

Barrister Brief for Court of Appeal 20th December 2008

Maurice Kirk v Royal College of Veterinary Surgeons

I have been refused re-instatement to 'practice veterinary surgery' six times contrary to Articles 1, 6, 8 and 10 of The European Convention of Human Rights and Fundamental Freedoms.

Summary

1. **1967 RCVS Royal Charter and HM Judge's Oath** to Her Majesty demands favouritism to RCVS and their agents. This outrage is a breach of Human Rights Act 1998, even admitted by RCVS and must be exterminated.
2. **2002 Original RCVS Tribunal Hearing**, following a complaint by the South Wales Police.

Charge 1. 11 convictions over 10 years. 5 minor motoring, 3 common assaults and 3 of public order.

Common Assault Convictions:

1994. Catching a thief by the arm in my own house with medical evidence, relied on originally to prosecute but following cross examination of their only witness, the claimant for monetary compensation, the evidence mysteriously became 'unavailable'.

1997. Evidence from Christopher Paul Ebbs, alone, a compulsive liar with extended mental health and criminal history.

1997. Despite prosecution barrister informing the RCVS case should never have come to court, Mr Kirk having been first struck across the face by a recently retired South Wales Police inspector, Howard Davis and knocked to the ground by a security guard, bigger than himself. CPS switched BOP 'charge', months later, to assault!

Verdict: Name removed from veterinary register.

Charge 2. 'Unprofessional Conduct'.

Incident involved 2 dogs purportedly fallen over a cliff. In reality the police had failed to call me for 90 + minutes my arriving at the scene within 17 minutes of the call to witness, in my clinical opinion, criminal negligence by others, all later identified, when presented with a dying dog having a neglected suppurating and bleeding tumour, almost the size of a cricket ball, in the angle of her mouth. The RCVS took the view my refusal to divulge confidential client/criminal information to the gathering crowd, as I tried to struggle carry a large dog across the stones of the beach to my veterinary hospital, was unprofessional.

Verdict: 6 months suspension.

Throughout the trial, ending on 29th May 2002:

a. I was refused 'witnesses of fact', including any investigating police, investigating RCVS staff or external lawyers, complainants or eye witnesses of any of the convictions being considered.

b. I was refused any information on **how evidence was gathered, by whom, why and when?**

c. I have been refused any of the '**contemporaneous record**' of that enquiry (even evidence gathered from my own veterinary hospital clients). The South Wales Police was the complainant in 2001, to have my name removed from the veterinary register, having just lost 121 criminal prosecutions against me exposing their widespread perjury and perversion of justice, with not a finger raised by the series of judges in the courts.

d. Favourable witness statements were withheld and some altered and served on me as originals.

e. Witnesses tendered by the RCVS had fictitious addresses and could therefore not be contacted for the trial.

f. The RCVS 'cherry picked' a van full of hostile policemen to be my 'defence' witnesses, my only to being informed of their presence in the building as they were due to enter the witness box! The Court of Appeal had already refused them the right to give evidence following my failed appeal to serve any witness summonses.

g. The QC, Alison Foster, for the prosecution, repeatedly deceived the court on facts.

h. The Legal Assessor, Sir John Wood, was clearly medically unfit to conduct his responsibilities in ensuring the trial was conducted in a lawful manner.

i. The Legal Assessor demanded I disclose to the prosecution team the full content of my proposed defence evidence by identifying my witnesses and their information even before the defence case was opened. He then refused any of them to give evidence even those not requiring witness summonses or had not indicated they would attend voluntarily.

Privy Council Appeal, 19th January 2004, Verdict: Dismissed with costs exceeding £66,000.

a. The first 4 hearings from January 2003 onwards were my applications for **disclosure** of witness evidence. Each time the College QC informed their Lordships, all relevant evidence had been disclosed prior to the trial. This was again proved incorrect in that later, in 2003, witness statements in my favour, one from a magistrate and significantly different to the one served on me before the trial, were 'disclosed' but far too late for the politics in all this scandal to prevail. It further proved there must have been interviews and notes taken, when my clients were gathered up by the RCVS in various buildings around Cardiff, several times in 2001.

b. Since the appeal, the RCVS now admit there are contemporaneous records of potential and used witnesses interviewed by the RCVS staff and external lawyers but they are deemed as 'privileged' between their client, the South Wales Police, and my own veterinary clients now, apparently, clients for the college! Where are all the Law Society Contracts for all this?

c. The PC Judgment is particularly significant in that my veterinary expertise was never considered in doubt and that their Lordships indicated their 'hope' I would be re-instated to the register by November of the very same year. So why was I not just suspended?

The RCVS maintain I was rendered 'unfit to practice veterinary surgery for each conviction' while the Judicial Committee ruled, in June 2004, I had been struck off for the 'cumulative effect of all the convictions'.

In January 2008 Magistrates quashed one of the convictions relied on by the RCVS following wrong information from my confidential police files shown to the RCVS investigation team when records. Police knew they were knowingly incorrect.

The November 08 Disclosure Order on the South Wales Police, following my 10 years attempting an 'Abuse of Process Application', currently being heard in Cardiff Civil Court, will disclose, if not blocked again by HM Attorney General, further information relating to the unlawful conduct of the respective defendants.

[5 Civil Actions for harassment damages against the South Wales Police, the first lodged 16 years ago, following 121 charges lost by the police, numerous imprisonments after countless court cases and involving some 100 + other incidents of alleged harassment 'too document heavy' for a trial by jury.

3. I am refused any information on **how evidence was gathered, by whom and for why?** No '**contemporaneous record**' of that enquiry, for the charges (even from my own veterinary hospital clients) have been disclosed. [South Wales Police was complainant to have my name removed from the veterinary register having just lost 121 criminal prosecutions suggesting unlawful conduct, hence the **HM Partnership** conspiracy to prevent disclosure 'at all costs'.

4. HM Privy Council 19th Jan 2004 Judgment, in my appeal, is a breach of ECHR Article 8 re 'private life' when Lord Hoffman stated, in effect, I had 'special responsibilities' in society even in my private life. **This abuse may apply to all professions.** RCVS rely on this abuse today refusing me re instatement.

5. My **Abuse of Process Application** is being blocked, re '**Vexatious Litigant**' Enquiry by HM Attorney General and HM Home Secretary's department, admitted in court by Government on 31st Oct 08 to be ongoing.

6. I am refused a '**Trial by Jury**' at Court of Appeal in South Wales Police 16 year ongoing case compensation. Police disclosed wrong confidential police records to college staff and their outside lawyers, contrary to Home Office Regulations 45/1987.

7. Ever since the RCVS have refused '**Disclosure**' of their gathered evidence despite assurances in court, time and time again, that it would. Apparently disclosure will occur once I am re instated. Police, in Nov 08, now ordered to swear affidavit they have fully disclosed evidence relevant to 3 of the 5 Civil Actions lodged for police harassment.

Re-instatement to practice veterinary surgery An Application can only be repeated every 10 months. There have been 6 refusals so far with a different procedure each time, almost the same jury each time and specific demands to which I must agree, if I am ever to be allowed membership, never metered out before.

1. Oct/Nov 04 Application was refused without a tribunal decision leading to 1st Judicial Review Application conducted ex parte later for me to be told the 2nd application would be listed in 2005

2. 6th January 05 Application Hearing was before the tribunal with a decision that, although all requirements for re instatement had been complied with, due to my apparent recent change in attitude re instatement was refused. April JR application led to 9 both 4th and 5th application refusals JR applications on paper being heard in open court in July 2005 with £12,000 costs awarded, not even questioned or taxed as to how it had arisen. The Judge admitted he had not and did not need to read the lodged papers of both parties for both JRs.

3. Nov 05 Application Hearing refused led to a 27th Jan 06 JR Application when an Extended Civil Restraint Order was handed down following an application by the RCVS. This ECRO blocked outstanding disclosure applications needed for each Re instatement Application.

4. October 06 Application Hearing was refused following refusal of an adjournment to call character witnesses blocked by a telephone call to the Cardiff judge by the RCVS to block the issuing of witness summonses. RCVS used the excuse the ECRO prevented the issuing of witness summonses despite the court being told the office lawyer in the Royal Courts of Justice could possibly arrange the temporary lifting of the ECRO in order that evidence could be available.

5. September 07 Application was refused by the chairman of the tribunal alone and without legal advice, removing my name from the court list, for the following week, stating that as I had raised irrelevant issues, my application to call character witnesses, there was little likelihood of my being successful. This led to a JR Application that was refused. It is currently lodged with the Court of Appeal for leave.

6. October 08 Application was refused by the chairman alone with a letter of legal advice from the current Legal Assessor. I was given until the 30th September 08 to tender information in my application I was supposed to second guess in order for the same chairman as the year before may be minded to list the application for a hearing before the tribunal. A JR Application is currently being prepared.

Suggested Extra Reading

1. Original transcript in Word/PDF. RCVS refuse to release, used by their lawyers for each Re Instatement application, for fear it will straight on to <http://www.kirkflyingvet.com/> for the whole world to decide, if interested.
2. Privy Council Judgment(s) [7 hearings, 5 for failed disclosure and 2 for taxing of costs]
3. 6 RCVS files/demands and their submissions on each re instatement application
4. 6 JR Orders and transcripts/directions
5. Leaked HM Attorney General etc. internal memos.
6. Disclosure obtained from 8 currently running cases in civil courts.
7. Disclosure obtained from pending criminal court.

The 'Balance of Probabilities'

Whilst we all know both the RCVS and South Wales Police will succeed in failing to reveal proper disclosure, contrary to law, due to the current politics of our UK judicial system, it is just how they have managed between them to have me struck off the veterinary register in such unique circumstances and continue to prevent my re instatement, contrary to their Lordship's apparent wishes, needs to be made public across the world. Who's turn is it next if they are allowed to get away with it?

Based on the 'balance of probabilities' if we are allowed to examine what they have done, in past disciplinary hearings before my May 2002 departure from my profession and since with other applicants, I am confident in the outcome. Alas, the RCVS Registrar refuses to disclose such material.

The RCVS will **not allow re-instatement** is nothing whatever to do with my apparent demeanour as court record alone will confirm. I have complied to their ever changing demands, following each JR Application. It has been admitted by college members that, should I be re-instated as a member of the profession, then their ability to continue in refusing **disclosure** will become untenable, should I become elected on to the Council.

Legal advice informs me the RCVS are Charter immune to awarding compensation.

50% completed but these are the main bones of contention before meeting. I am about to fly to South Africa in my cub; so hit me with the list below or try bush telegraph and buy some drums !

Best Regards,

Maurice J Kirk BVSc

CONTACT Tel +441446792109 Mobile 07966523940
maurice@kirkflyingvet.com