

Royal College of Veterinary Surgeons  
Belgravia House  
62-64 Horseferry Road  
London SW1P 2AF

Chloe Newbold,  
Clerk to the Election Challenge Committee (Re: Lonsdale)

4 October 2017

**LETTER OF ADVICE**

Re: Lonsdale v RCVS – Challenge to the validity of the 2017 Council Election (“the Election”)

This letter is further to my letter of advice dated 12 September 2017.

I asked for more detailed information from Professor Hammond and Professor Wood as to donations that their respective Schools have received from pet food manufacturers.

The initial responses from all three members of the Challenge Committee were set out in my letter dated 12 September 2017, but are repeated [in square brackets] below.

[Professor Hammond (Bristol Veterinary School)]

*“Bristol Veterinary School has previously received funding for research from pet food manufacturers as either the parent company or their subsidiary. Although I have not personally received or directly benefited from those funds, as Head of School I am ultimately responsible for approving the application and receipt of those funds and the research conducted based on that funding.*

*Second, as CEO of Langford Vets (a wholly owned subsidiary of the University), I approve the sale of prescription pet foods for animals under our care. This is no different to any commercial practice.”*

*“In 2015 the School received £19,000 from Waltham to fund the research of an individual in our welfare group (a PST doctoral researcher) for a research project: the funding was labelled a ‘collaborative behaviour and welfare award’.*

*In 2012 the school received £1800 from Hills to fund food for freshers week.*

*In 2012 Hills donated €10,000 for contribution to a stipend for a postgraduate student.*

*In 2016/17 hills have donated £1100 for prizes to be presented on graduation day for high achieving students”*

Professor James Wood (Cambridge Veterinary School)

Professor Wood made enquiries, and was provided with the following information:

*“We do receive a grant from Royal Canin, albeit through the Veterinary School Trust, to fund our SCTS in Small Animal Medicine. In return, there is a small sum of money for research and travel, but they also gain access through the SCTS and [a Senior Lecturer in Small Animal Medicine] to our students for some nutrition teaching. They also support some of the Vet school student events.*

*Eukanuba also provide some discounted food to the Hospital, staff and students”*

Professor Wood said that the Royal Canin grant amounts to £74,070 over 3 years.

Ms Elaine Acaster (Retired Vice-Principal of the Royal Veterinary College)

Ms Acaster is clear that she has no conflict. She said:

*“In the light of Mr Lonsdale’s comments and those of Richard and James, I should clarify that my roles at RVC placed me at a distance from the acquisition and use of funds, sale of pet food and any other forms of support from Pet Food Companies. I did not have an academic appointment, nor am I Dr Acaster [as Mr Lonsdale described her].*

*I, therefore re-state that I believe I am not conflicted and am one of the small number of lay (non-veterinary qualified) members of the RCVS Council.”]*

I now set out the responses received in response to my requests for further information:

Professor Hammond

- Please specify (approximately) what proportion of the overall funding of the School the funding in the relevant years represented on an annual basis.

*Response: “The proportion of income varies from 0.01% to 0.14% of the total school income.”*

- Please explain the extent of your personal involvement, if any, in procuring or approving the application and receipt of the relevant funding, and the research conducted on the basis of such funding.

*Response: “I believe I have already answered this [see above].”*

Professor Wood

- Please explain in more detail how the Royal Canin grant is used or distributed. Where does the Veterinary School Trust fit in? What is the SCTS? How much is the sum of money for research and travel, and how does it work? Please explain how [Royal Canin] gains access through SCTS and a Senior Lecturer to students for nutrition training. What is the value of that access? What is the value of the support for student events?

*Response: “The RC grant is only used to fund one postgraduate training position, the SCTS (Senior Clinical Training Scholar, or resident). The Veterinary School Trust (VST) is a charity that supports the work of the Veterinary School. RC have a student contact and sponsor various student evening clinical events; these are organised through the student society and the Veterinary School has no formal knowledge of these; it has no direct financial value to the Vet School. The senior lecturer is now no longer directly involved in this programme and is funded by the University.”*

- What is the value of the discounted food benefit to the Hospital, staff and students?

*Response: "Students do not benefit from discounted dog food. Over the last year, an estimate of the total benefit of discounted food was £8500; we estimate that around 15% of this went to staff, who purchase this. The saving compared to Internet prices of this food, based on review of 3 foods, varies between 13% and a loss (see specifics below\*)."*

- Specify (approximately) what proportion of the overall funding of the School or the department this funding represents or has represented on an annual basis?

*Response: "Working just on the direct contribution made through the VST, the proportion of income for the hospital, a component of the Department, is less than 1%."*

- Please explain the extent to which you are or were personally involved, if at all, in procuring or approving the application and receipt of the relevant funding, and/or the research conducted based on that funding.

*Response: "As head of department, I signed an agreement that had been drawn up by the University legal services following negotiation by others. I was not involved in the discussions, or the negotiations and am not directly involved in any of the research being conducted by the SCTS."*

*"\*Specific price comparisons:*

*Eukanuba Veterinary Dermatitis 12kg – Average of 5 internet searches: £35.89. Sold to member of staff: £35.87. Saving: Nil*

*IAMS light dry 12KG – Average of 2 internet searches: £25.49. Sold to member of staff: £22.13. Saving 13%.*

*IAMS light dry 10 kg – Average of 4 internet searches £24.98. Sold to member of staff: £30.20. Can buy cheaper online."*

#### **ADVICE AS TO THE CORRECT APPROACH IN RELATION TO AN ALLEGATION OF APPARENT BIAS ON THE PART OF MEMBERS OF THE CHALLENGE COMMITTEE**

I think it would be helpful to expand on the advice given in a previous letter as to how the "fair-minded and informed observer" is to be recognised.

I refer to an extract from the Privy Council case of ***Holmes v Royal College of Veterinary Surgeons [2011] UKPC 48***, at paragraph 24 of the Judgment of Lord Wilson:

*"The question is whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased": Porter v Magill [2002] 2AC 357, at para 103, per Lord Hope. In Helow v Secretary of State for the Home Department [2008] UKHL*

62, Lord Hope described the attributes of such an observer in terms on which it would be impossible to improve:

[1] The fair-minded and informed observer is a relative newcomer among the select group of personalities who inhabit our legal village and are available to be called upon when a problem arises that needs to be solved objectively...

[2] *The observer who is fair-minded is the sort of person who always reserves judgment on every point until she has seen and fully understood both sides of the argument. She is not unduly sensitive or suspicious .... Her approach must not be confused with that of the person who has brought the complaint. The "real possibility" test ensures that there is this measure of detachment. The assumptions that the complainer makes are not to be attributed to the observer unless they can be justified objectively. But she is not complacent either. She knows that fairness requires that a judge must be, and must be seen to be, unbiased. She knows that judges, like anybody else, have their weaknesses. She will not shrink from the conclusion, if it can be justified objectively, that things that they have said or done or associations that they have formed may make it difficult for them to judge the case before them impartially.*

[3] *Then there is the attribute that the observer is "informed". It makes the point that, before she takes a balanced approach to any information she is given she will take the trouble to inform herself on all matters that are relevant. She is the sort of person who takes the trouble to read the text of an article as well as their headlines. She is able to put whatever she has read or seen into its overall social, political or geographical context. She is fair-minded, so she will appreciate that the context forms an important part of the material which she must consider before passing judgement."*

In the *Holmes* case, the Privy Council had to decide whether there was any merit in Mr Holmes complaint of apparent bias in relation to three members of the Disciplinary Committee of the Royal College, which had found numerous charges of disgraceful conduct in a professional respect proved against Mr Holmes, and directed the Registrar to remove his name from the Register. The Privy Council applied the principles laid down by Lord Hope as set out above, and found that there was no real possibility or appearance of bias on the part of any of the Committee members involved. In relation to one member of the Committee, Lord Wilson said as follows:

"Mr Holmes makes a final complaint of apparent bias which falls into a different category. It relates to Ms Shield. Prior to April 2007, there was controversy about whether the practice of docking a dog's tail accorded with responsible veterinary practice. The controversy largely came to an end on the coming into force of s.6 of the Animal Welfare Act 2006, which made it a criminal offence to remove a dog's tail otherwise than for the purpose of its medical treatment. Mr Holmes had been appointed as Honorary Veterinary Surgeon by the Council for Docked Breeds which strongly opposed the reform. He had had a high profile on behalf of the campaign to preserve a general right to dock a dog's tail. In support of the reform, however, had been "Vets against Docking", supported by the College, which argued that docking represented an unjustified mutilation of the dog. On the sixth day of the hearing before the DC Mr Holmes unsuccessfully objected to the continued participation on it of Ms Shield on the ground that, as he had just discovered, she had been a signatory in support of "Vets against Docking", as was visible on its website which remained online.

In the Board's view no appearance of bias on the part of Ms Shield was generated by the professional stance opposite to that of Mr Holmes which she had adopted in the largely historical debate about an issue in no way related to those raised in the proceedings..."

This extract from the judgment in **Holmes** provides an example of the test of the “*fair-minded and informed observer*” in action.

My advice to the members of the Challenge Committee is that they should apply the principles laid down by Lord Hope, when considering all the relevant information disclosed by members of the Committee, and deciding whether or not it is necessary for any of them to recuse themselves from sitting to hear the challenge brought by Mr Lonsdale.

The Committee will bear in mind that the pool of unelected members of Council, who would be eligible to be members of the Challenge Committee, is very limited, and Mr Lonsdale is likely to object to any potential member who has any involvement with the veterinary profession, and all organisations or institutions connected with it.

The Committee will, of course, be aware that it is not required to pass judgement on the merits of Mr Lonsdale’s campaign against the manufacturers of pet foods, but is required to decide whether or not the result of the Council Election 2017 is invalid, for the reasons advanced by Mr Lonsdale in his grounds of challenge.

I advise that copies of this Letter of Advice be sent to the College and Mr Lonsdale. They should be invited to make any submissions they may have in relation to the allegations of apparent bias made against the three members of the Challenge Committee, within 7 days.

It will then be for the members of the Challenge Committee to decide whether, applying the principles outlined by Lord Hope, it is necessary for any member of the Committee to recuse him/herself from hearing this challenge. This letter can be copied to members of the Challenge Committee, for information only at this stage. Arrangements will have to be made for the Committee to meet to decide this matter once submissions have been received from the College, and Mr Lonsdale.

**Richard Price OBE QC**

**Legal Assessor**