

Legal Advice

Legal advice was obtained from Fenella Morris QC – which she summarised on 30 March 2022 as follows:

1. I have been asked to advise on the interpretation of sub-paragraph 4(1) of Schedule 3 of the Veterinary Medicines Regulations 2013. The paragraph provides as follows:

A veterinary surgeon who prescribes a veterinary medicinal product classified as POM-V must first carry out a clinical assessment of the animal, and the animal must be under that veterinary surgeon's care.

2. Having considered the language of the provision and of the surrounding legislation, and the purpose of the legislation, it is my view that the words “*clinical assessment*” should be interpreted so as to include both in-person and remote clinical assessment.
3. The question of what “*clinical assessment*” must be carried out before the prescription of a POM-V depends upon the circumstances of the case i.e. it is the clinical assessment which is necessary for a veterinary surgeon to be satisfied that the prescription he makes is appropriate. This will be a matter of clinical judgment in each case. Some cases will require an in-person physical examination by the veterinary surgeon of the animal for the necessary clinical assessment to have been carried out, but not all.
4. Furthermore, it is my view that the words “*under that veterinary surgeon's care*” do not change the interpretation of the words “*clinical assessment*”. An animal may be under a veterinary surgeon's care within the meaning of the Regulations in circumstances that include both in-person and remote care. The question of whether the veterinary surgeon's contact with the animal is sufficient to render it under his care within the meaning of the Regulations will depend upon the circumstances of each case. Answering the question will involve consideration of whether the veterinary surgeon is taking professional responsibility for the animal to which he is prescribing the POM-V in relation to its prescription.