charge should not be seen in isolation from the charge concerning Dr Mulvey’s failure to provide the relevant information to the insurer, because that information included the clinical records. In respect of that charge, Dr Mulvey’s failure to submit the information resulted in genuine and wholly unnecessary financial loss to Ms JH. Dr Mulvey’s failures in relation to Penny damaged Ms JH’s trust and confidence in the profession – Ms JH observed that she “*just expected more of a vet*” and, in relation to her subsequent vet, she is “*less trusting of the care.*” In all the circumstances, the Committee determined that Dr Mulvey’s conduct did fall far below that to be expected.

In relation to Sage (charge 4), the Committee noted the evidence of Dr Shield that this charge alone does not constitute conduct falling far below the conduct to be expected of a veterinary surgeon when considered individually. The Committee, with respect, disagrees. The Committee considered the provision of a clinical history to a superseding veterinary practice to be of great importance and a fundamental tenet of good practice. That Sage had received treatment at CornYard Vets was most likely to be relevant to later diagnosis and/or treatment. Dr Shield said in her oral evidence that providing the records nearly 12 months later is almost as bad as not providing them at all. The Committee determined that Dr Mulvey’s conduct on this charge did fall far below that to be expected.

In relation to Pepsi (charge 5(b)), Dr Shield said that this conduct fell below but not far below the standard expected when viewed in isolation. The Committee, with respect, disagrees. From a clinical perspective, this conduct did foreseeably impact the care that Dr Manchip could provide to Pepsi, in particular the NSAIDs that she could prescribe and whether Pepsi had any history of feline herpes. This charge must be considered alongside all the charges relating to Pepsi, including in respect of insurance. The Committee has already noted that Eastcott Vets, Mr PM and Ms CM and the insurer chased Dr Mulvey repeatedly to obtain these records and they were not provided, thus undermining trust in her and the profession more broadly. The Committee considered the provision of a clinical history to a superseding veterinary practice to be of great importance and a fundamental tenet of good practice. The Committee determined that Dr Mulvey's conduct on this charge did fall far below that to be expected.

In relation to Ruby (charge 6(a)), the Committee agreed with the opinion of Dr Shield that this conduct fell far below the conduct to be expected of a veterinary surgeon when viewed alone, because of Ruby's clinical presentation and the fact that, by virtue of this failure, Ruby did not (and still has not) received the investigations and treatment that she needs.

In relation to Milo (charge 8(b)), the Committee has already determined that Dr Mulvey's failure directly impacted upon animal welfare and the treatment that Cogges Vets was able to provide Milo. This failure has also affected the insurance claim, which has significantly financially prejudiced Mr MM. The Committee agrees with the opinion of Dr Shield that Dr Mulvey's conduct fell far below that to be expected of a reasonably competent veterinary surgeon.

The Committee also considered cumulatively the allegations in relation to clinical histories. The failures represent a pattern of conduct and behaviour by Dr Mulvey and systemic issues, which risks animal welfare. The conduct must also be considered in the context of her previous failures and the reputational damage to the profession, given that these clients relied upon the veterinary surgeon to provide the histories to aid the diagnosis and subsequent treatment of their animals and to ensure they could seek the insurance cover to which they were entitled. Such conduct clearly falls far below that to be expected.

4. Insurance claims: *Charge 2(a) Penny; Charge 5(a) Pepsi; Charge 8(c) Milo*

The Committee considered the following paragraphs of the Code relevant:

paragraph 2.3: "*Veterinary surgeons must provide appropriate information to clients about the practice, including the costs of services and medicines.*"

The Committee also noted the supporting guidance:

“9.32 [...] 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.”

In relation to Penny (charge 2(a)), the Committee noted that Dr Mulvey’s failure has resulted in genuine and wholly unnecessary financial loss to Ms JH. The failure undermined her trust in the veterinary profession. The Committee finds that this failure fell far below the standard reasonably to be expected of the veterinary profession.

Regarding Pepsi (charge 5(a)), Dr Mulvey’s failure to provide the information to the insurer directly resulted in the delay in Pepsi receiving the necessary diagnosis and treatment for a painful condition. It has also caused significant financial prejudice to Mr PM and Ms CM who settled the outstanding bill for Eastcott Vets and, unless the clinical history is provided, Mr Brown confirmed that Direct Line would not consider covering the cost of the treatment.

In relation to Milo (charge 8(c)), the failure to provide adequate information to Animal Friends means that Dr Mulvey did not fulfil her professional obligations in relation to the insurer; and has undermined Mr MM’s trust in the profession, as well as causing him significant financial prejudice.

The Committee finds that Dr Mulvey’s conduct in respect of insurance claims, both individually and cumulatively, fell far below that which is expected of the profession.

5. Failures to respond to requests for information: Charges 2(c) Penny and charge 9 RCVS

The Committee considered the following paragraphs of the Code relevant:

“2.7 Veterinary surgeons must respond promptly, fully and courteously to clients’ complaints and criticism.”

“3.3 Veterinary surgeons must maintain and develop the knowledge and skills relevant to their professional practice and competence and comply with RCVS requirements on the Veterinary Graduate Development Programme (VetGDP) / Professional Development Phase (PDP) and continuing professional development (CPD).

“3.4 Veterinary surgeons must ensure that all their professional activities are covered by professional indemnity insurance or equivalent arrangements.”

The Committee finds that Dr Mulvey's failures to respond to Ms JH's concerns regarding Penny is conduct that fell far below that to be expected of a veterinary professional. Effective communication is a vital aspect of being a veterinary surgeon and ensuring good client care, and the public is entitled to expect that from the profession. Dr Mulvey's complete failure to respond to Ms JH's letters of complaint (let alone to do so promptly) caused her a significant amount of distress and undermined her confidence in the profession. Dr Shield also considered that Dr Mulvey's conduct fell far below that expected of the profession.

The College has a duty to ensure that all registered veterinary surgeons undertake CPD, doing so as part of its responsibilities to regulate their fitness to practise, providing assurance that they keep their professional knowledge and skills up to date. This forms part of the College's public interest duty to protect and promote animal welfare and to maintain public confidence in the profession. It is therefore of great importance that a veterinary surgeon responds to the College with regards to its requests for comments on concerns that have been raised, and requests for information regarding CPD and PII. This enables the College to fulfil its regulatory and investigatory obligations and to maintain public confidence in its statutory processes. Dr Mulvey's failures to respond to the College's requests for information meant that the College was unable to comply with its duty to ensure that Dr Mulvey's abilities were sufficiently up to date and of a suitable standard to ensure the promotion of animal welfare; and to ensure that those who might have a valid complaint against her would be adequately protected by PII. The College's position with regards to maintaining public confidence in its statutory regulatory processes was potentially compromised and undermined.

Finally, both the 2018 and 2019 proceedings concerned charges relating to Dr Mulvey's failure to provide information about her CPD and PII; and in those proceedings, she was found guilty of disgraceful conduct in a professional respect. Nevertheless, she has not remedied her ways. This is an aggravating factor and demonstrates a pattern of behaviour on her part; and

further undermines public trust in the profession. The Committee finds that in respect of charge 2(c) and charge 9 Dr Mulvey's conduct falls far below that to be expected.

Considering all of the above, Dr Mulvey is guilty of disgraceful conduct in a professional respect.

Disciplinary Committee
16 May 2024