

RCVS Performance Protocol

Additional Guidance

Professional Conduct Department

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RCVS Performance Protocol – Additional Guidance

Background

The Royal College of Veterinary Surgeons (RCVS) has a duty to act in the public interest in its role as regulator of veterinary surgeons and registered veterinary nurses.

There is an expectation that veterinary surgeons and registered veterinary nurses are reviewing their clinical performance in the workplace. However, only in those relative rare cases where performance concerns remain despite steps taken within the workplace, or because appropriate steps are not taken, the RCVS should take proportionate action to address these concerns in the public interest.

The Performance Protocol aims to address performance issues that are so severe, or sustained, that they are a risk to animal health or welfare without necessarily invoking a full disciplinary hearing. This is available on our website at: www.rcvs.org.uk/performance

About this document

This document aims to provide practical advice in the form of Frequently Asked Questions for veterinary surgeons, veterinary nurses, and other members of the veterinary team who may consider a colleague's fitness to practise may be impaired because of their professional performance.

There is also advice for veterinary surgeons and veterinary nurses who may consider that their own fitness to practise may be impaired for reasons of professional performance as well as links to other sources of support and guidance.

Frequently Asked Questions

Question 1: I am a veterinary surgeon/registered veterinary nurse – what are my responsibilities regarding professional performance?

- 1.1 The Codes of Professional Conduct set out the professional responsibilities for veterinary surgeons and veterinary nurses in relation to competence and performance.
- 1.2 Veterinary surgeons must '***maintain and develop the knowledge and skills relevant to their professional practice and competence, and comply with RCVS requirements on the Professional Development Phase (PDP) and continuing professional development (CPD)***' (Code of Professional Conduct for Veterinary Surgeons, 3.3)
- 1.3 Similarly, veterinary nurses must '***maintain and develop the knowledge and skills relevant to their professional practice and competence and comply with RCVS requirements on the Period of Supervised Practice (PSP) and continuing professional development (CPD)***' (Code of Professional Conduct for Veterinary Nurses, 3.3)
- 1.4 There is an expectation that veterinary surgeons and registered veterinary nurses will take part in a regular system of performance review and self-assessment designed to plan development and address any performance issues. This should be supported by the other members of the veterinary team or business.
- 1.5 Chapter 6 of the supporting guidance to the Codes of Professional Conduct provides practical advice for veterinary surgeons and veterinary nurses undertaking **clinical governance**. This is a continuing process of reflection, analysis and improvement in professional practice for the benefit of the animal patient and client owner and there are many different ways to help veterinary surgeons and veterinary nurses.
- 1.6 Some examples of clinical governance include keeping up to date with continuing professional development and new developments relevant to your area of work; reflecting on performance preferably in the form of a learning diary and making appropriate changes to practice; assessing professional competence with experienced colleagues; and reflecting on critical events.
- 1.7 You can read more about clinical governance, including practical examples, on our website at: www.rcvs.org.uk/clinicalgovernance

Question 2: What should I do if I have concerns about performance or competence?

- 2.1 Those who are concerned about their own performance or competence, or that of a colleague, must take steps to ensure that animals are not put at risk and that the interests of the public are protected.
- 2.2 Veterinary surgeons and veterinary nurses '***must take reasonable steps to address adverse physical or mental health or performance that could impair fitness to practise; or, that results in harm, or a risk of harm, to animal health or welfare, public health or the public interest***' (Codes of Professional Conduct, 3.1)
- 2.3 Likewise, veterinary surgeons and veterinary nurses who are concerned about a professional colleague's fitness to practise '***must take steps to ensure that animals are not put at risk and that the interests of the public are protected***' (Codes of Professional Conduct. 3.2).
- 2.4 This does not mean that all concerns should immediately be brought to the attention of the RCVS. In many cases, this can be **dealt with at a practice level**. On the next page, there are links to some helpful sources of advice and guidance, which may help you to decide what to do about your concerns.
- 2.5 In fact, there are many different ways for veterinary surgeons and veterinary nurses to take steps to address concerns and often this will depend on the specific circumstances of the case. Some examples might include reviewing and monitoring performance and undertaking appropriate remedial activities.
- 2.6 Ultimately, however, taking steps to address concerns **might mean reporting a colleague to the RCVS**. For example, where concerns remain despite these steps, or where practice-based options are insufficient or inappropriate to deal with concerns about professional performance.
- 2.7 Only in those relatively rare cases where concerns remain despite the steps taken, or because appropriate steps are not taken, will it be in the public interest for the RCVS to deal with these concerns.
- 2.8 The RCVS duty to act in the public interest includes recognition of a veterinary surgeon's or registered veterinary nurse's own interests.
- 2.9 We will investigate sympathetically and sensitively any performance-related concerns brought to our attention and there is more information about how we do this later in the document.

Question 3: I am unsure what to do next – where can I turn for advice?

3.1 If you are concerned about a colleague's professional performance (or you are subject to a complaint), but are unsure of what to do next, you should seek appropriate advice.

3.2 Below is a non-exhaustive list of potential options for support and advice:

- Your employer
- Other members of the veterinary team or business
- The Royal College of Veterinary Surgeons (RCVS) www.rcvs.org.uk (Telephone: 020 7202 0789 or e-mail profcon@rcvs.org.uk)
- The British Veterinary Association (BVA) www.bva.co.uk (For BVA Members: legal advice telephone line; Young Vet Network; mediation and representation assistance; and, advice on whistle-blowing)
- The British Veterinary Nurses Association (BVNA) www.bvna.org.uk
- Vet Life www.vetlife.org.uk
- The Society of Practising Veterinary Surgeons (SPVS) www.spvs.org.uk (Employers helpline for members and Recent Graduate telephone support service)
- Your professional indemnity insurer
- The Citizens Advice Bureau (CAB) www.citizensadvice.org.uk
- Advisory, Conciliation and Arbitration Service (ACAS) www.acas.org.uk
- The Health and Safety Executive (HSE) www.hse.gov.uk
- An employment solicitor (details for individual solicitors and firms can be found on the Law Society website at: www.lawsociety.org.uk)

Question 4: I have decided that I want to report my concerns, but I am unsure whether to raise this with my employer or with the RCVS – what should I do?

- 4.1 There is no standard response to this question and much will depend on the individual circumstances. Essentially, what you do will depend on the nature and extent of your concerns.
- 4.2 It is likely that the majority of performance or competence concerns can be dealt with at a local level and without involving the RCVS. However, you should contact the RCVS without delay if there is evidence that suggests a veterinary surgeon or veterinary nurse is unfit to practise due to poor performance.
- 4.3 In deciding where to report your concerns, we would encourage you to consider the following information:

Step 1: Try to deal with concerns at a practice level

- You should act on your concerns as soon as is reasonably practicable
- Discuss your concerns with an appropriate member of staff – for example, a senior colleague
- Remember to observe any internal protocol for whistle-blowing
- There is detailed guidance on whistle-blowing for veterinary surgeons and veterinary nurses at Chapter 20 of the supporting guidance to the Codes of Professional Conduct. You can access this advice on our website at:
www.rcvs.org.uk/whistleblowing
- If you find that your concerns are not being dealt with at a practice level or your concerns relate to a senior member of staff, consider approaching another appropriate person in the practice for advice and guidance.

Step 2: Consider whether you need to report your concerns to the RCVS

Below are some examples of when you may need to report to the RCVS:

- Where practice-based options have been insufficient or inappropriate to deal with your concerns
- Where your concerns relate to senior members of the staff within the practice or organisation and you do not feel empowered to deal with these at a local level
- Where your concerns involve serious allegations such as suspected criminal offences or illegal practice
- Where your concerns are sustained and ongoing

Remember that this list is not exhaustive and there may be other circumstances where it is appropriate to report your concerns directly to the RCVS. If you are still unsure, take advice from one of the sources on page (5), which includes the RCVS Professional Conduct Department.

Question 5: How do I report my concerns to the RCVS?

- 5.1 Before you report your concerns, you may wish to speak to a member of staff in the RCVS Professional Conduct Department by telephoning **020 7202 0789** or you can e-mail on profcon@rcvs.org.uk
- 5.2 A member of staff in the department will be able to tell you whether we are able to deal with your concerns or indicate what else you should do.
- 5.3 You can make initial enquiries without providing your name or contact details to the RCVS. However, if the RCVS decides to investigate your concerns further, you will be asked to submit these in writing.
- 5.4 Generally, you will be asked to complete and return our complaints form, which is available on our website at www.rcvs.org.uk/complaints
- 5.5 We understand that in some circumstances it might be difficult to raise concerns and you may be anxious about doing so. However, it is important for veterinary surgeons and veterinary nurses to understand that generally the RCVS is unable to take forward anonymous reports. This is because we require sufficient information to enable us to conduct an investigation.
- 5.6 We will ask you to provide permission to copy your information to the person involved. This is because s/he must be given an opportunity to respond and comment on your concerns. Only in very exceptional circumstances will the RCVS proceed without your permission.
- 5.7 The information that you provide in or with the form is what forms the basis of our assessment. You should therefore take care to ensure that you state your concerns clearly and in as much detail as possible.
- 5.8 When submitting your written concerns to the RCVS, you will be asked to provide information including:
 - The name of the individual concerned
 - The practice details and address
 - A detailed summary of the issues that concern you
 - Any supporting evidence/information
 - Details of any action or intervention that has taken place
- 5.9 You will be sent a written acknowledgment from the Professional Conduct Department when your concerns have been received.
- 5.10 You can telephone the Department at any time to ask for an update on the progress of your case or to ask questions about any other aspects of the investigation. Our Case Managers, solicitors, professional conduct officers and administrative staff will be happy to discuss relevant issues.

- 5.11 In the next section, there is more information about the RCVS investigation process and what happens once you have submitted your concerns.

Question 6: What happens once the RCVS receives a report of concerns?

- 6.1 Investigations into performance related concerns follow similar procedures and timelines to a complaint received by the RCVS.
- 6.2 You can read more about the procedures at: www.rcvs.org.uk/complaints
- 6.3 We aim to deal with performance related complaints in the shortest time possible and it is important that all the relevant information regarding the case and supporting evidence is given to the RCVS from the outset.
- 6.4 We have set out our time estimates for investigating cases, but the length of time can be dependent on the time taken for others to provide us with information.
- 6.5 We may use your information and obtain information from others as part of our investigation procedures.
- 6.6 We will provide your information to the veterinary surgeon or veterinary nurse that you have concerns about. As explained at paragraph 5.6, s/he will be asked to respond and comment on your concerns.
- 6.7 Your information that we may provide to others includes notes of relevant telephone conversations with you, either before or after we receive your complaints form and relevant letters and other information you provide to us.
- 6.8 We may also make other enquiries to investigate your concerns and we may speak with other veterinary surgeons or nurses in the practice where the individual works. We may also contact others you have identified.
- 6.9 We will write to you at regular intervals to update you on the progress of the case. If you are unsure what is happening, please telephone the Professional Conduct Department and speak to the Case Manager, or with a Professional Conduct Officer involved in complaints handling.

Question 7: Are all performance related concerns taken forward?

- 7.1 No – we will close a complaint if it is clear it is not within our jurisdiction.
- 7.2 The RCVS cannot deal with ‘performance’ (competence) complaints unless they are serious enough and there is evidence that they could amount to ‘serious professional misconduct’.
- 7.3 The RCVS Preliminary Investigation Committee and RVN Preliminary Investigation Committee will conduct a preliminary investigation and only they can refer a case under the Performance Protocol.
- 7.4 The Preliminary Investigation Committee is made up of six veterinary surgeons who are also members of RCVS Council including the President, and two Vice-Presidents of the RCVS. There are also lay members sitting with the Committee. Members assist the assessment and investigation of performance related complaints, and carry out the case examination of complaints, as Case Examiners.
- 7.5 The RVN Preliminary Investigation Committee is made up of three registered veterinary nurses, one veterinary surgeon and one lay person. Members of the Committee also assist with the assessment and investigation of performance related complaints and carry out the case examination of performance related complaints, as Case Examiners.
- 7.6 Some complaints will be closed at the early stages of the investigation and will not be appropriate for inclusion on the Performance Protocol. This may include cases where:
- a) There has been a single isolated incident
 - b) The veterinary surgeon or veterinary nurse has accepted his or her mistake and has learned from the incident
 - c) The veterinary surgeon or veterinary nurse is likely to adhere to advice from the RCVS
 - d) The veterinary surgeon or veterinary nurse has already taken steps or has agreed to take steps to prevent similar situations arising
 - e) The veterinary surgeon or veterinary nurse has already undertaken further professional development to improve his or her performance in specific areas
- 7.7 In some cases the Committees may consider that the performance (competence) falls significantly below the accepted standard and passes the threshold for referral to the Disciplinary Committee. However, the Committees may decide that animal welfare and the public interest are better served by taking a remedial approach. This is when cases may be addressed under the Performance Protocol.

Question 8: How do the Preliminary Investigation Committees decide on performance related complaints?

- 8.1 Both Preliminary Investigation Committees meet on a regular basis. These meetings are held in private and all cases are discussed confidentially.
- 8.2 The Committees will consider all of the relevant information that you and others have provided.
- 8.3 In some cases, the Committees may ask for those with relevant information to be interviewed by RCVS solicitors with a view to providing signed witness statements about their concerns or involvement.
- 8.4 To help them decide, the Committees may seek guidance from appropriate experts about the individual's performance and how to put this right.
- 8.5 Based on expert guidance, the Committees may decide that it is in the public interest not to refer the case to the Disciplinary Committee, at least at that time. The Committees may then hold open a case for a specified period of time; or, adjourn consideration of a case for a specified period of time.
- 8.6 Where the Committees have decided to hold a case open or adjourn consideration for a period of time, they may also take reasonable steps in the circumstances to protect the public interest.
- 8.7 The Committees may ask the veterinary surgeon or veterinary nurse involved to:
- agree to be visited and interviewed by RCVS representatives, for example, a Senior Case Manager and/or a veterinary investigator;
 - provide progress reports to the Committee, which may be at his/her expense;
 - embark on a course of professional development recommended by a mentor or workplace supervisor at his/her expense; and,
 - give undertakings to the Committee
- 8.8 An undertaking is a formal promise given in writing and signed by the veterinary surgeon or registered veterinary nurse involved.
- 8.9 The undertakings relating to a specific veterinary surgeon or registered veterinary nurse are not made public by the Preliminary Investigation Committee, unless there is an overriding public interest in disclosure. However, the fact that undertakings have been given may be disclosed to relevant parties in the case.
- 8.10 Similarly, once undertakings have been given by a veterinary surgeon or registered veterinary nurse, managing compliance with those undertakings takes place in private, unless there are overriding public interest reasons for disclosure. In some cases, the undertakings may include an agreement to involve other parties e.g. the veterinary surgeon or veterinary nurse's employer.

Question 9: What happens if I breach the undertakings?

- 9.1 A veterinary surgeon or registered veterinary nurse giving undertakings will be notified that, at the discretion of the Committee, breach of an undertaking could result in referral of the breach to the Disciplinary Committee and that the original case considered by the Preliminary Investigation Committee may also be referred to the Disciplinary Committee.

Question 10: What happens if I refuse to give undertakings when asked to do so?

- 10.1 A failure to cooperate with the Preliminary Investigation Committees (or a breach of undertakings) could each amount to disgraceful conduct in a professional respect.
- 10.2 At the discretion of the Preliminary Investigation Committees, such cases may be referred to the Disciplinary Committee on their own, with or without the original case that was considered by the Preliminary Investigation Committee.
- 10.3 If additional matters, for example, concerns resulting from information provided in compliance with undertakings, or a conviction or other conduct complaint cases come to the attention of the Committee during the course of its management of a held-open or adjourned case, it may decide to refer all or any cases to the Disciplinary Committee, following any additional investigation that is considered necessary.
- 10.4 You can read more about the process of giving undertakings in the Performance Protocol at: www.rcvs.org.uk/performance