

**Extended Civil Restraint Order 27<sup>th</sup> January 2006**

CPR

3.1. 'where a party has persistently issued claims or made applications which are totally without merit'.

**Summary**

The Royal College of Veterinary Surgeons' Regulations, only specific to Maurice John Kirk BVSc, state that only matters arising since the previous application, for reinstatement to practice veterinary surgery, may be considered. Mr Brian Jennings, permanent Chairman to the permanent jury quotes this each time even when original convictions have now been proved erroneous and continuing 'Failed Disclosure' by the College has adversely affected 18 court actions since Mr Kirk was struck off on 29th May 2002.

New Statutory instrument no.1680, passed by HM Privy Council in May 2004, now allows the College to make up its rules 'on the hoof':

*Restoration of Names after Removal*

*20. Procedure*

20.7 '....the procedure of the Committee in connection with the application shall be such as they may determine.'

**Signed off by 3 members of RCVS Council and a Mr A K Galloway, clerk to their Lordships, the very same who wrote to Mr Kirk in reply to his Application 5<sup>th</sup> Jan 2006 [Document A] on the 23<sup>rd</sup> August 2006 stating:**

*"The Judicial Committee of the Privy Council has determined your appeal, and no further petition or appeal will be accepted".*

3 Judicial Review Applications, following the RCVS 3 refusals, were considered by The Honourable Mr Justice Collins on the 27th Jan 2006. Instead of considering each Application, 'de novo' or in the context of ever changing ground rules, he handed down an Extended Civil Restraint Order thus not only preventing the success in any further application to practice veterinary surgery but preventing Mr Kirk access to the House of Lords on the matter of 'Failed Disclosure' of obvious investigation material, under RCVS control, that would clear his name and allow him to practice again.

Each Application may be heard by the College, on its own merits, as was one on the 6th Oct 2006. The College then deemed the ECRO irrelevant in order to bulldoze out this 4<sup>th</sup> Application. On the 26<sup>th</sup> September 2006 they applied the ECRO to block character witnesses for Mr Kirk, applied for in the Cardiff High Court, Mr Kirk not even having a right of audience [Volume II p62].

On 5<sup>th</sup> Oct 2006 a variation to the ECRO, to allow such character witnesses to be called, was suggested at the Royal Courts of Justice but Mr Kirk was even refused an adjournment by the RCVS to do just that.

### Extract from Privy Council Appeal Judgment 19<sup>th</sup> January 2004

*"But their Lordships permit themselves to hope Mr Kirk may yet be persuaded to offer undertakings to the Committee which will enable him to be restored to the register after the lapse of the statutory term of 10 months: see section 18(3)(a) of the Veterinary Surgeons Act 1966."*

Notwithstanding the above Mr Justice Collins erred in that on each of the 3 applications before him circumstances completely changed, to no fault of Mr Kirk's, making 'merit' for each application even the more profound:

- i) 1<sup>st</sup> Refusal was without a jury or any demands required of the College for 'undertakings' to be offered by Mr Kirk.
- ii) 2<sup>nd</sup> Refusal concluded with yet another confusing version as to what Mr Kirk had been struck off for in the first place with 'demands'/'grounds'/'undertakings' required of him written by Penningtons, solicitors [Volume II p.114], which were manifestly unlawful and plainly blackmail.
- iii) 3<sup>rd</sup> Refusal was obtained now by alternative pre written 'undertakings' on offer by the Legal Assessor, contrary to those of Penningtons' letter of the 23<sup>rd</sup> Dec 2004 also still on the table.
- iv) What did NOT change in 3 applications is that the RCVS continued to ignore Court Orders to disclose their hand written records, similar to police note books, of the original interviews of potential witnesses between 2000/2004, many now traced and favourable to Mr Kirk.

If Mr Kirk is ever to practice veterinary surgery he must agree demands never before applied since the Royal Charter of 1844 first came into effect.

In the light of Their Lordships' wishes in Downing Street no application for re instatement should have been necessary after the 10 months had lapsed.

Each hearing, before Privy Council, Royal Courts of Justice or Royal College of Veterinary Surgeons, contained an application for an adjournment for either 'Discovery of investigation documents' or for an interlocutory matter.

Mr Kirk was refused every adjournment application in every hearing.

### The Facts.

1. Their Lordships 'hoped' Mr Kirk would apply for re instatement as early as the law allowed (after 10 months) and that he would offer the 'undertakings' required of the Royal College of Veterinary Surgeons: See Privy Council Judgment 19<sup>th</sup> January 2004 paragraph 35 [Document B].
2. But the College gave no 'undertakings' being required. Their duty was to explain, as they did later, far, far too late, by their 23<sup>rd</sup> Dec 2004 letter.

3. 1<sup>st</sup> College Refusal, in November 2004, was decided by Mr Brian Jennings, Chairman of the Disciplinary Committee, Mr Hockey, Head of Professional Conduct and the President of the College sitting alone, contrary to law.
4. 1<sup>st</sup> Judicial Review Application to Lindsey J, on the 16th Dec 2004, **[Document C]** was because no 'grounds' or 'undertakings' were given in the Application. This is bad law. There should be no burden of a 'guessing game' on the part of an applicant as to what the College may or may not require especially in this unique and unrepeatable case. Their Lordships had already stated Mr Kirk was to be re instated as soon as the law allowed, a time less than many suspensions!
5. New criminal convictions could only be the issue but the College knew there were none as the South Wales Police informed them so, as in 2001, supplying Mr Kirk's criminal record, contrary to Home Office Regulations 45/1989.
6. This assumption by the single judge caused Mr Kirk costs exceeding **£20,000 by allowing the RCVS to set up another hearing for the 6<sup>th</sup> January 2005.** 'Merit' should have been given for his attempting Their Lordships' wishes.
7. RCVS letter of the 23<sup>rd</sup> December 2004 setting down, for the first time, the 'grounds' and/or 'undertakings' the College required of Mr Kirk, was tantamount to blackmail and was illegal.
8. Was it a new and un associated Application on the 6<sup>th</sup> Jan 2005 to that of November 2004? The College had applied new 'undertakings' between the two, but ruled the 2<sup>nd</sup> Application was far too soon!
9. For the College to apply HM prison tactics, as on those seeking parole in that they must first state they were guilty of the conviction that put them there, is contrary to both Human Rights and The Veterinary Surgeons Act 1966.
10. Mr Justice Collins erred in law as the content of each Application was different with the College changing the interpretation of both the originally badly drafted prosecution case and subsequently the confused Judgement of 29<sup>th</sup> May 2002. **Now they demanded Mr Kirk to even commit perjury.**
11. In UK HM prisons it is achieved only by the application of the feudal Royal Prerogative, 'The Queen and Her agents can do no wrong', lasting from the days of our last 'Absolute Monarch', Charles I. That does not mean the RCVS should now crib the idea simply because they remain, for now, within the curtilage of Royal Immunity to prosecution by their failed Disclosure.
12. The 2<sup>nd</sup> College Refusal, on the 6<sup>th</sup> January 2005, stating each original conviction **[Document D]** "rendered Mr Kirk unfit to practice veterinary surgery" was quite wrong also as the Judgment of the 29<sup>th</sup> May 2001 never said that **[Document E]** or did it? It is still a mystery to Mr Kirk and previous courts, due to its ambiguity; all Contrary to Article 6.1. A Judgment must be clear in order that an appropriate Appeal can be drafted and the Judgment not

left to a mentally ill Legal Assessor, as occurred in Mr Kirk's case in 2002, the heart of all this nonsense. The same applies to 'advice' to any applicant for reinstatement, following a refusal or removal from The Register. Documents in this case clearly indicate the current RCVS is not fit to self regulate the veterinary profession. IS NOT FIT FOR PURPOSE.

13. JR Refusal from that of RCVS 2<sup>nd</sup> Refusal, 6<sup>th</sup> Jan 2006, was on 19<sup>th</sup> April 2005 but I was not informed with a judgment until 20<sup>th</sup> September 2005: [Document F]. It was wrong in that it did not take into account the College had now changed the 'grounds rules' and reasons from:

- a) Their 1<sup>st</sup> Refusal
- b) For Mr Kirk being struck off
- c) by Applying their own 'undertakings' tailored only for this applicant.

Their Lordships even expressed their confusion, on more than one occasion, in the 7 separate but related Privy Council and Court of Appeal hearings. On the very last hearing, the 13<sup>th</sup> July 2004, [Document G], they rendered their final interpretation to that of the original 29<sup>th</sup> May 2001 RCVS judgment stating it was **"the cumulative effect of the convictions"** that **'rendered Mr Kirk unfit to practice'** when referring to the 5 'trivial' motoring convictions, including Charges A7 and A10.

14. But since being struck off Mr Kirk has produced proof convictions before the RCVS court, in 2002, did not exist, were either quashed on Appeal or deemed 'ultra vires'. eg by His Honour Judge Gaskell, in Cardiff Crown Court, when quashing 4 convictions because the policeman and Crown Prosecution Service had deliberately arranged the altering of records in the Barry Magistrates hearing, once they knew Mr Kirk was to Appeal. (A regular occurrence for Barry, in this applicant's experience). Surely these findings must have been relevant (merit) in one of the 2 Applications and should have caused it to have been returned to the RCVS? **The purpose of a Judicial Review, is it not?**

15. Alison Foster QC lied to Lord Hutton on the 14 January 2003 saying there had been complete Disclosure by RCVS because they had falsified statements, proved in court. To now release any hand written notes of any of the enquiries or utterances, meantime, could mean difficulties. That is what this case is really about. Disclosure is required for the preparation of this document. See RCVS transcript 7<sup>th</sup> Nov 2005, p6G to 7F and 64F, pretending 'witnesses' and 'disclosure' available. [Application Notice 29 Dec 2005]. Note: RCVS lawyers tried to palm off the old '67 rules on court because of the differences.

16. At the Appeal Miss Foster told Lord Hoffman, et al, the motoring convictions did not constitute Mr Kirk being "unfit to practice" but were only put in the case to show Mr Kirk's apparent 'attitude towards authority'. Yet another ridiculous contradiction indicating there should be a Judicial Review.

17. These constant changes in so called 'facts' relied upon by the College for each failed application, means the CPR reference for an Extended Civil Restraint Order could not apply. **Let us consider:**

18. The 1st Application to the College was refused in November 2004. The College were at liberty to refuse to hear the 2<sup>nd</sup> Application for 10 months but because they had not indicated, as was their duty, what was needed of Mr Kirk they did not, contrary to law. No new convictions had been achieved since the Privy Council Appeal and Their Lordships had specifically 'hoped' Mr Kirk be restored as soon as the law allowed. But the RCVS proceeded, quite unlawfully, to hear a 2nd Application on the 6<sup>th</sup> January 2005 in order to introduce a whole new set of impossible 'understandings' using the excuse it was far too soon, in any event, for reinstatement!

19. Mr Justice Collins was also confronted with the problem of 'The Ruling' of not just one but two High Court Judges, Ousley J and McCombe J, that the demands contained in Penningtons 23<sup>rd</sup> Dec 2004 letter had already been agreed by Privy Council Lordships and referred to them in their Appeal Judgment, para.35 of 19<sup>th</sup> Jan 2004, almost a year before Mr G Hudson of Penningtons, solicitors, had even written the wicked document.

Correct? Well who actually cares? No, Mr Kirk should have been given those, albeit unique, wicked 'undertakings' immediately after the determination of his Privy Council Appeal apparently known to all except the unrepresented appellant. Not to have done was yet another infringement of both the Human Rights Act and Convention and clearly suggests malice.

20. At the Privy Council Appeal Their Lordships never once referred to the '**Failed Disclosure by the College**' or '**40 refused defence witnesses by the College**' despite these matters being the 'grounds' of Mr Kirk's Appeal.

21. £66,000 costs then awarded against Mr Kirk, for extra punishment, was done as a threat to others so minded as to appeal against the invincible prejudice of a Royal Prerogative.

22. The costs did reveal about half of all the time spent, by the lawyers using up membership fees, was on the 'trivial motoring convictions', as Lord Hoffman so described them. £20,000 being reduced on taxation was normal, heard from the College legal team, suggesting lawyers regularly add a third on their client's bill to allow for taxation. Their claim for a further £1000 costs for being in the taxation court, for part of the morning, succeeded. The bill, incidentally, for just preparing the RCVS bill of costs exceed Mr Kirk's annual salary when he first qualified.

23. HM Immunity to prosecution for failure in '**Disclosure of investigation material**' is both feudal and archaic. For the College to continue to achieve this, under the protection of the 1844 Royal Charter, is contrary to The European Convention of Human Rights 1948, The Human Rights Act and The Veterinary Surgeons Act 1966, originally used to have him struck off for life.

24. The 1<sup>st</sup> Refused JR Application was noted by Mr Justice McCombe, on the 13<sup>th</sup> July 2005, as quite a different set of circumstances to the 2<sup>nd</sup> Application despite an adjournment wanted by Mr Kirk for Disclosure. See judgment and transcript [**Document H**]. RCVS were awarded costs, in this 1<sup>st</sup> Application,

for just one hurried page of fax by RCVS to Mr Justice Ousley. He agreed he had no time to read the case before him [para 122], as the court time records also confirms, but he awarded costs for the 2<sup>nd</sup> Refused Application also. The case had been transferred from another court, just minutes before, witnessed in horror by both a Patrick Cullinane Esq and the applicant. The first judge, upon opening the files, realised Mr Kirk had been before him on one or more of his previous 40 odd JR Applications and refused to read it. Then, with falsified un taxed RCVS costs being awarded for around £12,000 at 8% per annum, compound, with no Appeal for the litigant in person, the RCVS legal team smiled knowing 83 law firms had already refused to act for Mr Kirk in this.

25. Mr Justice McCombe again stated the content of the Penningtons' letter of the 23<sup>rd</sup> Dec 2004 by the College were the 'undertakings' referred to by the Privy Council Judicial Committee on the 19<sup>th</sup> Jan 2004 and refused an adjournment for the College to disclose documents that must have been created in the enquiry and were obviously needed by Mr Kirk for these 2 JR Applications.
26. When Mr Kirk seeks clarification from court he just gets spurious disinformation, Masonic style. It is statute law we are talking about here not the propping up of a system designed purely for the promotion of 'HM Partnership', 'HM Freemasons' and the 'HM Memorandum of Understanding'. Mr Kirk is satisfied there is a conspiracy between RCVS lawyers and the South Wales Police, the original complainants to get him struck off. Why, then, do they delay his 14 year running civil action for harassment and false imprisonment against the police if not Masonic based?
27. The 3<sup>rd</sup> Refusal by the College, they argue only the 2<sup>nd</sup>, on the 7<sup>th</sup> November 2005, transcript page 42 etc [in **Application Notice**], Legal Assessor stating it be 'de novo', made Mr Kirk 'unfit to practice' for even more bizarre reasoning with the 'ground rules/undertakings' being changed yet again with Mr Brian Jennings demanding he may refer to previous hearings and Judgments **but Mr Kirk definitely cannot**. Even another variation of 'undertakings' to that demanded for the previous RCVS Refusal on the January 2005 was offered to Mr Kirk there having been no change in circumstances that could influence the 'merits' of an application simply to work since the previous application, almost a year before.
28. 3<sup>rd</sup> Refused JR was by Mr Justice Collins, on 27<sup>th</sup> Jan 2006, [**Document I**], **and** considered to be 'without merit'. Not so, Mr Kirk submits: see RCVS full transcript 7<sup>th</sup> Nov 2005 as 29<sup>th</sup> Dec 2005 Application Notice. Even if it were so, no matter, each application is 'de novo' and allows repetition for adjournment applications for previously ignored orders for proper Disclosure.
29. While the RCVS continue getting away with withholding favourable witness evidence that would clear his name and going unpunished for falsifying evidence including that of both the magistrate and school mistress of what really happened on that Barry beach and 'dogs over the cliff' Mr Kirk will continue to expose on web, with a little help from his friends, the day to day nefarious conduct of those Masonic lawyers involved.

30. **Disclosure.** Despite court Orders to Disclose and even referred to by Mr Jennings, see p. 64 RCVS transcript 7<sup>th</sup> Nov 2005 and Mr Justice Collins's letter 29<sup>th</sup> March 2005 [**Volume II p.71**] and his 3<sup>rd</sup> Oct 2006 Judgment [**Volume II p.59**] they continue to refuse even under the Data Protection Act or any other law applied by Mr Kirk.
31. The next Application to practice veterinary surgery cannot be before 6<sup>th</sup> August 2007 when this process may be repeated. Mean while the RCVS is preventing Mr Kirk training in a registered training practice, his own, as a student Veterinary Nurse, VN, despite there being no legislation to stop him.
32. **Cancelled Convictions.** Despite some original convictions were withdrawn, part heard or quashed, before the 2002 RCVS hearing, they were all deliberately put before the permanent jury in 2002 purely to prejudice. For example The College continue to refuse to withdraw even now, Charge A7, 'valid motoring insurance to the wrong police station when they saw the records in 2001, on lucrative lawyer visits, that the conviction and therefore Charge A7 had been deemed 'ultra vires' by the Cardiff Crown Court. College lawyers also know there would have been a serious risk of prejudice despite both Charges A10 and A12 being withdrawn, part heard, after maximum damage was done to have made the verdict seriously unsafe. For Charge A2 they offered **no evidence** but it remained before the jury to prejudice!
33. A new jury would normally have been arranged but the RCVS only has one. All new evidence found between 1<sup>st</sup> and 2<sup>nd</sup> Applications was relevant and should have affected the 2<sup>nd</sup> Application with considerable 'merit'.
34. Their Lordships of the Privy Council have ruled it was the "cumulative effect of all these convictions" before the permanent jury, withdrawn, part heard or not, that had Mr Kirk struck off. Removing only one of the many withdrawn or now proved false made the verdict unsafe but who cares?.
35. Barry Magistrates, despite HHJ Gaskell's clear indication, continue to refuse to hear Mr Kirk on quashing the conviction, Charge A7, which has prevented him from being able to practice. It should be no surprise to anyone who has studied the reasoning for getting Mr Kirk struck off why a warrant for his arrest for failure to pay the fines was issued it on the 27<sup>th</sup> Oct 2006 by Barry Magistrates and they ignore the compensation for these wrong convictions because they way out weigh fines outstanding.
36. The very same players, again protected by Royal Prerogative, continue to conspire in preventing the 14 year running civil action for False Imprisonment and Police Harassment to ever see a substantive hearing before a civilian jury.
37. The Royal Prerogative giving RCVS immunity to prosecution is quite wrong.

Signed:

Maurice J Kirk BVSc