1. On 22nd September 2016, the Committee found three heads of charge proved against Mr. Shah in respect of his care for a 6 year old Newfoundland dog called Shadow and his subsequent dealings with Shadow’s owner, Gemma Ballantyne.

2. The Committee now turns to deal with the consequences of those findings. It does so having regard to the submissions of counsel for both the College and Mr. Shah as to outcome and applying the legal advice provided by the Legal Assessor.

Disgraceful Conduct:

3. The Committee has considered whether the conduct found proved against Mr. Shah, looked at cumulatively, amounts to disgraceful conduct in a professional respect in the sense that it falls far short of that which is expected of a member of the veterinary profession.

4. As the Committee found, the decision to discharge Shadow in the condition he was at about 6pm on 20th June 2014 was a gross error of judgement. Both experts called in the case were of the view that no competent veterinary surgeon could consider Shadow fit for discharge in his condition and the Committee agrees with that view. Given the inadequate monitoring carried out on Shadow during the course of the afternoon and his lack of response to stimuli, the Committee considers that discharging him at that time
into the care of the owner rather than to the Out of Hours veterinary facility available to him, where Shadow could have received the continued monitoring that Mr. Shah himself conceded would have been preferable, was grossly negligent and a serious error of judgement.

5. Having been alerted to Shadow’s continued lack of progress by the telephone call from Gemma Ballantyne, Mr. Shah exacerbated the situation by the inadequacy of his response in dealing with the concerns raised and in the Committee’s view this represents a continuation of his previous poor judgement.

6. Taken cumulatively, the Committee is clear that Mr. Shah’s conduct on that occasion fell far short of what is expected of a veterinary surgeon and therefore constitutes disgraceful conduct in a professional respect.

7. In coming to its decision, the Committee has specifically considered all of the aggravating and mitigating factors listed in paragraphs 25 and 27 of the Disciplinary Committee Procedure Guidance.

8. It is of course impossible to say whether, had Mr. Shah acted differently, Shadow would have survived and to that extent the Committee puts the fact of Shadow’s death to one side in coming to its decision. However, the fact that he died cannot be overlooked in that the Ballantyne family will always be left with the unanswered question, ‘What if…..?’.

The Committee makes it clear however that the fact of Shadow’s death is not a determining factor in its finding of serious professional misconduct on the part of Mr. Shah. Equally, the Committee accepts the submission of Mr. Edis QC for Mr. Shah and the advice of the Legal Assessor in respect of recklessness and does not find that Mr. Shah acted recklessly. He did, however, act in a grossly negligent fashion in discharging Shadow when he did.

9. The Committee accepts that there is no element of dishonesty or aim for financial gain in this case and notes that Mr. Shah’s conduct relates to a single animal. It also accepts that Mr. Shah was acting in good faith at all times and doing what he thought was best but that is no answer to a charge of serious professional misconduct when his best falls far short of that which is expected, whether as a result of lack of appreciation of unusual risks post-operation, a need to make a decision about Shadow given the imminent closure of the practice for the evening or indeed for any other reason.

10. Balancing all of the factors as the Committee must, it is clear that on this occasion Mr. Shah’s conduct fell far short of that which is expected and it therefore finds he conducted himself disgracefully in a professional respect.
Sanction:

11. The Committee has considered all of the available sanctions in order of seriousness from least to most serious. In addition to the matters taken into account in determining the outcome, the Committee has also had regard to all of the character references and testimonials provided on behalf of Mr. Shah, both written and oral, all of the submissions made by Mr. Edis QC and the approach the Committee must take to the question of sanction as advised by the Legal Assessor.

12. It was conceded on Mr. Shah’s behalf that a sanction of No Further Action in a case such as this is inappropriate and the Committee agrees. Further, given that this was a single incident, albeit comprised of three separate serious errors of judgement, and set against the background of all the Committee knows of Mr. Shah’s usual working practices, it is not an appropriate case for a Postponement of Judgement.

13. The Committee does have grave concerns about Mr. Shah’s lack of insight into the situation that presented itself and his failure to consider all possibilities following general anaesthesia and surgery and the subsequent clinical management of the animal. It is essential that any veterinary surgeon in a non-24 hour practice deals effectively with the transference of care.

14. In imposing the sanction of a Reprimand, the Committee urges Mr. Shah in the strongest possible terms to ensure that his future conduct by way of training and support systems within his practice are such as to avoid any possibility of a future incident such as this occurring in order to ensure animal welfare and public confidence in the veterinary profession. The Committee notes that in her evidence Emma Martin said that the working practices at the surgery have been changed and the Committee expects that all animals kept in the care of Mr. Shah are fully monitored, examined and assessed in relation to their condition before being discharged.

15. The sanction imposed by the Committee therefore is that Mr. Shah be reprimanded for his misconduct.

Disciplinary Committee

23rd September 2016