

Response to the Defra Consultation on Reform of the Veterinary Surgeons Act 1966

About this document

1. This document forms the response from the Royal College of Veterinary Surgeons (RCVS) to the consultation by the Department for Environment, Food and Rural Affairs (Defra) on the government's proposed reform of the Veterinary Surgeons Act 1966, as published on 28 January 2026.
2. The document is structured as follows:
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 - e. Part five: Response to regulation of veterinary/animal healthcare businesses proposals
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3. Any questions about this document or its content should be sent to reform@rcvs.org.uk

Part one: Introduction

4. The RCVS is the regulator of veterinary professionals in the United Kingdom. Our primary purpose is to uphold animal health and welfare and, in so doing, to protect the public. We do this by setting, maintaining and advancing educational, ethical and conduct standards for veterinary surgeons and veterinary nurses. In line with our Charter objectives all of our activities are carried out in the public interest, rather than in the interest of the professions for their own sake.
5. The RCVS was established in 1844 by Royal Charter and still exists today by virtue of the most recent Supplemental Charter, which was granted in 2015. Our statutory duties and powers are laid out in the Veterinary Surgeons Act 1966 (VSA), though regulation of veterinary nurses currently operates under both the Act and the Charter.
6. Under the current legislative framework, we have no powers to regulate veterinary businesses or wider members of the veterinary team, and our existing mechanisms for investigations and regulation are no longer in line with regulatory best practice. We have been highlighting these shortcomings in the current framework for at least 20 years. Over the past decade, we have worked proactively to develop a comprehensive vision for a new legislative framework, including through consultation with stakeholders and the public.
7. In 2017 we established a Legislation Working Party (LWP), which tasked representatives from the RCVS, the British Veterinary Association (BVA) and British Veterinary Nursing Association (BVNA) with examining the VSA and making recommendations for reform. The LWP concluded its review in 2020, and its recommendations were then put out for public consultation. Following the consultation, RCVS Council voted in June 2021 to approve the recommendations in full, which were published in a final report later in 2021.
8. These recommendations formed the basis for our ongoing engagement with government on the need for legislative reform, culminating in an intensive series of 'Sprints' coordinated by Defra throughout 2025. During the Sprints we participated in detailed discussions on the recommendations with government officials and representatives from other key stakeholder organisations, and we are very pleased that Defra has subsequently brought forward a set of proposals for consultation.
9. We therefore warmly welcome this public consultation on reform of the VSA. We are grateful to Baroness Hayman for her personal commitment to this important work and to officials in Defra and across government for the work they have done to bring the consultation to fruition. We look forward to continuing to work constructively with Defra on the next steps towards securing this much-needed reform.

Part two: Response summary

10. The RCVS believes that any reform of the VSA should seek to create a regulatory framework that:
 - a. is clear, flexible and future-facing;
 - b. prioritises animal health and welfare and public health; and
 - c. protects the public and maintains public confidence in the professions.
 11. We believe that the fundamentals of such a framework include:
 - a. Statutory regulation of veterinary businesses/practices
 - b. Statutory regulation of the whole veterinary team under a single regulator
 - c. Flexibility for the regulator to define scopes of practice for each profession
 - d. A modernised registration and licensing system for professionals
 - e. A modernised disciplinary process based on a professional's current fitness to practise
 - f. Governance reforms that retain a 'Royal College that regulates'
 12. We are therefore pleased to broadly support the overall package of reforms contained within the consultation document, including the proposed 'Option 1' in the governance section, in which the RCVS would remain as a regulator with a professional leadership function.
 13. It is important to note that the consultation document and questions often do not make the distinction between what would be in primary legislation and what would be in secondary legislation, or purely a matter for the regulator without government involvement. In our response we have sometimes drawn attention to where a particular power or detail should sit in this hierarchy, but as a rule we are seeking much greater flexibility in line with comparable regulatory legislation.
 14. Reform will result in both modernised and additional regulatory functions, and this will result in increased costs to the regulator that, in the absence of any funding from government, will need to be met by the profession through individual licence fees and fees levied on businesses. This will need to be taken into account when implementing the legislation. It should be an aim that any newly-regulated professions are self-sufficient in the cost of their own regulation. We would also like to note the importance of working with government to ensure that new regulatory powers are implemented via secondary legislation in an agreed and managed sequence, to ensure that the College's executive is prepared and appropriately resourced for each activity in the absence of government financial support.
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15. We anticipate that some of the remedies expected to be proposed by the Competition and Markets Authority (CMA) will overlap with some of the reforms proposed in this consultation, and we hope that together they will lead to improvements for consumers over time. However, it should be noted that the CMA remedies will apply only to businesses providing veterinary services for household pets. In contrast, the far-reaching set of reforms in this consultation will apply across the whole sector and will have a wide range of potential benefits that go well beyond consumer interests. These include enhanced animal health and welfare protections, greater public health protections, and the maintenance of public confidence in the veterinary professions.

Part three: Response to licence to practise proposals

Introduction

16. We warmly welcome the overall proposal to introduce a modern licence to practise regime. An effective licensing system is the foundation upon which all professional regulators discharge their first duty: assurance for and protection of the public interest. It enables the regulator to ensure that people permitted to carry out regulated activities are suitably qualified and maintain high standards of professional conduct, and to provide public clarity and assurance by keeping a public register of those people. We agree that there are aspects of the current framework that limit our ability to do this as effectively and efficiently as we would wish.
17. As a general principle, any reform should preserve one of the key achievements of earlier Veterinary Surgeons Acts; that all veterinary acts are reserved to veterinary surgeons – unless specifically exempted to allow other professions or lay people to carry them out – in order to protect animal health and welfare in the public interest. It is in the interests of animal health and welfare that professionals whose role includes veterinary acts are properly regulated, and so we welcome the proposals to enable the RCVS to regulate the whole veterinary team.
18. We support the associated proposals that would allow us to set the standards for education and conduct and determine scopes of practice for each profession in the veterinary team, including the circumstances in which appropriate acts of veterinary surgery could be delegated and to whom. The proposed statutory protection of professional titles for all regulated professions would enable the public to have confidence in the skills and expertise of those professions. Together, this set of reforms has the potential to advance and make full use of the different skills and strengths of each profession, enhance animal health and welfare by ensuring all veterinary acts are carried out by qualified and regulated people, and increase public confidence in the quality of veterinary care.
19. We also support proposals that would give greater discretion to the RCVS to determine suitable educational pathways into the professions for both UK- and overseas-qualified applicants to the register, and would reduce bureaucracy in the process of recognising UK veterinary medicine degrees by abolishing the requirement for the Privy Council to approve accreditation decisions.
20. The proposals to introduce various forms of conditional licence could increase access to the professions, boost the UK's resilience in the event of a biosecurity emergency, underpin a more flexible and supportive fitness to practise regime, and enable more structured support to those newly joining or returning to the register after a long break.
21. We have called for some years for the reform and modernisation of the registration process, and we welcome the proposed reforms in this area. The reforms would allow the RCVS to take account of all relevant factors when assessing an application for a licence to practise, for

instance prior convictions, which currently can only be considered after an individual has joined the register. Moving to a licence to practise model would also facilitate greater public assurance of ongoing fitness to practise, including by mandating compliance with Continuing Professional Development (CPD) requirements as a condition of licence renewal.

22. The consultation document suggests that having multiple categories of registration (such as our non-practising and overseas categories) can be confusing, and we accept that having a single category of registration for each profession is regulatory best practice. We agree with the proposal that we should be able to keep a list of former registrants, and this would go some way to reducing the risks of losing the non-practising category of registration, for instance so that we can contact former registrants in an emergency, such as a disease outbreak. However, we understand that some veterinary surgeons choose to remain in the non-practising category so that they can retain the use of their post-nominals 'MRCVS', which they consider part of their professional identity. We therefore suggest that the question of whether or not to retain a non-practising category should be postponed until postnominals are considered and consulted on as part of future reform of the RCVS Charter.
23. We note that the consultation does not mention powers to create registers of specialists or advanced practitioners, or to annotate the main register to indicate specialist/advanced status. At present the College does this under its Royal Charter powers, but we note that with other regulators this power is enabled by primary legislation.

Response to consultation questions

L2PQ1 – Veterinary acts can only be carried out by those who have an appropriate licence to undertake them (or have an exemption). A veterinary surgeon with a full licence to practise would be allowed to undertake all veterinary acts. Veterinary nurses and allied veterinary professionals would be able to undertake some veterinary acts, as determined by the regulator. Which of the following do you think should be considered as veterinary acts?

[options listed in consultation document]

24. We support the proposed move from the term 'acts of veterinary surgery' in current legislation to the clearer term 'veterinary acts' in new legislation. **We consider all the activities listed in the proposed definition to be veterinary acts – with the exception of certification (see below).** The definition should otherwise remain as it is in the 1966 Act, which has proven to be flexible and future-proof in this regard, with two exceptions. First, that anaesthesia should be specifically listed, as this is a crucial aspect of veterinary practice that is not acknowledged in the current definition. Second, consideration should be given to the current wording in respect of diagnostic tests, as these can properly be carried out by lay people, for instance in a laboratory context, though diagnosis itself remains a veterinary act.
25. As a general principle, one of the key achievements of earlier Veterinary Surgeons Acts must be preserved; that unless exempted all veterinary acts are reserved to veterinary surgeons, in order to protect animal health and welfare in the public interest. To this should be added the
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ability for the regulator to define a scope of activity, including veterinary acts, for other regulated professions; this could include some acts being reserved for allied professionals with advanced or specialist qualifications and status (though this not envisioned for veterinary surgeons).

26. The consultation document suggests that “official activities including veterinary official controls and certification” should be considered a veterinary act. We are not certain what ‘official activities’ might include, and official controls are already covered by legislation that determines whether and when a veterinary surgeon’s signature is required; in some cases certification by a veterinary surgeon is not required (such as when it can be accepted from a Certification Support Officer (CSO), Food Competent Certifying Officer (FCCO), etc.), therefore it cannot be made a veterinary act without creating exemptions in legislation.
27. We recognise the need for animal owners (including owners of animals used in agriculture) to be able to continue to carry out minor medical treatment on their own animals, and for owners of animals used in agriculture to continue to have additional exemptions to allow them to carry out certain minor veterinary acts on their own animals. For owners of animals used in agriculture, these additional exemptions should be in the form of exemption orders so that, over time and with proper consultation, appropriate conditions (such as a training or a certification of competence by a veterinary surgeon) may be attached to ensure that animal health and welfare is properly protected. Care should be given to the wording in order to ensure that the overarching owner exemption does not extend beyond an owner’s immediate household or employees, or else there is a risk of a loophole that would empower laypeople or unregulated paraprofessionals to be paid for carrying out tasks for which they are not trained or authorised.
28. Generally, existing Exemption Orders will need to be transferred across to the new Act. However, the recommendations for reform in the RCVS Report to Defra on the Review of Minor Procedures Regime (RMPPR)¹ of 2019 should be adopted.

L2PQ2 – To what extent do you agree or disagree with the following statement: Only individuals with a valid appropriate licence to practise (or those that have an exemption order to undertake specific acts) should be allowed to perform veterinary acts, as detailed in the chapter above?

29. **We strongly agree** that any person carrying out veterinary acts (not otherwise exempted via an Exemption Order – see below) should be required to hold a licence to practise – this is fundamental to protecting animal health and welfare and to public confidence. We also agree that, as now, there should be a mechanism that allows for limited and minor exceptions (Exemption Orders) to this principle to be made where appropriate.

¹ <https://www.rcvs.org.uk/sites/default/files/2026-01/report-to-defra-on-the-review-of-minor-procedures-regime-and-paraprofessional-regulation.pdf>

30. However, the current system of Exemption Orders is overly rigid and bureaucratic, which has meant that it often lags behind modern best practice. It should be replaced by a system in which the RCVS as the regulator can determine and implement exemptions with greater flexibility; it should either be a matter for the RCVS alone, subject to appropriate safeguards such as consultation, or subject to minimal oversight. The RCVS should also be able to attach conditions to exemptions, such as a minimum age and/or level of training for those to whom the exemption applies. Over time, the need for some Exemption Orders may end as new professions are registered.

L2PQ3 – Which, if any, penalties should be imposed on anyone who performs veterinary acts without a valid licence to practise those specific acts? [options listed in consultation document]

31. Illegal veterinary practice can vary in levels of seriousness and harm to animal health and welfare and the public. At the more serious end of the spectrum is systematic illegal veterinary acts performed by lay people as part of a business model that involves causing harm to animals, which may not be covered under existing animal welfare legislation. Currently the penalty for illegal practice under the VSA is limited to monetary fines, which may be an insufficient deterrent for someone who is profiting from illegal practice. We agree that imprisonment should be available as a penalty for illegal practice as well as financial penalties so that the most serious cases can be adequately dealt with by the courts.

32. Regulatory penalties mentioned here are likely to be available for those registered professionals who act outside their scope of practice and it would be appropriate for the RCVS to have this avenue open to it.

L2PQ4 – How appropriate is the use of the Animal Welfare (Sentience) Act 2022 to define which species are covered under veterinary care?

33. The use of this definition is **very appropriate** as it would strengthen the protection of animal health and welfare by increasing the range of species for which the provision of care could be regulated. We note the recent Animal Sentience Committee report which calls for the definition to be harmonised across all relevant legislation.²

34. If this definition were to be used, several new exemption orders would be required to ensure continuity of essential functions currently carried out by people other than veterinary surgeons and veterinary nurses, such as in fish farming,³ and other activities related to species such as amphibians, cephalopods, and crustaceans. These would need to be in place until there is assurance that these functions could be carried out by appropriately trained and regulated professionals. We note that under the Animal Welfare (Sentience) Act 2022 the Secretary of

² [Animal Sentience Committee: welfare implications of legislative differences in the definition of 'animals' - GOV.UK](#), February 2026

³ It is possible that the need for this could be delayed by postponing the commencement date of the clause containing the new definition – and referring back to the definition in the 1966 Act – until Defra is ready to implement new exemptions, or making the definition of animal easy to amend via secondary legislation, and retaining the 1966 definition until the exemptions are ready.

State can amend the definition of animal in that Act to bring additional species into the scope of the Act. We therefore caution against creating a dynamic link between a reformed VSA and the Animal Welfare (Sentience) Act 2022 in order to prevent species from being brought into the scope of the VSA without sufficient time for any required Exemption Orders to be created where appropriate.

L2PQ4b – N/A

L2PQ5 – The video you have seen shows the process for veterinary surgeons, veterinary nurses and allied veterinary professionals to gain a licence to practise. How confident are you that this ensures professionals are fully qualified, are proficient in English and have not committed serious crimes?

35. We are **very confident** that the process outlined would provide these assurances.

L2PQ5b – N/A

L2PQ6 - Currently, registered veterinary nurses can only carry out veterinary tasks if they are delegated from a veterinary surgeon employed by the same business. Should registered veterinary nurses be able to carry out specific roles, such as district nursing, without direct delegation from a veterinary surgeon?

36. **Yes**, veterinary nurses **should definitely** be able to carry out some activities without delegation from a veterinary surgeon, subject to the important caveats set out below.

37. We strongly support ending the requirement for other members of the veterinary team be employed by the same organisation to allow delegation to them by a veterinary surgeon (or a veterinary surgeon acting on behalf of the employer). That would be the crucial difference under this reform, rather than removing the requirement for delegation in any case. It is likely that in some cases (which may include district nursing), delegation by the responsible veterinary surgeon would still be required – with or without supervision – but in other cases it may not be.

38. As set out in the proposals, it would be for the RCVS to determine specific protocols on autonomy and delegation, which would vary depending on the activities and professionals involved in each scenario. There is already good precedent for this, for instance by the General Dental Council, which regulates seven different professions with varying levels of autonomy. This power would allow the RCVS to create advanced qualifications for veterinary nurses and allied professionals, which would enable those professions to carry out additional veterinary acts beyond those made accessible by their primary qualification.

39. Clear and effective communication between all members of the veterinary team is essential to good treatment outcomes, and this is particularly true if they are working independently of one another. It would therefore be important for veterinary nurses, and any other allied professionals, to maintain a relationship and share information with the veterinary surgeon

who has the animal under their care, whether or not formal delegation had taken place. This would be reflected in the requirements of their respective Codes of Professional Conduct.

L2PQ7 – To what extent do you agree or disagree with the proposal to expand regulation to include allied professionals, for example, Equine Dental Technicians, Behaviourists, musculoskeletal professionals?

40. **We strongly agree** with the proposed expansion of regulation to allied professionals.

L2PQ7b – What are your thoughts on expanding the regulation to include allied veterinary professionals?

41. We very strongly support proposals to enable the RCVS to regulate members of the wider veterinary team – this is something we first formally recommended in 2019 and reaffirmed in the broader package of reforms we put forward in 2021. This would allow us to address a long-standing concern that the activities of some currently unregulated professions may stray into veterinary acts, and that the RCVS has limited ability to address this. More broadly it would provide a mechanism for us to assure and advance standards in allied professions and clearly define their scope of practice to the benefit of animal health and welfare. It would also make it clearer and easier for both the public and other members of the veterinary team to identify suitably qualified and regulated practitioners.

42. We agree that it should be for the RCVS to recommend to government which allied professions should be regulated, and to define their scopes of practice. This would involve a risk-benefit analysis against a set of criteria, through which we would assess which professions meet the threshold for regulation and which we think should be prioritised, along with any appropriate consultation. We would then make recommendations to government, which could then be implemented via secondary legislation in due course.

43. We note that the consultation document suggests that Exemption Orders might also be used to underpin the work of regulated professionals. We do not think this will be the case. Exemption Orders are and should remain designed to allow unregulated lay people to undertake a narrowly defined veterinary act that requires minimal training measured in hours or days. This is distinct from the broader scopes of activity that would be defined for regulated professionals, whose training would take months or (more likely) years.

L2PQ8 – To what extent is it important, or not, for the professional titles of veterinary nurses and allied veterinary professionals be legally protected?

44. It is **very important** for the professional titles of veterinary nurses and other regulated veterinary professionals be protected by law.

45. The RCVS has been advocating for statutory protection of the veterinary nurse title for many years. It is essential for public clarity and confidence that only those who are appropriately qualified and registered can present themselves as a veterinary nurse. This is particularly

important if veterinary nurses are able to practise with more autonomy under the revised Act. Protection of the title would also strengthen the professional identity of veterinary nurses and could thus contribute to further development of the profession in the future.

46. These arguments apply equally to all members of the veterinary team, and so statutory protection of professional titles would be a fundamental aspect of any new regulation of allied professions. Precisely which titles should be protected would be a matter for consultation, including with the relevant regulators in human healthcare where the RCVS might seek to protect variants of titles that are also used in a different context.

L2PQ9 – To what extent do you agree or disagree that farriers should be incorporated into the VSA with the allied veterinary professionals?

47. Whether VSA reform should transfer the regulation of farriers to the RCVS, to sit alongside other allied professionals, is a matter for government, and is not something that the RCVS has called for. However, we recognise that the logic of the proposals for the regulation of allied professionals could extend to farriers.
48. In the absence of the Farriers (Registration) Act 1975 (FRA), some aspects of farriery could constitute veterinary acts (for instance diagnosis and some treatments), and farriers can be regarded as part of the equine veterinary team. As such, if it were not for the FRA, under which farriers are regulated by the Farriers Registration Council (FRC), we may have previously recommended to government that farriers be regulated by the RCVS.
49. We acknowledge and respect the important role of the FRC in protecting equine health and welfare, and the public, over the past 50 years. However, transferring regulation of farriers to the RCVS could bring several benefits including increased clarity for the public and more coherent regulation of the veterinary team. Further, it would extend the regulation of farriery into Northern Ireland.
50. It would also allow for regulation of farriery businesses as providers of veterinary services, though this might be much lighter touch regulation relative to, for example, veterinary practices, owing to the lower potential risk of the activities they carry out.

L2PQ10 – Do you think that equine barefoot trimmers should, or should not be regulated?

51. The RCVS has not yet formally evaluated the need for regulation of barefoot trimmers. Due to the existence of the FRC, farriery and related activities have until now been considered outside the purview of the RCVS.
52. If that situation were to change, by transferring statutory regulation of farriers to the RCVS as part of these reforms, we would then assess barefoot trimmers alongside other allied professions through the process referenced in our response to question seven. If necessary, exemption orders could be used to allow continuity in their activities while this process takes place.

53. It is worth noting that there may be parallels between barefoot trimmers and cattle foot trimmers, the latter of whom the RCVS has previously identified as potential candidates for regulation as allied professionals. However, this would require further analysis as the specific risks and benefits may vary between the two professions based on both species and professional activities.

L2PQ11 – Do you have any comments you wish to make on the Licence to Practise proposals?

Section 1.3.3 – Getting a Licence to Practise

54. We note that proposals in this section state that *“concerns raised about the individual’s skills, knowledge, character and health [...] could result in proceeding through the fitness to practise process.”* It is important to draw a distinction here between those applying for a licence to practise and those who already hold one.

55. One of the significant limitations of the current system is that any concerns about an individual’s character and health can only be dealt with after they have joined the register. This is both bad for animal welfare and public protection and very costly for the College (and thus registrants), particularly if a formal disciplinary process is required. It is essential, therefore, that this is not replicated in any new framework, and that the RCVS always has discretion to refuse a licence to practise where there are reasonable grounds to do so, subject to a right to appeal.

Section 1.3.4 – A conditional licence to practise

56. We welcome the proposed reform to enable the RCVS to grant conditional licences to practise in cases where it may not be possible or appropriate to grant a full licence in the interests of animal health and welfare or public health. Any new primary legislation that follows this consultation should include only a simple enabling power that would allow the RCVS to grant conditional licences in certain circumstances.

57. All of the more specific proposals set out in this section of the consultation should be a matter for secondary legislation after much more detailed consideration of the practicalities and implications of each specified use case. This would be essential to determining how to implement any new form of conditional licence in a way that is workable for the College and consistent with our duty to protect animal health and welfare and to provide clarity and assurance to the public.

58. With this in mind, we have concerns about some elements of these proposals as presented in the consultation. If it is intended that the detail would be in secondary legislation, we would hope to address and resolve these concerns in consultation with government and other relevant stakeholders. However, we feel it is important that we also set them out at this stage, which we do below.

59. We do not agree with the proposal that *“the reason for the conditions on the licence (for example, if it’s because of a fitness to practise process, or a health condition) would not be made public.”* It is an important part of maintaining public confidence as well as protecting animal health and welfare that it is visible to the public when a registered professional has been the subject of a fitness to practise process. If the reason for conditions on a licence is a finding of impaired fitness to practise, details of the determination should be available to the public, but aspects that are private, for example, related to health, may be withheld. The RCVS should also be able to be transparent about the reason for other forms of conditional licences, for example, provisional licences for newly registered professionals.

Disability or long-term health conditions

60. We agree that a significant potential benefit of conditional licensure could be to increase access to the professions for people who may not be able to demonstrate all of the Day One Competences – and therefore have not been assured to carry out the current full scope of practise in their profession – due to a disability or health condition. We have previously recommended that conditional licensure be introduced for this express purpose.

61. We take our obligations under the Equality Act 2010 very seriously, but it is clear that it does not oblige us to derogate from a competence standard to prevent discrimination on the basis of disability where it is not reasonable to do so. We are, however, committed to exploring how we can increase opportunities for people with disabilities to join the professions where it is practical and safe to do so.

62. As noted above, determining the specifics of how such a process could work will require more detailed consideration than has taken place thus far. However, we would aim to create a system that maximises the potential benefits in terms of access to the professions for those with disabilities while maintaining clarity and assurance for the public, employers and members of the veterinary team.

63. We strongly agree that any system of conditional licensure should not replace reasonable adjustments made by the education provider in relation to teaching, learning and assessment, and that the vast majority of graduates with or without disabilities or health conditions would continue to gain a full licence to practise.

64. We are not opposed to the proposal that would require the regulator to provide formal justification in cases where reasonable adjustments cannot be made, but this should not be a matter for legislation. Further, it is essential that the process of providing such a justification is clear, simple and not unduly burdensome.

Newly licensed conditions

65. We strongly support the proposal to enable to the RCVS to place conditions on licences in respect of newly qualified professionals and those returning to practice after a significant break. We agree that this power could be used to bolster current initiatives such as the

Veterinary Graduate Development Programme (VetGDP) and provide more rigorous and structured support to early-career or returning professionals. This could have benefits for animal health and welfare and public assurance, as well as individual professionals and their employers.

66. We note the proposal that the use of conditional licensure in this case would be “*on a risk basis.*” We agree that the primary purpose of what is essentially a provisional licence would be to underpin support and supervision for professionals who are still developing, or refreshing, their skills and confidence – and therefore may represent a higher ‘risk’. It is important to emphasise that this judgement of risk could only ever be made on a collective basis. As such, there would not be case-by-case risk assessments and the same conditions would apply to all applicants who meet the relevant criteria, as does the current requirement to complete VetGDP, for example.

Prospective future use

67. We accept that powers to enable the RCVS to grant conditional licences could, in theory, permit narrower, more focused educational and career pathways in the future. This is not currently under consideration, and much greater scrutiny of the risks, benefits and practicalities would be needed in order to determine whether it would be feasible or desirable, particularly in the context of international degree recognition. We agree that it would require consultation with the professions and the public and, as with all of the proposals in this section, should be a matter for secondary rather than primary legislation.

Differences between conditional, temporary and time-limited licences

68. We appreciate the attempt to simplify a complex area by describing everything other than a full licence as a type of conditional licence. However, we are concerned that some key nuances may have been lost as a result. Importantly, temporary licensure is separate and distinct from the other forms of conditional licensure set out in the proposals.
69. Under a conditional licence, the professional would be licensed to carry out all activities within the relevant scope of practice subject to the conditions applied, which may include supervision requirements or restrictions on certain activities. Under a temporary licence, the professional would only be licensed to carry out the specific activities for which the licence has been granted, and anything not specifically authorised would not be permitted. The latter would typically have a much narrower scope of permitted practice than the former.
70. A time-limited licence would be a type of temporary, rather than conditional licence. In the example given in the consultation document – of a vet travelling to the UK with an equestrian team for a competition – it would not be necessary or appropriate for the professional to be granted a full licence to practise, even for a limited period of time. Instead, they should be granted a temporary licence that permits them to carry out only the activities directly relevant to the narrow purpose for which they have sought and been granted a licence, and only for

the required length of time. This would be consistent with the other potential uses for a temporary licence set out in the proposals.

Part four: Response to fitness to practise proposals

Introduction

71. We take very seriously our duty to protect the health and welfare of animals and the wider public interest, including maintaining public trust in the veterinary professions. At the same time, we seek to act with compassion when concerns are raised about the professionals we regulate. An updated disciplinary process is required to ensure that we are able to continue and build on these objectives. We therefore very much welcome the overall proposal to introduce a modern and robust yet flexible 'fitness to practise' regime, in which the focus is on 'current impairment', i.e. whether a registrant has the ability to perform their role safely and effectively in accordance with professional standards.
72. It is vital for any regulatory body to have sufficient legal powers to be able to investigate concerns raised about professionals that it regulates and to manage any risks posed by those professionals while investigations are ongoing and after sanction. The legislative framework must be sufficiently flexible to ensure that the process of investigation and final determination is progressed fairly, efficiently and effectively. This should include flexibility for the regulator to make rules and provide guidance without parliamentary approval so that it can respond to change and ensure the framework remains fit for purpose into the future. Any powers exercised by the regulator must be subject to sensible safeguards and must always be exercised proportionately and in line with its objectives.

Response to consultation questions

F2PQ1 – To what extent do you agree, or disagree, that the proposed overall Fitness to Practise process is appropriate?

73. We **strongly agree**.

F2PQ1b – Please provide reasons for your answer.

74. We broadly support the proposed structure, which has the potential to underpin a fair, efficient and effective fitness to practise process. We particularly welcome proposed reforms that would enable earlier intervention, provide a broader range of support and/or sanctions for professionals under investigation, enable the RCVS to address the risks posed by professionals under investigation and following sanction to protect animal health and welfare and the public, and shift the focus to assessing current fitness to practise (though noting that serious past misconduct could remain grounds for current impairment). Together with a new licence to practise regime, these reforms would allow us to better protect animal health and welfare, maintain public protection and confidence and take a more nuanced and effective approach with the professionals we regulate.
75. We strongly agree that current impairment is the appropriate assessment to be made by a tribunal or by case examiners in order to protect the public and animal health and welfare. We

agree with the grounds of impairment set out in the consultation document, but we would add that it should also include adverse findings by other regulatory bodies.

76. We agree that efficient and effective hearings to establish whether or not the professional is currently impaired should be enabled by the legislation. It is important, as noted in the consultation paper, that these be held in public unless there is a good reason to hold them, wholly or in part, in private. This open justice principle is important to maintain confidence in the regulatory processes, as well as the professions themselves. This transparency should also be applied to case examiner agreed sanctions, and sufficient information made available to the public as is required in order to ensure that confidence is maintained. Legislation should give discretion to allow hearings to be held in the most efficient and effective way, which could include online hearings.
77. We strongly support the proposal for case examiners to have powers to apply an appropriate sanction with agreement from the registrant. This would allow suitable cases to avoid a lengthy and stressful process while still assuring the protection of animal health and welfare and the public. We agree that there should be two case examiners, but it would be more efficient and effective for them to have the ability to ask for expert evidence or advice where required in a complex matter, rather than appoint another case examiner. The latter proposal is likely to involve disproportionate and unnecessary cost and difficulty in reaching decisions at this stage, potentially leading to backlogs of decisions. It should be noted that case examiners would not be determining if the case was proven, but whether there was a realistic prospect of a finding of current impairment.
78. It is important that the RCVS has the necessary tools effectively to manage the progression of cases, including the determination of pre-trial issues and the ability of tribunals to make binding, enforceable directions, to ensure that the relevant issues in the case are identified at an early stage and that tribunal hearings proceed efficiently and effectively.
79. Where impairment is found and a sanction is imposed, the RCVS tribunal should have flexibility to review this in the future to determine whether it remains necessary and proportionate. For example, if a suspension order has been imposed, an assessment of whether the registrant continues to be impaired should be made towards the expiry date of the order. The tribunal should have the power to impose another suitable sanction if this is found to be the case, and the same power should be available where sanctions have been agreed by case examiners rather than imposed by a tribunal.
80. We agree that there are some criminal offences that are so serious that they should result in automatic barring of the individual from the veterinary professions. The legislation should enable the RCVS to remove someone who is convicted of an automatic barring offence from the register administratively and enable interim orders to be imposed quickly if charges are notified.

81. We agree with the proposal that appeals should be made to the High Court, rather than the Privy Council, which currently hears appeals from the Disciplinary Committee of the RCVS, and also that the fitness to practise tribunal should have the power to impose an interim order for the period of 28 days before a sanction applies or until the outcome of the appeal subject to suitable safeguards.
82. We note that a suggestion that appeals be heard by a regulatory tribunal – such as the First-tier Tribunal (General Regulatory Chamber) – instead of the High Court appears in the governance section of the consultation but does not appear in this section. We do not agree with this proposal, and we set out in our response to the governance section why the High Court is the appropriate appellate body.
83. We agree that it should be for the RCVS to produce rules specifying the fitness to practise process, as opposed to the current process, which is fixed in primary legislation. This greater flexibility would help to ensure that the process remains fit for purpose into the future.

F2PQ2 – Thinking about someone in the veterinary team who is found to have a current impairment. Which, if any, of the following sanctions should be considered at the tribunal stage? [options listed in consultation document]

84. The sanctions in this list should be available to a tribunal and to case examiners. Tribunals should consider these sanctions with reference to guidance prepared by the RCVS. Tribunals and case examiners should have the power to give public warnings to registrants in suitable cases.

F2PQ3 – If a veterinary professional had their licence to practise removed by the regulator, how long do you think the minimum period should be before allowing them to apply for their licence to be restored, if at all. [options listed in consultation document]

85. We would support a minimum period of **five years**, alongside a provision to prevent more than one application in any 12-month period. This strikes an appropriate balance between public protection and recognising the potential for rehabilitation and is in line with the norm for regulators in the human healthcare sector.
86. There is also precedent for powers to prevent any further attempts, following two unsuccessful applications to regain a licence to practise, which is something that we would support in order to prevent repeat applications where the material circumstances have not changed.

F2PQ4 – In a situation where a veterinary professional is alleged to have a current impairment of their competency to practise (including for health reasons such as disability, substance abuse/addiction, chronic illness), what, if any, information should the regulator be allowed to access? [options listed in consultation document]

87. The RCVS and any decision makers should always be allowed to access information that is relevant to the assessment of impairment and sanction. This may include relevant clinical information, but would generally be in the context of a medical report prepared for the purpose of the proceedings.

F2PQ5 – Do you have any further comments you wish to make on the fitness to practise proposals?

88. We note that there is no specific proposal in the consultation document to empower the RCVS to compel the registered person under investigation or any relevant third parties to provide information that is relevant to the investigation. This would seriously limit our ability to investigate matters effectively and efficiently. We would therefore ask that the legislation contains powers to compel the provision of relevant information, subject to appropriate safeguards.

89. The role of employers is mentioned in the consultation document. Although we would support the view that employers should support professionals to meet the standards that are expected, and that only sufficiently serious concerns should be referred to the regulator, employers should not be a stage in the fitness to practise process. The role of the regulator is to assess whether a professional is fit to practise as a member of that profession, which is a wider concern than whether they should remain in employment. That wider perspective is necessary to protect animal health and welfare and the public.

90. As discussed in the governance section below, in the possible absence of an oversight body responsible for the veterinary regulator, consideration would need to be given to whether the RCVS itself would need to hold the powers of appeal.

Part five: Response to regulation of veterinary/animal healthcare businesses proposals

Introduction

91. We welcome the proposal to empower the RCVS to regulate veterinary businesses – a reform that is long-overdue and for which we have been pressing for many years. The RCVS Practice Standards Scheme (PSS) has advanced and assured standards in a large number of practices across the country. However, its limitations as a voluntary, non-regulatory scheme are clear: the RCVS has no statutory powers to enforce standards and around 30 per cent of practices have not sought accreditation at all. Furthermore, the dramatic increase in ownership of veterinary practices by non-registrants means that many veterinary businesses are now unregulated, whereas previously they would have been subject to some regulation via the regulation of their professional owners.
92. We therefore broadly support the overall framework that is proposed, which would empower us to oversee and enforce high standards in all veterinary practices across the country through a clear and fair balance of accountability between the owners of practices and the professionals who work within them.
93. We would like to stress that it will be critical that any legislative reform makes clear distinctions between businesses, practices, and premises to ensure that the appropriate entities are in scope, and that no loopholes are created. The test of whether an entity falls within scope should be whether regulated activities are carried out, rather than by the entity's structure.
94. We are aware of heightened public concern about business conduct and costs in the veterinary sector, not least due to the ongoing investigation by the Competition and Markets Authority (CMA) and related media coverage. We fully acknowledge this concern; we will continue to engage with the CMA as its investigation concludes and a final set of remedies is published and will work constructively on the implementation of any remedies where there is a role for the RCVS.
95. We expect that some of the remedies will overlap with reforms proposed in this section, and we hope that together they will lead to improvements for consumers over time. However, it should be noted that the CMA remedies will apply only to businesses providing veterinary services for household pets, as this has been the focus of the investigation. In contrast, the far-reaching set of reforms in this consultation will apply across the whole sector and will have a wide range of potential benefits that go well beyond consumer interests. These include enhancement of animal health and welfare protections, greater public health protections, and the maintenance of public confidence in the veterinary professions.
96. It should be noted that the cost of licensing and regulating practices will necessarily be met by the practices themselves, and it is likely that this cost will be passed on and ultimately fall to

the animal owners who use the services of those practices. It is therefore important that the regulatory framework is effective, proportionate and fair. Veterinary practices are subject to several different regulatory regimes in respect of various aspects of their operations and may be inspected by different regulatory bodies. Where possible, the proposed regulatory framework should enable, or mandate, cooperation with other relevant regulatory bodies, to ensure that the impact and burden on business is proportionate.

97. We agree that it is important that the practice licensing scheme is operated by an independent non-governmental regulator, as set out in the introductory paragraphs of section 3.3. We are therefore very concerned about the proposal that the Secretary of State will have the power to issue legally binding strategic steers in relation to the 'business elements' of the proposed framework. Although there are few details about what the proposed power would entail, it appears that there could be an intention that the strategy of the regulator is directed by the Secretary of State, which the regulator would have no choice but to follow.
98. This would mean a significant curtailment of the independence of the regulator, a curtailment that might also impact the regulation of individual veterinary professionals and provides the Secretary of State with far more power over the regulatory regime for businesses than is contained in other higher risk business regulatory frameworks. The high-risk areas of financial services regulation and utility regulation do not contain such inroads into the independence of the regulator, and no other professional regulator has this measure in its legislation. In addition, no safeguards or oversight are proposed around the use of this power, giving the Secretary of State free rein to provide legally binding directions to the regulator, impacting the profession, businesses and ultimately the consumer. This is a significant unwarranted and disproportionate curtailment of the independence and role of the RCVS, which we strongly oppose.

Response to consultation questions

BusQ1 – Which, if any, of the following Veterinary/Animal Healthcare businesses should be regulated under proposed new legislation? [options listed in consultation document]

99. **All veterinary/animal healthcare businesses** should be regulated.
100. All entities providing veterinary services to the public or other veterinary professionals should be within scope of the proposed new regulation. To provide flexibility and reduce the risk of loopholes, we agree that the definition of veterinary services for this purpose should be linked to the definition of 'veterinary acts' outlined in the Licence to Practise section of this consultation.
101. The RCVS should have flexibility in determining if a particular entity should be regulated, and if so to what extent, by virtue of the activities it carries out. Following this determination, a regulatory framework should apply regardless of who owns/operates it, the nature and

number of staff it employs, whether it delivers services in-person or remotely, and whether it operates on a commercial or charitable basis.

102. We agree that there would need to be a phased rollout of new regulation, and our intention would be to prioritise businesses/practices that employ veterinary surgeons, with other businesses to follow; it may also be that some businesses/practices could be subject to a lighter-touch form of regulation as part of a proportionate approach.
103. Suitable and proportionate legislative provisions should be made to enable the RCVS effectively to enforce standards with respect to businesses that are based outside of the United Kingdom.

BusQ2 – Thinking about a scenario of a veterinary/animal healthcare business that has multiple premises/locations (i.e. different branches) across a number of different geographic locations. Which of the options below should a named responsible person be responsible for?
[options listed in consultation document]

104. We agree that named individuals with specific responsibilities could be a valuable part of a robust accountability framework for the proposed regulation of veterinary businesses/practices. As a general rule, the regulator should have flexibility and discretion to determine how to implement this effectively and proportionately depending on the type, size and structure of the business. We set out below our high-level thoughts on how this could work, but we would caution against overly detailed and prescriptive provisions in primary legislation.
105. We support the principle of a named responsible person at each practice who has overall responsibility for clinical service delivery. We agree that this role should be held by a senior member of staff who is also a registered professional, both so that veterinary expertise and judgement is brought to the fore in clinical protocols, etc, and so that individual regulatory action could be taken against them in the case of failings – if it were reasonable and proportionate to do so rather than, or in addition to, taking action against the business. We agree that the independence of this role should be protected.
106. This role could only be carried out effectively by someone who had an intimate knowledge of the practice for which they were responsible, and that in most cases this would mean that an individual was only responsible for a single practice. However, this may not be the case in all situations. For example, it may be appropriate for an individual to hold this role for a main practice and its branch practice(s). Ultimately, the regulator should have the discretion to determine whether a single individual could effectively discharge their responsibilities over multiple sites, depending on the circumstances. This would be in line with the discretion of the Care Quality Commission (CQC) to determine whether a person can be the Registered Manager for more than one location.

107. The licence holder would retain ultimate responsibility for the organisation's compliance with standards, as well as the compliance of all of the practices for which the organisation holds a licence. The licence holder could be a corporation, partnership or an individual. It is possible that in smaller organisations, a single individual could be both the licence holder and the responsible person.
108. In some organisations, it may be necessary for the licence holder to designate a senior individual – separate from and in addition to the responsible person at each practice – to oversee compliance at several practices, and to act as a point of contact for the RCVS in regulatory matters. Again, it should be for the regulator to take account of all relevant factors and determine whether and for how many practices it is appropriate for an individual to be designated to this role. The designated individual would be responsible for overseeing compliance on behalf of the organisation that holds the licence, similar to the 'Nominated Individual' role in the CQC's regulatory framework.
109. For the largest organisations, there could also be value in mandating a Chief Veterinary Officer role, who would need to be a registered veterinary surgeon. They would not be responsible for standards at any particular practice(s) but would ensure that clinical issues and interests were represented at the highest level, and that company-wide policies were compatible with clinical best practice and the obligations of registered veterinary professionals under their respective codes of conduct.

BusQ3 – Which, if any, of the following should be assessed by the regulator? [options listed in consultation document]

110. **We broadly agree that all areas listed** should be subject to mandatory standards. However, ultimately it should be a matter for the regulator to set and assess against standards. The list given in the consultation document should therefore not be seen as exhaustive. We would also note that although employers are responsible for ensuring staff are adequately trained for a specific workplace, individual registrants remain responsible for maintaining their own professional and clinical competence, including through compliance with Continuing Professional Development (CPD) requirements.
111. We agree that it is essential that management, storage and usage of medicines are included in any inspection regime. We acknowledge that this is currently a responsibility of the Veterinary Medicines Directorate (VMD), and there should be a duty on both regulators to co-operate to prevent an expensive and burdensome inspection regime; at present by agreement between the VMD and the RCVS all veterinary practices are inspected once to ensure compliance with the Veterinary Medicines Regulations, either by the RCVS (for practices in the RCVS Practice Standards Scheme) or by the VMD. Without co-operation between the RCVS and the VMD there would be a risk that all practices would in future be inspected twice, once by each regulator. Similarly, the RCVS should have a duty to cooperate with other inspection bodies by creating operational arrangements that prevent duplication.

112. To ensure that regulation is proportionate and pragmatic, it is likely that the range of standards – though not the standards themselves – that apply to each entity will vary depending on a number of factors. For instance, standards on staff welfare policies and leadership may not apply to sole traders. It would be essential that the RCVS had flexibility and discretion in determining which standards apply in which cases based on the nature of the entity and an assessment of the associated risks.

BusQ4 – A veterinary/animal healthcare business would need to have a licence from the regulator before they open a premises. Which, if any, of the following do you think the premises must have in place before the licence is issued? [options listed in consultation document]

113. **Everything listed could be required by the regulator**, depending on the circumstances and subject to the caveat below.

114. In order to gain a licence a business/practice should show that they are compliant with the standards. It would be a matter for the regulator to determine how this was achieved, which could be a spectrum of options from an email confirmation to a full inspection. A provisional licence, possibly with conditions, could apply for a defined period of time until a full licence was achieved.

BusQ5 – If the regulator is concerned about a veterinary/animal healthcare business, which if any of the following situations do you think the regulator should have powers of entry to inspect the practice? [options listed in consultation document]

115. We agree that it should be an offence to deny entry to an authorised inspector, and this aspect of powers of entry should apply to of the listed situations. Where a warrant is required, this would be sought from a magistrate rather than from the police (as suggested by two of the listed scenarios).

116. Section 3.3.10 suggests that evidence gathered when powers of entry are used could not be used against an individual professional in a fitness to practise investigation. We do not agree with this restriction, which would undermine the ability of the regulator to ensure that registrants are fit to practise.

BusQ6 – Which, if any, of the following sanctions and actions do you think the regulator should impose for non-compliance of the veterinary/animal healthcare business requirements? [options listed in consultation document]

117. All listed sanction/actions should be available to the regulator, but the relevance, proportionality and suitability of each would vary from case to case.

BusQ7 – Do you have any comments you wish to make about the proposed regulation of veterinary/animal healthcare businesses?

118. In order for practice regulation to be effective there would have to be the power of the regulator to set practice standards and to investigate any breach of standards by the practices, and to compel the provision of information so that an alleged breach could be investigated effectively. The power to require information from businesses during the course of an investigation would be in addition to the power to make rules to require regulatory reporting.
119. A voluntary accreditation scheme for excellence would be for the RCVS to decide whether to take forward, and if so, how such a scheme would be designed and whether it would be appropriate to include any recommendations made by the CMA.
120. Licensing of veterinary businesses and practices should include a public register of businesses, including such information as is deemed by the regulator to be relevant in the public interest. This would include the status of registered practices – for example, if they have provisional registration, or if they have a notice of improvement etc. It also might include details about the practice and business, and details about the individuals who are responsible for the licence.
121. We agree that the practice regulation framework should include the ability of the regulator to conduct inspections of premises on a routine and reactive basis and also for enforcement. Currently, practices in the voluntary PSS can expect to be inspected once every four years. This frequency may not be required in a statutory framework, particularly in respect of practices that provide information to demonstrate compliance with the standards. We agree that the frequency of inspections should be for the regulator to determine, as well as the type and scope of inspections, which may be suitable to conduct in person or remotely.

Part six: Response to governance proposals

Introduction

122. The RCVS agrees that reform of its governance is necessary to bring it in-line with the regulatory norm, and Defra's proposals are for the most part in line with our own recommendations. In particular, we agree that RCVS Council should be replaced with a smaller fully-appointed Board with a parity of lay and registrant members.
123. The RCVS also agrees with the government's aims under its Regulatory Action Plan. Creating a single umbrella regulator for the sector will result in reduced cost and reduced complexity of the regulatory burden compared to the fractured human healthcare ecosystem. The same argument can be made for having the whole spectrum of regulatory and professional leadership/excellence functions under one roof. We therefore support Option 1 as proposed in the Defra consultation document, albeit with some caveats and concerns.
124. Any reform should preserve the benefits of a Royal College that regulates:
- a. provision of public protection and assurance of standards in a holistic way, independent of government.
 - b. significant benefits in terms of cost, coherence, consistency and clarity derived from carrying out all of the College's public interest objectives under one roof, and with a single executive and infrastructure.
 - c. flexibility and future-proofing due to the College's holistic public interest objectives.
 - d. direct access to the knowledge and expertise of the profession via its committees

RCVS objectives and functions

125. The Defra proposals make a distinction between the College's regulatory functions and those that it describes as 'professional leadership' functions. This is not an accurate distinction. In the past the House of Commons Health Select Committee has urged regulators to further develop their leadership functions. For instance, in 2011 the Health Select Committee stated that "it remains concerned that the leadership function of the General Medical Council (GMC) within the medical profession, and within the wider health community, remains underdeveloped", and went on to say that they "hope that the GMC will embrace more ambitious objectives for professional leadership"⁴. 'The term 'professional leadership' might also imply a representative function, or promotion of a profession for its own sake as opposed to supporting it to fulfil its functions. The RCVS is not a representative organisation, and all of its functions are in the public interest.

⁴ <https://publications.parliament.uk/pa/cm201012/cmselect/cmhealth/1429/1429.pdf>

126. It would be more accurate to draw a distinction between downstream (core activities related to maintaining the registers) and upstream (supportive and preventative) forms of regulation, as defined in the Defra consultation document. *This allows us to prevent harms, as well as addressing harms when they have happened.* Moves towards developing upstream regulation have included the Health and Social Care (Safety and Quality) Act 2015, which amended the legislation that underpins the human health regulators, giving them enabling provisions that recognise the need and allow them to pursue activities beyond their core functions in service of their objectives. The RCVS Royal Charter contains similar provisions, and as a Royal College that regulates we have a broader range of tools and are therefore able to go further and faster than other regulators in a holistic pursuit of our objectives. **However, those objectives must be explicitly in the public interest, as must be any activities in pursuit of them, and therefore they are not in conflict.** To a great extent the functions of the College mirror the functions that are common in any statutory professional regulator, including some that – due to our ability to innovate and remain ahead of the regulatory curve - would once have been considered ‘Royal College functions’. The current exceptions to this, such as the RCVS Fellowship, are relatively few. There is, therefore, no fixed or clear line between ‘Royal College functions’ and ‘upstream regulation’.

127. The Professional Standards Authority (PSA)’s Standards of Good Regulation⁵ acknowledge that professional regulators carry out “work to support or develop the profession”, noting that regulators should consider *potential* conflicts, without mandating divisions in governance. If there was an inherent conflict between setting and upholding standards and upstream/leadership activities, then the PSA would surely mandate that this be reflected in governance structures; they do not.

128. The medical Royal Colleges may be ‘leadership bodies’, though they are not the only organisations to have a leadership role in the medical ecosystem. In contrast to a regulator like the GMC, which regulates all medical doctors, their focus is on postgraduate standards, education and support **for a specific specialism** such as surgeons, anaesthetists, or paediatricians, and their self-descriptions (for instance on their websites) tends to focus on that aspect of their role rather than professional leadership. Their fractured model is not replicable in the much smaller veterinary sector, and comparison is therefore not always helpful. There are also advantages of having standard-setting and accreditation of both undergraduate and postgraduate education under one roof. It should also be noted that the development of the concept of upstream regulation means that the roles of medical regulators and Royal Colleges arguably overlap more than in the past, as both have supportive functions. It is therefore difficult to point to the medical sector as a model that should be emulated in the cause of greater clarity or efficiency.

⁵ <https://www.professionalstandards.org.uk/publications/standards-good-regulation> - Evidence Framework 2019

129. Arguments for any form of division of the College's functions do rely on questions of clarity and perception, not real conflict, contrary to what is said on page 54 of the consultation document. As noted above, all of the College's functions are in the public interest in accordance with the objectives laid out in our Royal Charter. In addition to any governance measures, clarity can and should be increased by duties to report to government and/or Parliament, along with more granular published reporting.
130. We remain concerned at the absence of evidence to support claims that: there is less clarity in respect of the College's functions than for regulatory or other bodies in other sectors; that the College's governance is the source of any lack of clarity; that governance reform to create a division of function would achieve greater clarity rather than imply a conflict where none exists; or that any benefit of reform would outweigh the potential disbenefits in terms of cost, clarity, or coherence. It is also unclear why any lack of clarity would be a material problem, in a world in which most everyone carries a device that can inform you who the veterinary regulator is or who you should complain to about veterinary services in a matter of seconds.
131. However, of the options presented in the consultation document the RCVS supports **Option 1**, which would preserve the full range of RCVS functions, albeit with a degree of separation into two 'arms'. Given the inherently contested nature of what is and is not a regulatory and/or 'Royal College' function it would be crucial that the new Board be empowered to decide on how to delegate functions to the two arms, and any governance structure below the level of the Board, in order to ensure that any division was flexible and futureproofed; this would prevent any risk to the integrity of the College's regulatory functions and allow it to take account of new developments in regulation. It should also be a matter for the Board as to how fees are spent, rather than introducing any hard ringfencing of funds. We are also concerned that as a Chartered Body any hard split, including an internal split with financial ringfencing, could infringe on the College's property rights under the Human Rights Act.
132. The consultation document lists a number of risks attached to this model, and we would like to highlight two of these for disagreement. It is suggested that the additional powers outlined in the consultation would constitute "a large portfolio of work for one organisation". However, there is already precedent (for example, the General Pharmaceutical Council) for statutory regulators that regulate multiple professions in addition to businesses. The consultation document also suggests that the RCVS's role as a Royal College that regulates has restrained development of its 'Royal College role', but no evidence is presented for this argument; the RCVS strongly disagrees that this is the case.
133. In contrast to Option 1, **Option 2** would have considerable disadvantages and as such it is not supported by the RCVS. Shorn of any broader public interest objectives the RCVS would be a 'Royal College in name only' and would not be able to regulate in such a holistic and innovative way. While it might avoid any cost to government of creating a new regulator, having a Royal College without Royal College functions or culture would not add to clarity and

would leave a range of RCVS activities with no guaranteed home, and would mean the additional cost of setting up a new professional body would be passed to the professions, with no guarantee of success. This would narrow the scope of the regulatory ecosystem, in a way that is contrary to the direction of travel in the healthcare regulatory space. This would be a disproportionate, old fashioned and damaging way of dealing with any perception of a conflict between professional leadership and regulation, at a time when they are moving closer together to encourage best practice in the healthcare sector.

134. The extent of functions that would have to be lost under Option 2 would be highly contentious, given the difficulty of differentiating between upstream regulation and Royal College functions. The suggested breakdown presented in section 4.3.10 of the consultation document could be acceptable under Option 1, where they would all be carried out under one roof, as part of a holistic approach, and remain free (where appropriate) at the point of use to all registered professionals. However, losing these functions entirely under Option 2 would be a retrograde step and contrary to the direction of travel in other areas of professional regulation. It would mean losing the ability to, for example, support the mental health of registrants to enable them to meet standards in the public interest. We would likely see more health-related cases in fitness to practise as a result, potentially undermining animal health and welfare and public protection, increasing stress to individuals, and adding to the cost of regulation. It is always better to prevent harm from occurring than to deal with it retrospectively.

135. As such, if the RCVS was expected to lose its so-called 'non-regulatory' functions (which would then either disappear or only be accessible to members of a voluntary membership organisation) then we would argue that the list of purely non-regulatory functions is much smaller; perhaps only amounting to the RCVS Fellowship and RCVS Awards.

Nomenclature and post-nominals

136. We recognise that the future name of the organisation and changes to professional post-nominals will be an emotive issue for the professions, and should be a matter for further consultation as part of future Charter reform. We accept that the importance of heritage and continuity must be balanced with clarity for both professions and public.

Oversight

137. The RCVS supports greater oversight. However, we are concerned that there may be a range of more cost-effective options than creating a new oversight body for just one regulator; it is not clear whether this has been costed or whether it would be a proportionate burden on the small veterinary sector. Formal parliamentary oversight, along with a duty to be independently audited, may be a more pragmatic approach.

Response to consultation questions

GovQ1 – Which of the two illustrative options do you believe would most effectively serve the veterinary sector in the future?

138. As discussed above, the RCVS supports Option 1, as this would preserve the whole range of our public interest functions under one roof.

GovQ2a – What, if any, benefits do you believe maintaining a single body, including regulator and professional leadership functions, would bring to the veterinary profession? [options listed in consultation document]

139. As discussed above, retaining the whole range of RCVS functions allows for a holistic approach to regulation through the use of both downstream and upstream tools, and allowing regulatory functions to be informed by those dedicated to professional excellence. Doing so under one roof has advantages of cost, clarity, coherence, and consistency; For instance, there is great value in having all aspects of postgraduate standards and accreditation being under the same roof as undergraduate standards and accreditation. Similarly, it will be beneficial to have mandatory practice & business standards and enforcement under the same roof as functions working towards professional excellence at a practice level. It also ensures that where appropriate supportive measures such as the Mind Matters Initiative (mental health support) and the RCVS Academy (CPD aimed at helping the professions to meet their regulatory requirements) are free at the point of delivery to all registrants.

GovQ2b – What, if any, benefits do you believe a proposed Split Model with a separate new professional leadership body would bring to the veterinary profession? [options listed in consultation document]

140. There would be no benefits of a 'Split Model' as outlined in Option 2. We think that the claim that it would increase clarity is unproven, and there is an inherent overlap between regulatory and 'leadership' functions, as explained above. A 'split model' could in fact decrease clarity by implying a conflict that does not in fact exist. Some functions would no longer be free at the point of use for all registrants. Post-nominals can be retained under either option. As explained above, there is little risk of the organisation becoming overly large or unwieldy. There is no evidence that professional leadership/excellence functions are restrained by being under the same roof as the regulator, save for any hypothetical representative function which, were it to be developed, would conflict both with the College's other functions and with those of representative bodies such as the BVA and BVNA.

GovQ3 – Do you believe there are any risks with a single body having both regulator and professional leadership functions?

141. We do not see any risk of these functions belonging to a single organisation, particularly given the other governance reforms that have been proposed and which the RCVS supports, such as introducing parity of lay and professional members on the Board to demonstrate that the profession does not 'set and mark its own homework'. As noted above, the PSA's Standards

of Good Regulation⁶ acknowledge that professional regulators carry out “work to support or develop the profession”.

142. However, there are risks if any internal divide of functions into two ‘arms’ was overly rigid or forced a division of the executive. This would lead to excessive bureaucracy, greater cost through duplication, and a reduction in the College’s ability to take a holistic approach. Comparable models of ‘two organisations under one roof’ have not been entirely successful elsewhere.

GovQ3b – How could any of the risks you have identified be mitigated?

143. If the government is persuaded that a degree of separation of functions is necessary to improve clarity then this can be done through a light-touch internal separation, with the details left as a matter (and duty) for the Board. This would be informed by research into the extent of any lack of clarity compared to other professions, and how this could be mitigated via the governance structure and other measures such as more granular annual reporting. Any proposed delegation scheme could be subject to consultation before implementation.

GovQ4 – Do you believe there are any risks with the proposed Split Model with a separate new professional leadership body?

144. There are a number of risks that the RCVS would like to highlight. These include:

- a. A risk of reduced clarity if a split implies a conflict that does not in fact exist.
- b. A loss of the College’s ability to be a cutting edge and innovative regulator via its broad public interest objectives.
- c. A potential loss of ‘leadership’ and professional excellence functions if no other body is able to take them on. This is increasingly regarded as important to professional regulation to support compliance with the standards and mitigate a predominantly reactive approach which is expensive and stressful.
- d. If other bodies do take over responsibility for these functions they will do so as voluntary membership organisations, and thus they are likely to no longer be delivered free at the point of access by all registrants.

GovQ4b – How could any of the risks you have identified be mitigated?

145. The best form of mitigation would be to limit any split in functions to a light-touch internal division within the RCVS as in Option 1, with the details determined by the Board.

⁶ <https://www.professionalstandards.org.uk/publications/standards-good-regulation> - Evidence Framework 2019

GovQ5 – To what extent are each of the following important, or not, as primary objectives of the regulator to ensure effective regulation? [options listed in consultation document]

146. We agree that all of the listed options are very important. However, any consumer and competition duties should be secondary to the primary purpose of protecting animal health and welfare and public health.

GovQ6 – To what extent is a professional leadership body important?

147. It is very important that there be well-funded upstream, leadership and excellence functions available to all regulated professionals, rather than limited to voluntary membership organisations, and this is best achieved by them being under the same roof as the regulator. Professional leadership functions and regulatory functions overlap and have no inherent conflict.

GovQ7 – Which, if any of the following, do you consider to be the primary functions of a professional leadership body? [options listed in consultation document]

148. Notwithstanding our concerns about the nomenclature, the RCVS agrees that the listed functions are appropriate for a 'professional leadership body'. However, "Profession-specific guides on activities and conduct, based on the overarching codes of conduct set by committees" is somewhat unclear. The medical Royal Colleges, for instance, will usually have *specialist*-specific resources, rather than profession-specific per se. Further, the regulator sets and upholds the standards (except some service standards, which may be set by a Royal College), whereas the medical Royal Colleges develop the curricula, and implement and monitor quality assurance of the training programmes, to report back to the regulator. As noted elsewhere there are advantages to doing all of this under one roof.

GovQ8 – Which of the following, if any, should be prioritised when appointing individuals to Boards and Committees of the regulator? [options listed in consultation document]

149. We agree that all of the listed items should be considered, but parity of lay and professional members would be a fundamental principle. The appointment criteria and process would continue to reference the PSA's 'Good practice in making council appointments' guidance from 2022.

150. It is crucial that the professions retain input into decision-making, particularly in respect of scope of practice and veterinary acts, where veterinary clinical expertise would be of paramount importance.

GovQ9 – To what extent is independent oversight of the regulator important or not in relation to the following aspects? [options listed in consultation document]

151. The RCVS agrees that independent oversight of the appointment process, the fitness to practise process and overall performance are very important. However, we are concerned that the proposal to create a new oversight body to oversee a single regulator has not been

costed, and may present a substantial burden to the profession that would be passed on to clients. The multi-million pound budget of the PSA is financed by many health regulators with a total number of registrants in the millions, whereas the burden of a new oversight body for the veterinary sector would only fall on the RCVS with total registrants only numbering in the tens of thousands. This would likely require a substantial increase in registration/licensing fees that may not be proportionate.

152. There are alternatives to this that would be less costly. The RCVS already carries out some auditing against PSA standards, to which we already map our own process standards, and could be given a duty to expand this beyond disciplinary areas and publish the results and/or submit the results to Ministers. This could be underpinned with a statutory obligation on the RCVS to provide an independent audit report to Ministers at regular intervals. The PSA itself could provide oversight of the College on a consultancy basis, for instance by carrying out occasional audits.

153. Alternative oversight could come in the form of greater Parliamentary accountability. This could include:

- a. A statutory requirement to place the annual report and accounts before Parliament.
- b. An annual accountability hearing by Parliament's Environment, Food and Rural Affairs Committee (Efracom).
- c. An independent third party to conduct audits.

GovQ10 – The regulator is responsible for setting fees for veterinary professionals' licences. Which, if any, of the following aspects related to fee setting for veterinary professionals' licences should the regulator consult on? [options listed in consultation document]

154. This question conflates several separate areas that the RCVS would consult on in different circumstances, not all of them directly related to the setting of fees. Matters that the RCVS would expect to consult on (with some or all of the following: stakeholders, the professions, and the public) would include:

- a. Its proposed strategic plan.
- b. Its proposed overarching fee policy and any subsequent changes.
- c. Major initiatives, including significant changes to standards.
- d. Proposals to regulate new professions.

155. Consultation on individual fee rises would be a disproportionate and costly burden.

GovQ11 – How important, or not, is it for veterinary professionals to have post-nominals (as well as a licensing number from the regulator)?

156. Although it is unusual for post-nominals to be attached to registration status, we recognise that being 'MRCVS' is important to many veterinary surgeons, and likewise 'RVN' for veterinary nurses. These postnominals are set out in the College's Royal Charter rather than in primary legislation, and we recommend that they are subject of further research and consultation in relation to future Charter reform.

GovQ12 – Which approach to post-nominals do you prefer for veterinary professionals?

[options listed in consultation document]

157. We recommend that this matter is a subject of further research and consultation in relation to future Charter reform.

GovQ13 – Which part of His Majesty's Courts and Tribunals Service should hear statutory appeals: a regulatory tribunal (such as the First-tier Tribunal) or the High Court?

158. The appropriate appellate court would be the High Court. A fact-finding hearing will have already been carried out via a fitness to practise hearing, as such a second fact-finding hearing would not be required. This approach is in line with other regulatory frameworks.

GovQ14 – Should appeals be on a full merits basis (decided on the facts and merits of the entire case, not just on a specific point of law), on points of law only, or a combination?

159. Grounds of appeal should be limited to points of law and procedural fairness, and should not extend to a re-run of the fact-finding hearing. In addition to the practical issues caused by allowing appeals against findings of fact, for example the burden on witnesses to give their evidence more than once and the related consequences, it is out of step with other regulatory frameworks. It is generally recognised that fitness to practise panels are well placed to make findings of fact as they hear evidence directly from the witnesses and assess their credibility, as well as having sector specific knowledge which provides relevant context. As such, appellate courts are generally reluctant to undermine those findings. Even in cases where a ground of appeal impacting the fact-finding stage is allowed (for example regarding the admissibility of evidence) it is usual for the matter to be referred back to the regulator for consideration rather than the appellate court substituting its findings for those of the fitness to practise panel.

GovQ15 – Do you have any comments you wish to make about governance?

160. The consultation document's discussion of possible objectives does not take account of the RCVS's overall objective, which is set out in the Royal Charter rather than in the VSA. This is *"to set, uphold and advance veterinary standards, and to promote, encourage and advance the study and practice of the art and science of veterinary surgery and medicine, in the interests of the health and welfare of animals and in the wider public interest."* As discussed above, it is this broad public interest objective that allows the RCVS to regulate in a holistic way.

161. The VSA 1966 does not list overall objectives. The consultation lists proposed objectives for a Royal College that regulates which we assume are intended for a reformed Act. We broadly agree with and accept these proposed objectives, which complement and elaborate on those in the Royal Charter. However, we have some reservations about some of the wording, which appears to have been taken from healthcare regulator objectives without sufficient adaptation, and would argue that it would be necessary to make clear that some are prioritised over others. We list the proposed objectives below, with commentary:

- a. "Protect, promote and maintain the health and wellbeing of animals and public"
 - i. The longstanding wording used in the veterinary sphere is "animal health and welfare and public health". The veterinary professions protect public health via their work in the food chain and in respect of zoonotic diseases, but are not directly involved in human wellbeing per se. In an animal context, 'welfare' is the primary concern, notwithstanding the importance of animal wellbeing as a component of welfare.
- b. "Promote and protect public confidence in the veterinary professions"
- c. "Promote and maintain proper professional standards and conduct for members of veterinary professions."
 - i. We suggest making this wording consistent with the Royal Charter: "*to set, uphold and advance veterinary standards*"
- d. "Protect consumers (a consumer duty), where this does not contradict animal welfare requirements"
 - i. We agree that a consumer duty should be secondary to the primary objective of protecting animal health & welfare and public health.
- e. "Ensure fair competition within the market (a competition duty)"
 - i. Any competition duty should be secondary to the primary objective of protecting animal health & welfare and public health.
- f. "Support the profession and professional development of specialisms"
 - i. The wording found in the Charter may be more appropriate here: "*promote, encourage and advance the study and practice of the art and science of veterinary surgery and medicine, in the interests of the health and welfare of animals and in the wider public interest.*"
 - ii. It is critically important that any objectives are explicitly in the public interest rather than in that of the professions in their own right, or there is a risk of introducing conflicts of interest. Support for the professions should be provided only for the purpose of assisting the professions to meet their public interest goals, and would for instance exclude representing individual professionals who are subject to fitness to practise proceedings. Other support is a matter for representative bodies.
- g. "Promote professional excellence"

Part seven: Response to overall impact questions

OIQ1 – Do you agree or disagree with the proposed reform of the Veterinary Surgeons Act (1966), and why?

163. We broadly agree with the proposed reform for the reasons set out in this response.

OIQ2 – Do you have any additional points to raise regarding the proposals that you have not yet had the chance to express in this consultation?

164. No.

OIQ3 – The Equality Act 2010 protects people against discrimination based on nine protected characteristics. These are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Do you think that the proposed reform of the Veterinary Surgeons Act (1966) will discriminate against or benefit those with protected characteristics?

165. There are potential benefits to people with disabilities if conditional licences can be used to increase access to the professions. The proposals to allow the development of 'district veterinary nursing' roles could also facilitate in-home care for the pets of those whose disabilities or long-term health conditions may prevent them from being able to administer regular medication, for example.