

# ROYAL COLLEGE OF VETERINARY SURGEONS

## RCVS COUNCIL 2005

### THE LAY OBSERVERS' REPORT TO COUNCIL AND THE PRELIMINARY INVESTIGATION COMMITTEE'S RESPONSE

[The text of the Lay Observers' report is set out below in bold, followed by the PIC response to each paragraph.]

- 1) This is the sixth annual report of the Lay Observers.**
- 2) Since last year's report, the Lay Observers have continued to be concerned by the continuing number of complaints which allege potential negligence by a veterinary surgeon because of the potential loss of public confidence in the profession if genuine grievances are not seen to be addressed by the RCVS. As such complaints, unless they are of a serial nature, currently fall outside the remit of the Preliminary Investigation Committee, we were pleased to have had the opportunity this year to meet with representatives of the Veterinary Defence Society (VDS), by whom such complaints are considered. We were heartened to receive assurances from the VDS that all reasonable claims were dealt with sympathetically and with compassion, without the need for a complainant to pursue court action. We hope that there will be greater public awareness of this approach and would encourage the VDS to provide statistical information on the numbers of claims made and out of court and court compensation payments, to the benefit of both the public and the profession.**

The Committee has sympathy with the Lay Observers' concerns, but notes the number of category "J" complaints; those which include allegations of negligence, has fallen this year: The 2004 Annual Report indicates that of 696 complaints, 403 related to alleged inadequate care. The draft 2005 Annual Report indicates that of 604 complaints, 298 related to alleged inadequate care. This fall may be as a result of previous efforts to provide clearer information to potential complainants explaining the College cannot adjudicate on allegations of negligence, or award compensation.

In addition, in January 2005, members of the Committee, with the Lay Observers, met with claims consultants from the VDS and discussed these issues. VDS indicated it meets any reasonable claim for compensation and it is proposed that this indication is included in the 2005 Annual Report. Furthermore, complainants who allege a veterinary surgeon has been negligent, and where that allegation does not question the veterinary surgeon's fitness to practise, may be referred to the practice to discuss the claim and informed the practice's professional indemnity insurer, for example VDS, may become involved.

- 3) A large number of complaints considered by the Committee appear to have arisen as a result of apparently poor communication by the veterinary surgeon. On many occasions, we have felt that a timely, sensitive response to a complainant by a veterinary surgeon would have defused a situation and stopped matters escalating to the point where a complaint is made to the RCVS. On occasions, we feel that personal meetings between the parties on neutral territory could produce beneficial results to all involved. We hope that practices will take time to consider the critical importance of good communication with clients and how best to ensure that high standards are maintained.**

The RCVS Guide to Professional Conduct at Part 1H," Your responsibilities when things go wrong", paragraphs 1 and 2 state:

*"1a) All clients should be actively encouraged in the first instance to discuss any problems which they may have with the veterinary surgeon treating their animal, or to ask for an appointment to talk to the practice principal*

*b) A sympathetic approach should be used in response to a complaint rather than immediate denial and defensiveness. An expression of sorrow that an animal has died or that someone is distressed by what has happened is appropriate and does not in itself amount to an admission of liability*

2. *Veterinary surgeons must:*

*a) respond promptly and constructively to any request from the RCVS for comments in relation to any allegation or complaint made against them. Failure to do so may in itself be held to amount to professional misconduct*

*b) be prepared to explain and justify to clients or colleagues any action or decision taken in the course of their professional activities. "*

The RCVS Guide to Professional Conduct at Part 2A, "Disclosure of information: Case records", paragraph 3, states:

*"It should also be recognised that clients who now have access to their own medical records are likely to seek similar access to their pets' records. In such cases it may be helpful for a client to be offered sight of the records at the surgery by appointment at a mutually convenient time"*

The Committee has agreed that these provisions of the Guide should be highlighted to the profession, for example, by inclusion in RCVS News. In addition, the Committee asks the Advisory Committee to review this part of the Guide and consider, for example, whether every practice should have a written complaints handling policy. Alternatively, this might be progressed through the RCVS Practice Standards Scheme. Tier 2 and 3 practices are required by standard 2.4 to have a written complaints policy and keep a record of complaints received and responses made. The Committee is of the view that this might also be appropriate for Tier 1 practices.

**4) Misunderstandings and distress often seem to have occurred as a result of poorly worded or inadequately completed consent forms, resulting in the fact that informed consent for procedures undertaken may not strictly have been obtained. This has often led to complaints to the Committee about excessive fees, unauthorised treatment, over treatment and unnecessary investigations. If more attention were paid to the consent process, we believe that many of these disputes would not arise.**

In the Committee's view, the two issues most likely to be raised in this situation are (1) whether there was consent for the elective procedure and (2) whether the client was given a realistic estimate of the cost of the procedure.

On the first issue, consent forms are sometimes too general. A general statement to cover emergency or unexpected procedures that might be necessary is appropriate, but should not replace the veterinary surgeon's discussion with a client, explanation of what is proposed, the risks involved and the giving of informed consent from the client. The client signing the consent form then confirms that informed consent has been given.

On the second issue, it may be argued that it is for a client to raise the issue of fees. This is not the College view, which is set out in the RCVS Guide to Professional Conduct at Part 1D, "Your Responsibilities to your clients," paragraph 1G and H, which states, "*veterinary surgeons should give realistic fee estimates based on treatment options*" and "*keep the client informed of progress, and any escalation in costs once treatment has started*". Furthermore Part 2B, "Fees and related matters: Discussion of fees", paragraph 1 includes the statement, "*discussion should take place with the client,*

*covering a range of reasonable treatment options and prognoses, and the likely costs in each case so as to ensure that the client is in a position to give informed consent."*

Specimen consent forms are provided within an annex to the RCVS Guide to Professional Conduct, but it is understood that some specimen consent forms do not include a space to write in a fee estimate. The Committee undertakes to discuss the issues with professional indemnity insurers to encourage the use of consent forms that address both the above issues.

- 5) As in previous years, there have continued to be a steady flow of complaints about the deficiencies or absence of Out Of Hours cover. We are pleased that the RCVS has recently confirmed the requirement for veterinary surgeons to provide 24-hour cover and we hope this clarity will reduce the seeming uncertainty previously surrounding this issue within the profession and result in a better and clearer service to clients and their animals.**

The Committee also welcomes the revised guidance and has agreed to highlight to the profession the revised Part 1, D Your Responsibilities to your clients, paragraph 1a, which states

*"veterinary surgeons should ensure that clear written information is provided about practice arrangements, including the provision, initial cost and location of the out-of-hours emergency service, and information on the care of in-patients"*

The Committee is keen that practices inform clients of the out-of-hours arrangements in advance of an emergency situation.

The Committee is also keen that practices recognise the convenience or otherwise of their out of-hours arrangements may be a factor in a client's choice of practice.

- 6) In this regard, we have observed a number of complaints concerning an inappropriate level of care provided to animals undergoing treatment when the responsibility for the animal's medical attention is transferred between the principal practitioner and an out of hours provider. We hope that protocols in these cases are considered to ensure that a change in service provider does not negatively impact on the ongoing health and interests of the animal.**

The Committee understands that the College's Advisory Committee has considered these issues at its meeting on 13 May 2005 and has recommended relevant advice, for approval by Council on 2 June 2005. This follows this Committee's own request for these issues to be addressed, which was set out in the Chairman of the Committee's report to Council in March 2005.

- 7) During the year we have been concerned at the number of complaints where doubt has been expressed about the accuracy of vaccination certificates. This has particularly arisen when pedigree animals have been purchased from breeders with a certificate completed by the breeder's veterinarian. Without the benefit of microchipping, which does not yet appear to be widely employed, we are unclear how the certainty of identity can ever be proved, particularly with those breeds which do not have uniquely distinguishable features.**

The Committee recognises the difficulties of identifying animals for certification purposes and revised advice on certification was included in the 2005 update to the RCVS Guide to Professional Conduct. The 12 Principles of Certification, which are set out in an annex to the Guide, remain unchanged. Ultimately, it is a matter for animal owners whether their animal is identified by means of a microchip, and this method of identification is required for more formal schemes such as the Pet Passport Scheme.

- 8) It has appeared to us over the past year that a larger number of complaints come to the committee, involving veterinary surgeons who have obtained their veterinary qualification overseas, than would be expected when considering the proportion of members trained overseas on the active register. We would like the RCVS to keep a future record of this, in case any**

**training issues need to be addressed when an overseas trained vet applies to be recognised as a MRCVS.**

Of the 604 complaints registered during the last annual report year, 381 have a specified veterinary surgeon recorded as the respondent (the person complained about). Of those 381 complaints 20.2% were logged against non-UK qualified veterinary surgeons. On the register as a whole, 24.4% of home practising veterinary surgeons were non-UK qualified. Often complaints are initially registered against a practice and therefore, complaints closed by the Committee have been considered. Of the 604 complaints 103 were logged as closed by PI Committee. Of these 90 complaints had one respondent veterinary surgeon identified and there were a total of 95 respondent veterinary surgeons identified. Of the 95, 15.8% were non-UK qualified veterinary surgeons.

The statistics, particularly those for complaints closed by the Committee, do not suggest that there are more complaints against non-UK qualified veterinary surgeons. The Committee has asked the department to ensure that so far as possible complaints are logged against a specified veterinary surgeon, rather than the veterinary practice.

**9) We have been encouraged by the adoption of the Practice Standards Scheme in the past year and hope that this will help clarify to both veterinarians and the public the standard of facilities and service they can expect to receive at particular practices.**

The Committee is similarly encouraged by the start of the Practice Standards Scheme on 1 January 2005, and hopes it will assist the profession and the public.

**10) The past year has shown an increase in the number of cases coming before the Preliminary Investigations Committee, which has resulted in an increase in the number of times the committee has met. We have welcomed the increased number of visits to veterinary practices, which check the quality, appropriateness, health and safety of the service provided as well as give advice on a wide variety of issues and concerns. This has all resulted in greater demands being placed on the Professional Conduct Department because of this increased workload. Moreover, in response to our observations in prior years, the Professional Conduct Department has provided fuller explanations to all parties as complaints progress or are closed. This improvement in the quality of service provided to all parties of necessity involves a greater time commitment on each case. We are grateful for the strong commitment and high standards shown by the Department to this improvement in service, which appears to have been achieved without a corresponding increase in resources.**

The Committee is aware the Professional Conduct Department has a high workload, and there has been an increase in Professional Conduct Department staff in recent years in recognition; and is aware of the satisfactory, internal, financial review of the department. The Committee also recognises the significant amount of work involved for members of the Committee and the Lay Observers as the procedures seek to include veterinary, lay and legal opinion, to ensure the complaints and disciplinary process is fair for both members of the profession and complainants.

**11) Finally we would like to thank all members of the Committee and the Professional Conduct Department for giving full weight to the lay concerns which we have expressed. We believe that our 'lay' opinions given on all cases which have come to the Committee have been appropriately considered.**

The Committee thanks the Lay Observers for their comments and confirms their input is significant, influential and appreciated.