

**ROYAL COLLEGE OF VETERINARY SURGEONS**

**-v-**

**LAURA PADRON VEGA**

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**DECISION OF DISCIPLINARY COMMITTEE**

**ON FINDINGS OF FACT**

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**Outline of the Case against Ms Padron Vega**

1. The Disciplinary Committee will deal with the specific charges that Ms Padron Vega faces. The essence of the case brought by the RCVS against her arises out of complaints made to the College about 2 Application Forms that she completed and signed on 3rd February 2016 but which she back-dated to 7th December 2015. This was the day before the cut-off date for the implementation of the new regulatory requirements brought into force as from midnight on 8th December 2015.
2. The complaints comprise 4 alleged types of misconduct. First, the completion and signing of 2 application forms for Certificates of Competence under the Welfare of Animals at the Time of Killing Regulations (England) 2015 (WATOK), in breach of the Principles of Certification then governing the conduct of registered veterinary surgeons – Paragraphs 1, 2 and 3(c) of the Charge. Secondly the completion of the content of such certificates in a manner which was misleading – Paragraph 3(a) of the Charge. Thirdly, the completion of the content of such certificates in a manner which was dishonest – Paragraph 3(b) of the Charge. Fourthly, failing to prepare herself adequately for the introduction of the new EC regulations despite being provided with the necessary information by her employers in advance of the 8th December implementation date – Paragraph 4(a)-(d) of the Charge.
3. The full Particulars of Charge laid against the Respondent are:

*“That, being registered in the register of veterinary surgeons you:-*

1. *On or about 3rd February 2016, for the purposes of an application to the Food Standards Agency for a Certificate of Competence under the Welfare of Animals at the Time of Killing Regulations 2015 made by or on behalf of Mr Charles Maclean, you completed the Veterinary Witness' certificate stating the date of certification to be 7<sup>th</sup> December 2015.*

2. *On or about 3rd February 2016, for the purposes of an application to the Food Standards Agency for a Certificate of Competence under the Welfare of Animals at the Time of Killing Regulations 2015 made by or on behalf of Mr Michael Colley, you completed the Veterinary Witness' certificate stating the date of certification to be 7<sup>th</sup> December 2015.*
3. *The conduct described in each of paragraphs 1 and 2 above was:-*
  - (a) misleading; and/or*
  - (b) dishonest; and/or*
  - (c) in breach of the Principles of Certification.*
4. *Between September 2015 and February 2016 you failed to fulfil your duties as an Official Veterinarian in respect of the implementation of the Welfare of Animals at the Time of Killing Regulations 2015, in that you:-*
  - (a) failed to prepare yourself, alternatively to prepare yourself adequately, for the implementation of those Regulations;*
  - (b) failed to have any or any adequate regard to the information provided to you by your employer in respect of the Regulations and their implementation;*
  - (c) prior to 8th December 2015, failed to take any steps to ensure that from that date Mr Maclean and Mr Colley were licensed to perform slaughtering operations in accordance with the Welfare of Animals at the Time of Killing Regulations 2015;*
  - (d) from 8<sup>th</sup> December 2015, failed to identify that Mr Maclean and Mr Colley were performing slaughtering operations when they were not licensed to do so in accordance with the Welfare of Animals at the Time of Killing Regulations 2015.*

*AND THAT in relation to the matters set out above, whether individually or in any combination, you are guilty of disgraceful conduct in a professional respect.”*

4. The Respondent has admitted each of the Paragraphs of the Charge, save in 3 significant respects – the allegation that her conduct in relation to the content of the application forms was misleading (Paragraph 3(a)) and the allegation that her conduct in the same respect was dishonest (Paragraph 3(b)). The Respondent additionally denies that she has been guilty of Disgraceful Conduct in a Professional Respect.
5. Accordingly, it has fallen to the College to prove the Facts alleged in Paragraphs 3(a) and (b) of the Charge and further to prove that the Respondent has been guilty of Disgraceful Conduct in a Professional Respect, the facts alleged in all the other Paragraphs of the Charge having been accepted as correct by the Respondent. This is has sought to do by calling 5 witnesses to give live evidence.
6. The Respondent's case is that she [thought she was entitled to proceed as she did when completing and back-dating the 2 application forms in question]. In essence her case is that she does not consider the application forms to be misleading because she had spoken to the FSA at York, discovered that they were accepting late submitted applications and she had told them that she would shortly be submitting 2 forms. Further, she denies that she was acting dishonestly in dating them 7 December 2015 rather than the date they were completed by her

(3 February 2016). She inserted the date 7 December 2015 by mistake, that being the date in her mind as being the deadline date by which such forms had to be submitted..

### **Approach Adopted by the Committee**

7. The Respondent appeared before the Committee unrepresented. As a result the Legal Assessor has provided her with additional assistance and advice as regards the procedures which govern this Hearing and on such substantive matters as she has sought advice. The Hearing has, therefore, proceeded slowly and carefully.
8. As to these Particulars of Charge, the Committee is required, at this stage, to reach decisions on the material facts pertaining to each of the Particulars of Charge by assessing the truthfulness, reliability and accuracy of witnesses whose evidence is in issue, by deciding what evidence is important and what is not, and by drawing common sense conclusions from the evidence which it has found to be reliable. It has reminded itself that it must not be drawn into speculation.
9. A new a Statutory Scheme which governs operations at slaughterhouses was introduced on 5 November 2015, as a consequence of Council Regulation (EC) 1099/2009. This had, as one of its purposes, the introduction of animal welfare standards which was effected by placing the responsibility on slaughtering operations not to permit welfare abuses. It was introduced by way of the Welfare at the Time of Killing Regulations 2015 and the regime required a Certificate of Competence to be issued which would cover the particular operations to be performed. The new Regulations required an existing licence holder to apply for a Certificate of Competence by submitting an application for a Certificate of Competence before midnight on 8 December 2015. If that application was not made by midnight on 8 December 2015 even experienced operatives in slaughterhouses and established slaughterhouse businesses would not be authorised to continue their operations. It follows that it was of the utmost importance that an application under the transition provisions was made and paid for before midnight on 8 December 2015. That application form was required to be certified by the 'Veterinary Witness' and, in this case, by the Respondent.
10. The Committee does not consider that it is necessary to go further into the details of the new Statutory Scheme in order to reach its conclusions on this, Stage I, Findings of Fact decision.
11. The Committee has followed the advice of the Legal Assessor to reach its decisions on the facts dispassionately and objectively.
12. At all stages of the Committee's consideration of the allegations laid against Ms Padron Vega it has reflected on all the evidence that it has read and heard from the Respondent's perspective and ensured fairness in its deliberations by always seeking to identify any issues which may support Ms Padron Vega's assertions and overall defence.
13. In particular the Committee has had in the forefront of its mind, when considering the evidence and the issue of whether any of the Particulars of the Charge laid against Ms Padron Vega has been proved, the following:

- (i) The burden of proving each allegation falls upon the College. The Respondent does not have to prove anything.
  - (ii) The College must prove each allegation to the standard that the Committee is sure.
  - (iii) When considering each of the allegations, the evidence adduced by the College requires to be considered carefully and critically, and it should accept it only if it is sure that the relevant fact or matter is made out.
  - (iv) The evidence of the College must be viewed in the light of Ms Padron Vega's good character. The Committee has heard that she has never before faced any charge brought by the College nor is there any evidence that she has committed any offence against the laws of the land. It has taken Ms Padron Vega's good character into account in 2 ways; first, when weighing her evidence, it is entitled to regard it as relevant as to her credibility and reliability as a witness; and secondly, the fact that she is of good character may mean that she is less likely than otherwise would be the case to conduct herself improperly or out of character.
  - (v) The Committee has considered separately each allegation made against the Respondent. In doing so it has (i) considered the evidence both against and for the Respondent in relation to each Particular of Charge separately, and (ii) has returned a separate finding on each of the facts comprised within each of the Particulars of Charge laid against this Respondent.
14. The Committee has formed its own judgment about each of the witnesses who has given evidence before it, about which evidence it judges to be reliable and which evidence it judges not to be reliable or worthy of acceptance without qualification.
  15. The Committee has done that by considering carefully the opportunities it has had to judge the truthfulness, reliability and accuracy of the 5 witnesses and the Respondent who have given evidence in this case. Members of the Committee assessed each of these witnesses' evidence, on the issues of truthfulness, reliability and accuracy based on the content of the answers given to the questions put to them.
  16. The Committee examined the available evidence by following this course:
    - (1) returning to the contents of the witness statements of the witnesses called by the College and by the Respondent; and
    - (2) re-visiting the documents which the College submitted and those which the Respondent has submitted as part of her Defence to these Particulars of Charge, in particular her documents which are to be found at Tab 7 of the Hearing Bundle, and
    - (3) reminding itself of the respective submissions made by or for the parties including the Respondent's final written submission which was added to the Hearing Bundle as R9.

17. The Committee has given consideration to the fact that there has been a delay between the matters that are the subject of the contested Particulars of Charge and this Hearing and whether that delay has affected the recollections of or credibility of these witnesses. The Committee judges that each of the witnesses who gave evidence were not adversely affected by the passage of time. Further, in this case, the conduct of the Respondent came under very early scrutiny as a result of the audit which the Food Standards Agency (FSA) carried out at FAI Farms 2533 on 2<sup>nd</sup> February 2016 and there followed a detailed internal investigation by the Respondent's employer and a disciplinary hearing during which her explanations were requested, scrutinised and considered. These steps were taken whilst all matters were fresh in the mind of her managers and in the mind of the Respondent herself and the Committee considers that it can therefore rely on the accounts then given by her Managers and by the Respondent, as well as the accounts not then advanced by the Respondent in defence of her actions in relation to the completion and dating of these 2 application forms.
18. The Committee makes further findings of fact based on the witness evidence in the sections below which cover its specific findings of fact on the individual Particulars of the Charge laid against the Respondent.
19. The Committee notes that in some respects some of the witnesses gave accounts of what other persons had told them. Before accepting such evidence the Committee has reflected on the question of whether any of those second-hand accounts differed in any material respects from the first-hand accounts given to the Committee to ascertain whether the former might be undermined by the latter. In the end it reached the conclusion that such hearsay evidence did not assist it when it considered the evidence that was properly material to the allegations set forth in the Particulars of the Charge.

#### **The Committee's Overall Assessment of the Witnesses and their Evidence**

20. The Committee formed the view that all of the witnesses who were called by the College to give evidence during the course of this Hearing did their best to give truthful accounts of what occurred during the period material to these charges. There was perhaps inevitably some small uncertainty about dates, timings and sequencings of events but the fundamentals of and the substance of what they said was accurate.
21. The Committee found Ms De La Fuente's evidence as to the processes that Eville & Jones followed in its endeavours to ensure that its Official Veterinarian (OV) were made aware of the new Regulatory Scheme that was to come into effect as from midnight on 8<sup>th</sup> December 2015 was correct, supported as it was by the documents that she identified in her witness statement and in her evidence. The learning measures taken by her company were substantial and delivered in a form that did assist the learning process and in a manner that made the new Regulatory requirements comprehensible and digestible. Having considered the PowerPoint slides that were prepared and issued to its veterinary surgeons, the Committee considers that none of them should have had any difficulty in understanding what was required of them and of the plant operators for whom they were responsible for supervising under the new Regulatory Regime, in particular what the new licencing requirements were going to be.

22. That conclusion is assisted by the contents of the following documents contained in the Hearing Bundle:
- (i) Those documents which establish that the Respondent became an employee of Eville & Jones in 2012; that she took maternity leave from which she returned in April 2015; that on her return to work she was appointed Official Veterinarian to the Heart of England Area (under the Area Veterinary Manager, Mr Radu Sirbu) and was assigned as the Lead OV to FAI Farms 2533, Bampton in Oxfordshire.
  - (ii) Those emails and PowerPoint slides which were issued to enable the OVs to prepare for the introduction of the new Statutory Scheme including those at 2-21 to 2-27, 2-40 to 2-75, 3-32 to 3-37.
  - (iii) Those emails exchanged between Eville & Jones, Mr Williams and the FSA after the problem concerning the applications which had been signed by the Respondent had come to light, namely those at 2-133, 2-134, 2-137 to 2-144.
23. In addition, there is the fact that it is common ground that the application forms were not available at the time of the FSA audit of the FAI Farms 2533 that was carried out on 2<sup>nd</sup> February 2016, were not signed on the date on which they stated they had been signed, and that they had in fact been signed by the Respondent on 3 February 2016 – see the correspondence from the Respondent at 7-3.
24. Questions were put to Ms De La Fuente by the Respondent but these were very largely directed towards establishing that other persons, in particular Mr Radu Sirbu did not provide her with the level of support that she considered she needed; that he ought to have appreciated by the early part of November 2015 that the FAI Farms 2533 operation was not as well-run as it ought to have been; and that she had, on 9<sup>th</sup> December 2015, requested a meeting with Mr Radu Sirbu to discuss this plant - but Mr Radu Sirbu had not organised the requested meeting. The Committee did not find these questions to be of assistance to its deliberations on the 2 outstanding issues of whether the application forms which the Respondent admits she submitted to the FSA on 3<sup>rd</sup> February 2016 were misleading and/or were documents which she dishonestly completed and submitted. Instead they could only conceivably be relevant to a possible issue of mitigation which would arise, if at all, only after Stage I of this Hearing is completed.
25. One matter of relevance which did emerge during the Respondent's questioning of Ms De La Fuente was the date on which she was suspended by her Employer. This witness stated that she had been told on 2 February 2016 that the suspension of the Respondent was discussed with their Human Resources Department and the Respondent herself stated when putting a further question to this witness that she "was sent home the same day" i.e. on 2 February 2016.
26. The Committee considered this witness to be a good witness whose evidence could be relied upon. She was clear in the answers she gave and careful not to go further by speculating on matters about which she could not be certain. The Committee accepted her evidence as truthful and accurate.

27. Mr Radu Sirbu was the next to give evidence. He clarified the contents of paragraph 27 of his Witness Statement by saying that he did not have any recollection of a request by the Respondent for a meeting and that he had checked his emails and found no such request by the Respondent for a meeting with him. The Committee notes in this regard that the Respondent has not herself produced any email requesting a meeting with Mr Sirbu, whether dated 9<sup>th</sup> December 2015 or at all. It also emerged from the evidence of this witness that the Respondent was working at FAI Farm only on Mondays and Tuesdays; that accordingly other veterinary surgeons were working at the plant on other days; but that the Respondent was the Lead OV. In fairness to the Respondent she accepted without hesitation that she was the Lead OV at that plant, as she made clear during the course of her questioning of Mr Sirbu. Whilst Mr Sirbu readily accepted that it was for the Plant Operator to apply for the requisite licences he reaffirmed that it was the responsibility of the Lead OV to check that such licences had been applied for and that the requisite fee for those licences had been paid.
28. The Committee considered that Mr Sirbu was a similarly truthful and accurate witness. It considered him to be a person who was both efficient and organised. He, too, was clear in the evidence that he gave but was, at the same time, careful to say that he did not know something if he did not.
29. Ms Jurgita Mejeryte gave evidence on a more limited number of matters. Essentially she was dealing with the circumstances in which the Respondent came to be suspended. The telephone conversation with the Respondent took place at the end of that day. She did not remember suggesting to anyone that the FSA be contacted. Instead what her responsibility was, was to inform the Respondent that she was suspended. It was the next day that she herself visited FAI Farms in order to serve the Enforcement Notice and to inform the Operators that they would have to apply for Certificates of Competence.
30. The view of the Committee about this witness was that she was less certain on the detail than was Ms De La Fuente or Mr Sirbu but that she was fundamentally accurate witness as regards the evidence she gave. There were no issues about the truthfulness of the evidence which she gave to the Committee. Accordingly, her evidence was accepted by the Committee.
31. Mr Charles Maclean was the slaughterer whose activities were brought to a sudden halt on 2 February 2016 once the audit of the paperwork was commenced by the Inspecting Officer. It was clear from the evidence that he gave to the Committee that he was extremely upset by his experience at the hands of the FSA. However his upset appeared to stem from a belief that the FSA had made a mistake back in October 2015 when they issued to him his last "old style" licence to operate. In the view of the Committee the FSA had made no such mistake. The statutory requirements are quite clear and Mr Maclean should have applied for a "new style" licence by midnight on 8<sup>th</sup> December 2015. He was clearly unaware of that obligation, although he should have been so aware. Certainly he should have been so aware had he been informed by the Lead OV assigned to the FAI Farm of the deadline date imposed by the new statutory scheme. Mr Maclean acknowledged and confirmed that he was extremely upset when he was informed that his operations would have to cease. When asked by the Respondent in cross-examination he stated that she had kindly telephoned the FSA at York shortly before 5pm to try to ascertain whether the licence that had previously been issued to him was acceptable. He

further confirmed to the Respondent that when she was filling in the application form thereafter that she was trying to help him and he did not consider that in doing so she was being dishonest. Instead she had completed the form for him because he hated filling in forms. In answer to further questions put to him by the Committee, he confirmed that the telephone call to FSA York was made minutes before 5pm; and that the FSA Auditor at his plant was not going to make any call to York; that he had asked the Respondent to make this telephone call to York and she said she was willing to do so. In order to make that telephone call she went into the cabin and he, Mr Maclean was at the door to that cabin with the Inspector. The purpose of the call was to ask if he was licensed to slaughter and as he understood the response given to the Respondent it was that he was licensed and fit to slaughter. He could not hear what the person in York was saying – instead what he understood the person at York to be saying came from the account he was given by the Respondent. However he further confirmed that as the FSA couldn't find his Certificate of Competence and, as they wanted one, another application had to be made. As regards the signature on the application form, that was completed by the Respondent in his name and that was "sorted out for him" by the Respondent. He asked her to help him with the form. He just wanted to be able to slaughter the following week.

32. The Committee found Mr Maclean to be a witness who was endeavouring to inform the Committee how angry he was about the experience that he had undergone at the time of the visit of the FSA Inspector. He gave as best an account as he could recall of the events of the day but it was apparent that he did not have a proper understanding of why the problem had come to pass and was still labouring under the misapprehension that the FSA had made a mistake in relation to the validity of the licence that they had sent to him in November 2015. In fact the problem came about because he had not applied for a "new form" licence as he was statutorily required to do by midnight on 8 December 2015. The reason that he did not make that application is because he had not apprised himself of the requirements of the new legislation and because the Respondent had not fulfilled her instructions from her Employer that she should notify the FAI Farm operator of his need to secure "new form" Certificates of Competence by applying for them prior to midnight on 8 December 2015. Accordingly, the Committee considers that his anger, whilst understandable, was misdirected.
33. Ms Tania Haskins gave straightforward evidence about the requirements of the FSA at York as regards applications for new form Certificates of Competence. She confirmed that some applications were received by the FSA after the deadline of 8 December 2015. She further confirmed that the processing of these applications took some time but, in answer to questions from the Committee, she stated that the FSA stuck fairly rigorously to the deadline date and that only in exceptional circumstances were non-compliant applications considered. They were confined to instances where the applicant had been out of work at the material time or had been suffering from ill health and accordingly had an acceptable explanation for why they did not know of the new legislative requirements.
34. The Committee had no difficulty in accepting the truthfulness and accuracy of the evidence given by Ms Haskins.
35. The evidence of the Respondent did give the Committee cause for concern. She stated in cross-examination that she did not consider the application forms to be misleading. The reason

that she gave was that she had called the FSA to say that she was going to send in the forms that day. When asked about the reaction of somebody who knew nothing about the circumstances and just read the form and whether that recipient would think that the form had been completed on 7 December 2015 her answer was that she could not go into other people's minds. All that she knew was that she had made a mistake. When asked the question whether, so as not to be misled, the reader of the application form would need to know the circumstances in which it was completed she again answered that the FSA was informed. Nonetheless she accepted that she could have inserted the date of 3 February 2016 on the form. When asked "Well how come it was a mistake?" her response was "I don't know how to answer that question".

36. When the questioning moved on to the issue of dishonesty and it was suggested to her that she had deliberately inserted the date of 7 December 2015, the Respondent stated that she was stressed at the time; that she had the date for the deadline in her mind; and that she had rung the FSA to tell them that she was making this application. When asked specifically whether she was saying that she did not know that she had to date the form as the date that she was signing it as OV, the Respondent stated that she did not know that then, although she did appreciate that now. She was asked again whether she knew that the date of the certification was what had to go on the form, she responded "yes I know that now but I did not know that then". She was made aware of the Principles of Certification at the time her disciplinary meeting was held. She was further pressed about the backdating of the application forms and why she had put in a date before the deadline of 8 December 2015. At this stage the Respondent gave an answer which the Committee considered significant. She stated that she wasn't at the plant on 8 December 2015, she was at the plant on 7 December 2015. She was also asked why she did not date the application form 3 February 2016 if she thought that the FSA would accept late applications. To that question the Respondent stated that the auditor knew that the application forms had not been done on 3 February 2016 and went on to say rhetorically "why would I lie about it". Counsel for the College promptly suggested that she lied because she was guilty of dereliction of duty and that she was trying to cover it up and that if the FSA had told her that it would accept late applications there was no reason why she should not insert the date of 3 February 2016 in the application forms which she was going to submit late. The Respondent's answer to that was that she had inserted the date 7 December 2015 because the deadline date was at the back of her mind when she completed the application forms..
37. The Committee found these answers to be unsatisfactory and lacking in credibility. The reasons why the Committee has been unable to accept the Respondent's explanations for why she inserted the date 7 December 2015 in the application forms which she was compiling and certifying on the very much later date of 3 February 2016 are many and varied. In essence, the Committee has found it impossible to accept that the Respondent as a veterinary surgeon who has been qualified since 2001; who has worked for no less than 9 years as an OV and has been appointed Lead OV for the FAI Farm in question would not know that it was her obligation to include in an application form of this type that she was certifying the date on which the application was in fact being signed. She submitted the application form at a time after she had become aware of the enormity of her failings and the consequences for the plant operators and in particular Mr Maclean. She completed and submitted that form after she had been informed that she had been suspended from her employment and that she was to face a disciplinary

hearing. She must have known that she was likely to lose her job because of her failure to read any of the information emails that she had been sent by her Employer over the months prior to the deadline of 8 December 2015. She had obtained confirmation from FSA at York that they were still processing application forms that had been submitted. The inevitable inference to be drawn from the totality of the evidence is that this Respondent hoped that if she backdated these 2 application forms to a date prior to the deadline date of 8 December 2015, when the FSA got round to examining them they would be accepted and that Certificates of Competence would be issued. The fact that the Respondent took the trouble to check whether she was working at the FAI Farm plant on 8 December 2015 before completing these application forms confirms that she was endeavouring to put herself in a position whereby she could confirm that she had been working at the Farm on the date that she chose to insert in these application forms as being the date on which these application forms were completed.

38. The main findings of the Committee as to the relevant sequence of events is as follows. The Respondent was sent 9 emails by her Employer explaining the requirements of the new statutory regime for licensing. These were marked Urgent. The Respondent contends that she only read the ones which are relevant to her, but it is to be noted that the email dated 26 October 2015 [3-27] was marked "OV Importance high". Despite the email dated 27 November 2015 [3-36] which indicated that the deadline was 8 December 2015 it came as a surprise to the Respondent that there was in fact a new licensing regime.
39. The audit by the FSA Auditor on 2 February 2016 commenced with an examination of the processing in the morning, which was found to be largely satisfactory. It was in the afternoon that the Auditor turned to audit the paperwork. At that stage it was noted that Mr Maclean and Mr Colley had only the old WASK licences. The Auditor informed the Respondent as the Lead OV of this fact and stated that slaughtering at the plant had to stop immediately. The Respondent informed Mr Maclean that he had the wrong licence and the Auditor reinforced that decision. The Auditor informed them that they would have to apply for new licences under the new regime; that there would have to be a complete shutdown until licensed slaughterers be substituted and that there would be significant cost implications. At that stage Mr Maclean indicated he was extremely upset. The Respondent telephoned Jurgita Mejeryte [4-2] and explained the problem, namely that the old style WASK licences had not been converted so as to be compliant with the new WATOK licensing regime. When informing Jurgita Mejeryte of this problem the Respondent indicated her surprise at this outcome and it soon became clear that she was not aware of the cut-off date of 8 December 2015 [4-3]. This telephone call from the Respondent occurred sometime between 3 and 4pm.
40. Ms Jurgita Mejeryte then spoke to Ms De La Fuente [4-3, paragraph 17] and the latter decided on the suspension of the Respondent. Accordingly the Respondent was informed of her suspension some time on 2 February 2016 because of a "pending investigation into her conduct". The Respondent telephoned the FSA at York just before 5pm on that same day. Mr Maclean confirmed this fact.
41. At about 10am on 3 February 2016 Ms Jurgita Mejeryte sent to Ms De La Fuente and Mr Sirbu a copy of the Welfare Enforcement Notice requiring that all slaughtering at the FAI Farms plant cease. She later went to FAI Farms where she met Mr Karl Williams, the new FBO and served

the notice because the operatives' WASK licences had not been converted to Certificates of Competence by the 8 December 2015 deadline [4-20, paragraph 20]. On the same day an email was sent to the Respondent confirming her suspension and notifying her that there would be an investigation meeting [3-19].

42. The Respondent completed and submitted the application forms. This was done electronically [7-3]. The FSA received the application forms on 3 February 2016 and stamped them as received [6-8; 6-46]. It is not clear precisely when the Respondent submitted the application forms but it must have been at some time after she had been told that she was suspended because she was told of that fact orally on 2 February 2016 and she accepted that fact in answer to questions put to her by the Committee. It is also clear that the Respondent had not obtained the signatures of either Mr Maclean or Mr Colley when she submitted those application forms because, first, they were not completed in their presence and because, secondly, they were completed and submitted on 3 February 2016 at a time when she was not at FAI Farms.
43. Against this review of the evidence and our findings, as to which witness evidence the Committee believes and which it does not, it turns to the Particulars of Charge and its specific Findings of Fact in relation to them.

### **The Charge**

44. The Respondent has admitted Paragraphs 1 and 2 of the Charge, Paragraph 3(c) and Paragraphs 4(a)-(d). On the basis of the evidence adduced the Committee has no hesitation in concluding that the facts alleged have been proved to the extent that it is sure that each of these facts is made out.
45. Given what has been set out and the findings reached in the preceding paragraphs, the Committee will deal with its findings in relation to the individual Particulars of Charge in short order. Because this is a case concerning what had or had not been the Respondent's state of mind at the time she decided to complete these 2 application forms, the Particulars of Charge cover a small number of disputed facts. The Respondent does not seek to argue that her conduct in the light of what she signed on 3<sup>rd</sup> February 2016 should be viewed in some special and different light or given some different interpretation from that which would apply to any other ordinary and reasonable person who was asked to sign such documents.
46. The Committee has given close consideration to the Respondent's arguments and submissions in answer to the remaining 2 Paragraphs of the Charge. Her assertions that the application forms that she completed and submitted to the FSA were not misleading and she was not acting dishonestly when she did so have been dealt with above and will be addressed further below.
47. Although the Committee has considered the evidence against and for the Respondent in relation to each Particular of Charge separately it notes that all of the conduct relied on by the College is said to arise out of her actions in signing the 2 documents in question without making it clear to the FSA that she was including in the application forms dates which were back-dated and which did not reveal the fact that she in fact signed them on 3<sup>rd</sup> February 2016.

## Findings on the Particulars of Charge

48. Particular 3(a): The Committee finds that the content of each of the application forms completed and submitted by the Respondent were misleading. A certificate completed by a veterinary surgeon with a date and a signature is misleading if the date inserted is incorrect. This is especially so when the form itself requires the date which is to be included to be a “certification date”. It thereby becomes both the date of the document and the date of the certification.
49. The Committee rejects the Respondent’s argument that because she inserted the date 7 December 2015 by mistake that affords a defence to this particular of Charge. The date inserted was the wrong “certification date” and was therefore a date which rendered the document misleading. Similarly the Respondent’s argument that “everyone knew that she was completing the document in February 2016” is similarly irrelevant. It makes no difference to what she chose to include in those application forms. The forms were going to go through a process which would be managed by a number of people. Those people involved in the process would not know the date that she had chosen to insert in the application forms was not the date on which she completed those application forms. What those forms purported to indicate to the FSA was that the application forms had been made in time but that was only because the dates inserted by the Respondent were backdated dates. The Committee therefore finds, without difficulty, that each of these application forms was a misleading document and each was a document which was misleading in a particularly important respect. A respect in which the FSA was likely to regard as being of critical importance to whether or not the application forms should be passed so as to permit Certificates of Competence to be issued to the applicants.
50. Particular 3(b): The Committee finds that when completing each of these application forms in the manner that she did the Respondent was acting dishonestly. The Respondent made conscious and deliberate decisions to include the date of 7 December 2015 on each application form. She knew on the date of the audit that was carried out on 2 February 2016 that there were going to be serious consequences arising from the inability of the FSA Auditor to locate valid Certificates of Competence. As stated above, the fact that the Respondent chose to insert the date 7 December 2015, rather than the deadline date of 8 December 2015, is of significance when considering her state of mind at the time that date was inserted. She had clearly taken the trouble to find out whether or not she had been on duty on 8 December 2015 and on discovering that she was not chose to insert instead the date 7 December 2015. That indicates that she was concerned to ensure that she could confirm that she had been on duty at FAI Farms at the time the application forms were completed. It was not therefore simply a date, which she “had in mind” at the time that she completed these application forms. The Committee also notes that the application forms were forms which were to be completed and submitted “online”. They were not therefore required to be submitted under cover of an email which would have a recorded date and time of sending. The “Certification Date” was, therefore, a date of particular importance and significance. The Committee considers that, as an OV, the Respondent would have known that she was providing her signature as a certifying veterinary surgeon to a Public Licensing Body. She would have known this because she has been performing this task since at least 2001.

51. The Committee notes also that the application forms were completed and sent in on a date after she had been suspended by her Employer. That appears to have taken place sometime late on 2 February 2016. She had been informed at the time of suspension that there was going to be an investigation meeting into her conduct. She must have known that she was, therefore, fighting for her career in circumstances where she knew she had not done any preparation for the introduction of the new licensing regime. The Committee is driven to the conclusion that she thought she could get away with it on the basis of her limited enquiry to the FSA representative at York shortly before 5pm on that same day. It is in many respects surprising that the Respondent considered that, despite her suspension, she was still entitled to submit application forms to the FSA the following day. That it was the following day, 3 February 2016 that she submitted these application forms is confirmed by her own evidence to the Committee and her Response Document at 7-3..
52. For these shortly stated reasons, the Committee is satisfied so that it is sure that when completing and submitting these 2 application forms the Respondent was acting dishonestly. Accordingly Paragraph 3(b) of the Charge is made out.

### **Conclusion**

54. The Committee has refrained from going further in its Findings of Fact than has been absolutely necessary to address the issues alleged in these Charges. It will await further submissions from Counsel on the Stage 2 issue before making any findings as to the seriousness of the allegations of fact that it has found proved.
55. The Committee has considered and reflected on the submissions of Counsel and the Respondent during its retirement before reaching its Findings of Fact in relation to each of the Particulars of Charge. For the reasons set out above, the Committee is satisfied that the facts set out in each of the Particulars of Charge have been made out so that we are sure that all constituent parts of these Charges are correct.
56. Accordingly this Hearing will continue to the next stage in relation to all Particulars of the Charge which have been proved and it will be for the College to adduce such further evidence as it considers appropriate or necessary in support of any contention that the facts found proved in relation to one or more of those charges amount to conduct which is disgraceful in a professional respect.

**Dated December 6, 2018**

**DISCIPLINARY COMMITTEE**