

ADVICE NOTE 3

SERIOUS PROFESSIONAL MISCONDUCT

1) In general terms **unethical or unprofessional behaviour** is behaviour that falls short of the ethical or professional standards, guides or codes of conduct, accepted by a particular profession. Unethical or unprofessional behaviour is essentially a departure from the standard of behaviour expected as the normal among members of the profession.

2) For a veterinary surgeon, unethical or unprofessional behaviour might mean a failure to follow the guidance or advice within the *RCVS Guide to Professional Conduct*.

3) Such a failure will not amount to **serious professional misconduct**, unless it is serious enough to question whether the veterinary surgeon should remain registered with the RCVS i.e. question whether he or she is fit to practise or work as a veterinary surgeon. Examples of serious professional misconduct are false certification, dishonesty and fraud.

4) Disciplinary action by an employer might be a parallel: a failure to follow a staff manual, guidance or rules will not result in an employee losing his or her job, unless the failure is serious enough to question whether the employee is fit to do the job. This is sometimes known as 'gross misconduct'. Examples of 'gross misconduct' are corrupting the database or stealing from the employer.

5) Serious professional misconduct may include the treatment of an animal if that **treatment was seriously deficient** - inadequate such that the veterinary surgeon is unfit to practise. Examples are a veterinary surgeon's reckless care of an animal or a veterinary surgeon's repeated errors. Serious professional misconduct does not include straightforward clinical mistakes, but if a veterinary surgeon misleads a client about what happened this could amount to serious professional misconduct. An example of this is an Inquiry on 10 March 2004, details of which are available on written request from the Professional Conduct Department.

6) The test for seriously deficient work is a higher than the test for negligence. In addition, the test for seriously deficient work relates primarily to the work carried out, not the outcome. For negligence, the outcome – the loss or damage – is of primary importance.

7) Serious professional misconduct **may overlap with negligence**, where, for example, the negligence is sufficiently gross. Lord Denning famously said that negligence 'may amount to misconduct, but only if it is inexcusable and is such as to be regarded as deplorable by his fellows in the profession'.

8) Disciplinary Inquiries from the previous three years may be viewed on RCVSonline and examples of recent Inquiries involving the treatment of animals include: (1) an Inquiry on 4 September and 10 November 2006, and (2) an Inquiry on 2 October 2006.

MARCH 2007