

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

REBECCA DAVIES RVN

DECISION ON SANCTION

1. The Committee sent the Respondent the decision on Disgraceful Conduct in a Professional Respect. It received no response to the decision or any written submissions from the Respondent in relation to Sanction.
2. The Committee heard brief submissions from the College on sanction. Ms Culleton invited the Committee to consider whether the charges were aggravated by a breach of trust between the Respondent and her colleagues, a willful disregard of instructions given by her veterinary surgeon colleagues and also due to the risk of injury to animals. Ms Culleton also invited the Committee to consider the repetition of similar conduct as having aggravated the charges. Ms Culleton further submitted that the Committee should consider the Respondent's lack of insight both in relation to not admitting the charges and in her written submissions when deciding upon its sanction.
3. The Committee referred to the Disciplinary Committee Sanctions and Procedure Guidance which refers to veterinary surgeons but also applies to veterinary nurses (DCSG)(updated 2020). It noted that the DCSG referred to consideration of the Respondent's insight and whether the Respondent posed a risk to animals in the future. It had no evidence on these matters from the Respondent and so it was difficult for the Committee to assess whether the Respondent continued to pose a risk to animals in the future through similar conduct and whether she had any insight into the proven misconduct.

4. The Committee considered the aggravating and mitigating factors.
5. It decided there were two aggravating factors that did not form the crux of the charges and so aggravated the conduct set out in the charges and they were as set out in the Committee's decision on disgraceful conduct in a professional respect:
 - that the conduct was sustained over a period of approximately 8 months and took place during four separate surgical procedures
 - that the Respondent posed a risk to animals on each occasion.
6. Aggravating factors are those factors which indicate a higher level of culpability on the part of the veterinary nurse or a greater degree of harm than that inherently present in the charges. The presence of such factors aggravates the seriousness of the proven conduct and accordingly increases the appropriate sanction. The Committee decided that those other factors submitted by Ms Culleton to be aggravating were however an inherent part of the proven charges and so should not be 'double counted'. It therefore decided that they did not aggravate the proven misconduct.
7. The Committee found two mitigating factors. The Respondent had been on the register of veterinary nurses since 17 January 2006 with no previous disciplinary findings against her. The Committee therefore concluded that the Respondent had a long and unblemished career. It also considered the evidence of Ms Lock (RVN) one of the head nurses at the practice where these charges had taken place. Ms Lock had said that the Respondent *"thrived on knowledge and was constantly asking questions.....she supported less experienced colleagues and was very well read and [held] a number of certificates. She was very knowledgeable and with students she would be really supportive and encouraging."*
8. The Committee also noted that in the Respondent's letter dated 12 September 2023, she had expressed some remorse regarding her conduct in relation to charges 3 and 4. However although there was some good evidence of mitigation, without the Respondent being present and participating in the sanction process, the Committee could not mitigate the sanction it imposed because it could not determine whether the Respondent continued

to pose a risk to animals in the future or whether she had any insight into her conduct. The Committee decided that the protection of the wider public interest in these circumstances outweighed the Respondent's interests and her mitigation.

9. In relation to the Respondent's insight, whilst there was also some of evidence from the two veterinary surgeons, Ms McKenzie and Ms Brown, which was supportive, there was also some evidence which indicated that the Respondent had an attitude problem regarding being instructed in what to do or what not to do by a veterinary surgeon. This issue was difficult to resolve in the absence of the Respondent and further evidence from her. Had she been present she could have advanced her position better. Whilst the Committee had not drawn any adverse inference against the Respondent due to her absence when deciding on the charges, it was unable to resolve questions regarding her future risk and her insight in her favour in her absence and without her participation in the hearing.
10. The Committee had decided that the matters found proved which amounted to disgraceful conduct in a professional respect – Charges 1(b)(c)(d), 2(a),(b), 3 and 4 were cumulatively serious misconduct. Having determined that they were serious, the Committee decided that a sanction was required to meet the wider public interest which was set out in the DCSG as:
 - *protection and promotion of the health and welfare of animals and the protection of public health;*
 - *promotion and maintenance of public confidence in the veterinary profession;*
 - *promotion and maintenance of proper professional standards and conduct in the veterinary profession.*¹
11. There was no engagement from the Respondent to indicate that postponement of sanction would be appropriate in this case. In any case the Respondent could not agree to undertakings since she was not present.
12. The Committee went on to consider whether it was appropriate to reprimand or warn the registrant as to her future conduct. It noted that the DCSG indicated that such a sanction

¹ (paragraph 9 of the DCSG)

was appropriate if it was sufficient to protect animals and the wider public interest and if the proven 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'. The Committee found on the evidence before it that a warning or reprimand was not appropriate because it had no evidence regarding the Respondent's insight or her future risk to animals and also because it considered the charges and proven misconduct were serious and not at the lower end of the spectrum.

13. The Committee went on to consider whether a suspension was the proportionate sanction. It noted that a period of suspension could act as a deterrent and as a salutary reminder to the veterinary nurse; and that it could also meet the public interest. However the Committee noted that the DCSG (paragraph 71) indicated that a 'suspension' was 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).*

14. The Committee therefore considered that this sanction was not appropriate because it had no evidence regarding the Respondent's insight or whether there is a significant risk of repeat behaviour or whether the Respondent is in fact fit to return to practice; she having said she was medically unfit to attend the hearing. For those reasons it decided that it could not impose a period of suspension even though that sanction could have met the wider public interest had there been positive evidence of insight and lack of future risk.

15. The Committee therefore went on to consider the sanction of removal. It noted that the DCSG (at paragraph 77) said

"Removal from the register may be appropriate where behaviour is fundamentally incompatible with being a [veterinary surgeon], and may involve any of the following (the list is not exhaustive):

- a. *Serious departure from professional standards as set out in the RCVS Code of Professional Conduct for [Veterinary Surgeons];*
- b. *Deliberate or reckless disregard for the professional standards as set out in the RCVS Code;*
- c. *Causing serious harm (or causing a risk of serious harm) to animals or the public, particularly where there is a breach of trust;*
- d. *Offences of a sexual nature;*
- e. *Offences involving violence and/or loss of human life;*
- f. *Evidence of a harmful deep-seated personality or attitude problem;*

g. Dishonesty (including false certification), particularly where persistent or concealed;
h. Putting his/her own interests before the health or welfare of animals;
Persistent lack of insight into the seriousness of their actions or the consequences; where the nature and gravity of findings are such that a lesser sanction would lack deterrent effect or would undermine public confidence in the profession or the regulatory process.

16. The Committee noted that the DCSG indicated that removal from the register may be appropriate where the behaviour was fundamentally incompatible with being a veterinary nurse and that it may involve any of the matters listed at (a) to (h). The Committee decided that the Respondent and the proven misconduct involved (a) and (h) above. It had found in its decision on disgraceful conduct in a professional respect, that the charges represented (a) serious departure from the Code of Professional Conduct for Veterinary Nurses and also (h) in that there was evidence that the Respondent had put her own interests before the health and welfare of animals either by not following the instructions of veterinary surgeons or by acting unilaterally, in relation to the administration of medicines or the placement of a catheter or feeding tube during four surgical procedures. The Committee therefore concluded that removal was an appropriate sanction.

17. The Committee also decided there was since there was a possibility that (f) and (c) above were also met that removal was the only proportionate sanction. The Committee concluded that in the absence of any further evidence on those two matters, it was unable to determine whether the Respondent did in fact have an attitude problem or whether she posed a risk to animals in the future. Since the Committee could not also assess the Respondent's future risk or her insight in her absence, it therefore decided that removal was the only proportionate sanction because any other sanction would not protect animals or the public in the future without those matters having been adequately assessed. Such a sanction also met the wider public interest.

18. The Committee therefore directs that the Registrar remove the Respondent from the Register of Veterinary Nurses.