ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS COUNCIL 2006.

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 seventh annual report of the Lay Observers.

Following the Lay Observers sixth report to Council (in 2005), the Preliminary Investigation Committee undertook:

a) To advise complainants to discuss allegations of negligence with the practice and its professional indemnity insurer (e.g. the Veterinary Defence Society), once it has been established that those allegations could not indicate serious professional misconduct;

In appropriate cases complainants have been thus advised; this may be advised at the assessment, screening or the Preliminary Investigation Committee stages.

b) To highlight veterinary surgeons' responsibilities when things go wrong (Part 1,H of the Guide);

An article appeared in the November 2005 edition of RCVS News.

c) To consider whether practices should have a written complaints handling policy;

This was considered by Advisory in January 2005 and Council in March 2006, resulting in strengthened advice that veterinary practices <u>should</u> provide clients with written information on the practice's complaints handling policy.

d) To review specimen consent forms with professional indemnity insurers to seek to ensure such consent forms include provision for (i) a description of the procedures to be undertaken (as well as a general provision for emergency or unexpected procedures) and (ii) a realistic fee estimate to be given; and,

The profession's main indemnity insurer, the Veterinary Defence Society, has withdrawn its own specimen consent form and is now directing its members to the RCVS specimen consent form, which includes both items (d) (i) and (ii).

e) To emphasise that practices should provide clear written information to clients on the OOH emergency cover, including the initial cost and location of the service, and the care of inpatients.

An article appeared in the November 2005 edition of RCVS News.

The Committee also confirmed the RCVS is giving advice on the transfer of patients between practices and OOH emergency cover provider **(and a reminder of the advice was given in the Preliminary Investigation Committee Chairman's report to RCVS Council in March 2006);** that the guidance on certification had been reviewed; and, the statistics available for that year did not suggest there were more complaints about those initially qualified overseas. **The statistics for the annual report year 2005-6 are attached as annex A.**

2) As in previous years, we are disappointed by the large number of complaints, which we have viewed at PIC, where poor communication has aggravated matters. Often, letters to veterinary surgeons from complainants have either been ignored or not replied to in a timely or courteous

manner. On other occasions, concerns genuinely expressed have not been responded to in a sensitive way. We are firmly of the belief that, in many cases, a timely, thoughtful and comprehensive response would have resolved matters at the outset.

The Preliminary Investigation Committee is disappointed when a veterinary surgeon's initial response to a client complaint has aggravated matters, and a timely, thoughtful and conciliatory response may avoid a less serious complaint to the RCVS. Any reductions in fees or expressions of sorrow by a veterinary surgeon are not in themselves considered to be admissions of wrongdoing or guilt; for example, I am sorry your animal died.

Following the Lay Observers' last report, the RCVS considered the relevant advice to veterinary practices in the RCVS Guide to Professional Conduct (at Part 2, C, Promoting the practice) and decided that existing advice should be strengthened and veterinary practices 'should' provide clients with written information on the practice's complaints handling policy. Veterinary practices within the RCVS Practice Standards Scheme at Tier 2 and 3 must have a complaints procedure.

The RCVS Guide to Professional Conduct provides clear guidance on the importance of complaints procedures and how veterinary surgeons should respond when things go wrong (Part 1, H of the Guide). The RCVS Guide to Professional Conduct also states that 'Veterinary surgeons should be prepared to discuss their client's concerns directly with them, involving the practice principal if appropriate. If at this stage the difficulty cannot be resolved the aggrieved client may then be referred to the RCVS.' (Part 2, D, Maintaining Practice Standards)

The number of complaints to the RCVS has been falling in recent years, and during the coming year the Committee proposes to highlight this guidance to the profession.

3) **Since our last report, we have been concerned about continuing difficulties with out of hours cover. Whilst appreciating the potential benefits to individual practices and clients of having a dedicated out of hours provider for an area, there have been concerns about the distance some animal owners have been required to travel in an emergency. On occasions this has resulted in assistance being sought from a local veterinary surgeon, who is not the owner's usual practitioner, simply because the location is more convenient to the owner than that of the out of hours provider. We hope that full consideration is given to this possibility by practices when making out of hours arrangements, so that other veterinary surgeons in close proximity are not unreasonably inconvenienced.**

Points 3 and 4 are answered together.

4) **Throughout the year, there have been a number of cases where seriously ill animals have been transferred between an out of hours provider and the primary veterinary surgeon at a time which might compromise the animal's well-being. It is to be hoped that the College's clarification of the responsibility of a veterinary surgeon for continuity of care, in the animal's best interest, will mean that this problem diminishes.**

The statistics prepared for the Annual Report 2006 indicate there has been approximately double the usual number of complaints relating to the provision of 24-hour emergency cover.

A number of complaints were about 'continuity of care' and there was a reminder of the RCVS advice on this topic in the March 2006 Chairman's report to RCVS Council; this advice was first issued in the summer of 2005. The Preliminary Investigation Committee hopes this clarification will mean that problems cease. The advice is in the RCVS Guide to Professional Conduct (Part 2, D Maintaining practice standards) and states:

> 'Continuity of care in veterinary practice
>
> Once an animal has been accepted as an in-patient for treatment by a veterinary surgeon or practice, responsibility for the animal remains with that veterinary surgeon or practice until another veterinary surgeon or practice accepts the responsibility.

Primary practices and out-of- hours emergency service providers must provide uninterrupted treatment of an in-patient, if it is considered that the animal is not fit to be moved.

Where an animal needs continuous in-patient care, a veterinary surgeon should not leave the animal until appropriate care is provided by a suitably qualified (eg MRCVS or Listed VN) colleague.

It is recognised that critically ill animals will sometimes need to be moved in order to receive appropriate treatment and primary practices should have appropriate transport and transfer arrangements in place. This may necessitate trained staff travelling with the animal.

When considering the transfer of critically ill animals, veterinary surgeons should consider the long term care that may be required and avoid, so far as possible, the need for such animals to travel more than necessary.

Where it is necessary and appropriate to transfer an animal between the primary practice and an out-of-hours emergency service provider or vice versa, the responsibility is that of the veterinary practices involved, not the client. Normally, the practice from which the animal is transferred is responsible for the transfer or arranging the transfer.

The transfer of a critically ill animal between practices should be in the animal's best interests, not for the convenience of the practices involved.'

With regard to concerns that clients may have to travel further to obtain out-of-hours emergency care, the Preliminary Investigation Committee recognises that this may result in local issues or disputes; with regard to this the Committee considers that: first, practices should inform clients of the out-of-hours emergency cover arrangements as a matter of course, and certainly before any emergency arises (see the RCVS Guide to Professional Conduct, Part 1, D, Your responsibilities to clients); second, animal owners should be encouraged to take into account such arrangements when choosing a veterinary practice and practice information and advertising may need to highlight this issue; third, practices are encouraged to cooperate with each other, as appropriate, for the benefit of the local animal owning population (RCVS Guide to Professional Conduct, Part 1, E Your responsibilities to the general public), and fourth, 'clients of another practice may be directed to their own practice, at least in the first instance' (RCVS Guide to Professional Conduct, Part 1, C, Your responsibilities to patients).

The annex of the Guide to Professional Conduct on 24-hour emergency cover includes the following:

'5. Veterinary surgeons are encouraged to cooperate with each other in the provision of 24-hour emergency cover. Such co-operation may be between groups of local practices. Alternatively, 24-hour emergency cover may be provided for a veterinary surgeon or practice by a dedicated 24-hour emergency service clinic. Arrangements must be made before an emergency arises, and normally confirmed in writing.

6. Clients should be provided with written information on the nature of the 24-hour emergency cover provided, including all relevant telephone numbers, location details and likely initial costs for an out-of-hours emergency consultation.

7. If an owner of an animal, who is not a client of the practice, requests an emergency out-of-hours consultation, the veterinary surgeon may reasonably direct the owner to his or her usual veterinary surgeon and decline to carry out the consultation. However, immediate first aid and pain relief must be provided to the animal if, for whatever reason, the owner cannot contact his or her usual veterinary surgeon. The veterinary surgeon should be aware that holiday-makers, new owners and other categories of animal owner may not have a 'usual veterinary surgeon' in the locality.'

5) There continues to be a number of veterinary surgeons that are failing to provide copies of clinical records or x-rays, when requested by the owner, even though there is a clear requirement in the Guide to Professional Conduct for them to do so. This can result in a time-consuming intervention by the College to reinforce the requirement to provide such records.

The Preliminary Investigation Committee agrees such occurrences are unfortunate, but the guidance was relatively new, and was ambiguous in one respect, which required clarification. The revised guidance, which will be included in the RCVS Guide to Professional Conduct (Part 2, A Disclosure of information), is that:

'At the request of a client, veterinary surgeons must provide copies of any relevant clinical records. This includes relevant records which have come from other practices, if they relate to the same animal and the same client. It does not include records which relate to the same animal but a different client. Where any significant expense is involved in providing such copies, as there might be, for example, with the provision of radiographs, a charge can be made. Expense should not be a reason for declining to provide copies.'

(The revision is subject to RCVS Council approval.)

During the coming year the Committee proposes to highlight this guidance to the profession.

6) **Following our comments in last year's report, we remain concerned by complaints coming to the committee, and requiring further investigation, which involve veterinary surgeons who have qualified overseas. We wonder whether there are extra training issues which need to be addressed for this and for other groups of veterinary surgeons and feel it would be beneficial to maintain detailed statistics on all complaints made to the College, which would include the main topics of the complaint, the location where the veterinarian qualified and the way that the complaint was finally closed by the Preliminary Investigations Committee.**

The Committee acknowledges the Lay Observers' interest in this issue and relevant data on complaints will continue to be kept, with a view to seeking statistical analysis of the data in the future.

7) **Complaints continue to be received about procedures which have been undertaken without the owner's consent or at a cost greatly in excess of the amount anticipated by the owner. In such cases, the form of consent that has been completed has tended to be deficient in many respects. It is to be hoped that when practices review their documentation, they consider using a form similar to that annexed to the Guide to Professional Conduct, so that not only are procedures fully identified but also a realistic estimate of the likely cost is given.**

The Preliminary Investigation Committee is likewise concerned by such allegations. There is clear advice in the RCVS Guide to Professional Conduct (Part 1, D, Your responsibilities to clients) that, 'veterinary surgeons should give realistic fee estimates based on treatment options [and] keep the client informed of … any escalation in costs once treatment has started.' The RCVS specimen consent form, an annex to the Guide, includes space for a specified fee estimate to be included on the consent form.

Veterinary surgeons are strongly encouraged to use consent forms that include a set space for a fee estimate, to give fee estimates to clients and include the fee estimate on the consent form used. The Committee will continue to find opportunities to remind the profession of this advice.

In addition, the Committee considers that self duplicating consent forms may be desirable, because they provide documentary evidence for both parties. This may be advantageous for veterinary surgeons and practices in securing payment for fees as the Guide advises (Part 2, B, Fees and Related Matters):

a. *Securing Payment for Veterinary Services*

b. *A client is the person who requests veterinary attention for an animal, for example when a veterinary surgeon is called to the scene of a road traffic accident by the police or by the RSPCA, the organisation in question will be liable to pay for any emergency treatment and for the call out even if the animal owner is subsequently identified (because the owner had no opportunity to consent to treatment). This*

applies equally to any member of the general public taking in a stray or injured animal whose owner is unknown.

c. *When dealing directly with the owner, or the owner's agent whose consent to treatment must be given, it is important to obtain that consent in writing on a properly drafted form which should include any estimated charge.*

d. See the RCVS Specimen Consent Forms, an annex to the RCVS Guide to Professional Conduct.

8) We are pleased that, in launching its Practice Standards Scheme, the RCVS has provided a mechanism whereby owners can be assured of the level of facilities which can be expected from an individual veterinary practice as well as giving a clear direction to the profession of the standards which need to be achieved and maintained.

There are now approximately half of UK veterinary practices within the ambit of the RCVS Practice Standards Scheme, which was launched to the public in March 2005. The voluntary Scheme provides for RCVS inspection and accreditation of veterinary practices. The Preliminary Investigation Committee is delighted with the progress of the Scheme and on occasions has accessed information about veterinary practices, in accordance with the rules of the Scheme, to assist its consideration of complaints.

9) On occasions members of the public have had cause to complain about facilities they have encountered at their local practice. Whilst the Preliminary Investigations Committee will often deem it desirable to visit such practices, it is regrettable that the College has no automatic right of access to business premises, so that the efforts to investigate a complaint in the manner deemed most appropriate by the committee can be thwarted.

The Preliminary Investigation Committee is in agreement with the Lay Observers and notes that such powers are granted to inspectors or appointed officers of the Royal Pharmaceutical Society of Great Britain, in respect of pharmacy premises. The Committee considers that some form of 'right of entry' to veterinary practices that are business premises may be necessary for an effective mandatory RCVS Practice Standards Scheme. The Veterinary Medicines Regulations 2005 provides 'Powers of entry' and 'Powers of the inspectors', with additional safeguards for entry to private dwellings; see Regulations 33 and 34. At the current time the Committee is of the view that the voluntary RCVS Practice Standards Scheme should cover all aspects of the Veterinary Medicines Regulations that any inspector appointed under the Regulations would want to inspect in a veterinary practice on a routine basis, to save additional, unnecessary inspections, in accordance with better regulation principles.

10) Whilst it has been a requirement under the Guide to Professional Conduct for many years for Veterinary Surgeons to have Professional Indemnity insurance, or its equivalent, it is disturbing that there remain a number of veterinary surgeons who appear not to have such cover in force. This affords protection to clients, in the event of a claim for negligence, and it is disturbing that certain practitioners leave themselves and their clients financially exposed by failing to obtain this professional cover.

The Preliminary Investigation Committee agrees with the Lay Observers' concerns. Such complaints raise an issue of professional conduct and may be referred to the RCVS Disciplinary Committee.

11) As in previous years, many complaints referred to the committee this year, if proven, would constitute negligence rather than Serious Professional Misconduct. We acknowledge the efforts of the Professional Conduct Department in seeking to explain the limit of the RCVS's remit in this regard, as a failure to pursue cases of potential negligence continues to be a source of frustration to many complainants. We are grateful to the staff of the department for the comprehensive and sensitive way in which it has responded to them, often in difficult circumstances.

The Preliminary Investigation Committee, on behalf of the staff of the Professional Conduct Department, is grateful to the Lay Observers for their comments.

12) Throughout the year, we have had full access to all case papers and believe that the views we have expressed at the Preliminary Investigation Committee have been fully considered by its members. We hope that, in the future, it will be possible to have more comprehensive lay involvement at the stage when complaints are initially screened, as this would reinforce the transparency of the complaints process.

The Preliminary Investigation Committee plans to review this aspect of the complaints procedure in the forthcoming year.

13) We should like to thank the staff in the Professional Conduct Department for the high level of service it has provided to us, to the committee and to the many complainants throughout the year. The workload appears to remain heavy and we are therefore pleased that the high standards of the department are not only being maintained but even improved in several areas.

The Preliminary Investigation Committee, on behalf of the staff of the Professional Conduct Department, is grateful to the Lay Observers for their comments.

Tony Butler
Diane Mark
Susan Pyper

25 May 2006

Annex A to the Preliminary Investigation Committee's response to the Lay Observers' report to RCVS Council 2006

(Complaints registered in 2006 against which an individual veterinary surgeons name is logged rather than only the name of the veterinary practice)

Register

UK Field	Age Field	Number	%
nonUK	20-24	74	1.26
nonUK	25-29	1310	22.39
nonUK	30-34	1311	22.41
nonUK	35-39	1121	19.16
nonUK	40-44	789	13.49
nonUK	45-49	444	7.59
nonUK	50-54	289	4.94
nonUK	55-59	223	3.81
nonUK	60-64	148	2.53
nonUK	65-69	68	1.16
nonUK	70+	73	1.25
		5850	
UK	20-24	336	2.12
UK	25-29	2178	13.74
UK	30-34	2024	12.77
UK	35-39	1601	10.1
UK	40-44	1699	10.72
UK	45-49	1800	11.36
UK	50-54	1401	8.84
UK	55-59	1270	8.01
UK	60-64	980	6.18
UK	65-69	777	4.9
UK	70+	1784	11.26
		15850	

Respondants

UK Field	Age Field	Number	%
nonUK	20-24	1	0.95
nonUK	25-29	20	19.05
nonUK	30-34	21	20
nonUK	35-39	19	18.1
nonUK	40-44	17	16.19
nonUK	45-49	9	8.57
nonUK	50-54	10	9.52
nonUK	55-59	5	4.76
nonUK	60-64	2	1.9
nonUK	65-69	0	0
nonUK	70+	1	0.95
		105	
UK	20-24	4	1.2
UK	25-29	30	9.01
UK	30-34	33	9.91
UK	35-39	41	12.31
UK	40-44	43	12.91
UK	45-49	59	17.72
UK	50-54	45	13.51
UK	55-59	40	12.01
UK	60-64	20	6.01
UK	65-69	9	2.7
UK	70+	9	2.7
		333	

PI Respondants

UK Field	Age Field	Number	%
nonUK	20-24	2	4.08
nonUK	25-29	11	22.45
nonUK	30-34	8	16.33
nonUK	35-39	11	22.45
nonUK	40-44	7	14.29
nonUK	45-49	5	10.2
nonUK	50-54	3	6.12
nonUK	55-59	2	4.08
nonUK	60-64	0	0
nonUK	65-69	0	0
nonUK	70+	0	0
		49	
UK	20-24	1	0.68
UK	25-29	13	8.84
UK	30-34	14	9.52
UK	35-39	16	10.88
UK	40-44	26	17.69
UK	45-49	19	12.93
UK	50-54	22	14.97
UK	55-59	22	14.97
UK	60-64	5	3.4
UK	65-69	6	4.08
UK	70+	3	2.04
		147	