

Regulatory reform – Standard of proof and fitness to practise meeting

Friday 6 November 2020, 10am
Zoom meeting

Attendees

Julian Wells – Chair
Izzie Arthur (part) – Association of Veterinary Students
Maddy Campbell – Ethics and Welfare Advisory Panel
David Catlow (part) – BVA member
Ryan Davis – Society of Practising Veterinary Surgeons
Daniella Dos Santos – BVA Senior Vice President
Amelia Findon – BVA Head of Policy & Governance
Cath Grimsey – Veterinary Management Group
Dr Judith Hulf – non-vet
Malcolm Morley – Policy Committee
Catherine Oxtoby – BVA member
Gudrun Ravetz - BVA LWP representative
Peter Robinson – BVA member

Apologies: Fabian Rivers (recent graduate)

Welcome and ways of working

1. The chair welcomed attendees to the meeting and introductions were made.
2. It was noted that the chairs of all five BVA working groups contributing to the development of the BVA position on the recommendations from the RCVS Legislation Working Party had met 15 October to discuss ways of working. It had been agreed that transparency and open lines of communication with the wider membership would be important throughout the process, particularly given some of the concerns circulating around some of the recommendations. It had been proposed that details of working group activity, including membership, minutes, and

The disciplinary system needed to be fairer, faster, and cheaper for the benefit of all concerned. It was recognised that the motivations of RCVS, whose primary aim was to protect the public, would necessarily be different to BVA as voice of the profession. However, many of the desired outcomes could be the same.

Most of the LWP proposals were for RCVS to have powers 'in principle' with the details to be agreed by RCVS Council. This meant that the profession was being asked to grant extensive powers to the College without the detail on what future changes might look like.

The working group should be prepared to challenge the proposals but must do so in an evidence-based and coherent way, setting out the case for the regulation of the veterinary profession to differ from that of other regulated professions where appropriate. The debate over the appropriateness of a College that regulates was longstanding. Funding was a key factor as RCVS was able to fund a wide range of activities under its Charter functions, which might otherwise only be available at increased cost to the profession and therefore their clients.

As well as responding directly to the recommendations, the working group should also identify any evidence or arguments that LWP might not have considered.

The working group should also highlight any areas where more information was needed from the College before a view could be formed.

Standard of Proof

6. The standard of proof related to the degree to which a fact-finding tribunal must be satisfied that alleged events actually happened. In the civil courts, a tribunal must be satisfied that the alleged events were more likely to have happened than not in order to find an allegation proven (also known as on the balance of probabilities); in the criminal courts, the tribunal must be sure in order to find a defendant guilty (also known as beyond all reasonable doubt). The standard of proof currently applied at RCVS disciplinary hearings was equivalent to that used in criminal proceedings. This was set out in the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence Rules) 2004 and as such could be amended by an Order of the Privy Council. Working group members were reminded that the standard of proof was only applied at Disciplinary Committee (DC) stage and only then at Stage 1 of the hearing. However, it was recognised that it might guide the Preliminary Investigations Committee (PIC) in their decision-making around whether to refer a case to DC.
7. It was agreed that the proposal to change the standard of proof to the civil standard needed to be considered in the context of the other recommendations. Although it could be implemented without legislative change, the context of the package of measures was significant and it would

slow. The fitness to practise approach was seen as particularly effective for those still in training as it allowed mistakes to be addressed at an educational level.

It was important not to cherry-pick 'highlights' from other regulators.

It would be useful to better understand the impacts of such a change in human healthcare, what the desired outcomes had been, and whether they had been achieved.

9. It was noted that the standard of proof adopted by veterinary regulators in other countries had also been considered by the LWP. The Veterinary Council of New Zealand, Boards in at least three Australian states, and two in Canada had confirmed they applied the civil standard. The working group agreed that it would be useful to have more information on impacts, and any associated package of measures, from these regulators. It could also be useful to hear from veterinary regulators in Europe, and the Council of the College of the Veterinarians of Ontario which had adopted a framework for regulatory6(ork2)9()-4(6(r)-3(e4(ork)1*nBT/ip6)-4(edd1 0 594.96 8

Links to the principle of reflective practice were also a consideration, where reflective practice also included the wider environment rather than just the individual.

It could be appropriate for the proper application of reflective practice to be demonstrated as part of undertakings under a fitness to practise model. However, it was recognised that defining and assessing such application would be complex.

Any fitness to practise model must also be fit for purpose beyond clinical roles. Mandatory practice regulation would not address systemic issues in non-clinical roles and although it was less common for vets in non-clinical positions to be the subject of a disciplinary hearing it was not unheard of.

16. It was noted that LWP considered that any new legislative framework should aim to achieve:

A 'forward looking' process with the protection of animals and the public at its heart

An enhanced suite of powers available to enable more effective investigations and case management

A reduction in the length and cost of investigations/proceedings wherever possible

Support packages must extend to the environment within which the professional was working. This would be complex in veterinary work where there was a wide range of business models and approaches to managing time off.

It was unclear how practical or affordable an effective system would be, and at what point RCVS saw their involvement being triggered.

Recommendations 4.2 and 4.3 were inextricably linked. The regulator had a role in implementing interim orders to mitigate risk, but the College was not qualified to make health assessments on individual vets or design support packages for the vast range of

