

ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS COUNCIL 2008

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 ninth annual report of the Lay Observers.**
- 2. During the last year the rolling programme for the appointment of Lay Observers has continued. We welcome Jane Ramsey to the role, following the retirement of Tony Butler.**

The Committee wishes to express sincere thanks to Tony Butler who retired from the Committee last year and Diane Mark, who retires from the Committee this year, for their commitment to the Committee and the College, and their assistance with the development of the complaints procedures. The Committee welcomes the new Lay Observer, Jane Ramsey, who has also assisted with the development of the complaints procedures.

- 3. Much time has been spent during the year by the committee reviewing the complaints process and ways in which it can be improved. It was appreciated that when a complaint is made, it is an anxious time for both the complainant and the veterinarian against whom a complaint has been made. Careful thought has therefore been given to an effective method of accelerating the decision making process whilst still giving full consideration to the views of all the parties. A new procedure has just been introduced, with indicative timings for each stage. It is hoped that this procedural change will significantly improve satisfaction with the way complaints are processed.**

The Committee welcomes the new complaints procedures for the reasons set out by the Lay Observers. There has been increased use of computer systems within the Professional Conduct Department and members of the Committee and Lay Observers can now view complaints papers electronically and if necessary off-site. In addition, case examiners may give advice to the veterinary surgeon; previously only the Preliminary Investigation Committee gave such advice. These changes have speeded up the handling of complaints.

As stated in the RCVS document 'Processing Complaints – a guide to our complaints procedure for Preliminary Investigation Committee members, Lay Observers and RCVS staff', the complaints procedure was revised to ensure that:

- a) We are able to investigate complaints promptly; pursue those that are serious and close at the earliest opportunity those where the allegation against a veterinary surgeon is not serious enough to proceed to a hearing before the RCVS Disciplinary Committee; we have sought to achieve this by making the complaints procedure more flexible.
- b) Complaints handling and investigation is informed by veterinary, lay and legal input, as appropriate; we have sought to achieve this by involving those who are legally qualified and experienced in complaints handling, and who are informed by appropriate advice and direction from veterinary surgeons and Lay Observers (Lay Observers are not veterinary surgeons and are independent of the RCVS and the veterinary profession); and
- c) The decision-making process is transparent; we have sought to achieve this by the introduction of appropriate protocols at the key stages of the complaints procedures (Assessment, Case Examination and Preliminary Investigation Committee stages).

- 4. In our last report we expressed the hope that, in the absence of a new Veterinary Surgeons Act, the College would identify a way of incorporating a lay role at an earlier stage in the complaints process. We are pleased that as a result of the procedural review referred to above, a lay observer and a veterinary member of the committee both independently act as case examiners once a response to a complaint has been received from the veterinarian. As this new procedure has only just been introduced it would be premature to comment on its impact but it is hoped that more complaints will be considered, and in many cases closed, sooner than was possible under the previous protocol.**

The Committee welcomes the Lay Observers extended role and participation in complaints handling. Under the new procedures, the Lay Observers will act as case examiners, alongside veterinary surgeons, assessing whether there is any arguable complaint against a veterinary surgeon. If the Lay Observers need any clarification of veterinary matters, they may seek this from a veterinary surgeon involved with the Preliminary Investigation Committee.

The role of the Lay Observers is set out in the RCVS document 'The role of the Lay Observers, a supplementary guide for Lay Observers' and states:

The role of the Lay Observers has been developed to provide assistance and scrutiny that is both independent and lay, to the investigation and consideration of complaints about veterinary surgeons. Lay Observers have access to all information relating to complaints (similar to the Preliminary Investigation Committee) and are asked:

- a) To assist, as appropriate, with the assessment and investigation of complaints;
- b) To carry out case examination of complaints as case examiners;
- c) To observe and contribute to discussions of complaints by the Preliminary Investigation Committee;
- d) To attend visits and interviews of veterinary surgeons and complainants, as appropriate;
- e) To ensure the Preliminary Investigation Committee is impartial, fearless and unbiased in assessing each complaint;
- f) To advise the Preliminary Investigation Committee of any concerns with a complaint or the RCVS handling of a complaint;
- g) To review a complaint at the request of the Preliminary Investigation Committee;
- h) To assist with the development of the complaints procedures; and,
- i) To produce an independent annual report for presentation to RCVS Council at its June meeting; the Preliminary Investigation Committee responds to each report.

5. **Since our last report, in which we highlighted the importance of transparency in evaluating complaints, we are pleased that when visits are made to practices and complainants, these are now undertaken by veterinarians who are not members of the PIC. We feel that this development has been beneficial to all parties as well as being of assistance to the committee, by virtue of the independence of any assessment that is made.**

The Committee considers that this change to the complaints procedure has been beneficial. Generally, visits (and interviews at the time of visits) are undertaken by a suitably qualified or experienced veterinary surgeon, for example, a veterinary surgeon who is also an inspector with the RCVS Practice Standards Scheme, together with the senior case manager in the Professional Conduct Department. Evidence from both persons, from visits or interviews, may be given at the Disciplinary Committee. The previous practice had limitations, because it was inappropriate for Committee members to give evidence before the Disciplinary Committee.

The protocol for investigations, which is set out below, still provides for the involvement of members of the Committee, as considered appropriate, and states:

Investigations:

- a) Are managed by a case manager and informed by appropriate advice and direction from case examiners or the Chairman of the Preliminary Investigation Committee or the Head of Professional Conduct.
 - b) May be undertaken by a case manager or by another person on behalf of the case manager, for example, another member of the Professional Conduct Department, or a veterinary surgeon associated with or independent of the work of the RCVS (including on occasion a member of the Preliminary Investigation Committee), or a veterinary surgeon who has experience of specific aspects of veterinary practice or experience of assessing veterinary practice standards.
 - c) May include requests for information from the veterinary surgeon complained about, other veterinary colleagues, staff and the employer of his or her veterinary practice, other veterinary colleagues, staff and the employer of other relevant practices, the complainant and other witnesses or relevant persons and other relevant organisations or authorities.
 - d) May be carried out by telephone, e-mail, letter, visit or interview and may involve obtaining a statement from relevant witnesses and interviewing the veterinary surgeon complained about under caution or not.
 - e) May be carried out by external solicitors; generally such investigations will be approved by the Preliminary Investigation Committee and managed by a case manager who is a solicitor.
6. **Looking back over our reports from previous years it is disappointing that there are certain themes that continue to dominate the cases being considered by the committee. Poor communication continues to be a major area of concern as is informed consent for procedures undertaken as well as the failure to provide estimates before treatment begins and when costs escalate. It would be beneficial to all parties if more focus were given to these critical areas by practices, as it would significantly decrease the dissatisfaction being expressed by members of the public.**

Communication is a key issue and this year, in a special report – Don't become a complaints statistic, a special report from the Royal College of Veterinary Surgeons – RCVS President Bobby Moore stated:

'Many issues have poor communication at their heart – an area that can be acted upon. So don't bury your head in the sand, read on to find out how to avoid becoming another statistic on our complaints records.'

Following last year's report by the Lay Observers, the issue of communication and consent was considered by the RCVS Advisory Committee, and a working party has been formed to consider the issue in detail. The working party will include a Lay Observer as well as other representatives from the profession and the Committee looks forward to the outcome of the working party's deliberations.

- 7. As in previous years, we continue to receive complaints where, if proved, the allegation would amount to negligence, an area not capable of being dealt with by the committee under the terms of the Veterinary Surgeons Act. This continues to be a source of frustration for complainants but it is hoped that the new complaints procedure protocol will help in clarifying the reason for this as well as the standard that has to be reached to have the potential to amount to serious professional misconduct.**

The Committee has introduced protocols for the Assessment, Case Examination and Preliminary Investigation Committee consideration of complaints, which explain the decision making process for each stage. Veterinary surgeons involved with the Committee continue to provide the mainstay of the clinical and professional opinion on which complaints are considered.

To assist understanding of what can amount to serious professional misconduct and what can amount to negligence, the Professional Conduct Department has produced guidance notes (numbers 2 and 3) on each which may be found on the RCVS website at:

<http://www.rcvs.org.uk/Templates/Internal.asp?NodeID=90005&int1stParentNodeID=89643>

The Committee endorses these advice notes.

The Committee considers that the RCVS should have powers to deal with 'performance' and 'health' in addition to 'conduct' matters; the current jurisdiction of the Committee is limited to conduct – serious professional misconduct (together with convictions). However, the Committee endorses the RCVS view that adjudication on allegations of negligence is for the civil courts.

- 8. In our last two reports, we have highlighted the need for more statistical analysis of all aspects of complaints referred to the College so that any trends can be identified more easily and training requirements identified. Sadly the committee has not yet had the benefit of receiving or considering such data. We believe that if the committee were regularly to consider statistical information associated with complaints received by the College, this would help it in the performance of its role. It is to be hoped that with the increased computerisation of the complaints process, this will soon be possible so that areas of particular risk can be more readily identified and remedial action implemented sooner.**

The Chairman of the Preliminary Investigation Committee provides reports to RCVS Council three times each year, which are available on the RCVS website at <http://www.rcvs.org.uk/Templates/Internal.asp?NodeID=96633&int1stParentNodeID=89681>

More recently, these reports have included statistical and other data about complaints.

The June 2007 report included the following data;

Month	Year	Complaints opened	Complaints closed	New Complaints at PI Committee	Ongoing Complaints at PI Committee
Jan	2007	75	51	19	24
Feb	2007	52	43	28	30
March	2007	62	90	10	29
Totals	Jan-March	189	184	57	83

The March 2008 report included the following data:

	Closed without asking the veterinary surgeon for a response = A + B + C	Screening (now Case Examination) = D	PI Committee = E + F + G (including cases referred to DC)
2005	179 (58%)	64 (16%)	103 (26%)
2006	192 (54%)	80 (19%)	110 (27%)
2007	301 (46%)	154 (21%)	243 (33%)

In addition, information on RCVS complaints handling is provided in the RCVS annual report, such as information on the type of complaints received by the RCVS and the time the RCVS takes to assess and investigate complaints.

The Committee has decided to receive such information on complaints handling on a regular basis, as well as more detailed information on the analysis of complaints, and will assess whether this information can assist the RCVS to identify particular areas of risk and therefore which complaints to accelerate within the complaints process. The Committee, in accordance with its previously stated view, considers that guidance on 'standards, criteria and thresholds' needs to be considered in the context of the new protocols. This may be appropriate at the next major revision of the RCVS Guide to Professional Conduct or may be undertaken separately.

- 9. We were pleased to see the special report issued by the College in February 2008 giving details about those areas of practice that commonly lead to a complaint being made to the College including suggestions as to how such**

matters should be addressed. It is to be hoped that all practising veterinarians will have read this very helpful report, as following the advice and suggestions contained therein could substantially reduce the likelihood of a complaint being made.

The Committee is grateful to RCVS President Bobby Moore, who, with the assistance of the RCVS Professional Conduct Department and the Communications Departments, prepared the special report – Don't become a complaints statistic, a special report from the Royal College of Veterinary Surgeons. The Committee is confident that the advice contained within the report will be of assistance to practising veterinary surgeons.

- 10. The past year has seen a very heavy workload through the PIC, and we are grateful for the assistance given to the lay observers, in particular to help clarify matters of a clinical nature. It is often the case that the approaches of lay observers and veterinary members of the committee to certain issues varies, and we hope that this different perspective highlights the value of a lay presence at the committee.**

The Committee is always willing to assist the Lay Observers and values the contribution made by Lay Observers to the complaints handling process and public perception of the process. The Committee is particularly appreciative of the new extended role accepted by the Lay Observers, which includes participation in the complaints procedures as case examiners, assessing whether there is an arguable complaint against a veterinary surgeon that warrants consideration of the complaint by the Preliminary Investigation Committee.

- 11. The year for the Professional Conduct Department has been very demanding not only because of staff changes but also, in the short term, because of the increased drive towards computerisation. Notwithstanding this challenging working environment, cases appear to be being considered on a much timelier basis than in the past, an improvement which we hope will continue.**

The Committee thanks the Lay Observers for their comments.

- 12. Finally we would like to thank the members of the committee and the staff of the Professional Conduct Department for their continuing support to the Lay Observers, which is greatly appreciated.**

The Committee thanks the Lay Observers for their comments.

(Lay Observers: Diane Mark, Chris Mattinson and Jane Ramsey) Response by the Preliminary Investigation Committee

April 2008; response May 2008