

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

RCVS

v

DR NEBOJSA PETROVIC MRCVS (Respondent)

DECISION OF THE DISCIPLINARY COMMITTEE ON DISGRACEFUL CONDUCT AND
SANCTION

Summary of the College's submissions

1. Mr Collis, on behalf of the College, submitted that each of the facts the Committee had found proved, individually amounted to Disgraceful Conduct in a Professional Respect because they were sufficiently serious in their own right. He also submitted that cumulatively and collectively those facts also amounted to Disgraceful Conduct in a Professional Respect.
2. The College relied on the fact that the Respondent's conduct undermined the following fundamental principles of the profession: (i) the promotion of animal welfare; (ii) honesty and integrity; and (iii) professional accountability.
3. Mr Collis further submitted that the facts found proved were of a nature that would be likely to bring the profession into disrepute or undermine public confidence in the profession. Further, he submitted that the Committee should refer to the fact that the Respondent was, at the time of the charges, acting as an Official Veterinarian (OV) and so was effectively the representative of the relevant Minister, and his actions risked undermining government procedures as well as international relations.

4. Mr Collis also asked the Committee to find that the dishonesty it had found proved represented the provision by the Respondent of incorrect information to APHA during their attempts to ascertain the reason for the unexpected change in the test results for the four horses. In failing to communicate openly and frankly about the manner in which he had obtained the samples on 7 November 2021, the Respondent had sought to conceal his professional shortcomings. He submitted that such conduct is incompatible with the principle of professional accountability.

Summary of the Respondent's submissions

5. Dr Petrovic submitted that as a professional the facts found proved cumulatively did amount to Disgraceful Conduct in a Professional Respect. He submitted that the circumstances and pressures in which he found himself at that time influenced his behaviour. In particular he relied on the increased volume of export documentation which was required as a result of Brexit.
6. He did not advance any submissions as to whether individual charges amounted to Disgraceful Conduct in a Professional Respect. He said at all times his priority was the welfare of the animals.

Decision on Disgraceful Conduct in a Professional Respect and Reasons

7. The Committee firstly considered whether each of the facts found proved amounted individually to Disgraceful Conduct in a Professional Respect.

Charge 1

8. The Committee first considered whether Charge 1 amounted to Disgraceful Conduct in a Professional Respect. Although the Committee had not found that the Respondent acted dishonestly regarding the facts on this Charge, the Committee noted that the Respondent's approach to how he carried out the second sampling was haphazard and not in accordance with best practice or the standard to be expected of a registered veterinary surgeon. The accuracy of the sampling on this occasion was especially important since it was required for the purposes of export certification.
9. The Committee therefore concluded that the Respondent's conduct on Charge 1 fell far below the standard to be expected of a veterinary surgeon, particularly because it

related to four horses that required re-testing for export certification. It therefore found that this conduct amounted to disgraceful conduct in a professional respect.

Charge 2

10. The Committee found that the Respondent's actions in respect of Charge 2 were such that he had fallen far below the standard to be expected of a registered veterinary surgeon when speaking to APHA about how he had identified the horses. His failure to be honest and frank in not divulging at that stage how he had identified the horses in the face of direct questioning on the matter, was conduct which amounted to Disgraceful Conduct in a Professional Respect.

Charge 7

11. The Committee was satisfied that Charge 7 amounted to conduct which fell far below the standard to be expected of a registered veterinary surgeon. This was the second time the Respondent was asked about matters by the APHA. He had an opportunity (two months) for further reflection and he still failed to give an open and honest account of his procedure for taking the second set of blood samples.
12. In respect of Charges 2 and 7, the Committee had also found that the Respondent was dishonest in his communication with APHA on two occasions [Charge 8(b)] about how he had identified the horses when taking blood samples. The Committee noted that The Code of Professional Conduct for Veterinary Surgeons (the Code) provides that one of the five key principles that must be maintained by registrants is "*honesty and integrity*". It therefore also took this into account when determining that the conduct in respect of charges amounted to Disgraceful Conduct in a Professional Respect.

Charge 3

13. The Committee took into account that the 10 Principles of Certification, that are contained within the RCVS Code of Professional Conduct for Veterinary Surgeons, were breached but it noted that it had not found that the Respondent had been dishonest when signing these certificates.
14. The Committee had accepted the Respondent's assertions that the errors within the certificates were not made for any dishonest purpose, and had concluded that at the time the errors were made they were genuine mistakes. The Committee decided that

the signing of the EHC certificates containing errors was not of itself, on the particular facts of this case, conduct which fell far below the standard to be expected of a registered veterinary surgeon. It did however conclude that such conduct was poor and a breach of the 10 Principles of Certification.

15. Notwithstanding the Committee's decision that the conduct in Charge 3 did not in itself amount to Disgraceful Conduct, this charge was referred to in Charges 8(a) and (c) as being misleading and risked undermining government procedures designed to promote animal health and/or international relations which did amount to Disgraceful Conduct in a Professional Respect.

Charge 5

16. The Committee decided that Charge 5 did not of itself amount to Disgraceful Conduct in a Professional Respect. It accepted that the Respondent had not purposefully chosen to delay sending those certificates in order to conceal errors on the EHCs. In any event, the certificates were completed on 15/16 November 2021, so would not have been required by the Divisional Veterinary Manager at the Centre for International Trade until 22/23 November 2021 at the latest, by which time the horses had already been exported.
17. Notwithstanding the Committee's decision that the conduct in Charge 5 did not in itself amount to Disgraceful Conduct, this charge was referred to in Charges 8(c) as conduct which risked undermining government procedures designed to promote animal health and/or international relations which did amount to Disgraceful Conduct in a Professional Respect.

Charge 8(a), (b) and (c)

18. The Committee noted that its findings in respect of Charge 8 encompassed four instances of conduct which was misleading [Charge 8(a)], two instances of dishonest conduct [Charge 8(b)] and five instances of conduct which risked undermining government procedures designed to promote animal health and/or international relations [Charge 8(c)].
19. It was therefore satisfied that such conduct amounted to conduct that fell far below the standard to be expected of a registered veterinary surgeon and that the seriousness of it amounted to Disgraceful Conduct in a Professional Respect.

Charge 9

20. The Committee considered that not having Professional Indemnity Insurance for one year from 22 February 2021 until 21 February 2022 was conduct which fell far below the standard to be expected of a registered veterinary surgeon. It noted that such insurance was required for his position as an OV and protected both clients and veterinary surgeons, and that a veterinary surgeon who did not have such insurance in place, was putting himself, clients and their animals at risk.
21. The Committee then went on to consider whether the conduct which it had decided individually amounted to Disgraceful Conduct in a Professional Respect, also cumulatively amounted to Disgraceful Conduct in a Professional Respect. It concluded it did, albeit not in respect of Charges 3 and 5. However, it noted that the facts of Charge 3 and Charge 5 were encompassed within Charges 8(a) and 8(c).
22. The Committee noted that all of the conduct in respect of the matters it had found proved amounting to Disgraceful Conduct in a Professional Respect was conduct which the Respondent had already accepted.
23. In the Committee's judgement, the Respondent's position as an Official Veterinarian also meant that he had a responsibility to ensure that the trust which was delegated to him was not breached. In his role, the Respondent was acting in a position of trust, as a representative of the government, and the Committee found that he had breached that trust:
- (i) by the haphazard manner in which he obtained the samples on 7 November
 - (ii) in his subsequent signing of EHCs which contained incorrect information
 - (iii) in his dishonest account of events in telephone conversations with APHA on 12 November 2021 and 13 January 2022.

It took these matters into account when determining that the Respondent's behaviour cumulatively amounted to Disgraceful Conduct in a Professional Respect.

24. The Committee took into consideration the following breach of the Code in respect of certification when determining that the Respondent's behaviour amounted to Disgraceful Conduct in a Professional Respect. At 6.2 the Code provides: "*Veterinary*

surgeons must certify facts and opinions honestly and with due care, taking into account the 10 Principles of Certification.” The Committee noted that the Code’s supporting guidance makes it clear how important this is:

- “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.”

25. Whilst the Committee was satisfied that the Respondent’s conduct (in respect of Charges 1 and 3) had created some degree of risk to animal welfare it also took into account that there was no evidence that any animal was harmed. The Respondent had told the Committee in his evidence, that he had taken care to ensure that when the horses were loaded he was present to check that the horses were fit to travel. There was no evidence to the contrary before the Committee which suggested that any of the horses were showing signs of ill-health rendering them unfit to travel when they were exported.

26. Further, the Committee noted, paragraph 6.5 of the Code of Professional Conduct for Veterinary Surgeons says: “*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.*” In the Committee’s judgement the nature of the conduct found proved was likely to bring the veterinary profession into disrepute and undermine public confidence in the profession. This was another breach of the Code, and the Committee took this into account when determining that the conduct cumulatively amounted to Disgraceful Conduct in a Professional Respect.

Sanction

27. Mr Collis informed the Committee that the Respondent had no other disciplinary findings against him.
28. The Respondent asked the Committee to consider suspension as a sanction rather than removal. He acknowledged that the Committee had found him to have acted recklessly, dishonestly and without integrity and he accepted that those factors aggravated his position.
29. In mitigation the Respondent asked the Committee to pay regard to the fact that no horses were actually harmed. He also asked the Committee to take into account his long and unblemished career. He assured the Committee that he would not act similarly in the future and that he said he was no longer certifying animals for export because APHA had sanctioned him and removed his authorisation until January 2024; an application to reapply for authorisation would be required. He said he did not plan to reapply for authorisation in the future and therefore he would be unable to certify animals for export.
30. In respect of Charge 9, the Respondent asked the Committee to take into account the pressures he had faced during the pandemic and that he had done all that he could to remediate his position afterwards by putting in place a policy for insurance that was retrospective.
31. Further, the Respondent invited the Committee to take into account the delay in these matters reaching the Disciplinary Committee.
32. The Respondent also asked the Committee to take into account the positive character references which he had supplied in the Respondent's bundle.

The Committee's decision on Sanction and Reasons

33. The Committee referred to the Disciplinary Committee's Sanctions Guidance (updated August 2020) when deciding on what sanction to impose. It noted that when deciding on what sanction to impose the purpose of any sanction was to protect the public and address the public interest. It did not find that the Respondent posed a continuing risk to animals in the future and it accepted that the circumstances of Brexit and the Covid pandemic, which surrounded the conduct it had found proved, were unlikely to be factors influencing him in the future.

34. The Committee also noted that its purpose when sanctioning was also to maintain public confidence in the profession, the RCVS as regulator of the profession and to uphold professional standards.
35. In reaching its decision the Committee had regard to the following aggravating factors from the Disciplinary Committee Sanctions Guidance which were:
- acting without integrity,
 - acting recklessly
 - and acting without regard for the systems which APHA had for the exportation of animals.
36. In determining where on the scale the proven dishonesty was, it decided it was at the middle of the scale of dishonesty for similar cases of misconduct. It noted that it was more serious that the Respondent had on two occasions, on 12 November 2021 and 13 January 2022, he had been dishonest with APHA about how he had identified and sampled the five horses but it noted that other charges of dishonesty had been found not proved (charges 1 and 3). The Committee found that this was not a case where the Respondent had deliberately set out to falsify records to enable the export to take place.
37. The Committee found that the Respondent had acted recklessly and dishonestly but it also accepted that this had taken place in circumstances which the Respondent had found professionally challenging because of the increased pressures on him from Brexit and the pandemic. The Committee concluded, taking into account the Respondent's previous good work record, that he was unlikely to act similarly in the future or pose a risk to animals in the future. Furthermore, because he was no longer certifying animals and because most of his current practice was working as a veterinary surgeon particularly in greyhound racing and it was unlikely he would pose a similar future risk. There were references about his greyhound racing work being of a good standard which supported the Committee's view on risk.
38. The Committee found the Respondent had some insight into the conduct found proved. He was very remorseful before the Committee and he asked to be given a second chance, accepting that in his view the conduct found proved required a sanction of suspension. The Committee found he did not have full insight because it had found the dishonesty charges proved when the Respondent had denied them.

39. The Committee noted the following mitigating factors:

- No animal was harmed by his conduct albeit there was a risk of harm
- The Respondent had a long unblemished career and had been practising as a veterinary surgeon in the UK since passing the statutory membership exam in 1994
- He had made admissions to APHA in interviews with them and admissions before the Disciplinary Committee to most of the charges on the first day of the hearing, showing some insight
- He had remediated his professional indemnity insurance by putting in place a retrospective policy
- The matters he was being sanctioned for dated back to 2021 and 2022.
- He had six positive character references from experienced veterinary surgeons who held him in high regard.

40. The Committee decided that taking no further action in this case was insufficient for the serious nature of the conduct it had found proved. The Committee considered public confidence in the profession, and in the RCVS as its regulator, would be undermined if no further action were taken in a case involving dishonesty and a government agency.

41. There was no application by either party to postpone Judgment in this case and the Committee found this was not an appropriate case to do so in any event.

42. The Committee went on to consider whether a warning or reprimand was a sufficient sanction. It noted that the Disciplinary Committee Sanctions Guidance indicated that a warning/reprimand may be appropriate where the misconduct is at the lower end of the spectrum of seriousness and there is no future risk to animals or the public and there is evidence of insight. Although the Committee had found some evidence of insight, it decided that because the misconduct encompassed dishonesty, errors in certification and not having professional indemnity insurance, the sanction of a warning or reprimand was insufficient for the overall seriousness of the conduct it had found proved.

43. The Committee went on to consider if a suspension was a proportionate and sufficient sanction. The Committee noted that the Disciplinary Committee Sanctions Guidance

indicated that such a sanction may be appropriate where some or all of the following apply:

- a) The misconduct is serious, but a lesser sanction is inappropriate and the conduct in question falls short of being fundamentally incompatible with remaining on the Register;
- b) The Respondent veterinary surgeon has insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour;
- c) The Respondent veterinary surgeon is fit to return to practice (after the period of suspension).

44. The Committee took into account that the Respondent had continued to work as a veterinary surgeon with no subsequent complaints and that he had a previous long and unblemished record and there was support by several positive character references. The Committee also took into consideration the pressures of Brexit and the pandemic which the Respondent had faced at the time but which were unlikely to occur again. The Committee had concluded that the Respondent was unlikely to repeat similar behaviour or to pose a risk to animals, particularly because he was no longer involved in certifying animals for export. Furthermore his admissions to most of the matters it had found proved showed that he had some insight. The Committee was also satisfied that the Respondent had a genuine concern for the welfare of animals and it noted that the Respondent did not require any further training to continue in practice as a veterinary surgeon.

45. The Committee therefore concluded that a suspension from the Register was the proportionate sanction in this case taking into account the seriousness of the conduct it had found proved but also all of the mitigating factors.

46. It further decided that suspension for a period of six months reflected that the Committee had found the conduct to be serious and that it could damage public confidence in the profession. Although the Respondent had been dishonest with the APHA on two occasions, the Committee decided that a suspension for six months was a sufficient sanction to indicate the seriousness with which the Committee viewed such conduct. A six month suspension would, in the Committee's view, meet the public interest and send a clear deterrent message.

47. The Committee also considered that removal from the Register would be a disproportionate sanction for a well-intentioned and otherwise competent veterinary

surgeon who posed no significant risk to animals in the future and who was fit to continue in practice. The Committee did not consider that removal from the Register was a proportionate sanction, even where two instances of dishonesty had been proved, because the Respondent had expressed remorse and shown some insight along with a genuine expression of his determination never again to lapse in a similar way.

48. The Committee therefore directs that the Registrar suspend the Respondent's registration for a period of six months.

Disciplinary Committee
30 April 2024