RCVS RESPONSE TO QUESTIONS FROM ‘RIGHTS 4 PETS @ VETS’

We provide advice and guidance to the veterinary profession on matters of professional behaviour within the RCVS Guide to Professional Conduct. This is not a rule book, but sets out good practice.

1. Can a veterinary surgeon withhold treatment if the owner does not have the immediate ability to pay fees (i.e. has left their debit/credit card at home)?

The key to this question is the difference between emergency treatment – first aid and pain relief – and other treatment.

Other treatment
For anything other than immediate first aid and pain relief, veterinary surgeons provide treatment on the basis that the animal owner is able and willing to pay for the treatment. The animal owner has a responsibility to care for the animal appropriately.

First aid and pain relief
For the provision of immediate first aid and pain relief, the position is different. Veterinary surgeons should not unreasonably refuse to provide an animal with first aid and pain relief (Part 1C of the RCVS Guide to Professional Conduct), but may charge the client – the person presenting the animal – for that first aid and pain relief.

We provide detailed guidance on the payment of fees when an animal requires first aid and pain relief (in the annex on 24/7 cover) as follows:

Fees
16. The cost of providing professional attention outside 'routine hours' is high and the RCVS accepts that clients may be required to pay a premium for emergency veterinary attention out of hours.

17. A veterinary surgeon or a lay member of staff accepting telephone calls must not refuse veterinary attention because the caller is unable to make immediate payment for the treatment. Arrangements for payment should be discussed at an early stage, but immediate first aid and pain relief should not be delayed while financial arrangements are agreed.

18. The RCVS is aware that it may be appropriate to advise euthanasia to relieve suffering, if the owner is unable to afford the fees and is ineligible for charitable treatment.

19. The RCVS has no power to set the fees that a practice charges.
2. What are the rules governing handover protocols when an animal is transferred from the care of an emergency overnight facility into day care?

The overriding principle is that veterinary surgeons make animal welfare their first consideration in seeking to provide the most appropriate attention to animals committed to their care (Part 1B of the Guide).

The Guide provides detailed guidance on transfer of animals between practices (Part 2D of the Guide) as follows:

**Continuity of care in veterinary practice**

9. Once an animal has been accepted as an in-patient for treatment by a veterinary surgeon or practice, responsibility for the animal remains with that veterinary surgeon or practice until another veterinary surgeon or practice accepts the responsibility.

10. Primary practices and out-of-hours emergency service providers must provide uninterrupted treatment of an in-patient, if it is considered that the animal is not fit to be moved.

11. Where an animal needs continuous in-patient care, a veterinary surgeon should not leave the animal until appropriate care is provided by a suitably qualified (e.g. MRCVS or Listed VN) colleague.

12. It is recognised that critically ill animals will sometimes need to be moved in order to receive appropriate treatment and primary practices should have appropriate transport and transfer arrangements in place. This may necessitate trained staff travelling with the animal.

13. When considering the transfer of critically ill animals, veterinary surgeons should consider the long term care that may be required and avoid, so far as possible, the need for such animals to travel more than necessary.

14. Where it is necessary and appropriate to transfer an animal between the primary practice and an out-of-hours emergency service provider or vice versa, the responsibility is that of the veterinary practices involved, not the client. Normally, the practice from which the animal is transferred is responsible for the transfer or arranging the transfer.

15. The transfer of a critically ill animal between practices should be in the animal's best interests, not for the convenience of the practices involved.

3. What objective criteria/legal tests does the RCVS apply when deciding whether a vet's actions have the potential to constitute serious professional misconduct?

First, one of two Case Managers in the Professional Conduct Department assesses complaints (with any veterinary advice needed) and decides whether there is an issue of conduct with the potential to amount to disgraceful conduct in a professional respect – within our jurisdiction. If so, they ask the veterinary surgeon to respond to the complaint.
Second, Case Examiners (a Lay Observer and a veterinary surgeon) consider whether there is an **arguable case** against the veterinary surgeon complained about. If so, the complaint will be considered by the Preliminary Investigation Committee.

If there is a **realistic prospect** of what the veterinary surgeon has done (or not done) amounting to disgraceful conduct in a professional respect, or for a conviction to render the veterinary surgeon unfit to practise or work as a veterinary surgeon, the Preliminary Investigation Committee will refer the complaint to the Disciplinary Committee for a public hearing; unless it is not in the public interest to do so (**see the current consultation on the proposed RCVS health protocol**).

Examples of:

1. the types of complaints that may have the potential to amount to disgraceful conduct in a professional respect;
2. factors taken into account to consider whether there is an arguable case; and,
3. examples of complaints (with the name of the veterinary surgeon complained about) where there has been a realistic prospect of disgraceful conduct are set out in our guidance on *‘Thresholds for Complaints’.*

When the Disciplinary Committee considers a complaint alleging disgraceful conduct in a professional respect (which is commonly known as serious professional misconduct or may be referred as alleged unfitness to practise) all relevant information or evidence is taken into account, including statements by the complainant, witnesses and veterinary surgeons.

**4. Under what legislation is the RCVS prevented from publishing full details of the nature of warnings given to veterinary surgeons?**

The key to this question is that ‘warnings’ are formal decisions given by the Disciplinary Committee after the evidence has been considered in a public court-like hearing. Before this, the information we gather during investigations is confidential to the veterinary surgeon complained about and the complainant.

A warning as to future conduct is a decision for the Disciplinary Committee. Other sanctions may include postponement of judgement (which may include undertakings by the veterinary surgeon), suspension of a veterinary surgeon’s name from the Register, or removal of the veterinary surgeon’s name from the Register.

There is detailed information about complaints heard by the Disciplinary Committee in the public domain. For approximately three years after the hearing of the Inquiry (or application for restoration) **details of the hearings are available on RCVS Online.**

Also, information on any Disciplinary Committee hearing is available on request (and assistance is given to those wishing to trace hearings on particular veterinary surgeons or topics) and transcripts of hearings from 2000 are available in the RCVS library.

At the complaints stage, advice given to a veterinary surgeon is only made known to the complainant, not to members of the public. The investigation of a complaint is a confidential process involving the sensitive personal data of the subject veterinary surgeon (and the personal data of the complainant). When cases are closed there is no finding of fact or any finding of disgraceful conduct in a professional respect. In
many complaints, the facts will be disputed. To publish the details of a complaint and any advice given would be unfair to a veterinary surgeon because the complaint may not have been proved and may damage the reputation of the veterinary surgeon. Also, in accordance with the data protection legislation, we may only make public the sensitive personal data of a veterinary surgeon within the context of a hearing by the Disciplinary Committee.

The advice to the veterinary surgeon will be a reminder of the provisions in the Guide. For example, if the veterinary surgeon says he/she gave advice during a consultation, but the complainant says none was given, then in appropriate circumstances, the veterinary surgeon may be advised or reminded of the provisions relating to such matters in the Guide – for instance, to ensure that a client has taken note of the advice to be in a position to give informed consent (Part 2B). The advice is given to help reduce the risk of further complaints and misunderstanding between veterinary surgeons and their clients.

There is information about complaints on RCVSonline, without reference to the names of the veterinary surgeons complained about (or the complainant) in reports from the Preliminary Investigation Committee. There is an Index of Complaint Subjects to help locate reports about matters of interest. The complaints are listed in alphabetical order with categories ranging from advertising to the wrong procedure alleged.

5. Is periodic retraining/re-skilling mandatory across the profession?

Yes, veterinary surgeons must maintain and continue to develop their professional knowledge and skills (Part 1B of the Guide). This is achieved by Continuing Professional Development (CPD), re-training, or 're-skilling', as appropriate.

The Guide provides detailed guidance which is set out below.

**Continuing Professional Development**

4. Veterinary surgeons must continue their professional education by keeping up to date with the general developments in veterinary science, particularly in their area of professional activity and must maintain a record of CPD undertaken as evidence of so doing.

5. Employers should encourage and facilitate participation in CPD programmes.

6. New graduates must be supported and assisted by senior colleagues until they are confident of their own ability to provide a full professional service. It is strongly recommended that employers of new graduates support their continued development through an appropriate appraisal system, to enable them to complete the RCVS Professional Development Phase (PDP).

7. Those returning to practice, or changing direction, must undertake appropriate training to ensure that they are competent to do so.

We may ask for details of veterinary surgeons’ CPD, for example, if there is a relevant complaint, and we have sampled the profession randomly to monitor compliance.
6. What specific steps are the RCVS taking as a result of the 2008 EFRA committee findings to reform the VSA 1966?

and

7. What action are the RCVS taking to lobby EFRA for provision of funds to overhaul the VSA 1966?

In December 2009, following a public consultation, we formally asked DEFRA to make a Legislative Reform Order to amend the Veterinary Surgeons Act 1966, the object being to change the machinery which deals with allegations that veterinary surgeons have been guilty of disgraceful conduct in a professional respect.

At present, members of the Preliminary Investigation and Disciplinary Committees must also be members of RCVS Council. We are seeking to have the current Act amended to ensure that members of the RCVS Council do not serve on the Disciplinary Committee.

Our proposal has been discussed with DEFRA officials, who understand the need for change and RCVS representatives will soon be meeting the new Minister, Mr Jim Paice. We hope to convince the Minister of the need to devote resources to this important change in the Act.

We have considered more extensive changes to the legislation in the past, and a new RCVS working party has been set up to consider these issues further.

8. What role do lay members play in the disciplinary process and how are they selected?

Since September 1999, Lay Observers have been appointed to sit with the Preliminary Investigation Committee. They are now involved at virtually all stages of complaints handling and provide an annual report to RCVS Council on our complaints procedures.

The role of a Lay Observer is set out in a Guide for Lay Observers, which is available on RCVSonline and states that:

**ROLE OF THE LAY OBSERVER**

1) The role of the Lay Observers has been developed to provide assistance and scrutiny that is both independent and lay, to the investigation and consideration of complaints about veterinary surgeons. Lay Observers have access to all information relating to complaints (similar to the Preliminary Investigation Committee) and are asked:

   a) To assist, as appropriate, with the assessment and investigation of complaints;

   b) To carry out case examination of complaints as case examiners;

   c) To observe and contribute to discussions of complaints by the Preliminary Investigation Committee;
d) To attend visits and interviews of veterinary surgeons and complainants, as appropriate;

e) To ensure the Preliminary Investigation Committee is impartial, fearless and unbiased in assessing each complaint;

f) To advise the Preliminary Investigation Committee of any concerns with a complaint or the RCVS handling of a complaint;

g) To review a complaint at the request of the Preliminary Investigation Committee;

h) To assist with the development of the complaints procedures; and,

i) To produce an independent annual report for presentation to RCVS Council at its June meeting; the Preliminary Investigation Committee respond to each report.

Vacancies for Lay Observer positions are advertised on the Cabinet Office Public Appointment Unit’s website and these are subject to open competition. Appointments are made for an initial period of three years, thereafter renewable annually.

In addition, a significant number of lay people (non-veterinary surgeons) sit on the Disciplinary Committee to hear allegations of disgraceful conduct against veterinary surgeons. Currently, five of the 12 members of the Disciplinary Committee are lay people.

Also, recent Chairmen of the Disciplinary Committee have been lay people.

The lay people sitting on the Disciplinary Committee are also members of RCVS Council and are appointed to the Council by the Privy Council or universities with veterinary schools.

9. What cognizance do the RCVS take of comments made by veterinary surgeons (in responses to complaints) regarding the demeanour or attitude of owners whose pets have died whilst in the care of veterinary surgeons?

When investigating complaints, the Professional Conduct Department takes into account all relevant information provided by complainants, witnesses and veterinary surgeons, about the facts and circumstances of the complaint.

This may include comments by the veterinary surgeon about the demeanour of the owner/client, or the demeanour of others involved in the complaint, which may be relevant to determining the facts, the credibility of witnesses and/or the strength of feeling of the parties – although this list is not exhaustive.

Equally, the Professional Conduct Department also takes into account relevant comments made by the complainants about the attitude or demeanour of the veterinary surgeons involved in the complaint.
During investigations, the Professional Conduct Department will consider many forms of evidence such as written records and statements, clinical notes, photographs, audio and/or DVD recordings, and CCTV footage.

As in any investigation of facts, the demeanour or attitude of complainants, witnesses or veterinary surgeons may affect the credibility of their evidence, i.e. whether what they say can be believed.

If there is a realistic prospect of finding disgraceful conduct in a professional respect, the Preliminary Investigation Committee will refer a complaint to the Disciplinary Committee, unless it is not in the public interest to do so (see the current consultation on the proposed RCVS health protocol).

At the Disciplinary Committee hearing, all the information or evidence including statements by the complainant, witnesses and veterinary surgeons is considered by the Committee.

10. Are veterinary surgeons employed within emergency out of hours practices required to undergo specific training similar to specialist paramedics?

No, but all practising veterinary surgeons are members of the RCVS and have full veterinary qualifications. They must be competent in their areas of practice. They may seek additional training or qualifications whatever their area of practice and may seek to become members of relevant veterinary organisations, for example, the British Association of Veterinary Emergency Care (BAVEC).

Virtually all veterinary treatment, including first aid and pain relief, is provided by veterinary surgeons (who have a responsibility to provide 24-hour emergency care [first aid and pain relief] to all animals). There is no equivalent of the paramedic in veterinary practice.

11. Is there a culture within the profession whereby veterinary surgeons are reluctant to provide second opinions or comment on the clinical actions of their colleagues?

We suggest that there is no such culture and veterinary surgeons and referrals and second opinions are an accepted part of veterinary practice.

Veterinary surgeons are encouraged to provide second opinions on the clinical actions of their colleagues provided that they have full information about the case, including clinical records, including radiographs and other documents.

The provision of comment or expert opinion on the clinical actions of colleagues, for example, for use in legal actions is subject to special requirements and considerations (see annex M to the Guide on Giving Evidence in Court).

Care must be taken by veterinary surgeons to make sure they do not comment adversely on a colleague’s case, without being aware of all the relevant information (clinical or otherwise), because this can lead to a loss of confidence in what may have been appropriate veterinary care.
12. Does the Animal Welfare Act apply to veterinary surgeons as it does to pet owners in the sense that they are subject to the same strictures that apply to causing unnecessary suffering to an animal?

Yes, the Animal Welfare Act 2006 (which applies in England and Wales), the Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Animals (Northern Ireland) Act 1972 contain provisions to safeguard the welfare of animals and these provisions apply to veterinary surgeons, but the owner or keeper of the animal has the primary responsibility under the Act.

Veterinary surgeons will consider the various possible diagnoses for any presenting symptoms, with or without any relevant tests. Treatment is then based on the most likely diagnosis. Subsequently, another diagnosis may be considered more likely and treatment be based on this new diagnosis. It should be clear that in virtually all cases this is normal veterinary practice.

Under the Animal Welfare Act, animals must be provided with a suitable diet and a suitable place in which to live, and be protected from pain, suffering, injury and disease, which may include access to veterinary care. Those who fail to meet the reasonable needs of their animal may be prosecuted under the Act. Also, a person may commit an offence if an act or failure to act causes an animal to suffer unnecessarily.

**Veterinary, husbandry and legal advice** should be sought, as appropriate, on the needs of any animal and whether the suffering of any animal has been unnecessary.

13. Does the RCVS publish guidelines on prescriptions?

Yes, we provide information on prescribing.

First, veterinary surgeons may only prescribe if certain conditions are met. When prescribing a POM-V medicine, a veterinary surgeon must have the animal in question ‘under his or her care’ and have made a ‘clinical assessment’. This requires a veterinary surgeon to see or examine an animal, or to have seen or have examined an animal recently enough to have the animal ‘under his or her care’ (*Part 2H of the Guide*).

Second, veterinary surgeons must ensure that clients are able to obtain prescriptions, as appropriate, provide the price of any medicine stocked or sold to those making reasonable requests and make certain information available by a notice in the practice, for example, the waiting room. (*Part 1D of the Guide*).

Third, veterinary surgeons should not discriminate between those who obtain prescriptions and those who obtain the medicines from the practice. Implicit in our guidance is that veterinary surgeons should not make an unreasonable charge for written prescriptions that could be regarded as a deterrent by clients who might otherwise ask for a prescription (*Advice Note 15 on prescription charges*).

Fourth, veterinary surgeons may write a prescription for the medicine to be supplied once, or repeat supplies to be given on a number of occasions (limited by legal provisions or what is professionally appropriate). Only the minimum quantity for use may be prescribed at any one time. The time between re-assessments of the animal
for further prescriptions may vary between practices as will the practices and charges relating to prescriptions.

A veterinary practice notice may look like the following:

"Prescriptions are available from this practice. You may obtain relevant veterinary medicinal products from your veterinary surgeon OR ask for a prescription and obtain these medicines from another veterinary surgeon or a pharmacy.

Your veterinary surgeon may prescribe relevant veterinary medicinal products only following a clinical assessment of an animal under his or her care.

A prescription may not be appropriate if your animal is an in-patient or immediate treatment is necessary.

You will be informed, on request, of the price of any medicine that may be prescribed for your animal.

The general policy of this practice is to re-assess an animal requiring repeat prescriptions for/supplies of relevant veterinary medicinal products every XX months, but this may vary with individual circumstances. The standard charge for a re-examination is £XX.

The current prices for the ten relevant veterinary medicinal products most commonly prescribed during XX [a typical 3 month period] were:

[The ten relevant veterinary medicinal products and prices listed.]

Further information on the prices of medicines is available on request."

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