

Dr John Alan Walker

Appellant

v.

The Royal College of Veterinary Surgeons

Respondent

FROM

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

JUDGMENT OF THE LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL

Delivered the 21st November 2007

Present at the hearing:-

Lord Walker of Gestingthorpe
Lord Mance
Lord Neuberger of Abbotsbury

[Delivered by Lord Mance]

1. Dr John Alan Walker has for more than 26 years practised as a veterinary surgeon. The excellence of his clinical judgment and professional skill is not in doubt. Before qualifying as a veterinary surgeon he obtained a doctorate in membrane biochemistry and for twelve years pursued an academic career. In 1981 he joined his

father's veterinary practice, became a sole practitioner when his father's health worsened, and thereafter built up a successful mainly equine practice with some 13 vets. The practice has veterinary hospital status. Dr Walker has, since 1st September 2006 when he was 60, been a consultant, working three days a week and earning in the region of £36,000 p.a. From May 2003 to May 2005 he was Secretary, and from May 2005 to May 2007 he was Chairman, of the Racecourse Vets Association.

2. A dispute arose which led to former clients of Dr Walker, a husband and wife who owned and trained race-horses, suing him with regard to a horse called Moorlands Again. During the course of those proceedings, in late 2005, one or both of the couple reported Dr Walker to the Royal College of Veterinary Surgeons ("RCVS") for inaccurate certification in relation to horse passports for three horses, Moorlands Again, Ryton Run and Six Clerks. Dr Walker had for some 20 years looked after the vaccination of their horses, but their evidently determined review of their previous relationship with him revealed no other discrepancies. The RCVS in April 2006 referred the matter to a preliminary investigation committee and then to solicitors with a view to considering whether to take disciplinary proceedings. In August 2006 Dr Walker reported to the RCVS an approach by the wife offering to retract the complaint, if they could meet and agree a satisfactory outcome to the proceedings, to which Dr Walker's reply had been that the complaint had now been made and he had to suffer the consequences.
3. The consequences were three charges of disgraceful conduct in a professional respect brought before the RCVS Disciplinary Committee under ss.15/16 of the Veterinary Surgeons Act 1966. The charges were heard and determined on 29th/30th January 2007, when charges 1 and 3 relating to, respectively, Moorlands Away and Six Clerks were found proved. On charge 2 relating to Ryton Run, disgraceful conduct was not established, and the Committee accepted Dr Walker's explanation that there had been a genuine clerical mistake with no intent to mislead, and that the vaccination was still valid, the welfare of the animal unaffected and no adverse consequences with regard to animal health and welfare. Having heard submissions and retired to consider the appropriate sanctions in respect of the two charges proved, the Committee decided that the only appropriate course was removal of Dr Walker's name from the Register of veterinary surgeons. Against that determination Dr Walker now appeals to the Board under s.17 of the 1966 Act.
4. The circumstances giving rise to charges 1 and 3 were as follows. Under Jockey Club Rule 35(i) all horses that enter property owned,

used or controlled by the Managing Executive had to be vaccinated against equine influenza in accordance with the general requirements of Rules 35(ii) and (iii). Under Rule 35(ii) all horses for which a passport had been issued and that entered such property had to have the vaccination section of their passport completed by a “Recognised Turf Authority or a Veterinary Surgeon” (being neither the owner nor the trainer nor a person entered in the Register of Stable Employees as employed by the trainer). So completed, the passport had to show that the horse had received (a) two primary vaccinations against equine influenza no less than 21 and no more than 92 days apart, and, in addition, where sufficient time has elapsed, (b) a booster no less than 150 and no more than 215 days after the first and (c) booster vaccinations not more than one year apart. It had also to show that none of such vaccinations had been given within the 7 days previous to any race in which the horse was declared to run. Failure by a trainer to comply with Rule 35 could lead to disciplinary proceedings being instituted before the disciplinary committee of the Jockey Club (the regulatory functions of which have more recently been transferred to the Horseracing Regulatory Authority and now to the British Horseracing Board).

5. Moorlands Again, Ryton Run and Six Clerks were all of an age at which their passports showed that they required booster vaccinations at intervals not more than a year apart. Failing such vaccinations, they would have to recommence the process with two primary vaccinations. Ryton Run’s passport showed that it had received an annual booster on 24th November 1999. On 5th December 2000, Dr Walker administered a further booster, but inserted in the passport the date 22nd November 2000. This made it appear that the booster was in time under Jockey Club rules. Moorlands Again’s passport showed that it had received an annual booster on 12th September 2002. On 26th September 2003 Dr Walker administered a further booster, but inserted in the passport the date 10th September 2003. Again, this made it appear that the booster was in time.
6. On being first confronted with the complaint relating to these two horses, Dr Walker’s replied to the RCVS at once on 16th January 2006:

“On both occasions, I had, upon request, vaccinated the horses before I inspected the passports. The dates entered ensured that their passports were up to date and complied with the rules of the Jockey Club for racing. I realised that they were out of date but due to the fact that they had been regularly vaccinated, I was content that the horses’ protection against both important diseases had not been compromised. I did not wish to compromise their welfare by subjecting them to an additional course of vaccines, when I

considered their protection to be in order, despite the lapses of 11 and 14 days respectively.

I now fully realise the error of my ways and I am highly embarrassed that I have allowed myself to be pressurised. For this error of judgment I sincerely apologise and I will take every precaution to ensure that it does not happen again.”

7. In evidence, Dr Walker explained that the backdating had been his decision and the pressure referred to was self-imposed. He felt sure, however, that he would have said something afterwards to the owner to the effect that the passport had been out of date, that he had ‘corrected’ it and that she could carry on and train the horse. The antedating involved him in no gain, rather the opposite since a new course would have earned him more than a booster injection. It was not his responsibility to ensure that the horses were vaccinated with a year, it was the owners’. The wife was a well-organised owner and he had, contrary to his normal practice, administered the injection without first seeing the passport and on the assumption that she had arranged the injection for a date within the year. Only upon subsequent inspection of the passport did this prove not to be so, whereupon he had undertaken the backdating. Questioned specifically about Moorlands Again, he said that he had wanted to be helpful and, in not commencing a fresh course, had had in mind the risk of reaction that existed with any vaccinations. He could not specifically remember the circumstances regarding Six Clerks. The data sheet for the equine influenza vaccine that Dr Walker administered only required any booster injection to be within 15 months of the last booster, adding merely that the “routine practice” of annual boosters “may remain the most convenient, even though protection against equine influenza has been demonstrated by challenge studies”. There was therefore no medical risk involved in the failure to observe the Jockey Club’s annual time limit. Questioning of Dr Walker to the effect that, if annual certificates were regularly mis-dated by vets, there was a risk that the 15 month period would be exceeded seems to have been misplaced. The risk of vets *post*-dating booster certificates must be negligible. Ante-dating of a previous certificate would mean that the period since the last booster was shorter, rather than longer. The Committee also noted, when finding that Dr Walker had conducted himself disgracefully, that the owners after reporting Dr Walker to the RCVS continued to race Moorlands Again and to administer annual boosters, without restarting the primary course of injections as the wife knew to be necessary under Jockey Club rules. Her explanation for this was that she had taken advice from a professional veterinary surgeon. No steps appear to have been taken by or against anyone in that respect.

8. In finding disgraceful conduct on Dr Walker's part, the Disciplinary Committee of the RCVS observed that it

“regards any falsification as extremely serious because it weakens the confidence of the public and damages integrity of the veterinary profession. In these two cases, the actions of Dr Walker have fallen far short of the standard which is to be expected by a member of the profession.”

The Committee received character evidence and heard counsel's submissions which highlighted inter alia Dr Walker's frankness, his hitherto unblemished record of care and attention to animals, the shame, anxiety and great worry that had already been occasioned to him, the absence of any personal gain and of any risk to the two horses, the fact that he had given inadequate consideration to what he did and the Committee's duty to give the least penalty it could.

9. In his succinct advice to the Committee, the legal adviser, Mr G. Flather OBD QC, echoed a number of these points:

“Give the lightest penalty you can, taking into account Dr Walker's long service to the profession and the excellent quality of it (Mrs Pitman's evidence goes to that), his age, the fact that he made no gain from it, the fact that he appears to have taken the decision very quickly and may not have given it his full reflection. The fact that he is a member of the College of high seniority does indicate, on the one hand, that he ought to have known better, but on the other hand, it will make the punishment the greater and the disgrace the greater, because of the position he holds. Bear in mind his financial position which Mr Corless raised and bear in mind also what you may feel was his frankness and openness. Also, he has drawn back from blaming the [owners]. He has presented himself as frankly, as you may think, as he could possibly do. On the other hand, you know the facts of the case. What he has done is unacceptable. How is it to be dealt with is your position.”

10. The Committee retired and, after deliberating in private, gave the following brief reasons for deciding upon removal from the register:

“The Committee has given careful consideration to the submissions made on Dr Walker's behalf, an oral statement given by Mrs Pitman who attributed a lot of her success as a trainer to Dr Walker's veterinary skill over many years, and a letter from Dr Webbon, until recently Chief Executive of the Horse Racing Authority, was also presented, testifying to Dr Walker's excellent clinical judgement and professionalism.

The Committee regards false certification on two separate and similar occasions as being an extremely serious matter, and has considered the possible sanctions in ascending order of severity. The Committee believes that a postponement or reprimand is not an appropriate sanction in this case. Therefore, it has given anxious consideration to either a suspension or removal from the Register as being the most appropriate sanction.

The Committee acknowledges in his favour the frankness of Dr Walker in his admission of the facts, but also took consideration that Dr Walker is well known in the racing world, holds a senior position in the association of Racecourse Veterinary Surgeons, and ought to have known the significance of his actions. The Committee has decided the only appropriate course is to instruct the Registrar to remove Dr Walker's name from the Register."

11. In considering Dr Walker's appeal, the Board reminds itself of the approach indicated by the Board in *Ghosh v. GMC* [2001] 1 WLR 1915. Lord Millett said there that, although the Board's jurisdiction is appellate, not supervisory, it is "incumbent on the appellant to demonstrate that some error has occurred in the proceedings before the committee or in its decision, but this is true of most appellate processes" (para. 33), and that "the Board will accord an appropriate measure of respect" to the judgment of a professional disciplinary committee on inter alia "the measures necessary to maintain professional standards and provide adequate protection to the public", but that it "will not defer to the committee's judgment more than is warranted by the circumstances"; and that it is, on this basis, open to the Board "to decide whether the sanction of erasure was appropriate or necessary in the public interest or was excessive and disproportionate" (para. 34). These principles apply equally to an appeal relating to the RCVS: *MacLeod v. RCVS* [2006] UKPC 39, para. 22.
12. The Board also reminds itself of the guidance given by Sir Thomas Bingham MR (as he was) in *Bolton v. Law Society* [1994] 1 WLR 512 with regard to the proper approach by, and to orders of, professional disciplinary tribunals. Speaking in the context of lawyers, he emphasised that any lawyer "shown to have discharged his professional duties with anything less than complete integrity, probity and complete trustworthiness must expect severe sanctions" (p.518B). Orders could include a punitive element. But often they would not, e.g. where a criminal penalty had already been imposed, in which case it would be unjust to punish again (p.518F-G). The order would then be primarily directed (a) to ensuring that the offender does not have the opportunity to repeat the offence and/or (b) more fundamentally, to maintaining the reputation of and sustaining public confidence in the

profession “as one in which each member may be trusted to the ends of the earth”; for this reason “considerations that would ordinarily weigh in mitigation of punishment have less effect on the exercise of this jurisdiction than on the ordinary run of sentences passed in mitigation” (p.519B).

13. The correctness of veterinary certificates is also a matter of importance, and can in some contexts bear on animal and indeed human health. The RCVS’s Guide to Professional Conduct (2002 edition) underlines the obvious need for truthfulness and accuracy, in the interests of both clients and third parties. The public and bodies such as the Jockey Club have in various contexts to rely on the accuracy of veterinary certificates. The reputation of and confidence in the integrity of the profession of veterinary surgeon is important in a manner which bears an analogy to, even if it is not precisely the same as, that described by Sir Thomas Bingham in *Bolton v. Law Society*. But that is not to say that it would be correct to bracket all cases of knowingly inaccurate veterinary certification into a single group and to treat them as equivalently serious. That would not be right when considering either how far an offender needs to be deprived of the opportunity of practice in order to prevent re-offending, or what sanction is necessary to maintain or restore public confidence in the profession. Deterrence is an important consideration, but it must be deterrence in the light of the particular circumstances of the offence to which any deterrent sanction is directed.
14. The reasoning of the Disciplinary Committee of the RCVS is not to be scrutinised over-minutely. It was prepared quite quickly and informally by a lay body, albeit after hearing fairly extensive submissions and receiving legal advice. Nonetheless, in the Board’s view the explanation which the Committee rightly considered should be given of the thinking leading to the important decision which it was taking presents two real weaknesses. First, all that the Committee said by way of description of the offences for which it was sanctioning Dr Walker was that “The Committee regards false certification on two separate and similar occasions as being an extremely serious matter”. The Board does not accept counsel for Dr Walker’s submission that the Committee erred, here or in any part of its reasons, by attaching significance to what it perceived would be the Jockey Club’s view of the seriousness of what occurred. The Committee did not mention the Jockey Club, and it was entitled on any view (including Dr Walker’s own evidence) to emphasise that accurate certification was, whatever its purpose, an extremely important professional duty. However the Committee’s reasoning does group all cases of false certification together in one bracket. The Committee did not differentiate at any point between the different circumstances in which false certification

may occur. Although the Committee said generally at the outset of its remarks that it had given careful consideration to the submissions made on Dr Walker's behalf, this general observation is in contrast with the points which the Committee actually made. The Committee did not identify or remind itself of the salient features of the particular offences committed by Dr Walker. It did not mention that there was no threat to animal or human health, that Dr Walker made no financial gain and that he appeared to have taken the relevant decisions very quickly without giving them full reflection (unless its later observation that he ought to have known the significance of his actions is to be so understood).

15. Second, having said, apparently on the general basis that false certification is an extremely serious matter, that the choice lay between suspension and removal, the Committee decided that the only appropriate course was removal. In this respect, its only stated reasoning consisted in an acknowledgement of Dr Walker's frankness in his admission of the facts, which was immediately counter-balanced by observing that he was well known in the racing world, held a senior position in the Racecourse Veterinary Surgeons and was someone who ought to have known of the significance of his actions. The Board does not follow this train of thought. All vets ought to, and presumably do, know of the importance of accurate certification, and in particular that ante-dating such as Dr Walker undertook would have the effect that the annual vaccination requirement of Jockey Club rule 35 would appear to have been met when in fact it had not been, and Dr Walker did not deny that this effect was in his mind. Dr Walker's senior position in the association of Racecourse Veterinary Surgeons seems to the Board primarily a matter for that body, but more importantly to be a matter which cuts both ways. That position, and the fact that Dr Walker is well-known in the racing world, reflect his otherwise excellent professional service over a long period. In that respect, they are not only mitigating factors, but will, as the legal adviser pointed, "make the punishment the greater and the disgrace the greater". The Committee's remarks leave this consideration out of account. Further the Committee made no mention at this point of the "devastation, embarrassment and remorse over the events" on Dr Walker's part that the Committee had recorded when earlier dealing with the issue of his liability. The Committee also made no mention of the unlikelihood of any recurrence or the substantial financial penalty that suspension would itself involve for Dr Walker.
16. It was a repeated theme of the RCVS's submissions to the Board that the fact that the Committee had made no express reference to a factor did not mean that it had not given it adequate consideration in its deliberations, especially when the Committee said that it had given

careful consideration to the submissions made on Dr Walker's behalf. But the brevity of the Committee's reasoning on sanctions combined with the cumulative effect of the various points which can legitimately be made upon such reasoning as the Committee did give leads the Board to the conclusion that it must consider afresh the appropriateness of the ultimate sanction which was passed on Dr Walker in this case.

17. In reaching this conclusion and in reconsidering the sanction passed on Dr Walker, the Board has also had in mind the documentation which the RCVS helpfully put before it showing disciplinary sanctions passed over recent years on other offenders for a variety of offences. The Board accepts that in some of the earlier cases (e.g. *Morgan* in 1981, *Griffiths* in 1989, both cases where false certification was with an insurance purpose and suspension for 3 months was ordered, and *Kelso* in 1991, a case of false certification of two daily inspections that had in fact been missed. where there was no more than a warning for an "isolated lapse"), the RCVS Disciplinary Committee may have taken a more lenient line than subsequent cases suggest would now be appropriate.
18. A more relevant case is *Lindsay* in 2001. A vet was prevailed upon by a farmer to provide a certificate that a cow had been examined ante-mortem and found to satisfy the requirements at that stage of fitness for human consumption. The certificate stated that the cow had been found to be suffering from a "terminal fit" and had been shot or stunned in his presence, whereas in fact, when the vet was called and visited the farm, he had found the cow already slaughtered (skilfully, although a post mortem showed that it had not been fully bled out). The Committee would have removed the vet from the register, had there not been mitigating circumstances. These consisted, as it appears, in the vet's concern, frankness and regret about what had happened and the many letters of support he had received. Instead of removal, the Committee therefore suspended him for 6 months.
19. In *Baier* also in 2001 an animal had entered an abattoir four days before, but was only slaughtered one day after, the expiry of the 30 month period within which it could under the relevant regulations be certified as fit to enter the human food chain. The vet, acting as official veterinary surgeon for the Meat Hygiene Service, nonetheless certified it as fit and compounded this offence by additional offences of altering and/or instructing others to alter various abattoir records as well as the animal's passport to disguise the fact that it had been over 30 months when slaughtered. The Committee found a good deal of mitigation, and said that it "would be unfair not to be sensitive to this and to be unconcerned when sending out a message to the public".

The vet was “working in a small plant, and was subjected to suggestions and pressures about how he should handle the situation”, and he “came over as an extremely frank and open individual who is remorseful and recognises the gravity of what he did. There is no similar incident in his past. He gained no financial benefit and he lost his job as a result”. Balancing these considerations, the Committee decided to suspend him for 12 months.

20. For the RCVS Mr Bradley drew the Board’s attention to a number of cases where removal has been directed, while pointing out that in two of them the vet had, on subsequent application after the minimum period of 10 months, been restored to the register. In *Carr* in 2002 removal was ordered when a vet was, after a contested hearing, proved to have twice (in 1995/96 and 1997) falsely certified the parentage of different foals (once as owner and once as owner and veterinary surgeon) and further in 1998 to have sought to resolve a dispute with a third party by frightening and intimidating conduct involving a degree of force. In *Smith* two charges were found proved of issuing clean health certificates for the export of two animals before the actual test results justifying them were known and, so, at a time where there was still a possibility that each animal was infected with a notifiable disease. Three further charges were proved of issuing clean export certificates one day before the actual test results were known, pursuant to an agreement with the exporter’s agent to keep the certificates in a sealed envelope until clean test results were received. In respect of the latter three charges, the circumstances highlighted a number of deficiencies in the communication between Defra, The Veterinary Laboratories Agency and the Official Veterinarian, and these in the Committee’s view justified a conclusion that the vet had been “placed in an extremely difficult position” and made 10 months suspension the appropriate order. In respect of the first two charges, the Committee ordered removal from the register, although the Board was told that, subsequent to the expiry of the 10 month period, Mr Smith has made a successful application for restoration.
21. In *Archbold* in 2003 a vet had certified that he had attended and verified the identity of two animals and administered lethal injections, when he had done none of this, and had merely passed barbiturates and needles to the farmer. His conduct could have led to undue animal suffering, put public health at risk and provided a vehicle for fraud. The Board upheld the order for his removal from the register: [2004] UKPC 1. In *Sanyal* in 2005 the vet was found to have been guilty of failure to provide adequate professional care to three animals, in each case on more than one occasion, as well as of misrepresentations about the medical position to owners, and of a string of some five offers to clients that if they took out insurance on one animal he would certify

that fees incurred on another or others were incurred in respect of the insured animal. Not surprisingly, the vet was removed from the register, though the Board was told that, evidently after undertaking retraining, the vet was restored to the register in 2007, some two years later. Finally, in *Morris* in 2007 the Committee had found proved a charge of giving a false certificate for the purposes of a sale which was subject to a satisfactory veterinary examination. The certificate made no mention of any disease or abnormality, although the vet was made fully aware that the horse was suffering from a respiratory problem.

22. In the Board's view, the nature and circumstances of Dr Walker's offending place it in a significantly lower category of seriousness than any of these cases where removal from the Register was directed. Although Dr Walker issued false certificates calculated to mislead the Jockey Club, he did so misguidedly, in order to be helpful and to avoid restarting a primary course of injections which had no medical purpose and would have entailed some degree of extra risk. The circumstances are quite distinct from those of cases where there was a deliberate misleading of insurers, purchasers or export agencies about the physical status or condition of an animal, or where there was a risk to animal or human health.
23. A comparison with the approach taken by RCVS disciplinary committees in the cases of *Lindsay* and *Baier* is also of interest. The offences there were committed in a context (certification of fitness for the human food chain) and were both in general character inherently more serious than the present. *Baier* (multiple associated offences by an abattoir vet on one occasion), was itself more serious in character, and so understandably yielded a longer period of suspension, than *Lindsay*. It is true that in both *Lindsay* and *Baier* the Disciplinary Committee was only dissuaded from removing the vet from the Register by mitigating circumstances, and in sanctioning Dr Walker the Disciplinary Committee was also correct to observe that (in contrast with the position in *Lindsay* and *Baier*) his offending took place on two quite separate occasions. But (apart from the absence of any suggestion of any such external pressure as existed in *Baier*) mitigating circumstances echoing those mentioned in *Lindsay* and *Baier* feature very substantially and obviously in Dr Walker's case. In principle, mitigation has less effect in a disciplinary jurisdiction than in ordinary sentencing, but the reasoning of the Disciplinary Committee in *Lindsay* and *Baier* shows RCVS disciplinary committees giving significant weight to mitigation in situations comparable with the present. Dr Walker is in the Board's opinion entitled to ask why his offending should attract so different and severe an attitude.

24. Dr Walker's explanation of his conduct was or is of course no

justification for false certification, and the Committee was bound to take a serious view of what Dr Walker did two occasions. Removal from the register is however the ultimate penalty available to the Committee. In *Bolton v. Law Society* [1994] 1 WLR 512 at p. 519H Sir Thomas Bingham MR drew attention to the “substantial difference” between suspension, giving a right to resume practice after the period of suspension, and removal, leaving the practitioner unable to practise unless and until he can gain readmission. It is true that in the case of veterinary surgeons, the period before which an application for restoration can be made is only 10 months; and that this contrasts with the period of 5 years which has applied to medical practitioners since 3rd August 2000 under Medical Act 1983 (Amendment) Order 2000 (SI 2000/1803): cf *Ghosh v. GMC* at para. 37. Some reliance was placed on this in the RCVS’s submissions. But it is a factor which requires caution. The increase from 10 months to 5 years in the case of doctors reflected the GMC’s policy of not restoring a medical practitioner who had been struck off to the register, save in exceptional circumstances. That does not appear to have been the RCVS’s approach (cf e.g. *Smith* above). Nonetheless, the Board considers that a clear distinction should be recognised between removal and suspension.

25. First, the two differ both in their impact on the veterinary surgeon and in the public eye. Second, it would be wrong to associate the practical effect of an order for removal with that of an order for suspension for 10 months, for several reasons: (a) 10 months is no more than the period before which an *application* for restoration can be made. It can take a good deal longer to resolve any such application (cf the case of *Sanyal*). (b) Secondly, any application for restoration will come before a freshly constituted disciplinary committee whose views cannot be predicted, and in the meanwhile the practitioner will be kept in uncertainty as to his or her long term future, as well as subject in the public eye to the greater disgrace of having been struck off. (c) Thirdly, an application may in some contexts be facilitated by evidence of fresh circumstances and efforts to address the problems that led to the original removal (as in *Sanyal*, where evidence of retraining was evidently adduced). But in other cases, of which Dr Walker’s is one, nothing is likely to have changed. It is not suggested that Dr Walker needs retraining, or that his remorse and determination never again to lapse in such a way are not genuine or reliable, or that any other relevant development might occur before any application for restoration. The Committee hearing the original charges against Dr Walker was in reality at least as well placed as, and probably better placed than, any fresh committee to decide for how long he should be removed from practice for the purposes of punishment and deterrence and to maintain public confidence. A fresh committee might well ask

itself why it should be prepared to take any different attitude to that which the original Committee thought appropriate. Any argument that it is appropriate to pass the maximum sanction, having regard to the fact that it can be, and is likely to be, reduced in impact after 10 months is also one which is in the Board's view inimical to the transparency at which any tribunal engaged in sentencing or sanctioning misconduct should aim.

26. The Board has also had put before it a very large volume of material taking issue with the severity of the sanction imposed on Dr Walker, underlining his expertise and conscientiousness and the high regard in which he is held in the profession and by trainers and urging that his appeal should succeed. The RCVS has stated that "it respects the wish of the appellant and of members of the profession that the strength of this regard is put before the Board". The Board has power to admit such material and has in the circumstances looked at the material (as it did in different circumstances in *Preiss v. General Dental Council* [2001] UKPC 36: cf para. 29). The RCVS points out that the high esteem in which Dr Walker was and is held in the profession is a matter which it had in mind, and is right to caution against too great weight being placed on material that comes only from those who feel strongly about the sanction imposed, whose knowledge of the full issues is untested and whose views cannot anyway be determinative of the appropriateness of the Committee's approach. The Board will say no more in the circumstances than that the body of material is striking, that it tends to confirm that a sanction consisting of removal is not necessary in order to maintain public confidence in the profession, but that it is not decisive in the Board's conclusion either that removal was unnecessary or as to the period of suspension required.
27. The Board has concluded that the ultimate sanction of removal from the register was not required or appropriate in the circumstances of the two offences established against Dr Walker. Although Dr Walker argued before the Committee that the circumstances did not involve disgraceful conduct - and succeeded in establishing this in relation to only one of the three charges levied against him - he never disputed any of the facts. The relevant decisions were taken very quickly without full reflection, in circumstances where he had already given booster injections before realising that the horses should strictly start a new course and where he had wanted to be helpful and had had in mind the risk of reaction that exists with any vaccinations in not wishing to restart a fresh course which Jockey Club rules required but which had no medical need and some possible medical disbenefit. It is true that there are various themes, or possibly cross-currents, in this evidence which might have been, but were not, further explored in cross-examination; but the picture is not on any view one of the most

serious offending. It is rather of relatively unthinking ante-dating on two isolated occasions, in the course of a long and otherwise unblemished and excellent career. There was no threat to animal or human health and Dr Walker made no financial gain. He was frank and remorseful throughout, and the likelihood of any recurrence of such conduct was and is remote. Removal from the register would involve a disgrace and a continuing uncertainty about the future which for a man of his age could be significant. Suspension for an appropriate period would both carry with it a significant financial penalty, bearing in mind that it would deprive Dr Walker of earnings at the rate of £36,000 p.a., and signal a significant message to the profession and public. In determining the appropriate period of suspension, the Board has had in mind all the factors already mentioned, but also, albeit as a lesser further factor, the consideration that, although he has been able to continue to work pending this appeal, Dr Walker has, over the past 11 or so months, had to carry the strain, uncertainty and public ignominy of being subject to an outstanding order for removal of his name from the Register.

28. The Board will accordingly advise Her Majesty that the appeal should be allowed and that in lieu of an order for removal from the register an order for suspension for a period of 6 months should be substituted, to run from the date upon which this advice is accepted by Her Majesty. The parties shall have 21 days from today within which to make submissions in writing on costs.