

ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS COUNCIL 2009

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

1. This is the tenth annual report of the Lay Observers.
2. Since the last report, the rolling programme for the appointment of Lay Observers has continued. Diane Mark retired from the Committee during the year. Diane made an invaluable contribution to the work of the Committee over the years, playing an important part in developing the role of the Lay Observer and revising the complaint handling procedures, and we would like to thank her for all her help. The Committee welcomes Catherine Harvey. She brings to the role a wide range of experience in the field of regulation.
3. Since we last reported, the new complaints procedures have been successfully introduced. There is no doubt in our view that the revisions allow complaints to be investigated more effectively and speedily. The Chair of the Committee reports regularly to Council on complaints handling and, by comparison with many other regulatory bodies, the College's performance in this important area of regulation bears favourable comparison.
4. The introduction of a Lay Observer and Veterinary Surgeon acting independently as Case Examiners (once the Veterinary Surgeon has responded to the complaint) has been a particularly successful addition to the procedures. A greater number of complaints (currently approximately 80%) which do not meet the threshold of an arguable case of Serious Professional Misconduct are now closed earlier than under the former arrangement. Full reasons for the decisions taken by the Case Examiners are given, and in appropriate cases advice may also be given to the Veterinarian who is the subject of the complaint. Clearly members of the public and Veterinary Surgeons want decisions on complaints to be dealt with in good time, with the same quality of scrutiny irrespective of whether the complaint is referred to the Committee for consideration or not. This particular initiative helps us to meet that objective.
5. We welcome the creation of a team of Investigators to support the work of the Committee. By meeting complainants and by visiting Veterinary Surgeons to conduct interviews at their practices (then reporting back on their findings), the Committee has been able to reach more robust evidence-based decisions in appropriate cases.
6. Significant progress has been made by the College in producing data and statistical analysis about complaints. The Committee receives reports at its monthly meetings which enables it to evaluate its overall performance against key targets.
7. We welcome the raised awareness by the College of using data coming out of the complaints handling procedures to inform policy and to encourage good practice within the profession. As in previous years, the majority of complaints

revolve around allegations of negligence, misdiagnosis, poor communications, and poor handling of the death of an animal. There is plenty of evidence that practices are learning from complaints made by members of the public and are thus reviewing their clinical governance arrangements, standard operating procedures, addressing staff training and development needs, and improving their communications. We welcome this approach.

8. Clearly, in a very competitive environment it makes good business sense (and more importantly, helps to maintain the good reputation of the profession) if Veterinary Surgeons respond constructively to complaints made against them, making improvements in the light of their experience.
9. The Lay Observers would like to make special mention of the excellent induction training given to new members of the Committee, both Lay and Veterinarians. Equally successful was the two day course designed to ensure that all Committee Members became confident and competent in working with the new procedures. We were pleased to be consulted about the content of the training that was given. As a result part of the training delivered focused on the particular responsibilities Lay Observers' have. These include bringing an independent scrutiny of complaints; articulating the voice of the public and making sure that the design and operation of the College's procedures is fair, robust and can command respect.
10. We support the College in its campaign to persuade Government that there is a need to reform the Veterinary Surgeons Act 1966. Council Members will be familiar with the arguments for reform. The Lay Observers consider that, under the existing provisions, complaints about poor performance (and in particular the health of a Veterinary Surgeon when it affects their ability to practice) cannot be addressed effectively. The intention to separate the responsibility for setting professional standards from the College Body to be responsible for investigating allegations of misconduct or poor performance etc. is fully justified, and has our support. There is no doubt that if the profession wishes to continue its longstanding privilege to regulate its own affairs, then reform along the lines taken by the other healthcare regulators is urgently needed if public confidence is to be sustained.
11. During the last twelve months there has been substantial change in the way the College handles its complaints. We would like to congratulate the Chair of the Committee and the Head of the Professional Conduct Department and his team for leading this major agenda for change with such professionalism and thoroughness.
12. Finally, we would like to thank all members of the ProfCon Department and other members of the College's staff for their most able help and support for the Lay Observers, which is so willingly and cheerfully given.

The Response of the Preliminary Investigation Committee

1. This response should be read with the three reports to RCVS Council by the Chairman of the Committee during the last annual report year.
2. The Preliminary Investigation Committee is grateful for the Lay Observers' comments and their work throughout the development and introduction of the revised complaints procedures. The Committee is mindful of the current limited jurisdiction the RCVS has over complaints against veterinary surgeons, when compared to many healthcare regulators, but considers that complaints are robustly investigated and decided fairly within the existing legislation and the complaints procedure.
3. There has been further development of the complaints procedures during the year, as exemplified by formalising the role of veterinary surgeon Investigators, as well as development of the computer software which enables RCVS staff and Committee veterinary surgeons and Lay Observers to access complaints information from home, via the Internet; and the RCVS to gather data about the complaints process. The development is ongoing and there is planned development of a health protocol to enable the RCVS to deal compassionately and confidentially with those whose complaints primarily relate to medical conditions, rather than misconduct; while at the same time ensuring that referrals to the Disciplinary Committee are made if it is in the public interest.
4. Induction and annual training is now a feature of the Committee's year and there is planned induction training for the Investigators, who were appointed this year after a formal appointment process. Training is provided with the assistance of Penningtons solicitors, who investigate complaints in conjunction with the RCVS legal team. Following on from the success of the training sessions, the RCVS prepared a fictional training case, to allow practising veterinary surgeons to experience the decision-making role of the Committee and this was trialled by the Society of Practising Veterinary Surgeons (SPVS).
5. With regard to a new Veterinary Surgeons Act, the Committee notes that at this time, the political will for a new Act appears to be lacking; and supports RCVS efforts to find other ways of taking forward, as a matter of priority, changes to key areas of the complaints and disciplinary system. Access to relevant business premises and obtaining relevant documentation are important in any investigation system and the Committee is pleased to report that, broadly, veterinary surgeons are cooperative with investigations, visits and interviews. If this were to change, it would be imperative that RCVS seek formal powers to access business premises and obtain relevant documentation. The Committee will continue to review its procedures to ensure that it can protect the public interest within the existing reactive complaints-based legislation, and by doing so benefit the profession.

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