

FARRIERS REGISTRATION COUNCIL

DISCIPLINARY COMMITTEE

HEARING VIA VIDEO-LINK

INQUIRY RE

ALEX MATTHEW BRUNT DipWCF

1. DECISION OF THE DISCIPLINARY COMMITTEE Re: PROCEEDING IN ABSENCE OF THE RESPONDENT

- 1.1 The Respondent has not attended the hearing before the Committee on 14 June 2022. The Council invited the Committee to proceed in his absence and provided written Submissions in that regard.

Background and chronology.

- 1.2 On 4 October 2021 and 22 February 2022, the Council's solicitors, Capsticks, wrote to the Respondent at his registered address, letting him know that they represented the Council with regards to allegations forwarded to the Disciplinary Committee. The letters were sent by post and by email. The email sent on 4 October 2021 "bounced back".
- 1.3 On 24 March 2022, the Council's solicitors wrote to the Respondent informing him that the Disciplinary Committee hearing was due to be listed for 14 June 2022 and inviting him to let them know if he (or his representatives) had any difficulties with the date.
- 1.4 There was no response to any of the above letters. On 26 April 2022, Ms Howard, a solicitor from Capsticks, telephoned the Respondent. She explained that she was calling about the Council's proceedings against him and that a provisional date had been set for the hearing. He said he had not received the letters and did not use email. He was not willing to confirm his address but stated that the Council had his correct address and that he had received post from them. Ms Howard confirmed that she would send copies of recent correspondence to his address registered with the Council. Later the same day, she sent him a letter by special delivery, enclosing copies of the previous correspondence. The letter was signed for as having been delivered.
- 1.5 On 28 April 2022, Ms Howard telephoned the Respondent, but he did not answer. She therefore sent him a text asking him to confirm receipt of the letter. There was no reply.
- 1.6 On 11 May 2022, Ms Howard telephoned the Respondent, but he did not answer and there was no facility to leave a voicemail message.
- 1.7 On 12 May 2022, the Notice of Inquiry was sent to the Respondent's registered address, by first class post and special delivery. The letter was signed for as having been delivered.

- 1.8 On 17 May 2022, Ms Howard telephoned the Respondent, but he did not answer and there was no facility to leave a voicemail message. She therefore texted him to ask him to confirm receipt of the Notice of Inquiry. There was no reply.
- 1.9 On 24 May 2022, the Council's solicitors sent the Inquiry Bundle and Unused Material Bundle to the Respondent's registered address, by first class post and special delivery. The letter was signed for as having been delivered.
- 1.10 On 27 May 2022, Ms Howard telephoned the Respondent, but he did not answer and there was no facility to leave a voicemail message. She therefore texted him to ask him to confirm receipt of the bundles. There was no reply.
- 1.11 On Sunday 29 May 2022, the Respondent attempted to call Ms Howard. She called him back on 31 May 2022, but he did not answer. She therefore texted him to ask him to confirm receipt of the bundles. There was no reply.
- 1.12 On 31 May 2022, Ms Jones, Assistant Registrar at the Council, sent the Respondent an email about the logistics of the hearing, but it "bounced back". She attempted to call him twice on his registered mobile telephone number, but he did not answer the call and there was no facility to leave a voicemail message.
- 1.13 On 1 June 2022, the Council's solicitors sent the Respondent an updated version of the Inquiry Bundle, by first class post and special delivery. The letter was signed for as having been delivered. On the same date, Ms Woodward, Professional Conduct Assistant at the Council, wrote to the Respondent by special delivery, informing him of practicalities for the remote hearing. The letter was signed for as having been delivered.
- 1.14 On 7 June 2022, Ms Woodward attempted to call the Respondent on the mobile telephone registered with the Council, but he did not answer and there was no facility to leave a voicemail message. The following day she received notification from Sparq, facilitators of the remote hearing, to the effect that their email to the Respondent setting out information for joining the hearing had "bounced back".
- 1.15 On Wednesday 8 June 2022, Ms Howard telephoned the Respondent, but he did not answer and there was no facility to leave a voicemail message. She therefore texted him to ask him to confirm receipt of the bundles, and to ask whether he would be attending the hearing. She received no reply.
- 1.16 On Tuesday 13 June 2022, Ms Blackburn, solicitor from Capsticks, telephoned the Respondent, but he did not answer and there was no facility to leave a voicemail message.
- 1.17 The Committee has been provided with and considered a bundle of documents relating to the application to proceed in the absence of the Respondent, and is satisfied that paragraphs 2-16 above accurately summarises the background and chronology in relation to this application.

Jurisdiction to proceed in absence.

- 1.18 Counsel for the Council outlined the legal position in relation to this application as follows.
- 1.19 Although there is no specific provision in the Farriers Registration Council Disciplinary Committee (Procedure) Rules 1976 ("the Rules") relating to proceeding in a respondent's

absence, the Rules envisage the Committee being able to do so. Rule 5(1) provides that where the Respondent does not appear, and the Committee decides to proceed, the charge shall be read in his absence.

1.20 The Council submitted that the Committee should have regard to:

- (i) Whether the Notice of Inquiry has been properly served; and
- (ii) Whether it is in the interests of justice to proceed in the Respondent's absence.

The Legal Assessor agreed with this submission.

Service Notice of Inquiry

- 1.21 Rule 2 of the Rules provides that, as soon as may be after referral of the case to the Disciplinary Committee, the Council's solicitors shall serve a Notice of Inquiry on the Respondent, setting out the charge, the day, time and place of the hearing and enclosing a copy of the Rules for the Farriers Registration Act 1975. It should be served more than 28 days prior to the hearing (Rule 2(5)). It should be sent by post to the Respondent's last known address (Rule 15).
- 1.22 The Notice of Inquiry (17 – 18) was sent by post to the Respondent's registered address on 12 May 2022. It contained details of the hearing date and time; and it confirmed that the hearing would be virtual. It was served more than 28 days before the hearing date.
- 1.23 The Committee is satisfied that the Notice of Inquiry was properly served on the Respondent in accordance with the Rules.

Interests of justice

- 1.24 The Council further submitted that it is in the interests of justice to proceed in the absence of the Respondent and relied on the authorities set out below.
- 1.25 The approach to be taken by a professional regulatory tribunal when considering whether to proceed in the absence of a Respondent was set out in the Court of Appeal in Adeogba v General Medical Council (2016) EWCA Civ 162. Sir Brian Leveson giving the judgment of the Court, stated:
- "Assuming that the Panel is satisfied about Notice, discretion about whether or not to proceed must then be exercised having regard to all the circumstances of which the Panel is aware, with fairness to the practitioner being a prime consideration, but fairness to the GMC and the interests of the public also taken into account. The criteria for criminal cases must be considered".*
- 1.26 The "*criteria for criminal cases*" was a reference to factors that had been set out in the case of R v Jones (Antony) (2002) 2 WLR 52. These were factors for consideration by courts deciding whether to proceed in the absence of a defendant in a criminal trial. They include the nature and circumstances of the defendant's absence (and in particular whether the absence is deliberate and voluntary), whether an adjournment might result in a defendant attending voluntarily, the likely length of any adjournment, whether the defendant wishes to be represented, the extent of any disadvantage to the defendant in proceeding in his absence,

the general public interest in the trial taking place within a reasonable time, and the effect of any delay on the memories of witnesses.

- 1.27 The Court in Adeogba noted that although the factors set out in Jones were a useful starting point, there were differences between continuing a criminal trial and continuing a disciplinary hearing. The latter had to be guided by the regulator's (in that case the GMC's) main statutory objective, namely the protection, promotion and maintenance of the health and safety of the public. In this case the Council's objective is the promotion and protection of equine welfare and there is a link to public interest in maintaining public confidence in the profession and upholding the reputation of the profession.

- 1.28 Leveson J in Adeogba further noted:

"It would run counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process... Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed".

- 1.29 It is submitted that it is in the interests of justice to proceed in the absence of the Respondent. In particular:

- The Council has made numerous efforts to contact the Respondent to inform him of the hearing and invite him to attend;
- The Respondent is clearly aware of the hearing, as he has spoken to one of the Council's solicitors about the matter;
- There has been no good reason put forward on behalf of the Respondent as to why the matter should be postponed;
- There would be no purpose served by an adjournment, as there is nothing to suggest that the Respondent would attend any future hearing;
- Any prejudice to the Respondent arising from his absence would be of his own making, as he has voluntarily failed to attend;
- Witnesses have attended the hearing in order to give evidence, and they would be inconvenienced if there were an adjournment;
- It is in the public interest that regulatory proceedings such as these are heard as soon as possible.

- 1.30 The Committee was advised by the Legal Assessor that Council's submissions in relation to the relevant authorities were correct. The Committee balanced the Respondent's interest with the public interest in deciding to proceed. However, the Committee agreed with all the Council's submissions as to why it is in the interests of justice to proceed in the absence of the Respondent in this case, and so decided.

2. DECISION OF THE DISCIPLINARY COMMITTEE ON THE FACTS

2.1 Charges

“That, being registered under the Farriers (Registration) Act 1975 (as amended) (“the Act”):

1. Between 2 August 2021 and 9 February 2022, you were paid a total of £125 by JB for farrier services and:
 - (a) You failed to perform those services; and
 - (b) You failed to refund any or all of the said £125.00 to JB;
2. Between around 27 October 2021 and 9 February 2022, you failed to respond adequately or at all to reasonable requests from the Council for your written response to a complaint received from JB;
3. Between 13 September 2019 and 22 September 2021, you failed to submit any or all required annual returns to the Council; and/or
4. Between 28 April 2021 and 22 September 2021, you failed to respond adequately or at all to reasonable requests from the Council for details of your CPD record.

And that in relation to the facts alleged above, whether individually or in any combination, you are guilty of serious misconduct in a professional respect.”

The above charges are brought under section 15(1)(a) of the Act.

- 2.2 The Respondent is charged with taking money from a client in connection with farriery services, then failing to perform those services and failing to return the money. He is also charged with failure to respond to the Farriers Registration Council’s (“the Council”) requests for his comments on the client’s complaint, failure to provide details of his CPD despite requests, and a failure to submit annual returns to the Council.
- 2.3 Counsel for the Council called the following witnesses to give evidence in relation to this case: JB, a farmer and owner of a horse called Blaze, DAW, who was employed by the Council in Administration Support, and Brigadier DG, the Registrar of the Council. All the witnesses verified their witness statements, which were read into the record, and which exhibited all the documents in support of their evidence. The following paragraphs contain a summary of the relevant evidence.

Alleged failure to perform farriery services paid for and/or failure to return money

- 2.4 The Council acknowledged that usually matters relating to payment for services would not be considered by the Disciplinary Committee. Counsel submitted that, in this case, however, the important issue is not the straightforward breach of contract, but rather the fact that there were repeated reminders and requests for the Respondent to attend, which he either ignored or failed to honour, and then a failure to reimburse for a period of several months.

- 2.5 The client in question is JB, a farmer and owner of a horse named Blaze. The Respondent started as JB's farrier in May 2021. On Monday 2 August 2021 at 13:29, JB sent a text message to the Respondent asking him to re-shoe Blaze. The Respondent agreed to attend the next day to do so. He asked her to pay by bank transfer. On the same day, Monday 2 August 2021, JB transferred £40 to the Respondent's bank account.
- 2.6 There then followed a number of occasions when the Respondent indicated he would attend to shoe Blaze, but he did not do so. In summary:
- Tuesday 3 August 2021 at 10:56 text from the Respondent asking if he could rearrange the appointment for 4 August;
 - Wednesday 4 August 2021: JB attempted to phone the Respondent a few times to find out if he was coming and if so at what time, but he did not answer, and he did not attend;
 - Thursday 5 August 2021 at 11:14: text message from the Respondent saying that he had not forgotten JB, he had been very busy and that he was in her area again the next morning. In a text at 17:11 he told JB that his estimated time of arrival the next day was 11am.
 - Friday 6 August 2021: The Respondent did not arrive and so JB attempted to telephone him a few times around 11:00, but he did not answer. At around 11:30, JB sent a text message to cancel the visit that day, as JB needed to go back to work. She did not receive a reply.
 - Saturday 28 August 2021 at 06:48: JB apologised for not getting back to the respondent. She explained that Blaze's feet had been "terrible" and it would not have been possible for a shoe to have gone on. She enquired about gluing something to Blaze's feet.
 - Monday 30 August 2021 at 21:16: the Respondent texted JB with his views about "glue-ons". There was then an exchange by text between them, during which the Respondent said he would visit on Wednesday 1 September.
 - Tuesday 31 August 2021 at 06:17: JB asked the Respondent what time he would come the following day. The Respondent replied later that evening at 22:22 to ask if JB was more flexible on Thursday.
 - Wednesday 1 September at 04:32: JB confirmed that she would be available all day on Thursday 2 September. The Respondent replied later that day at 19:47 to say he could come at 15:00 on Thursday. He stated that the price for the glue-on option would be £125. He asked if JB wanted him to order the glue-on shoes for the next day. There were a number of exchanges about this, culminating in JB confirming she would like the Respondent to attach the glue-on shoes. The Respondent asked if JB would mind transferring the money that evening. JB duly transferred £85 (£125 less the £40 already paid) as directed by the Respondent.

- Thursday 2 September 2021 at 12:16: text message from the Respondent to JB, saying that he had the glue but that the shoes had to be ordered as Blaze's size was not in stock. He said that the shoes should arrive the next day
- Saturday 4 September 2021 at 16:37: text message from the Respondent to JB, saying that the shoes would be delivered on Monday and asking what date and time would be best for JB. JB replied the same evening, offering Monday or Friday after 16:00, or any time on Thursday.
- Sunday 5 September at 16:52: text from Respondent to confirm Thursday afternoon.
- Thursday 9 September 2021 at 09:49: JB sent a text message to ask the Respondent roughly what time in the afternoon he would attend. He replied that he would be there between 12:00 and 13:00 and that he would give thirty minutes notice of his arrival. At 11:44 he texted to say his estimated time of arrival was 12:20.
- Thursday 9 September 2021: the Respondent did not arrive at the time he had indicated. At 13:42 JB sent him a text message to ask him what time he would attend. She sent a further text message at 14:00 to explain she had to go back to work but if he let her know when he was twenty minutes away, she would come back. He did not reply.
- Friday 10 September 2021 at 04:37: JB sent a text message to the Respondent to ask him to let her know when he could fit Blaze in. He replied later that day at 12:00 to say that he was sorry for not getting back to her the day before. He said that his van had been broken into and that his tools and kit had been stolen. JB replied promptly to ask him to let her know when he could come. She did not receive a reply.
- Thursday 16 September 2021 at 19:49, JB sent a text message to the Respondent to ask him if he knew when he would be back on the road. She explained that Blaze was starting to look a little sore on his feet. She did not receive a reply
- Friday 17 September 2021 at 20:44: JB sent a text message to the Respondent to ask if he could come out that week because Blaze was "*really struggling*". She asked for her money back if he could not. The Respondent replied to say that he could come out that week and that he would get back to her later because he was out and did not have his diary with him.
- Sunday 19 September 2021 at 16:06: as she had not heard from the Respondent, JB sent him a text message to ask if he could come that coming week. He replied the same day at 17:40 and said that he would be in the area on Friday 24 September, if that was suitable. JB replied that day to agree to that Friday. There was then an exchange of texts about the glue and JB asked if the Respondent wanted her to bring the glue she used on cows at her farm. She did not receive a reply.
- Thursday 23 September 2021 at 14:04: as JB had still not received a reply, she sent a text message to ask the Respondent if he knew roughly what time he would be arriving the following day. He replied later that evening at 19:12 to confirm he would arrive at 16:30.

- Friday 24 September 2021: JB had arranged for her partner to be present when the Respondent attended. At 14:20 the Respondent sent JB a text message to ask if she was around the following day. She replied that she was not, as she would be at work all weekend. She did not receive a reply
- Saturday 25 September 2021 at 16:31: JB sent the Respondent a text message to ask for her money back. She wanted to arrange for a different farrier to attend to Blaze. She did not receive a reply.
- Thursday 30 September 2021 at 19:03: JB again texted the Respondent to ask for her money back. She did not receive a reply.
- Thursday 14 October 2021 at 13:55: JB again texted the Respondent to ask for her money back. She did not receive a reply.
- By the date of this hearing, JB had still not received her money back from the Respondent, some 7 months after she requested its return, as she confirmed in her oral evidence.

Alleged failure to respond to reasonable requests for comments on JB's complaint

- 2.7 In October 2021, JB made a complaint to the Council. On 27 October 2021, the Council wrote to the Respondent to ask for his comments on JB's complaint. The Respondent did not reply. On 7 December 2021, the Council wrote to the Respondent again, asking for his comments on the complaint. Again, there was no reply. On 14 January 2022, a member of the Council's staff attempted to call the Respondent. There was no reply to the call and no facility to leave a message.
- 2.8 The Council submitted that requests for comments on a complaint of this nature from a member of the public were reasonable. The Council exercises regulatory functions as part of its statutory responsibilities. In order for the statutory Investigating Committee ("IC") to consider a complaint fully, it is reasonable to ask the farrier in question for their comments.

Alleged failure to respond to reasonable requests for details of CPD

- 2.9 In the meantime, the Respondent had been subject to a CPD audit by the Council. On 14 April 2021, the Council wrote to the Respondent at his registered address, asking for copies of his CPD records to be sent to the FRC's offices in Peterborough by 28 April 2021. There was no response to this letter. On 12 May 2021, the Registrar wrote to the Respondent at the same address, reminding him of the letter of 14 April 2021 and asking him to provide his CPD records by 2 June 2021. The Respondent was warned that failure to provide CPD records on request could be deemed serious professional misconduct and could be referred to the IC. There was again no response to the letter. On 16 June 2021, the Registrar wrote again. He again warned that failure to respond might result in referral to the IC. There was no response to this letter.
- 2.10 On 21 July 2021 at 10.26am, a member of the Council's staff telephoned the Respondent to remind him about providing his CPD details. The number was taken from the Council's customer relationship management system. The call was unanswered, and there was no facility to leave a message.

- 2.11 On 18 August 2021, the Registrar wrote to the Respondent again, reminding him of the previous three letters and telling him that the matter would be referred to the IC, which was due to meet on 22 September 2021. He asked the Respondent to submit his CPD records and reasons for failing to respond¹. The letter was sent using the Royal Mail's "Signed For" system. Royal Mail records show that the letter was delivered the following day and was signed for. No response was received
- 2.12 The Council's policy is for all written communications received from farriers (whether received by post or by email) to be logged, and any telephone call of substance between a farrier and the Council also being logged in writing. All these communication logs are visible when the relevant farrier's record is viewed on the Council's computer system. As part of the preparation of a statement for this matter, Denise Woodward, an employee of the Council, checked the Council's records and could find no note or record of any telephone calls, emails or letters from the Respondent in relation to the 2021 CPD audit.
- 2.13 It is submitted that it is reasonable for the Council, as a statutory regulator, to make requests for details of CPD.

Alleged failure to complete and submit Annual Return

- 2.14 The Council also noted that the Respondent, who had registered with the Council in 2017, had failed to submit any Annual Return to the Council since 2018. Under the Council's Disclosure Policy, since January 2016 it has been a requirement for registered farriers to complete an Annual Return every year and submit it to the Council. The Return includes a declaration regarding any unspent police cautions or criminal convictions, and it contains a provision for the farrier to check that the contact information held by the Council is correct, indicating any required corrections, and to confirm that they hold Professional Indemnity Insurance. The Council sent Annual Return forms to the Respondent by post on 30 August 2019, 3 September 2020 and 18 August 2021. There was no Annual return received in response to these. This requirement to submit an Annual Return is now set out in the Code of Professional Conduct (the "Code") (The 2021 edition of the Code came into force on 1 January 2021).

The Council's case

- 2.15 It is the Council's case that the Respondent:
- Between 2 August 2021 and 9 February 2022 took money from JB in exchange for work that was never undertaken, and then failed to repay the money.
 - Between 27 October 2021 and 9 February 2022, failed to respond to reasonable requests from the Council for comments on JB's complaint.
 - Between 13 September 2019 and 22 September 2021, failed to submit any or all required annual returns to the Council;
 - Between 28 April 2021 and 22 September 2021, failed to respond to reasonable requests from the Council for details of his CPD record.

¹ Although the letter referred to 15 September 2020, that is a typographical error and the intended date was 15 September 2021

- 2.16 The Council submits that the Committee can be sure, on the evidence to be presented to it, that the facts as set out in the charges are proved.

The Decision of the Disciplinary Committee on the Facts

- 2.17 The Committee has read and carefully considered all of the evidence in this case from the witnesses and the documents which they produced. The Committee considers that all the evidence summarised above is reliable and accurate and has been carefully and thoroughly documented. The Committee is satisfied so that it is sure that the facts set out in the charges in the Notice of Inquiry have been proved.

3. DECISION OF THE DISCIPLINARY COMMITTEE ON SERIOUS MISCONDUCT IN A PROFESSIONAL RESPECT

- 3.1 The Council submitted that the facts proved amount to serious misconduct in a professional respect. The Legal Assessor advised that this issue is a matter for the Committee's judgment; there is no standard of proof to be applied at this stage.

Meaning of “*serious misconduct in a professional respect*”

- 3.2 There is no definition of “*serious misconduct in a professional respect*” in the Farriers (Registration) Act 1975 (“the Act”), but the Committee may refer to the contents of the “*Farrier and Apprentice Code of Professional Conduct 2021*” (“the Code”) as a standard for conduct expected of registered farriers (as expressly stated at page 2, para 4 of the Code).

- 3.3 Paragraph 92 of the Code provides:

“The circumstances in which serious misconduct in a professional respect may be considered to have occurred are so varied that it is impossible to catalogue or even envisage them all...”

Generally speaking, a minor breach of this Code might well not amount to serious professional misconduct. Repeated minor breaches in aggregate could well do so. However, a single, serious breach might also lead to such a finding.”

- 3.4 Paragraph 93 of the Code states that “*failure to respond to written requests from the FRC*” could amount to serious professional misconduct.

Sections of the Code with specific relevance to the charges

- 3.5 The guiding principles, set out at the beginning of the Code, include the expectation that registered farriers will:

- *uphold the good reputation of the farriery profession...*
- *communicate openly with clients and be professional at all times*
- *foster and maintain a good relationship with your clients, earning their trust, respecting their views...*

- *respond promptly, fully and courteously to complaints and criticisms.”*

3.6 The section of the Code dealing with the farrier-client relationship includes the following:

“32. The farriery-client relationship is one of mutual trust and respect under which a farrier must fulfil certain obligations...”

34. The farrier should treat the client ...with respect and observe professional courtesies. This would include the use of appropriate and respectful language and behaviour. A farrier should keep and arrive for appointments in time and keep clients informed of any unforeseen delays that may occur...”

3.7 The sections of the Code dealing with farriers’ various duties in relation to their regulator include:

“76. Farriers are expected to continue their professional education training and development by keeping up to date with advances in farriery and by keeping their knowledge skills and behaviours up to date throughout their working life...”

78. As from 1 January 2016 it has been mandatory for all newly qualified farriers to complete a minimum of 10 CPD points each year...

84. As from 1 January 2016, Registered Farriers must complete an Annual Return...

109. ... It is incumbent upon farriers to respond constructively to any allegations. Failure to do so may in itself amount to a matter of serious misconduct.”

The Submissions of the Council: Charge 1

3.8 The Code makes it clear that farriers are expected to treat clients professionally and with courtesy. There is specific reference to attending appointments on time and informing clients of any delays. It is submitted that the Respondent’s conduct in failing to respond to the many requests to attend, and subsequently to repay, has breached those numerous aspects of the Code aimed at maintaining client (and therefore public) confidence in the profession.

3.9 The Council submitted that on four separate occasions the Respondent rearranged appointments at short notice, on three separate occasions he stated he would attend but then simply failed to turn up on the day, and on eight occasions (including when he was asked on three occasions for return of the money that had been paid) he neglected to respond to the client’s text messages. This left Blaze without attendance by a farrier for approximately two months. In addition, the Respondent failed to pay JB’s money back despite requests on three occasions, and the money was left unpaid for over four months.

3.10 The Council submits that it is of relevance that JB was entirely reasonable in her manner in asking for the Respondent’s attendance and then asking for repayment. Throughout the period during which she attempted to arrange for the Respondent to attend she was polite and accommodating.

3.11 It is submitted that the Respondent’s conduct constitutes behaviour which falls well below the standard expected of a registered farrier. The Council submits that the conduct was in clear breach of paragraph 34 of the Code and is of the type envisaged in paragraph 92, namely

that although generally speaking, a minor breach might well not amount to serious misconduct, *“repeated minor breaches in aggregate could well do so”*.

- 3.12 The Council submits that such conduct breaches the Code, has the potential to undermine public confidence in the profession and amounts to serious misconduct in a professional respect.

The Submissions of the Council: Charge 2

- 3.13 The Council has a statutory duty to investigate disciplinary cases. In order for the Council to comply with this statutory duty, it is important to have a full account of the circumstances of the matters under investigation, so as to make a proper assessment. A failure to respond to reasonable requests for comments on concerns raised by a member of the public therefore has the potential to undermine the processes underlying the Council's statutory functions, and to undermine public confidence in the Council fulfilling those functions.
- 3.14 This is supported by specific provisions in the Code which underline the importance of responding to requests from the regulator, and the fact that a failure to do so could be considered serious professional misconduct (paras 93 and 109).

The Submissions of the Council: Charges 3 and 4

- 3.15 As part of its duties and responsibilities, the Council has implemented a programme of CPD requirements to seek to ensure that farriers keep their professional knowledge and skills up to date. Similarly, it has implemented a system whereby a registered farrier must submit annual returns including confirmation relating to personal data, professional indemnity insurance and any convictions or cautions. These requirements form part of the Council's important public interest duties to protect and promote equine welfare and to maintain public confidence in the profession.
- 3.16 It is therefore of great importance that a registered farrier responds to the Council with regards to requests for information regarding CPD and provides an Annual return each year. This enables the Council to fulfil its regulatory obligations and to maintain confidence in its regulatory processes.
- 3.17 As a result of the Respondent's repeated and prolonged failure to respond to its requests, the Council was unable to comply with its public interest duties to ensure that its registrants' abilities are sufficiently up to date, to ensure that current information is held in the event of any concerns or complaints, and that registrants are adequately insured so as to provide financial protection for their clients. These all form part of the Council's public interest functions and its wider duty to promote equine welfare and uphold public confidence in the profession and in the proper regulation of the profession. The Council's position with regard to public confidence in its regulatory processes was therefore potentially undermined as a result of the Respondent's conduct.
- 3.18 As noted above, the obligation to respond to reasonable requests from the regulator is set out in the Code of Conduct, along with a warning that a failure to do so could be considered serious professional misconduct (para 93).

Previous Non-Statutory Warnings

- 3.19 The Committee was informed by the Council that the Respondent was sent two Non-statutory Warnings as to Future Conduct on 24 June 2020, and 17 September 2020. As to the first, the Investigation Committee noted that a complaint had been received with regard to the Respondent's workmanship and failure to engage with his client. He failed to respond to enquiries about the complaint. The IC strongly disapproved of his conduct. As to the second, the IC noted that the Respondent failed to respond to multiple requests for details of his CPD records. The IC strongly disapproved of the Respondent's lack of engagement with the regulator.

Conclusion

- 3.20 The Committee agreed with the Council's submission that in all the circumstances the Respondent's conduct fell far below the standard expected. The Committee also decided that the Respondent's longstanding non-compliance with CPD and annual return requirements along with his complete failure to engage with the regulator were serious matters in themselves. However, these were made all-the-more egregious when taken together with the Respondent's failure to:

- attend for pre-arranged and pre-paid appointments with JB
- provide farriery services to her horse over a number of months
- communicate
- repay the fees for work that was never carried out.

In the Committee's view, the Respondent's behaviour not only shows wilful contempt for the FRC and the regulatory process, but also complete disregard for both the owner and the welfare of her horse. Equine clients must be able to trust farriers to deliver the services they pay for, to act with integrity at all times and to put equine welfare front and centre. Accordingly, the Committee concluded that the Respondent's behaviour amounted to a sufficiently serious breach of the code to warrant a finding of Serious Misconduct in a professional respect.

4. DECISION OF THE DISCIPLINARY COMMITTEE ON SANCTION

- 4.1 The Committee considered the aggravating factors in this case, as follows:

- Failing to attend the client and her horse on numerous occasions, with the result that
- the horse had no farriery attention for about 2 months, and thereby failing in his duty of care for the horse
- Lack of integrity in failing to keep appointments when promised or at all and failing to
- re-pay £125 to the client in spite of repeated requests
- Financial gain

- Breach of trust with the client
 - Repeated misconduct over a period of time
 - No insight at all into his misconduct
 - Contravening previous warnings and advice as to future conduct for similar
 - contraventions from the Council
 - Providing no proof that he had professional indemnity insurance, thereby creating a risk to the public.
- 4.2 The Committee was unable to find any mitigating factors, by reason of the Respondent's failure to communicate with the regulator.
- 4.3 The Committee was disturbed that the Respondent displayed a complete disregard for his regulator throughout this case and made no attempt to respond to the frequent requests of his client for help and assistance.
- 4.4 The Committee bore in mind that the primary purpose of a sanction is not to punish but to protect the public interest, the reputation of the profession and the welfare of animals.
- 4.5 The Committee first considered whether it would be right to take no further action in this case or postpone judgment. It decided that both courses of action would be inappropriate in this case.
- 4.6 The Committee then considered whether a reprimand or warning would be sufficient to protect animals, the reputation of the profession and the wider public interest. The Committee decided that it would not, by reason of the seriousness of the misconduct in this case.
- 4.7 The Committee next considered whether suspension would be sufficient. The Committee decided that suspension would not be sufficient to protect animals, the reputation of the profession, and the public interest, because of the numerous aggravating factors set out above. In particular the fact that the Respondent displayed no regard for the welfare of the horse, the feelings of his client, the fact that he showed no insight into his misconduct, and a completely irresponsible attitude to his regulator. If the Respondent was suspended for a period, there would be nothing to prevent him returning to practice, with no protection for animals, his clients or the public. The Committee had well in mind that the Respondent had received two previous warnings as to future conduct for similar contraventions of his obligations to the Council and the public.
- 4.8 The Committee considered the proportionality of its Decision between the public interest, equine welfare and the interests of the Respondent. However, the Committee decided that the sanction of removal from the Register is the only appropriate action for the reasons set out above.