



MEETING	Council
DATE	7 June 2012
TITLE	Preliminary Investigation Committee Lay Observers' Report to Council and the Committee's Response
CLASSIFICATION	Unclassified
SUMMARY	The Lay Observers report annually to Council on the work of the Preliminary Investigation Committee, to give an independent view on the work of the Committee. The Committee responds to the Report
DECISIONS REQUIRED	None
ATTACHMENTS	None
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## **ROYAL COLLEGE OF VETERINARY SURGEONS**

### **PRELIMINARY INVESTIGATION COMMITTEE**

#### **LAY OBSERVERS' REPORT**

1. This is the thirteenth report of the Lay Observers.
2. The three Lay Observers are appointed by the RCVS following public advertisement. Our principal role is to examine complaints from members of the public in the main, and to contribute to the Preliminary Investigation Committee's (PIC) decision making. We strive to provide a strong, clear voice on behalf of the public and we ensure that all complaints are investigated thoroughly and that the College's procedures are operated robustly and fairly.
3. As we have emphasised in our previous reports, the number of complaints to the College is small when taking into account the tens of thousands of consultations and veterinary interventions that occur each year by some 18,272 home-practising registered veterinary surgeons in the UK.
4. To put this in context, a total of 747 complaints were submitted to the College. Of these 10% were not progressed by complainants, 33% were closed by Case Managers in the Professional Conduct Department because they failed to cross the threshold for potential Serious Professional Misconduct (SPMC). A total of 42% were closed by Case Examiners because there was no arguable case of SPMC. Complaints which reach this stage of the Procedure are examined by a veterinary surgeon who is a member of PIC, and a Lay Observer. In some cases, Case Examiners gave advice to the vet (for example, in relation to communication or the need to revise standard operating procedures). The PIC considered a total of 8% of cases, those referred to it by Case Examiners. Finally, twelve cases were considered by the Disciplinary Committee.
5. The public, and the profession more widely, can be confident that in the overwhelming majority of cases veterinary surgeons give attention to the animals under their care to the high standards demanded. Although there is a relatively low incidence of complaints, the College is far from complacent and significant importance is placed on the need to keep the complaints and disciplinary procedures under continual review, introducing improvements as necessary.
6. Parliamentary approval of the Legislative Reform Order (LRO) has been delayed, but we are pleased to note that it is anticipated that transitional arrangements to give effect to the new structures will be underway by the summer of 2013. The LRO will ensure that in future the investigation of complaints and considering charges of serious professional misconduct against veterinary surgeons will be independent of the RCVS Council's responsibilities. This separation of functions has our full support and is in line with how other Regulators are dealing with complaints and formal

disciplinary investigations. We look forward to continuing consultation with the College on this important change.

7. We welcome the addition of the new Performance Protocol in the Code of Professional Conduct ( the Code ). Poor professional performance is a feature of complaints to the College. Addressing on-going concerns about performance lies at the heart of any well run profession, and the new Protocol strikes the right balance in protecting animals, the public interest and supporting veterinary surgeons in improving their performance. We fully support the emphasis placed on veterinary surgeons participating in on-going performance review and self-assessment. Further, the focus on those with leadership responsibilities in the profession to support staff through constructive performance review is the right approach. Continuing Professional Development (CPD) is essential if vets are to maintain and improve their knowledge and expertise and it is right that the Preliminary Investigation Committee now asks to examine CPD records in appropriate cases and issue advice as necessary.
8. As previously reported, we still remain concerned that in a number of complaints the veterinary surgeons inability to speak English to an acceptable standard is an important factor. The use of colleagues to translate and explain diagnosis, treatment plans and how owners should care for an animal is simply unacceptable to the public, and poses a real risk to animal welfare and public health. Nor can it be right that, at a recent case brought before the Disciplinary Committee, the services of a translator were required. It is the responsibility of employing practices, government agencies etc, to satisfy themselves at job application stage that the candidate is competent as far as use of English is concerned. In our view, it is clear that in a minority of cases the business imperative to fill a vacancy has outweighed a proper consideration of the candidate's capacity to speak English. By highlighting this issue yet again, we hope that all parts of the profession and the RCVS will give this important issue the seriousness and attention it needs.
9. Complaints about fees continue to be made. We accept that fees are a matter for practices and their clients to resolve, and that the College's focus in fee disputes would only arise where the fee is so excessive as to amount to serious professional misconduct. It is clear to us that members of the public wish to be given informed advice about the cost of treatment, particularly in these tough economic times. We understand that the cost of complex, long-term treatment is difficult to estimate but providing a realistic quote should be possible in more straightforward cases. In our view it should also be possible for the price of common procedures to be publicised in waiting rooms, thereby reducing the potential for misunderstanding and dispute. Keeping clients involved as treatment progresses and further costs are incurred is essential, but in a number of complaints this did not happen, giving rise to significant client anger. We believe the majority of practices meet the expectations of clients in relation to fees, and often exceed, but a minority do not.
10. The incidence of complaints about 24 hour emergency first aid and pain relief remains of concern. The Code and Supporting Guidance is clear on the

responsibilities of veterinary surgeons in such cases. Where “the owner, keeper or carer is concerned that the animal is suffering or requires attention and contacts a veterinary surgeon” the onus for decision making is placed on the vet who “decides whether attention is required immediately, or reasonably can be delayed”. We appreciate that managing client expectations when emergency help is requested is challenging for the profession. It is the case that on many occasions unrealistic or unreasonable demands for veterinary services are made by the public and it is right that, depending on the clinical evidence and other competing priorities, veterinary surgeons have to be free to exercise their clinical judgement in dealing with requests for emergency out of hours assistance. We are also aware that on occasion veterinary professionals and their support staff have been exposed to verbal abuse and physical threats from the public. This behaviour is indefensible and in appropriate cases complainants have been informed in writing that this is totally unacceptable and that practices have every right to cease providing veterinary services. Another area of concern in relation to emergency care is how some practices have responded to requests for a home visit to perform euthanasia for example. Again, we accept that wherever possible animals are best treated at surgeries, and that visiting clients at their homes is not without risk (particularly in some communities). It is right therefore that practices need to assess the risk to staff and consider staff safety before agreeing to a home visit. Our concerns in relation to 24 hour emergency cover can be illustrated as follows:

- Poorly trained staff have told the public that home visits are not available
- Reception staff have focussed on securing agreement on payment of fees, thus delaying decision-making on clinical issues
- Practices failing to give advice about pet transport services or where alternative emergency services may be obtained
- Very sick animals being discharged inappropriately to the care of their owners, following emergency treatment, contrary to continuity of care provisions contained in the Guide to Professional Conduct
- Evidence that the duty veterinary surgeon was not consulted before a home visit was refused
- Veterinary surgeons refusing to leave the surgery to provide immediate attention to relieve suffering because they are forbidden to do so by their employer until a replacement vet can be found to replace them
- Evidence that some emergency service providers do not have robust standby arrangements in place which guarantee the attendance of a veterinary surgeon to run the practice if the on-duty vet is required to attend an emergency call to relieve suffering.
- Practice staff failing to appreciate that elderly, infirm clients may be unwilling or unable to attend surgeries late at night, or are unable to move their pets

In our judgement, the Code is explicit in relation to 24 hour emergency care. Regrettably, from the complaints the Committee has received, compliance with the Code is variable. We believe that the College may have to issue further advice and guidance so as to ensure that the public can be confident that veterinary surgeons will meet their professional obligations. In the most serious cases of non-compliance

with the Code it is right that formal disciplinary action should be taken. Ultimately it is for the owners, directors and leaders of those who provide 24 hour emergency care to ensure that their businesses comply fully with all requirements of the Code. We look forward to a significant improvement in this area in future.

12 For some practices, complaints handling is seen as a threat to professional judgement, to be ignored or defended in a disproportionate or excessive way. Unreasonable delays in replying to perfectly legitimate complaints is not infrequent, stokes the fires of dissatisfaction further, and invariably leads to more complaints. For other professionals who dislike conflict a complaint by members of the public presents a huge personal challenge. We support any initiative from whatever source that encourages practices to put robust systems in place, clearly publicised, to deal with complaints. Education and training for all professional and support staff involved in the interface with the public about how to handle complaints should be a priority. Complaints if not handled properly are bad for business, costly to deal with and cause much stress and anxiety. In making these remarks we have examined many examples of good practice where a speedy and personal response by the vet concerned, or a more senior colleague, has resolved client concerns in a timely manner. These cases are characterised by openness and transparency, the use of appropriate language to explain complex clinical issues, and crucially the willingness to listen and learn.

13. We would like to record our appreciation of the excellent two day training event designed and facilitated by Jill Nute (Chair of PIC), and Gordon Hockey and his staff, assisted by Penningtons Solicitors. This brought together all those involved with investigating complaints, and we had the opportunity to improve our knowledge, share experiences and improve our skills.

14. Jane Ramsey, who was appointed in 2007, will be stepping down as a Lay Observer following her appointment as Chairman of Cambridge University Hospitals Foundation Trust. A qualified barrister with substantial corporate governance experience in the NHS as well as professional regulation, Jane brought to the work of the PIC a clear lay perspective, coupled with a sound appreciation of the role of the professional. Her independence of thought, reasoned argument and contribution to the modernisation of the Committee's procedures and ways of working has proved invaluable. We wish her well.

I should also like to thank Judith Alderton for her contribution, as Lay Observer, to the work of the Committee. Judith brought to our work extensive experience of professional regulation and assessing complaints. Her careful analysis of the evidence, and capacity to identify the key issues the Committee needed to address, made her a valuable member of the Committee. Our best wishes go to her for the future.

As previously reported to Council, we welcome Dr Arun Midha as Lay Observer. He brings a wealth of relevant experience and expertise to the work and we wish him well as a member of the Committee.

15. The Lay Observers would like to thank Jill Nute for the skill with which she chairs PIC, and her inclusive approach to decision making.
  
16. Finally, our grateful thanks go to Gordon Hockey and Eleanor Ferguson, and all members of staff in the Professional Conduct Department. Without their professionalism and hard work, our task would be immeasurably more difficult. The advice, information and support given to members of the public and the profession in relation to complaints (much of which goes on quietly behind the scenes) enhances the reputation of the College.

Chris Mattinson, Jane Ramsey, Arun Midha  
Lay Observers

May 2012

## **ROYAL COLLEGE OF VETERINARY SURGEONS**

### **PRELIMINARY INVESTIGATION COMMITTEE**

#### **RESPONSE TO LAY OBSERVERS REPORT**

1. The Preliminary Investigation ( PI ) Committee is grateful to the Lay Observers for the work they do reassuring the public about veterinary regulation and is grateful for their positive and supporting comments.
2. The Committee wishes to express its thanks to Chris Mattinson, and also to both Judith Alderton ,who retired from the Committee last year, and to Jane Ramsay, who will retire from the Committee shortly, for their commitment to the Committee and to the College. The Committee is pleased to welcome the new Lay Observer Arun Midha.
3. The Committee believes that regulation is a shared activity between veterinary surgeon and lay people and supports the introduction of the Legislative Reform Order , to reflect this , and also to confirm to the public the separation of roles of the RCVS Council, which establishes the standards of the Code and Guidance; the PI Committee which investigates complaints ; and the Disciplinary Committee which carries out a judicial function .
4. Earlier in the year the Code to Professional Conduct came into effect replacing the Guide to Professional Conduct. The Committee believes that this - along with the supporting guidance – will assist in providing clarity for both the profession and the public by setting out the fundamental professional responsibilities required of a veterinary surgeon and by providing guidance for compliance . The Committee welcomes the focus on maintaining and updating knowledge and improvement in outcomes through the introduction of mandatory CPD and requirements for clinical governance. The Committee recognises also the requirement to comply with reasonable requests from the RCVS as assisting in the regulatory process .
5. The Committee also welcomes under the Code the introduction of the Performance Protocol as it considers that there may be circumstances where although performance falls far short of that expected by a veterinary surgeon it would not be appropriate or proportionate to refer to a Disciplinary Hearing if suitable undertakings are given by the veterinary surgeon concerned to protect the public interest. A Working party bringing together representatives of professional organisations and well as from the PI and Advisory Committees will start work in July 2012 with a view to providing greater clarity and understanding of the practical application of the Performance protocol .

6. As the Lay Observers indicate the issue of registrants lack of language ability has arisen in cases before the Committee. It is recognised that this is complex issue involving EU legislation and is one that the RCVS shares in common with other regulators. It notes that the Code makes clear statements about communication in general and restates the general expectation of English language skills to an appropriate standard.
7. With regard to fees and pricing of veterinary services, this is generally a matter between veterinary surgeons and their clients; The Code is clear on the requirements and detailed supporting guidance expands upon this to inform further on compliance.
8. The Lay Observers have highlighted concerns about the number of complaints arising from the provision of 24 hour emergency first aid and pain relief and the broad range of issues such complaints encompass . The Committee has recently been aware of common themes particularly in the areas of very sick animals being caught in a cycle of transfer to and from day and night time practices; issues over the level of back up that may be available to staff and provision of home visits . The Committee has asked that Advisory Committee looks into areas of concern and considers the provision of additional supporting guidance to assist the profession in meeting the responsibilities under the Code.