

BVA and BVNA response to RCVS Legislative Reform consultation

Who we are

- 1) The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom. With over 18,000 members, our primary aim is to represent, support and champion the interests of the United Kingdom's veterinary profession. We therefore take a keen interest in all issues affecting the profession, including animal health, animal welfare, public health, regulatory issues and employment matters.
- 2) The British Veterinary Nursing Association (BVNA) is the national representative body for the veterinary nursing profession and exists to promote animal health and welfare through the ongoing development of professional excellence in veterinary nursing. BVNA played a key role in the development of this response, particularly in relation to recommendations on embracing the vet-led team and enhancing the VN role. As such BVNA should be recognised as co-respondents.

Introduction

- 3) We welcome this opportunity to respond to the recommendations of the RCVS Legislation Working Party (LWP) and the interim proposals from RCVS which do not require primary legislation. Having

essential that the College ensures the proposals can be funded adequately and appropriately such that the desired outcomes are realised. Approaches to funding must also be transparent to the professionals who pay to be on the Registers and should not result in a financial burden for members.

- 7) We understand that most of the proposals are for the RCVS to have powers ‘in principle’ with the details to be agreed by RCVS Council following further consultation, as appropriate. As such we have aimed to respond in principle, highlighting where we feel more information is needed, and working on trust that further consultation on the detail of the most significant proposals will occur before they are progressed.

Embracing the vet-led team

- 8) The existing BVA position on the vet-led team sets out the overarching benefits to realising an efficient and effective vet-led team as including:

- Better animal health, animal welfare and public health outcomes;
- Improved client care;
- Provision of more integrated animal care;
- Improved clinical provision or assurance on food hygiene controls;
- More effective and efficient use of skills within the veterinary professions;
- A strengthened veterinary workforce, with the potential to ease capacity concerns and difficulties recruiting and retaining both vets and RVNs;
- Improved wellbeing for veterinary surgeons, RVNs, and allied professionals; and
- More sustainable veterinary businesses

- 9) We consider that the BVA position remains current and appropriate, including the “Hub and Spoke” model which provides a co-ordinated approach centred on the animal and client. The model seeks to clarify where responsibility sits and how it is shared with allied professionals and, crucially, makes effective and efficient use of skills within the veterinary professions by allowing vets to focus on the functions that can only be undertaken by a vet¹.

RCVS Recommendation 1.1 – Statutory regulation of the vet-led team

At present, RCVS is the statutory regulator of veterinary surgeons, and also regulates veterinary nurses

*Association with the group will not damage the reputation of the veterinary profession;
The professionals within the group will only practise under appropriate veterinary oversight
The regulation of the group will be self-funding.
The professionals within the group present as cohesive and established.”²*

- 12) The activities of any group of allied professionals brought under the regulatory umbrella of the College, either via the Associate model or the Accreditation model³, must be evidence-led such that their activities demonstrably make a positive contribution to animal health and welfare or public health, and are underpinned by sound rationale based on the available science. It is critical that the regulation of allied professionals by RCVS does not, by association, undermine the reputation of vets as one of the most trusted of UK professionals.⁴ As such, appropriate prerequisites for regulation by the College, via either model, should include:

demonstrable competence underpinned by appropriate knowledge and understanding through successful completion of a qualification accredited by Ofqual (or equivalent in the devolved nations), or a degree awarded by a recognised body
continued education through completion of appropriate CPD

- 13) When we originally developed our position on the vet-led team we considered that the accreditation model being proposed at the time represented a lower risk in relation to cost and the potential for reputational damage. Notwithstanding this, we support the current rationale for bringing some groups in as Associates under Schedule 3 (or new legislation to the same effect), recognising that some activities carried out by allied professionals are acts of v

stray into acts of veterinary surgery.

- 17) There is currently no requirement for cattle foot trimmers to be trained or be a member of a particular body. The Cattle Hoof Care Standards Board has positioned itself as a regulator for foot trimmers and aims to define a robust set of standards for professional cattle foot trimming. However, without a statutory underpinning the benefits to animal health and welfare are limited. The National Association of Cattle Foot Trimmers has positioned itself as the representative body for foot trimmers and aims to increase the credibility and professionalism of foot trimming within the industry. We consider that there could be significant animal health and welfare benefit to bringing cattle foot trimmers under the RCVS regulatory umbrella.
- 18) In human healthcare, physiotherapists must be registered with the Health and Care Professions Council and there is a public expectation that physiotherapists are qualified. The Register of Animal Musculoskeletal Practitioners (RAMP) requires members to complete Level 6 training (equivalent to a full-time three-year BSc degree) for automatic entry onto the register, and complete annual revalidation via CPD. There is also provision for entry through recognition of prior learning/experience. Although registration may provide some confidence that members are competent it is unclear how aware clients and vets are of qualification requirements and registration status of practitioners. In fact, the BVA Voice of the Veterinary Profession survey 2018 found that vets ascribed similar levels of confidence to lay TB testers and animal physiotherapists (69% and 64% respectively) despite there being no legal requirement for animal physiotherapists to hold a qualification, contrasting with lay TB testers who must register with the Animal and Plant Health Agency (APHA) and meet requirements under the Veterinary Surgery (Testing for Tuberculosis in Bovines) Order 2005 (the Exemption Order). This suggests a degree of misunderstanding amongst the veterinary profession and it is likely that the general public, who will be less engaged on this issue, will have a lower level of understanding
- 19) We strongly support the recommendation that EDTs are regulated as associates of the College. Lay people should not be carrying out equine dental work, and we support the principle of developing a legitimate basis on which EDTs can carry out 'Category 2' procedures as outlined in the RCVS report to Defra on the Review of Minor Procedures Regime. We agree that 'category two' procedures have the potential to cause serious harm if carried out by untrained EDTs and that the potential for harm and level of qualification required is inconsistent with the procedures being categorised as minor and therefore suitable for an EO.
- 20) The cost of regulation is an extremely important consideration. The regulation of allied professions must not incur a cost to the veterinary profession and although we recognise there will inevitably be an upfront cost to putting regulatory structures in place for new associate groups there needs to be absolute clarity and transparency on how those costs will be covered, and at what point the College anticipates regulation will become self-funding.
- 21) We broadly support the principle of grandfathering rights for individuals who find themselves being brought under Schedule 3 (or equivalent new legislation), recognising that such rights have

professional recognition to technicians carrying out tasks on farm. However, we are concerned that the role will disincentivise creating pathways for farm animal RVNs and seems to be a workforce 'solution' which will formalise a new group of allied professionals working to a lower standard. We consider that there needs to be equivalence at an educational level (ie minimum diploma level 3) on anatomy, physiology, welfare etc rather than creating a task based role. The propos

discussions were principle-based at the outset, during the course of discussions it became clear that there were unresolved questions relating to specific tasks for RVNs which predated LWP and could reasonably be progressed as part of the package.

- 35) As such, we have reviewed the specific proposals as the first in a longer-term commitment to developing the RVN role and communicating the value of RVNs to the professions, the wider vet-led team, and animal owners.

RCVS Recommendation 2.1: Extending the VN role in anaesthesia

LWP is supporting the retention of a previous RCVS Council-approved recommendation to increase the role of RVNs in the induction and maintenance of anaesthesia via reform of Schedule 3. The proposal would allow RVNs to “assist in all aspects of anaesthesia under supervision”.

- 36) We support the proposal in principle although further clarity is needed in relation to accountability, and further work is needed in relation to RVN training. We do not support the stated driver of ‘freeing up veterinary time’, which is inappropriate and devalues RVNs. However, from a practical perspective we recognise that an enhanced role for RVNs in anaesthesia could ‘free up veterinary time’ in the context of the particular surgical or diagnostic procedure taking place.
- 37) RVNs are central to safe anaesthesia and vets often rely on their expertise and experience. Anaesthesia is an area in which RVNs can act as advocates for the patient, uniting theoretical knowledge with practical patient care, bringing potential animal health and welfare benefits, particularly in small animal practice. On that basis, the proposal represents a positive step forward which could offer those RVNs already working in anaesthesia greater flexibility to utilise their skills and could support retention, particularly where the value of RVNs in such roles is well communicated and championed.
- 38) However, it is essential that RVNs do not feel pressured to work outside their area of competence. An enhanced role for RVNs in anaesthesia should only occur where all parties involved support it, with the decision taken at a practice team level. A well-run team where everyone is clear on roles

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route to qualification.

- 41) Pre- and post-registration training in anaesthesia needs bolstering in order to fully realise the value of RVNs in anaesthesia care. The recently launched BVNA learning pathway in anaesthesia should be part of veterinary nurse training more widely, and there should be specific post-registration training and qualification available for RVNs in mixed practice who may be required to control the anaesthetic for food producing animals, and for those RVNs wishing to work in equine anaesthesia. Although it is currently standard for hospital based equine anaesthesia to be led by MRCVS, regardless of duration, in theory there is no reason why RVNs could not be trained and gain the necessary experience to progress a step-change in the sector.
- 42) More autonomy for RVNs as a highly trained and regulated profession is a positive move and should be supported. However, ultimate oversight and responsibility of the vet is important, and this should continue to be the case. As such, greater clarity is needed in relation to accountability of the vet for decisions taken by an RVN working more autonomously. Although in theory we recognise that RVNs are regulated and professionally accountable, and if they act irresponsibly then the vet cannot reasonably be held responsible for such actions, there are and will be concerns amongst vets regarding lines of accountability. For the proposal to work and for both vets and RVNs to embrace

welfare charities. As previously discussed, cost-saving as a driver is inappropriate and devalues the VN role, however, we recognise that cost-saving is a relevant consideration for charities and is directly linked to animal welfare.

- 46) We have some concerns that support for domestic cat castrations might lead to RVNs taking on more advanced surgical procedures. Although Schedule 3 specifically excludes the entering of body cavities, the definition of body cavity is not explicit and remains open to some interpretation, with variation across species

implemented in a way that fosters a culture shift, supports a culture of care, and does not jeopardise the good work of the existing PSS.

66) Mandatory practice standards should be developed around principles of right-touch regulation, balancing the level of regulation to the level of risk and avoiding wasted effort. Overly burdensome regulation has significant unintended negative consequences. The 2014 RAND Europe report on regulatory systems in health care in six different countries, including England, found that the evidence of regulation contributing to better quality of care in different systems is scarce. Evidence on specific interventions such as publishing performance information, accreditation and allowing users to participate more in the design of services is weak, and the evidence on inspections contributing to better quality of care was inconclusive with some studies noting a negative impact on quality of care.

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comparable.

- 73) Even with additional safeguards in place, such as those which underpin powers of entry for the GPhC (ie it can only be sought in limited circumstances and can only be granted by a justice of the peace) we consider that powers of entry would be an unnecessary overreach for RCVS

animals and the public.

105) Informal guidance is already provided to vets and RVNs when they are removed f

We support the principle of making the profession accessible to all as well as creating mechanisms to promote and support portfolio careers and lifelong learning.

RCVS Recommendation 5.1: Introduce provisions to allow limited/restricted licensure in principle

In the context of the veterinary profession, 'limited' or 'restricted' licensure' refers to the concept whereby a suitably qualified individual would be licensed to undertake less than the full range of activities that could be considered to be acts of veterinary surgery, or work that would otherwise require someone to be registered as a veterinary surgeon. LWP is recommending that limited licensure should be permitted for UK graduates where disability prevents them from being able to undertake all aspects of a veterinary degree and veterinary practice, such that they can complete the relevant education for a branch of veterinary surgery and become MRCVS. The LWP report also notes that in future there may be an appetite for RCVS Council, after due consultation, to introduce limited licensure for overseas veterinary graduates whose degree does not qualify them for a general UK licence, as a means of addressing workforce shortage. However, this is not a specific recommendation from LWP.

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continued professional competence, and as a self-regulating profession should be proactive in introducing an appropriate system. However, in order to design an effective system, the desired outcomes must first be identified.

- 123) This proposal represents an opportunity to learn from the revalidation experiences of other professions⁸. However, we strongly caution against mirroring revalidation models from other healthcare professions without considering the detail of what would be practical, proportionate and represent good practice for the veterinary profession. The dental profession approach of enhanced outcomes-based CPD could be a useful model, and RCVS should use the results of its outcomes-based CPD project to inform the development of proposals.
- 124) The system must be effective and appropriate for the unique context in which the veterinary profession works, covering the entire spectrum of clinical and non-clinical roles. The key principles of right-touch regulation should be applied, and steps must be taken to ensure that revalidation does not become too onerous, or costly, particularly for mixed practitioners and others who may be required to revalidate in multiple areas of competence. This has already been seen with OV panel revalidation where the costs of revalidation in terms of both time and finance has led to a significant number of the profession not renewing their OV status⁹, and in many cases has resulted in a poor view of 'revalidation' as a principle and a term.
- 125) The terminology used to describe any new system should be carefully considered to ensure support from the profession, and the detail of any proposal must be subject to further consultation.
- 126) The system must be compassionate and versatile in order to take account of professional and personal circumstances and must not disproportionately impact on work-life balance in the profession, contribute to stress and burnout, or impact on retention. Anecdotal evidence suggests that the introduction of revalidation in the medical profession has impacted on retention. There should be provisions to allow for leave required to address ill health, as well as care giving leave. Unintended consequences for those who work part-time or take career breaks must also be avoided, and there must be measures to enable individuals to transfer their area of competence so career options aren't limited.
- 127) The implementation of revalidation would represent a significant cost to RCVS, which would inevitably be passed on to the profession and therefore animal owners. Appropriate resourcing and practical implementation are key considerations.
- 128) Revalidation should not be reduced to a tick box exercise that adds little value to professional development and continuing competence. Instead, it should focus on outcomes and reflection on CPD, as well as accommodating the myriad ways in which vets expand their knowledge and access information.
- 129) It is important to distinguish between revalidation and fitness to practise, as well as distinguishing between performance and revalidation, and there must be systems in place to ensure that those who do not meet revalidation requirements are supported to fulfil the requirement.

RCVS Recommenda

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The VSA does not give RCVS the power to enforce a CPD requirement except through the disciplinary process. Veterinary surgeons and veterinary nurses are asked to certify that they have satisfied the CPD requirement as part of the annual renewal process. However, if they do not, there is no power to refuse renewal of registration. LWP is recommending that RCVS should be able to refuse renewal of registration if a regulated professional fails to meet their minimum CPD requirement.

130) In principle, we support the proposal to underpin mandatory CPD with legislation to enable the RCVS to refuse renewal of registration (or licensure with reference to recommendation 5.8). We agree that vets a

profession who do not require a licence for their area of work. It must be made clear that licensure is for those carrying out acts of veterinary surgery as defined by the VSA, and does not mean a separation in standards, rather a difference in the way in which some professionals chose to use their veterinary skills.

RCVS Recommendation 5.9: Temporary registration - nomenclature

'Temporary registration' currently has a wide application. LWP is recommending that legislation is needed to underpin both temporary and limited registration.

138) We agree that provisions for temporary registration should be clearer than at present and more tightly defined to ensure that individuals practising in the UK under temporary registration are practising for a clearly defined, limited period of time. We are aware that that temporary registration is currently being used to address gaps in specialist expertise in the UK workforce, where specialists who are unable to register with RCVS as their undergraduate degree is not recognised are given temporary registration for a specific role. Please refer to our comments in relation to recommendation 5.1 around permitting post-graduate limited licensure to address this issue.

agile and adapt to change. Any flexibility in the system must be supported by appropriate checks and balances, including consultation with the profession on proposed changes to EOs. EOs must remain narrow, specific, and clearly defined. We support the proposal subject to assurances that future changes to EOs will be in consultation with the profession.

RCVS Recommendation 8.2: Empower the RCVS to set the annual renewal fee

At present RCVS requires Privy Council approval to amend the annual renewal fee. LWP is recommending that powers to amend the annual renewal fee and format are delegated to RCVS.

144) We a

molluscs, crustacea and bees. In the Animal Welfare Act 2006 “animal” means a vertebrate other than man.

- 150) We consider that this wholesale review represents an opportunity to review the definition of animal in the VSA and align it with modern understanding of the term. Defining the term appropriately will help ensure the package of measures being proposed, insofar as they relate to the relationship between vets and animals, are not subject to interpretation.
- 151) We also have serious concerns regarding the growth of canine fertility clinics and services and consider there should be a mechanism in place for investigating the legality of their activities. Although we accept that this is outside the scope of the LWP recommendations we ask that consideration is given to this issue in future.

Interim proposals not requiring primary legislation

RCVS Recommendation - Standard of proof

RCVS is in a small minority of UK regulators – and the only major regulator apart from the Scottish Solicitors’ Discipline Tribunal – that still applies the criminal standard of proof. RCVS considers that the civil standard of proof is an integral aspect of a Fitness to Practise regime. Changing the standard of proof can be achieved without the need for a change in primary legislation, therefore LWP did not make a recommendation on this issue beyond asking RCVS Council to consider it. RCVS Council subsequently agreed that changing the standard of proof should be consulted on.

- 152) Although it is unclear what issue or perceived issue RCVS is trying to solve, and for whose benefit, we recognise the possibility of external challenge and the potential for the civil standard to be imposed on the profession. With that in mind it is right and appropriate to consider the issues and be able to demonstrate the rationale for whatever approach is settled on. Any decision not to align with other regulated professions must be based on sound reasoning as there is a potential reputational risk.
- 153) The proposal to change the standard of proof to the civil standard needs to be considered in the context of the other recommendations from LWP. Although the change could be implemented without legislative change, the context of the package of measures is significant and it would be inappropriate to change the standard of proof in isolation.
- 154) RCVS appears to be overly focused on alignment with other regulators, and we do not support this as an appropriate primary driver for change. The key driver of protection of the public, as was the case for the medics in the wake of Shipman, is not, on its own, a strong argument for introducing the civil standard for the veterinary profession.
- 155) The Law Commission statement on the regulation of healthcare professionals states that the primary purpose of professional regulation is to ensure public safety. Vets do not usually represent a risk to public safety, however, the protection of animal health and welfare is a valid argument. There is a conflict of duty for vets, who are working for their clients but bound by the RCVS Code to put animal welfare first. A comparable conflict does not exist in human healthcare, (although some parallels can be drawn when the patient is a child and the wishes of the parent or guardian are in conflict with what is best for their health and welfare.) A fit for purpose disciplinary process should be able to recognise and unpick this conflict. Other distinctions of note include the absence of focus on human counselling in veterinary undergraduate training, which is embedded for the human healthcare profession. Veterinary

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work also incorporates a significant amount of business focus which is generally not present in human medicine in the same way.

- 156)** Before progressing the recommendation it's important to better understand the impact the change has had in human healthcare, what the desired outcomes were at the time of the change, and whether they were achieved. Changes to the standard of proof for medics were introduced in 2008, four years after fitness to practise, and following six reports from Dame Janet Smith between 2002 and 2005 as a result of her independent enquiry into Shipman. The move to a civil standard represented a significant change for the medical profession and at the time many doctors expressed concerns as it was perceived that it would make it easier to be sanctioned (although the legal view was that the civil standard still required proof - a burden which rests with the regulator). By the time the change to the standard of proof was made, the fitness to practise regime had been in place for four years and continuing audit had demonstrated no change in the numbers of medical practitioners restricted, suspended, or struck off. This continues to be the case, with numbers all publicly reported on the GMC website. It is generally agreed that the package of changes has been positive, with improved outcomes for patients. While there are still improvements to be made, and it remains a continually evolving process, the application of the civil standard of proof is no longer the subject of expressed opposition. The approach taken by the GMC appears to represent best practice in terms of chronology of change, and this should be considered carefully by the College.
- 157)** Whole systems thinking needs to feature in the debate. As already covered in our response to recommendations relating to fitness to practise and assuring practice standards the environment within which a professional is working inevitably influences behaviour, and systemic factors are more variable in veterinary work where there is no central employer.
- 158)** An effective disciplinary system should address poor practice. A system focused on punishment represents little scope for this and the current backward looking, punitive approach needs to modernise towards a curative forward looking one. As it stands the criminal standard of proof is appropriate for the current system because a punishment-based approach should be based on certainty.
- 159)** The shortfalls in the current system need to be addressed before a change to the standard of proof can be introduced. A change to the civil standard should not be the first thing to change, particularly when the LWP report has identified other areas for significant regulatory reform. It would be more appropriate to reconsider this once a fitness to practise regime and other associated measures have been introduced and have become established. There are similarities between the RCVS and the Scottish Solicitors Disciplinary Tribunal (SSDT), both of which have identified significant areas for regulatory reform. The SSDT Standard of Proof consultation decision¹¹ states, "It would be unwise to change one part of a whole system which is already under review and which might be altered by legislation in due course."
- 160)** Of all the LWP proposals, standard of proof is 4()-36(be)11(ba)14(ckw)5(2C>400576(ckw8-3(d)13()-

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similar correlation¹². Crucially in human healthcare there is a raft of services which may offer support for doctors in disciplinary processes; The BMA's 'Doctors for Doctors' scheme, the GMC's Employer Liaison Service linking the regulator with employers, The Medical Defence Societies offering legal support, the National Clinical Advisory Service (NCAS) and the individual Medical Royal Colleges

- 167)** Until the whole package of measures (and the Case Examiner model) can be introduced, the combination of empowering CEGs along with holding open enquiries to allow remediation seems pragmatic and cost-effective without introducing an additional and potentially confusing additional raft of measures. The proposal seems to be creating a layer of bureaucracy which is unlikely to achieve the desired outcome of expediting the process for minor transgressions, particularly in the absence of appropriate resourcing.
- 168)** The current CEG model works well but requires improved administrative support. There would be costs associated with creating a CCP, which need careful consideration and we consider that it would be better to invest in properly resourcing the existing system of CEGs and addressing existing administrative shortfalls first and foremost.
- 169)** We are unable to support the proposal as it stands. More detail is needed on the perceived issue and the evidence to support it before the appropriate solution can be progressed. The proposal does not seem to support a remedial rather than punitive approach and a stop gap which perpetuates a blame culture is not in line with compassionate regulation, nor does it represent an appropriate use of resources. In particular, we strongly oppose public naming and shaming for minor transgressions and RCVS should carefully consider available research on links between suicide and punitive disciplinary processes.

RCVS Recommendation - Mini-PICs

The College is proposing that the current system of Case Examiner Groups (CEGs), which essentially sift complaints and decide whether to refer to PIC, is removed and instead all cases are referred to one of five new mini-PICs. Each mini-PIC would have all the 'powers' of PIC and could make any and all of the decisions open to the existing larger PIC of five. It has also been suggested that if this was too big a step straight away that a system could be introduced such that 'simple cases' (ie those not involving external statements and input from experts) are dealt with by the mini-PICs; with 'complex cases' being referred by the mini-PICs to a PIC of five members.

- 170)** Many cases which are referred to PIC are referred because there is an arguable case rather than because the issue is serious. On the face of it the proposal seems to be a pragmatic solution

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- 172)** More groups will necessitate more administrative resources which the College will need to support. Cost is a key consideration, and appropriate resourcing is essential. The implementation of any remedial system is necessarily complex and resource heavy and will be bound to fail without proper provision in place.
- 173)** Although we support the stated objectives, any changes to the existing system must be accompanied by culture change, a modernised approach to ways of working, transparency, and external scrutiny. Without this wholesale shift, piecemeal changes will simply revert to the status quo.