Processing a complaint
(Registered Veterinary Nurses)

A guide to our complaints procedure for RVN Preliminary Investigation Committee Members and RCVS Staff
A. Introduction

1. Following a review in 2007, our 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 registered veterinary nurse 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, registered veterinary nurses and lay members (lay members are not veterinary surgeons or registered veterinary nurses 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 RVN Preliminary Investigation Committee stages). (The RCVS Disciplinary Committee provides guidance on its decision-making process.)

2. Committee Members and relevant staff within the Professional Conduct Department should familiarise themselves with the general complaints procedure set out in Section B (Section B, pages 3 – 5). This document supplements those procedures with Protocols relevant to the specific stages of the complaints handling process.

3. Case Managers and Committee Members who are involved in the assessment of complaints should be guided in their decisions by the Protocol for the Assessments of Complaints (Section C, page 6).

4. Once the Assessment Stage is complete, any investigation of a complaint should be in accordance with the Protocol for the Investigation of Complaints (Section D, page 7).

5. Committee Members who are asked to consider whether to close a complaint or whether to refer it to the full meeting of the RVN Preliminary Investigation Committee, should be guided in their decisions by the Protocol for the Case Examination of Complaints (Section E, page 8).

6. The decisions of the RVN Preliminary Investigation Committee at its meetings should be guided by the Protocol for Consideration of Complaints by the RVN Preliminary Investigation Committee (Section F, pages 9-10).
B. RCVS Complaints Procedure

Stage 1 – Making a complaint

1. Our jurisdiction is limited to complaints which, if proved, have the potential to raise a formal charge at the Disciplinary Committee that a registered veterinary nurse’s conduct is serious enough to amount to ‘disgraceful conduct in a professional respect’ (this is commonly referred to as ‘serious professional misconduct’) or that a registered veterinary nurse’s conviction renders him or her unfit to practise (or work) as a registered veterinary nurse (see the document ‘Serious Professional Misconduct’ at http://www.rcvs.org.uk/complaints/).

2. We ask complainants to look at what we can and cannot do (the extent of our jurisdiction) before making a complaint. For example, we cannot deal with complaints about the level of fees or allegations of negligence, which are dealt with by the courts (see Chapter 9 ‘Practice information and fees’ of the supporting guidance to the Code of Professional Conduct and the document ‘Negligence’ at http://www.rcvs.org.uk/complaints/); neither can we deal with ‘performance’ (competence) complaints unless they are serious enough and there is evidence that they could amount to ‘serious professional misconduct’. This may be via the College’s Performance Protocol. We can deal with health complaints through our new Protocol for Health Complaints against Registered veterinary nurses.

3. As a general rule, we ask a potential complainant to complete our complaints form (Section E) before we assess the complaint. Generally, any complaint about an incident more than two years ago will be considered out of time and will be closed.

   We aim to send a complaints form to a potential complainant on the day we receive the request, or the next working day.

Stage 2 – Assessment stage

4. A Case Manager, who may be legally qualified, assesses complaints and decides whether there is an issue of conduct with the potential to amount to serious professional misconduct (‘an issue of conduct’).

5. Complaints are assessed in accordance with our Protocol for the Assessment of Complaints. We may contact the complainant and/or the registered veterinary nurse complained about and/or the veterinary nurse’s employing veterinary surgeon and practice to assist the assessment process.

6. If we identify an issue of conduct from a complaint, we investigate further. If we do not identify an issue of conduct, we close the complaint.

   We aim to assess a complaint within ten working days of receiving the completed and signed complaints form.
Stage 3 – Investigation and case examination stage

7. We investigate complaints in accordance with our Protocol for the Assessment of Complaints. We may contact the complainant and/or the registered veterinary nurse complained about and/or the registered veterinary nurse’s employing veterinary surgeon or practice as part of an investigation. Occasionally, we may visit the veterinary practice and interview the registered veterinary nurse complained about, or other staff; similarly, we may visit the complainant and other witnesses to investigate the complaint.

8. The investigation of complaints is managed by Case Managers, who may seek any advice and direction, as appropriate, from the two Case Examiners appointed to the complaint.

9. Case Examiners will generally be a registered veterinary nurse who is a member of the RVN Preliminary Investigation Committee and a lay member of the RVN Preliminary Investigation Committee.

10. When there is sufficient information, the case examiners decide whether there is an arguable case against the registered veterinary nurse complained about: if so, the complaint is considered by the Registered Veterinary Nurses (RVN) Preliminary Investigation Committee. If there is no arguable case the complaint is closed. Case examination is conducted in accordance with our Protocol for the Case Examination of Complaints. Generally, registered veterinary nurses’ criminal convictions are considered by the RVN Preliminary Investigation Committee.

11. If we close a complaint we may give advice to the registered veterinary nurse complained about. We tell the complainant if we give advice to the registered veterinary nurse and the nature of that advice.

We aim to collect the information required for the matters under investigation in fewer than five months of receiving a completed and signed complaints form.

Stage 4 – Registered Veterinary Nurse (RVN) Preliminary Investigation Committee stage

12. The RVN Preliminary Investigation Committee meets in private to consider whether there is a realistic prospect of what the registered veterinary nurse has done (or not done) amounting to disgraceful conduct in a professional respect (’serious professional misconduct’), or (for convictions) rendering him or her unfit to practise or work as a registered veterinary nurse. (See our information on the meaning of ‘serious professional misconduct’.) We consider complaints in accordance with our Protocol for the Preliminary Investigation Committee Consideration of Complaints.

13. It may be necessary to investigate complaints further to obtain sufficient information to make a decision at this stage, and we investigate in accordance with our Protocol for the investigation of complaints. Generally, an in-house solicitor will manage an investigation that involves external solicitors.
14. A complaint may be referred to the RCVS RVN Disciplinary Committee where the registered veterinary nurse’s alleged conduct or behaviour is fundamentally incompatible with his or her being a registered veterinary nurse and this may involve any of the following (the list is not exhaustive):

   a. Serious departure from professional standards as set out in the RCVS Code of Professional Conduct for Veterinary Nurses

   b. Causing serious harm (or causing a risk of serious harm) to animals or the public, particularly where there is a breach of trust

   c. Offences of a sexual nature

   d. Offences involving violence and/or loss of human life

   e. Evidence of a harmful deep-seated personality or attitude problem

   f. Dishonesty (including false certification), particularly where persistent or concealed

15. If we close a complaint, we may give advice to the registered veterinary nurse complained about. We may ask the registered veterinary nurse to visit the College for the advice to be given, or we may visit the registered veterinary nurse at his or her practice to speak to him or her, or we may give the advice in writing. We may also speak or write to the registered veterinary nurse’s employing veterinary surgeon and practice about the complaint.

16. We tell complainants if we give advice to the registered veterinary nurse and the nature of that advice.

   *Generally, the RVN Preliminary Investigation Committee will consider complaints in fewer than six to seven months of us receiving a completed and signed complaints form.*

Stage 5 – Registered Veterinary Nurse (RVN) Disciplinary Committee

17. If a complaint is referred to the RVN Disciplinary Committee there will be a formal hearing (an Inquiry). The Inquiry is like a court hearing and a complainant will be asked to give evidence under oath. Appeals against RVN Disciplinary Committee decisions are heard by a senior barrister (Queens Counsel).

   *The Clerk to the RVN Disciplinary Committee lists hearings in consultation with the Professional Conduct Department of the RCVS and the respondent registered veterinary nurse.*

18. These are general procedures and may be varied as necessary for any individual complaint.
C. Protocol for the assessment of complaints

Aim: To guide the decision making process of the Case Managers as they decide whether to raise an issue of conduct with the potential to amount to serious professional misconduct (‘an issue of conduct’).

1. A Case Manager, who may seek advice and direction from veterinary surgeons will assess the complainant’s concerns and information and identify any issues of conduct.

2. A Case Manager may seek advice from appropriate registered veterinary nurses, generally those who are members of the RVN Preliminary Investigation Committee, as well as from lay members (who are not veterinary surgeons and are independent of the RCVS).

3. The complaint in question is considered in the context of the recent complaints history of the registered veterinary nurse complained about (which is confidential) and any other relevant information.

4. An issue of conduct will be identified in circumstances where the allegations involve:
   a. Conduct that breaches the RCVS Code of Professional Conduct for Veterinary Nurses; although not all breaches of the Code will be serious enough to raise an issue;
   b. Clinical failings; the more serious the clinical failings, the more likely that an issue of professional conduct will be raised; and,
   c. Other conduct of concern to the RCVS and within the RCVS jurisdiction, including criminal convictions, which are usually referred direct to the RVN Preliminary Investigation Committee.

5. There is a low threshold for identifying an issue of conduct at the assessment stage; generally, the assessment is based on information provided by the complainant and the RCVS has not investigated the complaint or had a response from the registered veterinary nurse complained about.

6. Generally, an issue of conduct is identified only if the complainant has direct evidence of the alleged conduct or there is sufficient factual information to support the complaint.

7. If an issue of conduct is identified, the registered veterinary nurse complained about will be asked to respond to the complaint as a whole.

8. Exceptionally, a registered veterinary nurse may be asked to respond to a complaint where no issue of conduct is identified if, for example, the complaint is of wider significance to the profession.

9. If no issue of conduct is identified (subject to exceptional cases), the complainant is informed with reasons why no issue of conduct has been identified. If the complainant is unhappy with the explanation provided, he or she may ask for the assessment of the complaint to be repeated. The case manager will repeat the assessment once.
D. Protocol for the investigation of complaints

Aim: To explain how the RCVS investigates complaints.

1. Investigations:

   a. Are managed by a Case Manager and informed by appropriate advice and direction from case examiners or the Chairman of the RVN 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 registered veterinary nurse associated with or independent of the work of the RCVS (including on occasion a member of the RVN Preliminary Investigation Committee), or a registered veterinary nurse who has experience of specific aspects of veterinary nursing or experience of assessing veterinary nursing practice standards.

   c. May include requests for information from the registered veterinary nurse 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 registered veterinary nurse complained about under caution or not.

   e. May be carried out by external solicitors; generally such investigations will be approved by the RVN Preliminary Investigation Committee and managed by a Case Manager who is a solicitor.
E. Protocol for the case examination of complaints

Aim: To guide the decision making process of the case examiners as they decide whether to close a complaint or refer the complaint to the VN Preliminary Investigation Committee.

1. Case Examiners will generally be a registered veterinary nurse who is a member of the RVN Preliminary Investigation Committee and a lay member of the RVN Preliminary Investigation Committee.

2. Case examination by the case examiners is carried out when there is sufficient information about a complaint, for example, the registered veterinary nurse complained about has responded to the complaint and information has been received from other relevant individuals.

3. Case examination will balance:

   a. Protection of the public from the risk of practice by registered veterinary nurses who for any reason (whether competence, integrity or health) are unfit to practise; and the maintenance of standards;

   b. The maintenance of the reputation of the profession, and public confidence in the profession; and the legitimate expectation of the public that complaints of a serious nature will be fully and fairly investigated;

   c. The need for legitimate safeguards for the registered veterinary nurse, who as a professional person may be considered particularly vulnerable to, and damaged by, unwarranted charges against him or her.

4. If there is no arguable case against the registered veterinary nurse complained about (no indication of serious professional misconduct against him or her), case examiners will close the complaint and will not refer it to the RVN Preliminary Investigation Committee (subject to paragraph 6).

5. If in doubt, case examiners will refer a complaint to the RVN Preliminary Investigation Committee for consideration; a complaint will be referred to the RVN Preliminary Investigation Committee unless both case examiners decide the complaint should be closed.

6. Case examiners may refer a complaint to the RVN Preliminary Investigation Committee as considered appropriate, for example, if the complaint is of wider significance to the profession.

7. Generally, case examiners should give a brief explanation for their decision.

8. Case examiners may give advice to a registered veterinary nurse when closing a complaint.
F. Protocol for consideration of complaints by the Registered Veterinary Nurse (RVN) Preliminary Investigation Committee

Aim: To guide the decision making process of the RVN Preliminary Investigation Committee as it decides whether to refer a complaint to the RVN Disciplinary Committee.

1. The RVN Preliminary Investigation Committee will balance:
   a. Protection of the public from the risk of practice by registered veterinary nurses who for any reason (whether competence, integrity or health) are unfit to practise; and the maintenance of standards;
   b. The maintenance of the reputation of the profession and public confidence in the profession; and the legitimate expectation of the public that complaints of a serious nature will be fully and fairly investigated;
   c. The need for legitimate safeguards for the registered veterinary nurse, who as a professional person may be considered particularly vulnerable to, and damaged by, unwarranted charges against him or her.

2. The RVN Preliminary Investigation Committee must decide whether there is a ‘real prospect’ of proving serious professional misconduct against the subject registered veterinary nurse.

3. A complaint may be referred to the RCVS RVN Disciplinary Committee where the registered veterinary nurse’s alleged conduct or behaviour is fundamentally incompatible with his or her being a registered veterinary nurse and this may involve any of the following (the list is not exhaustive):
   a. Serious departure from professional standards as set out in the RCVS Code of Professional Conduct for Veterinary Nurses;
   b. Causing serious harm (or causing a risk of serious harm) to animals or the public, particularly where there is a breach of trust;
   c. Offences of a sexual nature;
   d. Offences involving violence and/or loss of human life;
   e. Evidence of a harmful deep-seated personality or attitude problem;
   f. Dishonesty (including false certification), particularly where persistent or concealed.

4. The “real prospect” test applies to both the factual allegations and whether, if established, the facts would amount to serious professional misconduct (or for convictions render the registered veterinary nurse unfit to practise). It reflects not a probability but rather a genuine (not remote or fanciful) possibility. It is in no-one’s interest for a case to be referred to the RVN Disciplinary Committee when it is bound to fail, and the RVN PI Committee may properly decline to refer such
cases. Equally, cases which indicate serious professional misconduct are for the RVN Disciplinary Committee to decide.

5. The following is not an exhaustive list, but the RVN PI Committee:

a. should bear in mind that the standard of proof before the RVN Disciplinary Committee is the highest civil standard i.e. so that it is ‘sure’ (tantamount to the criminal standard);

b. is entitled to assess the weight of the evidence, recognising that its role is not to decide conflicts of evidence to decide whether a registered veterinary nurse is guilty of serious professional misconduct;

c. should proceed with caution given that, among other considerations, the RVN Preliminary Investigation Committee will work from documents and reports of investigations and may not have the opportunity to hear the complainant’s, and the registered veterinary nurse’s responses to questioning;

d. should proceed with particular caution in reaching a decision to close a complaint where the decision may be perceived as inconsistent with a decision made by another authority;

e. should be slower to halt a complaint against a practitioner who continues to practise than against one who does not;

f. should only refer health, performance or allegations akin to negligence if the complaint is sufficiently serious that there is a real prospect of establishing serious professional misconduct; and,

g. should bear in mind that while there is a public interest in registered veterinary nurses not being harassed by unfounded complaints, there is also a public interest in the RVN Disciplinary Committee hearing complaints which do have a real prospect of establishing serious professional misconduct.

6. The RVN Preliminary Investigation Committee may give advice to a registered veterinary nurse, or any other appropriate decision when closing a complaint (deciding not to refer the complaint to the RVN Disciplinary Committee). The Committee may hold open the complaint for two years if the individual complaint although serious, is not sufficient to amount to serious professional misconduct.