

RCVS Protocol for the Investigation & Private Prosecution of illegal practice

Introduction

1. The Royal College of Veterinary Surgeons ('RCVS') is the statutory regulator for veterinary surgeons in the UK. Veterinary surgeons must be registered with the RCVS to practise in the UK.
2. As a regulator, the RCVS works with the public, veterinary profession and when required, other organisations to promote and maintain public confidence in the veterinary profession through the setting of professional standards and regulating the conduct of members of the RCVS. We investigate allegations of serious professional misconduct that call into question a veterinary surgeon or veterinary nurse's fitness to practise. To learn more about our concerns process, [click here](#)
3. The primary function of RCVS regulatory work is to safeguard the health and welfare of animals through regulation of the educational, ethical and clinical standards of registered veterinary surgeons and veterinary nurses, thereby protecting the public interest, and safeguarding animal health and welfare. While the RCVS does not have a specific statutory responsibility to investigate, we may act on reports about alleged illegal practice in order to protect animal welfare and public health.

Purpose of this document

4. This document provides guidance on when the RCVS will consider investigating a report of illegal practice, and if necessary, when we may consider bringing a private prosecution for alleged breaches of the Veterinary Surgeons Act 1966 (the Act).
5. The Act creates criminal offences in relation to:
 - [Section 19](#): Restriction of practice of veterinary surgery (as defined in s. 27 of the Act) by unqualified persons. No individual shall practice or hold themselves out as practising or being prepared to practice, veterinary surgery unless they are registered in the register of veterinary surgeons or the supplementary veterinary register.
 - It is important to note that in regard to the treatment of animals by unqualified persons a number of exceptions apply which can be found in the Act itself (Schedule 3), as well as in the form of specific exemption orders. For more information see [section 19 of the RCVS supporting guidance on the treatment of animals by unqualified persons](#).
 - [Section 20](#): Prohibition of use of practitioners' titles by unqualified persons. If a person not registered in the [register](#) of veterinary surgeons takes or uses the title veterinary surgeon or any name, title, addition or description implying that they are so registered, they shall be guilty of an offence.

- The title veterinary surgeon is protected by law and the post nominal MRCVS provides assurance to the public that the veterinary practitioner is competent, fit to practise and holds adequate professional indemnity insurance.
6. It is important to note that this protocol applies to the RCVS only. It does not apply to or affect the decisions of any law enforcement agencies or prosecuting authorities - It sets out the proportionate measures the RCVS may take when considering reported allegations of offences by unqualified persons under sections 19 and / or 20 of the Act.

What to do if you have concerns about the activities of an unqualified person

7. The RCVS do not have a dedicated team who consider breaches of the Act, nor do we have powers under the Veterinary Medicines Regulations, but we are here to help. If you have direct evidence¹ of illegal practice, or illegal use of the veterinary surgeon title or illegal possession and / or supply of veterinary medicines, in the first instance, you should:

- **If you have concerns about the threat of injury / harm to an animal:**
 - Call your local police – [view a list of all UK police forces](#)
or
 - In England & Wales call the RSPCA on **0300 1234 999**
 - In Scotland call the SSPCA on **03000 999 999**
 - In Northern Ireland the USPCA on **028 3025 1000**
- **If you have concerns about illegal practice and / or illegal use of the veterinary surgeon title:**
 - Call your local police – [view a list of all UK police forces](#)
- **If you have concerns about illegal possession and / or supply of veterinary medicines:**
 - Email the Veterinary Medicines Directorate (VMD) enforcement – enforcement@vmd.gov.uk
or
 - England & Wales - call your local Association of Police Controlled Drugs Liaison Officer – [view a list of CDLOs](#)
 - In Scotland call your local police – [view a list of police stations](#)
 - In Northern Ireland call your local police or Department of Health (DoH) – [visit a list of PSNI police stations](#) and [DoH website](#).

8. It is important to note that unlike other agencies, the RCVS do not have powers to investigate criminal allegations. However, if an appropriate agency refuses or for any reason, is unable to investigate your allegation of illegal practice, or illegal use of the veterinary surgeon title, you may in these circumstances:

¹ Direct evidence is evidence that was learned, directly, by the witness presenting it. It can be defined as evidence which has been acquired by the witness through their senses and can therefore include knowledge of an offence which was garnered through seeing, hearing, or touching. It should not be evidence that was overheard or learned through hearsay (testimony based on what a witness has heard from another person rather than on direct personal knowledge or experience)

- report your concerns online to the RCVS using our dedicated email address: illegalpractice@rcvs.org.uk;
- only report what you know, and the more detail you give us the better.

Assessment

9. The RCVS will consider reports of alleged illegal practice / misuse of protected title on a case-to-case basis. Our approach is to focus on illegal practice which presents a serious risk of harm to animal health and welfare, the reputation of the veterinary profession, and the protection of public health. We will investigate allegations of illegal practice in accordance with the principles of good regulation to be proportionate, consistent, transparent and targeted.
10. Upon receipt of a report of illegal practice, the RCVS will assess the information we receive to establish:
 - the identity of the alleged offender;
 - the jurisdiction *in which the offence takes place*; and
 - whether the alleged conduct amounts to an offence under sections 19 and / or 20 of the Act.
11. The different actions the RCVS may take when considering alleged illegal practice are:
 - close with no further action – e.g., insufficient evidence;
 - serve a cease & desist letter and if compliant, close;
 - close and refer to another agency;
 - open an RCVS investigation (dependant on the circumstances).
12. Legal action is not always proportionate or practical and where there is evidence to suggest that there was / is unlawful practice or use of title, the RCVS, if appropriate, will consider closing the case, for example, inadvertent misuse of title or a misunderstanding of the restrictions set out under the Act. In these circumstances, the RCVS's first approach is to serve² the identified offender with a cease & desist letter,³ informing the person they have committed or are committing an offence under the Act and should they continue to offend or reoffend, the cease & desist letter can be taken into account in determining future action taken against them by the RCVS and the courts.
13. All cease & desist letters are a matter of record, and to raise awareness of illegal practice, the number of letters issued to alleged offender(s) in the reporting period are included in the relevant RCVS Report to Council and will be published in the RCVS Annual Report.
14. It is important to note that the RCVS has no powers to investigate reports involving illegal online business activity or breeding kennels. Trading Standards and / or your Local Authority have

² For evidential purposes cease & desist letters must be sent by Recorded Delivery.

³ In Scotland it may be possible for the RCVS to apply to the court for an interdict (an interdict is an order made by a Sheriff Court to prevent an individual from conducting particular acts or actions), but for consistency, the RCVS will first send a cease & desist letter to the alleged offender.

jurisdiction / powers to investigate, and if necessary, prosecute these types of allegations, for example:

- misleading courses that purport to lead to registration with the RCVS but do not;
- concerns about dog grooming businesses;
- concerns about dog breeding establishments.

15. If you have concerns about a misleading course and / or business, you should report these to Trading Standards:

- To find a local Trading Standards office, [click here](#)

16. If you have concerns about boarding and / or breeding kennels, you should report these to your Local Authority.

- To find a Local Authority office in England and Wales, [click here](#)
- To find a Local Authority in Scotland, [click here](#)
- To find a Local Authority in Northern Ireland, [click here](#)

17. Although the RCVS do not have the power to investigate these types of allegations, if a concern of this nature is reported to us, we will only close our case once a referral to Trading Standards and / or Local Authority has been made.

18. The RCVS will assist other (enforcement) authorities with their investigations of alleged breaches of the Act, and we will ask to be notified of the outcome.

19. Please note that anonymous reports may not be accepted / investigated by the RCVS and / or other agencies. In these circumstances the RCVS will record details of the report for intelligence purposes only.

20. If the concerns reported to the RCVS are against a non-UK individual or business outside the UK and cannot be referred to another agency within the UK, we will close the report as being outside the jurisdiction of the UK courts. However, if appropriate, the RCVS shall refer such reports to a non-UK agency / regulator for its information and consideration.

21. In order for the RCVS to make a third-party report of illegal practice to another agency, we require to disclose the identity and personal contact details to the other agency of the person who reported the matter to us.

22. Please note that the RCVS is unable to compel an investigation, which is ultimately a matter for the other agency / regulator.

23. If the RCVS considers a report justifies further investigation, we will consider opening an investigation if the alleged offender(s) activity amounts to:

- The alleged offence took place in the UK, Wales or Northern Ireland;

- the alleged offender can be positively identified;
 - there is an identifiable alleged offence under sections 19 and / or 20 of the Act;
 - a cease & desist letter has previously been served on the alleged offender and they have failed to engage with the RCVS; and
 - the RCVS Chief Investigator & Veterinary Investigator have carried out a cease & desist visit on the alleged offender.
24. If our assessment of the information provided leads the RCVS to suspect an offence under the Act, we will consider whether there are significant and serious identifiable risks to animal welfare, public health and / maintaining public confidence in the veterinary profession.
25. The RCVS Chief Investigator will assess the information received, and complete a case plan, which will include:
- the assessment decision;
 - set out the alleged offence(s);
 - identity of the alleged offender (if known);
 - identity of potential witnesses;
 - seek advice from an RCVS veterinary surgeon about:
 - risk assessment of potential serious harm to animals;
 - actual harm caused because of the alleged illegal practice;
 - recommended action.
26. The case plan will be reviewed by the RCVS Registrar or Head of Professional Conduct / Assistant Registrar who will decide if an RCVS investigation is warranted.

Investigation

27. The RCVS Chief Investigator and Veterinary Investigator will investigate allegations by gathering evidence and when necessary, by instructing external investigators / solicitors. The RCVS Investigators will gather evidence of alleged high-risk offence(s) following the steps below:
- initial contact with the reporter to confirm the details of the alleged offence;
 - enquiries as necessary;
 - confirm the identity of alleged offender;
 - confirm if alleged offender is previously known to RCVS;
 - confirm if alleged offender has previously been served an RCVS cease & desist letter;
 - carrying out voluntary interviews to obtain witness statements;
 - ensure confidentiality.
28. Please note that the onus is on the RCVS to obtain evidence that is able to satisfy the criminal standard of proof 'beyond reasonable doubt.' The Veterinary Surgeons Act 1966 does not give the RCVS any powers at all to assist its investigations into illegal practice, such as the power to enter or search or to seize. Also, the RCVS cannot compel a witness to provide a witness statement. Although undertaking a criminal investigation, the RCVS investigators will not enjoy the same powers as the police, and as a result, we are limited in the action that can be taken in regard to investigation and prosecution of the alleged offence.

29. As these investigations are of criminal offending, it is vital that the RCVS keep its investigations confidential in order to ensure that it can effectively discharge its function in this area. We will therefore only contact you should we require further information and we do not routinely provide updates as to the progress of our investigations as doing so can put them at risk.
30. Following the investigation, the Chief Investigator will update the case plan to include, findings, witness statements and any recommendation for the case papers / evidence to be reviewed by the College's external solicitors.

Decision to prosecute

31. The RCVS having regard to the evidence and our overriding objective to protect public interest and to safeguard animal health and welfare, will decide whether to:
- take no further action (for example, if following the investigation there is insufficient evidence to establish a criminal offence under sections 19 and / or 20 of the Act);
 - refer the matter to another agency (for example, another regulator, Trading Standards, Local Authority, Veterinary Medicines Directorate (VMD) or the police);
 - recommend a private prosecution (in England and Wales) or refer the matter to the Crown Office and Procurator Fiscal Service (in Scotland) or Northern Ireland Public Prosecution Service.
32. In deciding whether to prosecute, the RCVS will:
- act in the public interest and not solely for the purpose of obtaining a conviction;
 - be fair, independent and objective; and
 - follow the relevant guidance set out in the:
 - [Code for Crown Prosecutors issued by the Crown Prosecution Service for England and Wales](#)
33. The RCVS will generally only consider bringing a private prosecution in cases where the following factors are identified:
- the person has been informed of the law as it relates to sections 19 and / or 20 of the Act;
 - the person has been given the opportunity to stop treating animals or using the protected title;
 - repeat offending - having been sent a cease & desist letter;
 - the offence caused or causes serious harm to animal welfare and / or public health;
 - significant reputational damage to the veterinary profession;
 - there is sufficient evidence for a realistic prospect of conviction;
 - it is in the public interest to prosecute.
34. Please note that any RCVS prosecution action is separate from any civil claim for compensation. It is important that the RCVS remains fair, independent and objective and as such, **we are unable to offer any legal advice or assist in civil claims.**

35. The RCVS Registrar / Director of Legal Services will decide whether to bring a private prosecution following recommendation from the College's external reviewing solicitors.
36. The Registrar must have regard to the RCVS overriding objective to protect public interest and to safeguard animal health and welfare. This might result in the Registrar deciding that the RCVS should not commence a prosecution even where the alleged offending is serious.
37. The Registrar must apply two tests when deciding whether to bring a private prosecution: The evidential test and the public interest test.

Evidential test

38. The Registrar may decide to issue criminal proceedings only where there is sufficient evidence to provide a realistic prospect of conviction against the person for each charge.
39. When deciding whether there is sufficient evidence to prosecute, the RCVS Registrar must consider whether the evidence can be used in court, and it is reliable and credible. The RCVS Registrar must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against the alleged offender(s).
40. If at any time during the investigation it appears that sufficient evidence is unlikely to be obtained for a prosecution, the RCVS Registrar / Director of Legal Services may decide to close the case.

Public interest test

41. Where there is enough evidence to provide a realistic prospect of conviction, the Registrar may not issue proceedings unless the public interest requires a prosecution – the question for the Registrar is whether a prosecution is necessary to serve the interests of the public, not whether a prosecution would serve the interests of the veterinary profession. In considering this issue the Registrar must have regard to all the circumstances of the case, including details of the alleged offence, the circumstances of the defendant and the impact of the offending behaviour on animal health and welfare and public confidence in the veterinary profession.
42. The following is a non-exhaustive list of factors that might be relevant to the public interest:
 - whether the activity caused serious harm to animal welfare or public resulting from the offence(s);
 - whether the offending is ongoing, has ceased or likely to be repeated;
 - the time period of the offending;
 - whether the offending is intentional or as a result of a mistake or misunderstanding;
 - whether the RCVS has previously warned or advised the offender regarding offences under the Act;
 - whether the offender has been previously prosecuted of offences under the Act;
 - whether there are any aggravating features;
 - whether there are any mitigating factors;
 - the number of concerns received regarding the offending;
 - whether the offender has admitted the offence(s);
 - whether the information could be better investigated by another organisation / agency;

- whether the RCVS could work in partnership with another organisation / agency's investigation;
- whether the prosecution is likely to have an effect on maintaining public confidence in the veterinary profession or deterring others from committing offences under the Act;
- whether a prosecution is a proportionate response to the conduct leading to the offence;
- the likely sanction under the Act to be imposed by the court on conviction.

43. The above factors are not of equal importance, and the relative importance of a factor will be determined by the circumstances of each case.

44. In deciding whether the public interest test has been met, the Registrar must make an overall assessment in light of all the circumstances.

45. After reviewing all the evidence and making an assessment regarding public interest the Registrar may take:

- no further action;
- engage with the subject of the investigation by any other appropriate means for example, a visit (see paragraph 22 above);
- refer the matter to another agency, another regulator body or the Police;
- instigate a prosecution by laying information in the Magistrates' Court.

Delegation and consultation

46. The Registrar may delegate any or all of the above functions to the Head of Professional Conduct/Assistant Registrar or such other person (including the RCVS external solicitors) as the Registrar considers appropriate.

47. The Registrar or delegate, if not legally qualified, must obtain in-house or external legal advice before deciding to issue prosecution proceedings.

48. The Registrar or delegate, whether legally qualified or not may consult or seek advice from additional sources, including obtaining legal and / or advice from the College's external solicitors or independent registered veterinary surgeon or nurse.

49. A decision that might have a significant implication for the RCVS, must be endorsed by the Registrar and must be notified RCVS Officers as soon as possible.

Prosecutions costs

50. The RCVS is funded by its members' fees, which it has a duty to use responsibly and when we have successfully prosecuted an offender under section 19 and / or 20 of the Act, the RCVS will seek to recover our full costs.

Working with other enforcement organisation

51. The RCVS actively work with other agencies / organisations to advise and assist with compliance of the Act. The RCVS shall liaise and co-operate with other organisations and prosecuting authorities to ensure that offenders of sections 19 and 20 are prosecuted, where appropriate.

Publicity

52. The RCVS will always consider whether it is appropriate to issue a press release to the media drawing attention to factual information about charges which have been laid before the courts prior to any hearing taking place. The RCVS will also publicise any conviction which could help to ensure animal welfare and public protection, and which could draw attention to the need to comply with the Veterinary Surgeons Act 1966.

Codes referred to in this policy document:

- England and Wales Crown Prosecution Service Code for Crown Prosecutors
http://www.cps.gov.uk/publications/code_for_crown_prosecutors/index.html
- Scotland Crown Office and Procurator Fiscal Service Prosecution Code
<http://www.procuratorfiscal.gov.uk/publications/prosecution-policy-and-guidance>
- Northern Ireland Public Prosecution Service Code for Prosecutors
<http://www.ppsni.gov.uk/Code-for-Prosecutors-5017.htm>

End

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