

**FARRIERS REGISTRATION COUNCIL**  
**DISCIPLINARY COMMITTEE**  
**HELD AT THE FARRIERS REGISTRATION COUNCIL, 14 SWAN COURT, FORDER**  
**WAY, CYGNET PARK, HAMPTON, PETERBOROUGH PE7 8GX**

**INQUIRY RE:**

**MR MARCUS ADAM BRETT DIPWCF**

**1. THE CHARGE**

1.1 The Respondent, Mr Brett, faced the following charges before the Disciplinary Committee:

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

1. Between 3 May 2023 and 3 October 2023, failed to respond adequately or at all to reasonable requests from the Council for details of your Continuing Professional Development (“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.”

**Preliminary matters**

1.2 Mr Collis appeared on behalf of the Council. Mr Brett did not attend and was not represented. The Committee was informed that a telephone call was made to Mr Brett at approximately 9.25 a.m. but that there was no response and the call went to a voicemail facility. The Committee delayed the start of the hearing until 10 a.m. to allow Mr Brett additional time to attend.

Service

1.3 The Committee was provided with a service bundle which included correspondence with Mr Brett and telephone attendance notes from 5 October 2023 to 22 July 2024.

1.4 The Notice of Inquiry dated 8 April 2024 referred to the date, time and venue of the hearing and included the charge. The notice was sent to Mr Brett’s registered address.

1.5 Mr Collis submitted that the Notice of Hearing had been properly served.

1.6 The Committee accepted the advice of the Legal Assessor. She referred the Committee to the requirements of the Farriers Registration Council Disciplinary Committee (Procedure) Rules 1976 (the “Rules”), particularly Rule 2 and Rule 15.

1.7 The Committee was satisfied that good service had been effected in accordance with the Rules.

Proceeding in the absence of Mr Brett

1.8 Mr Collis submitted that it was in the interests of justice to proceed with the hearing in Mr Brett’s absence. He referred the Committee to the numerous attempts to contact Mr Brett via letter and e-mail to which there was no response from Mr Brett. He also referred the Committee to successful attempts to contact Mr Brett by telephone on 28 February 2024 and 3 April 2024. In

these calls Mr Brett gave the impression that he would be attending the hearing. On 3 April 2023 Mr Brett was informed of the likely date for his hearing being 22 or 23 July 2024, and he confirmed that he had no objections to these proposed dates.

- 1.9 The Legal Assessor advised the Committee on the principles it should apply when deciding whether it should exercise its discretion to proceed in the absence of Mr Brett. Her advice included reference to the case of General Medical Council v Adeogba [2016] EWCA civ 162.
- 1.10 The Committee was satisfied that all reasonable efforts had been made by the Council to inform Mr Brett of the hearing and that he was or should be aware of the hearing. The Committee inferred that Mr Brett's absence has waived his right to attend the hearing. Mr Brett has not applied for an adjournment of the hearing and the Committee considered that an adjournment was unlikely to secure his attendance. The Committee considered that there is a public interest in the expeditious conclusion of this case. There may be disadvantage to Mr Brett in not attending the hearing to put forward his case and any mitigation, but the Committee decided that his interests were outweighed by the public interest.
- 1.11 The Committee therefore decided that it was fair and in the interests of justice to proceed with the hearing in the absence of Mr Brett.

## **Background**

- 1.12 Mr Brett was first registered as a farrier with the Council on 6 January 2017 and he was therefore subject to mandatory CPD requirements throughout the period of his registration. Farriers who first registered with the Council after 1 January 2016 are subject to a requirement to complete a minimum of 10 CPD points annually, with demonstration of 30 points over the last three years accepted if the annual 10 point requirement is not met.
- 1.13 On 3 May 2023 the Council wrote to Mr Brett at his registered address and made a request that he should provide copies of his CPD record for 2023 by 17 May 2023. A reminder letter was sent on 25 May 2023 and Mr Brett was warned that a failure to provide CPD records on request could be deemed as serious professional misconduct and might be referred to the Council's Investigating Committee. There was no response to this letter. There was similarly no response from Mr Brett to a further reminder letter dated 9 June 2023 and Mr Brett did not respond to voicemail messages left with him on 21 June 2023 and 1 July 2023. On 4 August 2023 a further letter was sent to Mr Brett reminding him of the previous correspondence and informing him that his failure to respond would be referred to the Investigating Committee.
- 1.14 On 5 October 2023 Mr Brett was informed that the matter was being referred to the Disciplinary Committee. The letter was sent by first class post and by Royal Mail "signed for." The tracking information showed that the letter was delivered on 6 October and was signed for by "Brett".
- 1.15 The Council has no record of any phone calls, e-mails or letters from Mr Brett in relation to the 2022 CPD audit.

## **2. DECISION OF THE DISCIPLINARY COMMITTEE ON THE FACTS**

- 2.1 The Committee was advised by the Legal Assessor that the burden of proving the facts rested with the Council, and that the standard of proof was the balance of probabilities, or that the matters were more likely than not to have occurred.
- 2.2 The Committee had regard to the documents exhibited to the witness statement of Ms W at the Council and found that the evidence established on the balance of probabilities that the

requests made by the Council were reasonable. Paragraph 79 of the 2021 Code sets out a farrier's obligation to maintain a record of their completed CPD points as follows:

*"CPD records should be kept online in the 'My FRC' section of the FRC website, or as a file on a computer, or in hardcopy in order to provide evidence of CPD completion, and these records must be available to the Council on request"*

The obligation to provide CPD records on request is also confirmed in the *Guide to Continuing Professional Development (CPD) Policy for Farriers*.

- 2.3 The Committee also found that the evidence established that Mr Brett had failed to respond to the Council's reasonable requests between 3 May 2023 and 3 October 2023. Accordingly Charge 1 was found proved to the requisite standard.

### **3. SUBMISSIONS OF THE PARTIES ON SERIOUS MISCONDUCT IN A PROFESSIONAL RESPECT**

- 3.1 Mr Collis submitted that Mr Brett was guilty of serious misconduct in a professional respect. He drew the Committee's attention to the 2021 Code and in particular the guiding principle that Registered Farriers are expected to:

- *Uphold the good reputation of the Farriery profession*
- *Avoid situations both within and outwith the professional context which could be in breach of criminal law, or may call into question your fitness to practise*

- 3.2 Mr Collis also referred to the sections of the Code dealing with farriers' duties in relation to their regulator, namely

15.c *Farriers must respond promptly and constructively to any request from the FRC...*

80. *Failure to comply with CPD obligations may lead to a referral to the IC as a matter of serious professional misconduct. The fact that a Registered Farrier has not undertaken any CPD, or failed to provide proof that they have undertaken any CPD, may count against them in the event that they are subsequently referred to the Council's Disciplinary Committee (DC).*

92 *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 to even envisage them all. Generally speaking, a minor breach of this Code of Professional Misconduct 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.*

93. *[examples] ..could amount to serious misconduct in a professional respect as could failure to respond to written requests from the FRC."*

- 3.3 At this stage the Committee was provided with a decision of the Disciplinary Committee dated 21 October 2022. Mr Brett received a reprimand and warning from the Disciplinary Committee as a result of the following charge:

*Between 18 August 2021 and 9 February 2022, failing to respond adequately to reasonable requests from the Council for a written response to a complaint; and*

*Between 25 September 2017 and 9 February 2022, failing to submit Annual Returns to the Council*

3.4 The warning was in the following terms:

*“You must complete your Annual Returns to the FRC; and **reply promptly to all communications from the FRC.**” [emphasis added by this Committee]*

3.5 Mr Collis invited the Committee to conclude that Mr Brett’s regulatory history aggravated the seriousness of the current matter, particularly as the 2022 matter also involved a failure to respond to requests from his professional regulator and a failure to provide documentation which would help ensure the Council was able to maintain proper professional standards.

3.6 Mr Collis submitted that while the failure to respond to an individual request to supply a CPD record might not be viewed as sufficiently serious to warrant a finding of serious misconduct in a professional respect, the Respondent’s failure to respond to multiple requests, coupled with the aggravating feature of this demonstrating a pattern of behaviour, ensure that his case crosses the threshold. He submitted that the Council has implemented a system relating to CPD requirements in order to ensure that farriers keep their professional knowledge and skills up to date. This system forms part of the Council’s important public interest duties to protect and promote equine welfare and to maintain public confidence in the profession.

3.7 Mr Collis submitted that Mr Brett’s conduct fell far below the standard expected of a member of the profession, and amounts to serious misconduct in a professional respect.

#### **4. DECISION OF THE DISCIPLINARY COMMITTEE ON SERIOUS MISCONDUCT IN A PROFESSIONAL RESPECT**

4.1 The Committee accepted the advice of the Legal Assessor who referred to the principles to be applied when considering serious misconduct in a professional respect.

4.2 The obligation to complete CPD is an important one as it ensures farriers keep up to date with their professional knowledge and skills, in the interests of animal welfare. As he qualified in 2017 Mr Brett has always been subject to the requirement to complete CPD as part of his membership of the profession and in this case there is no suggestion that he was unaware of his responsibilities. As part of its regulatory function the FRC has to ensure that registrants are complying with their CPD requirements and to do that Registrants must respond to reasonable requests for information. By not responding, Mr Brett was frustrating the ability of the FRC to carry out its regulatory functions. In the Committee’s view this was a clear breach of paragraph 15c of the Code.

4.3 The Committee identified a number of aggravating factors as follows:

- recklessness
- conduct sustained over a period of time or repeated
- conduct contravening a warning given by the Disciplinary Committee

- blatant or wilful disregard of the role of the FRC and the systems that regulate the farriery profession
- Previous adverse finding of the Disciplinary Committee

4.4 The Committee did not identify any mitigating factors.

4.5 The Committee was of the view that the context of the previous disciplinary hearing and warning issued on 21 October 2022 was relevant. Mr Brett attended that hearing, made admissions, demonstrated remorse, and told the Committee that he had now fully understood the importance of responding to correspondence from the Council. Despite Mr Brett's reassurances to the Committee on 21 October 2022 and the insight that he appeared to demonstrate, there has been a repetition of similar conduct.

4.6 In the absence of any explanation for Mr Brett's conduct the Committee could only infer that he had no regard for the warning he had received from the Disciplinary Committee and no regard for the requirements of registration as a farrier.

4.7 The Committee considered that Mr Brett's conduct damaged the reputation of the farriery profession, particularly given that he had already received a disciplinary sanction for failing to respond to requests from the Council.

4.8 In the Committee's judgement Mr Brett's failure to respond to multiple reasonable requests from his regulator to provide details of his CPD fell far below the standard expected of a farrier and amounted to serious misconduct in a professional respect.

## **5. DECISION OF THE DISCIPLINARY COMMITTEE AS TO SANCTION**

5.1 Mr Collis referred the Committee to the Indicative Sanctions Guidance and outlined aggravating and mitigating factors.

5.2 The Legal Assessor reminded the Committee of the need for proportionality when considering sanction. The purpose of any sanction was not to punish but to arrive at a proportionate outcome to the case, having regard to the Committee's responsibility to protect animal welfare and maintain proper standards of conduct for Registered Farriers.

5.3 The Committee considered that the aggravating factors were those that it identified in its decision on serious misconduct in a professional respect.

5.4 The Committee considered the mitigating factors suggested by Mr Collis. The Committee did not consider the absence of personal gain to Mr Brett to be relevant, given the nature of the charge. It noted the absence of any harm to animals or humans, but it did not give any weight to this factor. Mr Brett's conduct did impact on the ability of the Council to carry out its regulatory function and that function includes ensuring that farriers keep their knowledge and skills up to date in the interests of equine welfare.

5.5 While the Disciplinary Committee on 21 October 2022 found that Mr Brett had demonstrated remorse and developing insight, there was no evidence before this current Committee of any insight in relation to this matter. Following the hearing on 21 October 2022 Mr Brett can have been in no doubt of the absolute necessity of responding to reasonable requests from the FRC. The Committee noted the pattern of repeated behaviour of failing to respond to reasonable requests from the Council. Taking into account the context of the previous Disciplinary Committee finding on 21 October 2022 and the warning given to Mr Brett "*you must reply*

*promptly to all communications from the FRC*", the Committee considered that there was a high risk of repetition of similar conduct.

- 5.6 In the absence of any explanation from Mr Brett for his conduct, the Committee inferred that he has a blatant disregard for the regulatory requirements of his profession and has chosen not to take steps to prevent any repetition.
- 5.7 The Committee considered that it would be inappropriate to take no further action in this case, since this would send out a signal to the profession that it was acceptable to ignore reasonable requests for information from the FRC and to ignore a warning given by the Disciplinary Committee.
- 5.8 The Committee did not consider that it would be appropriate to postpone sanction because Mr Brett has not attended the hearing and his level of engagement with the Council is insufficient.
- 5.9 The Committee next considered whether the case could be addressed by means of a reprimand or a warning. The Committee decided that a reprimand or a warning would be insufficient to protect the reputation of the profession. It would be wholly unacceptable for a farrier who is in breach of a previous warning given by the Disciplinary Committee and who has not complied with reasonable requests from the Council to be permitted to continue in unrestricted practice.
- 5.10 The Committee next considered the option of a period of suspension. It considered the Indicative Sanctions Guidance which states:

*"Suspension may be appropriate where the misconduct is sufficiently serious to warrant more than a reprimand but not sufficiently serious to justify removal from the Register.*

*Suspension may be appropriate where some or all of the following apply:*

- *the misconduct is serious, but a lesser sanction is appropriate;*
- *the respondent farrier has insight into the seriousness of his misconduct and there is no significant risk of repeat behaviour*
- *the respondent Registered Farrier is fit to return to practice after a period of suspension*

- 5.11 The Committee did not consider that this was a case where Mr Brett would be fit to practise after a period of suspension. The Committee was given no reassurance that in the future Mr Brett will comply with the requirements of registration as a farrier and it has concluded that there is a high risk of repetition of similar conduct. Mr Brett has not demonstrated insight into the seriousness of his misconduct.
- 5.12 The Committee was of the view that the lesser sanction of a suspension order would not send a sufficiently clear message to members of the profession and members of the public that it is entirely unacceptable for a farrier to disregard reasonable requests from the regulator and disregard a warning issued by the Disciplinary Committee. The imposition of a suspension would enable Mr Brett to return to practise as a farrier once that period of suspension expires without any reassurance that there will be no further repetition.
- 5.13 The Committee also considered the Indicative Sanctions Guidance in relation to a removal order. The guidance gives examples of behaviour which may be fundamentally incompatible with registration as a farrier. An example is *"evidence of a harmful deep-seated personality or attitude problem."* The Committee was of the view that the information before it indicated that Mr Brett has an attitude problem in respect of his disregard for the requirements of regulation

as a farrier. The Committee was also of the view that the warning given by the Disciplinary Committee was a significant aggravating factor.

- 5.14 The Committee considered the matter carefully because of the nature of the misconduct which is, in principle, capable of being remedied if Mr Brett was able to demonstrate his commitment to complying with the requirements of registration. The Committee was saddened and disappointed to find itself in the position where there is no information to explain or mitigate Mr Brett's conduct.
- 5.15 The Committee reminded itself of the guidance in *Bolton v Law Society* that "*The reputation of the profession is more important than the fortunes of an individual member. Membership brings many benefits, but that is part of the price.*"
- 5.16 The Committee concluded that a period of suspension would be insufficient to maintain public confidence in the profession because it could not be confident that Mr Brett would not repeat similar misconduct after a period of suspension. The Committee therefore decided that the appropriate and proportionate sanction is a removal order.
- 5.17 In reaching this decision the Committee took into account Mr Brett's financial and reputational interests but decided that they were outweighed by the need to maintain public confidence in the profession and uphold standards for members of the profession.

## **Disciplinary Committee**

**23 July 2024**