

RCVS Protocol on Handling of Convictions, Cautions and Adverse Findings Declared by Veterinary Surgeons

Background

1. The RCVS has a duty to act in the public interest as the UK regulatory authority for veterinary surgeons.
2. The requirement for disclosure of cautions, convictions and adverse findings has been introduced to safeguard the welfare of animals and of the public, and brings the veterinary profession in line with many others, as professions seek to assure the public that their members are fit to practise.
3. If a veterinary surgeon is convicted or cautioned, or investigated for serious alleged criminal activity, the police inform the RCVS as part of the Notifiable Occupations Scheme. This Scheme relates to professions or occupations that involve special trust or responsibility, in which the public interest in the disclosure of the investigation, conviction or caution, and other relevant information, outweighs the normal duty of confidentiality owed to the individual. The veterinary profession has been included in the Notifiable Occupations Scheme since April 2006. However, the operation of the Scheme does not negate the requirement for veterinary surgeons to make full disclosure to the RCVS.

Code of Professional Conduct

4. The *Code of Professional Conduct for Veterinary Surgeons* was introduced in 2012 and provides (5.3) that:

Veterinary surgeons, and those applying to be registered as veterinary surgeons, must disclose to the RCVS any caution or conviction, including absolute and conditional discharges and spent convictions, or adverse finding which may affect registration, whether in the UK or overseas (except for minor offences excluded from disclosure by the RCVS). (These are referred to for ease in this protocol as convictions/adverse findings.)

5. From 1 January 2014, those applying to join the Register – whether for the first time or after a period of absence from the Register – must disclose convictions/adverse findings (for what this covers, please see sections 10-16 below.) Similarly, from 1 January 2014 veterinary surgeons already on the Register will have to disclose convictions/adverse findings as part of their annual renewal of registration.
6. The obligation to disclose convictions/adverse findings applies not only to those on the UK-Practising Register but also to those on the Non-Practising Register and those registered in the 'Practising Outside the UK' category.

About this document

7. This document aims to provide practical advice for veterinary surgeons and new applicants who have received a conviction/adverse finding that they are required to disclose to the RCVS.
8. For further advice, you may wish to phone our dedicated disclosure helpline and speak to one of three RCVS solicitors who will be available to answer questions on the process, and advise you on the possible outcome of your disclosure:

Eleanor Ferguson
Robert Girling
Avnish Ghoorbin

9. The helpline number is **07818 113056**, and is open from 11am to 4pm daily (Monday to Friday). Alternatively, you can contact us for advice on the dedicated email address **disclosure@rcvs.org.uk**. If you wish to speak to someone but cannot telephone when the helpline is open, please email us, and we will arrange to speak with you at time that is convenient.

What am I required to disclose to the RCVS?

10. You are required to disclose any criminal conviction or formal police caution, whether in the UK or abroad, that is not considered minor and excluded from disclosure (for more information on what the RCVS considers minor/excluded see paragraph 15 below.) Convictions include those that result in an absolute or conditional discharge as well as those that result in any other sanction or penalty. Please note that we do not generally consider cautions or convictions to be 'spent'. This means that all convictions/cautions/adverse findings should be disclosed, unless they are 'protected' (see paragraph 16 below).
11. However, those currently registered with the RCVS are not required to disclose a conviction/ adverse finding dated before January 2006. This is the date of the conviction/adverse finding. (The date of the incident may be before January 2006 but it is the date of the conviction/ adverse finding that is key.)
12. 'Adverse finding' means any finding:
 - Within veterinary school or university fitness to practise procedures, in the UK or overseas (applicants to the Register only);**
 - Of any other veterinary regulator overseas; and,
 - Of any other healthcare regulator in the UK or overseas.

** (To clarify, we require disclosure where a panel finds that the case against the student is proven and their fitness to practise is impaired. We do not need to know about cases that do not reach a fitness to practise panel or those that are dismissed by a panel).

13. Where there has been a conviction, the finding of a court on matters of fact will be accepted; this means that you cannot claim to have been innocent of the original charges by challenging the evidence on which you were found guilty of the offence.
14. Convictions/adverse findings that have been notified to the RCVS and on which the RCVS has previously reached a formal decision that was notified to you in writing, do not need to be disclosed again.

What are the minor offences excluded from disclosure?

15. Minor convictions that are excluded from disclosure include some road traffic offences that have been dealt with by means of a fixed penalty, for example, speeding, and fixed penalty notices issued by local authorities for offences such as dog fouling or littering

What is a 'protected' spent conviction?

16. Legislative provisions allowing certain convictions and cautions to be 'spent' do not generally apply to veterinary surgeons (and other professionals). However, there is no obligation to declare 'protected' spent convictions and cautions. The rules defining what is protected are complex, applying varying time limits and listing situations where protection can never be applied, eg serious (listed offences); offences giving rise to a custodial sentence; and, multiple offences. The rules are attached in Annex A. If you are in any doubt about what you need to declare, please contact the helpline (see footer) for advice.

When do I have to disclose?

17. From 1 January 2014, you must make appropriate disclosure
 - If you apply to join the Register for the first time;
 - As part of your annual renewal process (when you pay your annual fee to the RCVS);
 - If you apply to have your name restored to the Register.

(Please note that disclosure must be made within three months of the date of the conviction/adverse finding.)

What are the consequences of failing to make an appropriate disclosure?

18. From 2014, if you fail to disclose any conviction/adverse finding (or at any time make a dishonest disclosure or statement as part of these procedures), that in itself may amount to 'disgraceful conduct in a professional respect' (commonly referred to as 'serious professional misconduct') and may be referred to the RCVS Disciplinary Committee. Such an allegation will be investigated as part of the standard concerns process.

How should I disclose convictions to the RCVS?

19. If you are applying to join the Register for the first time (or are applying to be restored) a declaration/disclosure form will be part of the application form available from the RCVS Registration Department (www.rcvs.org.uk/registration).
20. For those already on the Register a declaration/disclosure form will be provided to you along with your renewal invoice.
21. Before you submit your form, you may wish to phone or email our disclosure advice team who will be able to offer advice on the process for handling convictions/adverse findings disclosed to the RCVS (see paragraphs 7-9 above).
22. When completing the form, you will be asked to supply the following information:
 - The date of the caution or conviction (you will need to supply evidence of the caution or conviction in the form of a caution note or conviction notice, or a recent Disclosure and Barring Service (formerly Criminal Records Bureau) report)
 - The name and address of the police authority or court
 - The details of the penalty/sanction (if applicable) that was imposed
 - Any other relevant information/evidence, which may include a statement from you outlining the circumstances of the offence and the name of the investigating police officer. The RCVS may contact the authorities to obtain further information as part of its investigation
23. When disclosing adverse findings made by other overseas veterinary regulators or healthcare regulators (overseas or UK), you must provide:
 - Details of the regulator that imposed the sanction, including your membership/registration number
 - Written evidence of the sanction/warning imposed
 - A full statement (from you) of the circumstances surrounding the incident that led to the charges and reasons for the sanction/warning (if applicable) and information of any appeal, whether successful or not
 - A refusal by an overseas regulator to register would also be an adverse finding and must be disclosed with documentary evidence of the grounds for the refusal.
24. Once you have submitted the disclosure form, you will be sent a written acknowledgment of receipt from the Professional Conduct Department.
25. You can phone the Professional Conduct Department at any time to ask for a progress update or to ask questions about any other aspects of the process – profcon@rcvs.org.uk – 020 7202 0789.
26. We understand that in some circumstances you may be anxious about disclosing and our advice team will be happy to guide you through the process.

What happens once convictions are disclosed to the RCVS?

For those already registered with the RCVS

27. The Registrar will consider all declarations made and may seek guidance from external lawyers.
28. What happens next will depend on the nature and seriousness of the offence. Where there is an arguable case that the conviction/adverse finding may affect your fitness to practise (ie amount to serious professional misconduct), it will be referred to the Preliminary Investigation Committee. Those where there is no arguable case will be recorded against your name, and there will be no further action by the RCVS.
29. In deciding if there is an arguable case, the Registrar will take into account:
 - the nature and seriousness of the offence;
 - the sentence imposed (was it high or low on any available tariff for sentencing);
 - any sentencing remarks made by the court);
 - the extent and nature of any risk or harm to animals or the public from the offending behaviour;
 - the date and length of time since the offence (the longer ago it was, the less likely the matter will be referred if it indicates that the risk of reoffending is low or diminishing, particularly if the time has been used positively);
 - the period of time over which offences were committed;
 - whether any period of a suspended sentence is outstanding;
 - relevance of the offence to professional standards and conduct;
 - the veterinary surgeon's character and conduct since the offence, including the risks of reoffending and the seriousness of the consequences of reoffending while giving due consideration to appropriate positive behaviour; and,
 - the impact that such an offence could have on public confidence in the profession.
30. The Registrar will also consider if there is evidence of a pattern of offending or if any aggravating features apply, as follows:
 - Actual injury to an animal or human
 - Risk of injury to an animal or human
 - Dishonesty
 - Recklessness
 - Premeditated misconduct
 - Financial gain
 - Breach of confidentiality or client trust
 - The involvement of a vulnerable client
 - Sexual misconduct
 - Any relevant increased position of trust or responsibility
 - Misconduct sustained or repeated over a period of time

- Conduct contravening advice issued by the RCVS, including the Preliminary Investigation Committee and Professional Conduct Department, or other appropriate authority
- Blatant or wilful disregard of the role of the RCVS and the systems that regulate the veterinary profession
- No insight into the offence or disgraceful conduct
- Previous convictions
- Previous adverse findings of the Disciplinary Committee
- Previous findings of another regulator or similar body

31. Any relevant mitigating factors will also be taken into account. Depending on the nature of the offence, these might include:

- The circumstances of the incident, including promoting the health or welfare of an animal
- No actual harm or any risk of harm to an animal or human
- No financial gain
- Whether the incident was single and isolated
- Ill-health at the time at which the disgraceful conduct, or criminal offence, was committed
- Subsequent efforts to avoid a repetition of such behaviour
- Significant lapse of time since the incident
- Demonstration of insight into the offence or disgraceful conduct committed

32. Cautions are less likely to be referred to the Preliminary Investigation Committee, as are minor road traffic convictions, such as exceeding the speed limit or contravention of pedestrian crossing regulations. However, road traffic offences such as causing death through careless driving when unfit through drink/drugs are likely to be referred to the Preliminary Investigation Committee.

33. Individual cases will be decided on their own merits and facts. However, the purpose of this guidance is to set out examples of convictions/adverse findings which are likely to result in referral to the Preliminary Investigation Committee and the factors that can determine their seriousness, and thus the likely outcome.

34. The examples set out in this document are intended to form guidance only, and are not exhaustive.

35. While each case will be considered on its own merits, convictions that will generally be referred to the Preliminary Investigation Committee are those involving:

- Inappropriate care or management of animals (for example, offences under the Animal Welfare Act 2006 (which applies in England and Wales), the Animal Health and Welfare (Scotland) Act 2006 or the Welfare of Animals (Northern Ireland) Act 2011)
- Violence (for example, common assault, ABH, GBH)
- Dishonesty (for example, shoplifting, fraud, theft)
- Inappropriate sexual behaviour
- Drink driving
- Medicines and drugs

- Discrimination, particularly racial discrimination
 - Harassment
36. The Registrar may request further information or clarification from you or from others regarding any matter pertaining to the conviction. All cases are considered confidentially by the Registrar.
37. The Registrar, having considered the matter, will give his decision whether to refer the case to the Preliminary Investigation Committee or whether the case should be closed. You will be notified of the decision in writing. There is more information about the Preliminary Investigation Committee stage later in this document.
38. The Preliminary Investigation Committee will consider whether there is a **realistic prospect** that the veterinary surgeon is unfit to practise as a result of the conviction/adverse finding or that the conviction/adverse finding may amount to disgraceful conduct in a professional respect ('serious professional misconduct'). It will consider the nature and seriousness of the offence and also any aggravating or mitigating factors as above.
39. The RCVS recognises that sometimes it will be in the public interest for veterinary surgeons suffering from adverse health to be helped through the Health Protocol, without referring the case to the Disciplinary Committee for a formal hearing. Generally, it is more appropriate to take a 'health approach' in cases involving health problems. More information about the RCVS Health Protocol is available online at www.rcvs.org.uk/health.
40. If the Preliminary Investigation Committee decides that there is no realistic prospect of the conviction/adverse finding rendering you unfit to practise, or amounting to serious professional misconduct, the case will be closed. You may receive advice from the Committee.
41. If the Preliminary Investigation Committee decides that there *is* a realistic prospect of the conviction/adverse finding rendering you unfit to practise, or of the conviction/adverse finding amounting to serious professional misconduct, the case will be referred to the Disciplinary Committee and there will be a formal hearing (an Inquiry).
42. The Disciplinary Committee will be required to decide whether the nature and circumstances of the offence are such as to render you unfit to practise veterinary surgery.
43. Detailed information on the make up and working of the Preliminary Investigation Committee and Disciplinary Committee can be found on the RCVS website at www.rcvs.org.uk/concerns.

For those applying to join the Register the first time / be restored to the Register

44. The Registrar will consider all applications, in strict confidence, and decide whether you are suitable for registration. The Registrar may seek guidance from external lawyers. Applications are dealt with on a case by cases basis and decided on their own merits.

45. However, in deciding whether, despite a conviction, you are suitable for registration (ie fit to practise) the Registrar will take into account the factors set out in paragraphs 27-30 above.
46. The Registrar may require you to support your application with additional information or seek additional information from others regarding the application.
47. If the Registrar decides that you are not suitable for registration, and refuses your application, you will be notified in writing within three months of receipt of your application. You will be provided with reasons for the decision and with information on your right of appeal.
48. In exceptional circumstances, the Registrar may decide that it would be appropriate to allow your registration and refer consideration of a conviction/adverse finding to the Preliminary Investigation Committee.

Closed cases

49. If the case is closed, the conviction/adverse finding will be recorded against your name. There will be no further action on the part of the RCVS, although it may be considered again in the event of future concerns, convictions, cautions or adverse findings, if relevant.

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**Annex A – Convictions and Cautions protected for the purpose of the
Rehabilitation of Offenders Act 1974**

Convictions and Cautions protected for the purpose of the Rehabilitation of Offenders Act 1974

Cautions

(1) A caution is a **protected caution** if it was given to a person for an offence other than a listed offence (see paragraph (5) below) and—

(a) where the person was under 18 years at the time the caution was given, two years or more have passed since the date on which the caution was given; or

(b) where the person was 18 years or over at the time the caution was given, six years or more have passed since the date on which the caution was given.

Convictions

(2) A person's conviction is a **protected conviction** if the conditions in paragraph (3) are satisfied and —

(a) where the person was under 18 years at the time of the conviction, five years and six months or more have passed since the date of the conviction; or

(b) where the person was 18 years or over at the time of the conviction, 11 years or more have passed since the date of the conviction.

(3) The conditions referred to in paragraph (2) are that—

(a) the offence of which the person was convicted was not a listed offence (see paragraph (5) below);

(b) no sentence mentioned in paragraph (4) was imposed in respect of the conviction; and

(c) the person has not been convicted of any other offence at any time.

(4) The sentences referred to in paragraph (3)(b) are—

(a) a custodial sentence, and

(b) a sentence of service detention, within the meaning of [section 5\(8\)](#) of the Act, as to be substituted by [section 139\(1\)](#) and (4) of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) ².

Listed Offences

(5) In paragraphs (1) and (3)(a) above, "*listed offence*" means —

(a) an offence under [section 67\(1A\)](#) of the [Medicines Act 1968](#);

(b) an offence under any of [sections 126 to 129](#) of the [Mental Health Act 1983](#);

(c) an offence specified in the [Schedule to the Disqualification from Caring for Children \(England\) Regulations 2002](#);

- (d) an offence specified in [Schedule 15 to the Criminal Justice Act 2003](#) (namely specified violent and specified sexual offences);
- (e) an offence under [section 44](#) of, or under [paragraph 4 of Schedule 1](#) or [paragraph 4 of Schedule 4](#) to, the [Mental Capacity Act 2005](#);
- (f) an offence under [section 7, 9 or 19](#) of the [Safeguarding Vulnerable Groups Act 2006](#);
- (g) an offence specified in [section 17\(3\)\(a\), \(b\) or \(c\)](#) of the [Health and Social Care Act 2008](#), apart from an offence under [section 76](#) of that Act;
- (h) an offence specified in the [Schedule to the Safeguarding Vulnerable Groups Act 2006 \(Prescribed Criteria and Miscellaneous Provisions\) Regulations 2009](#);
- (i) an offence specified in [Schedule 2 or 3](#) of the [Childcare \(Disqualification\) Regulations 2009](#);
- (j) an offence superseded (whether directly or indirectly) by any offence falling within paragraphs (a) to (i);
- (k) an offence of—
 - (i) attempting or conspiring to commit any offence falling within paragraphs (a) to (j), or
 - (ii) inciting or aiding, abetting, counselling or procuring the commission of any such offence, or an offence under [Part 2 of the Serious Crime Act 2007](#) (encouraging or assisting crime) committed in relation to any such offence;
- (l) an offence under the law of Scotland or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence under the law of England and Wales falling within paragraphs (a) to (k);
- (m) an offence under [section 42](#) of the [Armed Forces Act 2006](#) in relation to which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence falling within paragraphs (a) to (k); or
- (n) an offence under [section 70](#) of the [Army Act 1955](#), [section 70](#) of the [Air Force Act 1955](#) or [section 42](#) of the [Naval Discipline Act 1957](#) of which the corresponding civil offence (within the meaning of that Act) is an offence falling within paragraphs (a) to (k).]

For the regulation in full, see the **Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975/1023**

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