

CONSULTATION ON A DRAFT HEALTH PROTOCOL AND RELATED CHANGES TO THE GUIDE TO PROFESSIONAL CONDUCT

BACKGROUND

The Royal College of Veterinary Surgeons (RCVS) has a duty to act in the public interest in its role as regulator of veterinary surgeons in the United Kingdom. The RCVS recognises that it will sometimes be in the public interest to deal with veterinary surgeons when health-related concerns affect their ability to practise safely without referring a case to the Disciplinary Committee (DC).

The RCVS Preliminary Investigation Committee (PIC) and Advisory Committee (AC) have been cooperating to formalise the approach that will be taken to allow the veterinary profession and RCVS to work together to protect the public interest by dealing appropriately with health-related cases. This would bring the RCVS procedures into line with other professional regulators. This protocol would provide that veterinary surgeons whose cases are not referred to the DC can be invited to give undertakings which may, for example, limit the extent to which they may practise. Cases may also be monitored by the RCVS through workplace and medical supervisors.

The PIC and AC have now produced the attached draft Health Protocol which is intended to form an annex to the *Guide to Professional Conduct*. There will also be underpinning changes made to both the *Guide to Professional Conduct* and the *Guide to Professional Conduct for Veterinary Nurses* by addition of the following passages taken from the draft Health Protocol:

RCVS Health Protocol

The RCVS Health Protocol aims to protect animals and the interests of the public by helping veterinary surgeons whose fitness to practise may be impaired because of adverse health.

The RCVS Health Protocol is an annex to the Guide. Underpinning the protocol are the following provisions of the Guide:

- (i) The RCVS can take action where a veterinary surgeon's adverse health is directly relevant to a criminal conviction, for example, an alcohol-related offence, or where adverse health is directly relevant to a veterinary surgeon's conduct.*
- (ii) A veterinary surgeon's conduct could amount to serious professional misconduct in the following health-related circumstances:*
 - a) refusal or failure by the veterinary surgeon to take or demonstrate reasonable steps to address adverse physical or mental health that could impair fitness to practise;*

- b) *refusal or failure by the veterinary surgeon to take or demonstrate reasonable steps to address adverse physical or mental health where there is harm, or a risk of harm, to animal health or welfare, public health or the public interest as a result;*
 - c) *refusal or failure by the veterinary surgeon to comply with reasonable requests by the RCVS, for example, to undergo a medical examination, provide medical reports or give undertakings;*
 - d) *breach of an undertaking given by the veterinary surgeon.*
- (iii) *Anyone coming into contact with veterinary surgeons, including other veterinary surgeons, veterinary nurses, members of practice staff, clients and healthcare professionals, for example, medical practitioners, who have concerns about a veterinary surgeon's health are encouraged to report those concerns to the RCVS as soon as is reasonably practicable.*
- (iv) *In addition, veterinary surgeons and veterinary nurses who are concerned about the health of a veterinary surgeon must also take steps to ensure that animals are not put at risk and that the interests of the public, including those of their colleague, are protected. This may mean that a colleague must be reported to the RCVS.*
- (v) *The full Health Protocol is attached as an annex to the Guide.*

A separate but similar protocol will be drafted for veterinary nurses after the disciplinary mechanism for veterinary nurses comes into effect.

Comments are sought from the public and the profession on the proposed Health Protocol, the approach it sets out and the proposed additions to the Guide. Responses to the consultation received in time will be considered by the AC at its meeting on 28 September 2010 and a summary of all responses received by the end of the consultation will be considered by both the PIC and AC. Any issues arising will then be considered by Council at the meeting on 4 November 2010.

Comments should be sent by email by Friday 8 October 2010 to Simon Wiklund, Advisory Manager, at the RCVS Professional Conduct Department – s.wiklund@rcvs.org.uk

AUGUST 2010

ROYAL COLLEGE OF VETERINARY SURGEONS

HEALTH PROTOCOL

DEALING WITH VETERINARY SURGEONS WHOSE FITNESS TO PRACTISE MAY BE IMPAIRED BECAUSE OF ADVERSE HEALTH

The Royal College of Veterinary Surgeons (RCVS) health protocol aims to protect animals and the interests of the public by helping veterinary surgeons whose fitness to practise may be impaired because of adverse health.

Why does the RCVS need a health protocol?

1. The RCVS is the regulator of veterinary surgeons in the United Kingdom and has a duty to act in the public interest. This includes protecting members of the public, maintaining public confidence in the profession, promoting animal welfare and declaring and upholding proper standards of conduct and behaviour amongst veterinary surgeons. The RCVS duty to protect the public interest also includes recognition of a veterinary surgeon's own interests.
2. The RCVS recognises that sometimes it will be in the public interest to deal with veterinary surgeons suffering from adverse health without referring a case to the Disciplinary Committee (DC) for a formal hearing. Generally it is more appropriate to take a medical approach in cases involving medical problems.
3. In line with the procedures of other professional regulators, the RCVS health protocol is designed to allow the veterinary profession and RCVS to work together to protect the public interest by dealing appropriately with health-related cases. This protocol provides that veterinary surgeons whose cases are not referred to the DC can be invited to give undertakings which may, for example, limit the extent to which they may practise. Cases may also be monitored by the RCVS through workplace and medical supervisors.

When can the RCVS take action in relation to a veterinary surgeon's health?

4. The Veterinary Surgeons Act 1966 (the Act) gives the RCVS powers regarding veterinary surgeons who are registered with the RCVS. Under the Act, the RCVS can only take action regarding a veterinary surgeon in the following circumstances:
 - a) where a veterinary surgeon receives a criminal conviction which could impair fitness to practise; and
 - b) where a veterinary surgeon's conduct could amount to serious professional misconduct.
5. Therefore the RCVS can take action where a veterinary surgeon's adverse health is directly relevant to a criminal conviction, for example, an alcohol-related offence, or where adverse health is directly relevant to a veterinary surgeon's conduct. The RCVS might take action where a veterinary surgeon is suffering from any health condition which compromises perception, cognition or insight in a manner which could impair fitness to practise. Often such adverse effects are the result of health conditions involving substance addiction.
6. When considering whether a veterinary surgeon's fitness to practise could be impaired because of adverse health, the following factors may be taken into account:
 - a) the veterinary surgeon's current physical or mental condition;
 - b) any continuing or episodic condition suffered by the veterinary surgeon;
 - c) any condition suffered by the veterinary surgeon which, although currently in remission, is capable of recurring.
7. A veterinary surgeon's conduct could amount to serious professional misconduct in the following health-related circumstances:
 - a) refusal or failure by the veterinary surgeon to take or demonstrate reasonable steps to address adverse physical or mental health that could impair fitness to practise;
 - b) refusal or failure by the veterinary surgeon to take or demonstrate reasonable steps to address adverse physical or mental health where there is harm, or a risk

of a harm, to animal health or welfare, public health or the public interest as a result;

- c) refusal or failure by the veterinary surgeon to comply with reasonable requests by the RCVS, for example, to undergo a medical examination, provide medical reports or give undertakings;
- d) breach of an undertaking given by the veterinary surgeon.

When should concerns about a veterinary surgeon's health be reported to the RCVS?

- 8. Anyone coming into contact with veterinary surgeons, including other veterinary surgeons, veterinary nurses, members of practice staff, clients, and healthcare professionals, for example, medical practitioners, who have concerns about a veterinary surgeon's health are encouraged to report those concerns to the RCVS as soon as is reasonably practicable.
- 9. In addition, veterinary surgeons and veterinary nurses who are concerned about the health of a veterinary surgeon must also take steps to ensure that animals are not put at risk and that the interests of the public, including those of their colleague, are protected. This may mean that a colleague must be reported to the RCVS.
- 10. The RCVS has a duty to act in the public interest and will investigate sympathetically and sensitively any health-related concerns brought to its attention.

How does the RCVS deal with concerns about a veterinary surgeon's health?

- 11. Health concerns may be brought to the attention of the RCVS or be relevant to a complaint or a conviction case. All investigations follow a similar procedure and timeline as complaint cases not involving adverse health.
- 12. The RCVS Preliminary Investigation Committee (PIC) has the duty of conducting a preliminary investigation under section 15 of the Act. The PIC decides (i) whether there is a realistic prospect of a finding of conduct amounting to serious professional misconduct or conviction which impairs fitness to practise; and, if so, (ii) whether it is in the public interest to refer the case to the DC for a full hearing. When undertaking both elements of this

assessment, the PIC may take into account the health of the veterinary surgeon if relevant. PIC meetings are held in private.

- 13.** If the case is sufficiently serious, referral to the DC will be necessary in the public interest, despite any issues surrounding the veterinary surgeon's health.
- 14.** However, once the PIC has investigated a case, it may decide in light of all relevant circumstances, including the veterinary surgeon's health, that it is in the public interest not to refer the case to the DC, at least at that time. The PIC may then:
 - a)** hold the case open for a specified period of time; or,
 - b)** adjourn consideration of the case for a specified period of time.
- 15.** Where the PIC has decided to hold a case open or adjourn consideration for a period of time, it may also take reasonable steps in the circumstances to protect the public interest, for example, it may:
 - a)** invite the veterinary surgeon to undergo medical examinations, assessments, or tests at his/her expense;
 - b)** invite the veterinary surgeon to agree to be visited and interviewed by representatives of the RCVS, for example, a Senior Case Manager and/or a veterinary investigator;
 - c)** invite the veterinary surgeon to provide medical reports to the PIC at his/her expense;
 - d)** invite the veterinary surgeon to embark on a course of treatment recommended by a medical practitioner at his/her expense; and
 - e)** invite the veterinary surgeon to give undertakings to the PIC.
- 16.** If the PIC decides to invite the veterinary surgeon to give undertakings, it must ensure that any such undertakings are proportionate, targeted, workable and measurable. The PIC may draw up and refer to a bank of undertakings document to be available to the public and regularly reviewed. The types of undertakings are not limited to those set out in the bank of undertakings but may include, for example:

- a) undergoing treatment from the veterinary surgeon's medical practitioner at his/her expense;
- b) supervision from a medical supervisor appointed by the RCVS. The medical supervisor will not be the veterinary surgeon's own treating medical practitioner;
- c) supervision from a workplace supervisor appointed by the RCVS, who may be a suitable colleague in the same practice;
- d) specific undertakings to address concerns identified by the RCVS or the medical supervisor, for example, relating to the veterinary surgeon's practice or the specific facts of the case;
- e) undertakings allowing the sharing of information between relevant persons, for example the veterinary surgeon's medical practitioner, employer, medical supervisor, workplace supervisor and the RCVS; and,
- f) submitting to blood, urine or other medical tests.

17. An undertaking is a formal promise given in writing and signed by the veterinary surgeon.

A veterinary surgeon giving undertakings will be notified that breach of an undertaking could result in referral of the breach to the DC and that the original case considered by the PIC may also be referred to the DC.

18. Undertakings are not made public by the PIC, unless there is an overriding public interest in disclosure. Similarly, once undertakings have been given by a veterinary surgeon, managing compliance with those undertakings takes place in private, unless there are overriding public interest reasons for disclosure.

19. When monitoring a held-open or adjourned case, the RCVS adopts a pro-active approach to ensure compliance with undertakings. This involves regular liaison between the RCVS, usually a Senior Case Manager, and any relevant individuals, such as a medical supervisor and workplace supervisor. The PIC may also direct, where appropriate, that any reports, test results or similar documents should be submitted and considered by a case examiner, case manager, the Chairman of PIC or at a full meeting of the PIC.

20. The PIC may invite a medical supervisor, workplace supervisor or other relevant individual to attend a PIC meeting and report in relation to the veterinary surgeon. The veterinary surgeon will be informed when any person has been asked to attend a PIC meeting and be

invited to comment on the attendance by that individual. A written note of the individual's report to the PIC will be made available to the veterinary surgeon after the PIC meeting.

21. A held-open or adjourned case may be further held open or adjourned by the PIC for as long as it is considered to be necessary in the public interest. Monitoring will be carried out until such time as the PIC considers that the case may be closed or that it should be referred to the DC.

What happens if a veterinary surgeon does not co-operate with the PIC when it investigates a health case or where undertakings are breached or where further matters arise?

22. A failure to cooperate with the PIC or a breach of undertakings could each amount to serious professional misconduct. The PIC may refer such cases to the DC on their own, with or without the original case that was considered by the PIC.
23. If additional matters, for example, concerns resulting from information provided in compliance with undertakings, or further conviction or conduct complaint cases come to the attention of the PIC during the course of its management of a held-open or adjourned case, the PIC may decide to refer all or any cases to the DC, following any additional investigation that is considered necessary

What if the public interest requires a veterinary surgeon's name to be removed from the register?

24. The PIC may always refer cases involving health-related concerns to the DC if it considers it to be appropriate and just, having regard to its duties under the Act.

Last revised: 05 August 2010