



House of Commons
Environment, Food and Rural
Affairs Committee

**Veterinary Surgeons
Act 1966**

Sixth Report of Session 2007–08

*Report, together with formal minutes, oral and
written evidence*

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Environment, Food and Rural Affairs Committee

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Contents

Report	<i>Page</i>
Summary	3
1 Introduction	5
The veterinary profession in the UK	5
Background to the Committee's inquiry	6
2 Proposals for a new Act	7
Changes to the profession	7
The RCVS proposals for updating the 1966 Act	8
How the RCVS proposals have been received	9
The need for a new Act	9
Proposed changes to the Council structure	10
Likely timetable for a new Act	12
The disciplinary procedure	13
The current complaints procedures	13
RCVS proposals for a new complaints procedure	15
Recent revisions to the complaints process	17
3 Other changes to the regulation of the profession proposed by the RCVS	19
Proposals for a mandatory practice standards scheme	19
Proposals for compulsory continuing professional development and revalidation	22
Should "Para-professionals" be regulated?	24
Veterinary nurses	27
Farriers	28
Our views	28
4 Conclusion	28
List of recommendations	30
Formal Minutes	33
Witnesses	34
List of written evidence	34
List of Reports from the Committee during the current Parliament	36

Summary

Not only do veterinary surgeons provide a service to millions of pet owners in the United Kingdom, but they also play a valuable role in maintaining the wellbeing of the country's livestock industry and the protection of public and animal health by acting as sentinels against animal disease outbreaks. It is vitally important that the profession meets modern day standards of quality of service, and has the transparent and accountable disciplinary procedures demanded by the public.

This Report is principally about the governance, structure and accountability of the veterinary profession as conferred by the Veterinary Surgeons Act 1966, and the arguments for and against the need for the Act to be updated. This Report does not seek to be a comprehensive account of the entire work of the profession nor does it sit in judgment on the many ways in which healing services can be administered to animals.

The profession is regulated under the Veterinary Surgeons Act 1966. There appears to be general agreement, within the profession and beyond, that aspects of the Act require modernisation. However, whilst there is consensus that the disciplinary procedure is in urgent need of updating, the Royal College of Veterinary Surgeons does not have the support of the majority of the profession for its proposals on compulsory practice standards and compulsory continuing professional development. Despite working for almost five years on the subject, the Royal College has not yet formulated a detailed plan for how a new Council might be structured. Nor is there a clear vision of how “para-professionals” and those administering complementary and alternative therapies to animals ought to be regulated under a new Act.

The Department for Environment, Food and Rural Affairs agrees that the Act is in urgent need of updating, but has said that there is no funding available for work on a White Paper until at least 2011. These next three years must be used by the profession as an opportunity to decide what it wants, and to iron out internal differences, if it is to have influence on the shape of future legislation. An important step in this process would be for the Royal College of Veterinary Surgeons to analyse the costs of its proposals both for those practising and for the consumer. Any new Act should not overload the profession with unnecessary legislation, but it must safeguard the health and welfare of animals and also protect them, and their owners, from those who offer potentially dangerous treatments without sufficient knowledge or training.

1 Introduction

The veterinary profession in the UK

1. It is estimated that there are over 21 million pets in the UK,¹ and vets are consulted by pet owners, and other animal owners, tens of millions times each year.² Animal owners place great trust in their veterinary surgeons, and spend a great deal of money on veterinary treatment for their animals. It is understandable that owners expect vets to be accountable for their actions if things go wrong.

2. The veterinary profession is regulated by the Royal College of Veterinary Surgeons (RCVS) under the provisions of the Veterinary Surgeons Act 1966. The purpose of the Act is to protect the public and to prevent unqualified practice.³ The Act provides for: the registration of veterinary surgeons and veterinary practitioners; the regulation of their professional education and professional conduct; and cancelling or suspending of registration in cases of misconduct. In addition to the Act, the RCVS Guide to Professional Conduct identifies the key responsibilities of veterinary surgeons to their patients, clients, the public and professional colleagues, as well as their responsibilities under the law. It is not a detailed rulebook, but it sets out fundamental principles which may be applied to all areas of veterinary practice.⁴

3. The RCVS is governed by a Council of 40 Members which meets three times a year. The breakdown of members is as follows:

- 24 members are elected to Council by the profession itself;
- Each of the six UK Veterinary Schools nominates two members (with one of the two to be a member of the RCVS), and
- Four members are appointed by the Privy Council.

4. Potentially, 25% of members of the Council could be lay appointees as opposed to professional members. However, of the current Council membership, only 15% are lay appointees.⁵

5. The Council is supported by a system of committees. The RCVS policy issues put forward by working parties or the secretariat go first to committees for recommendation. Then, if recommended, on to Council for approval or rejection. The President, Senior Vice-President, Junior Vice-President and Treasurer are elected by the Council from its

1 Information on pet animals can be found on the Defra website at:
<http://www.defra.gov.uk/animalh/diseases/vetsurveillance/species/petanimals/index.htm>

2 Ev 14

3 Ev 53

4 Royal College of Veterinary Surgeons, *Guide to Professional Conduct*, can be found online at <http://www.rcvs.org.uk>

5 Ev 56

number. Together with the Registrar, they form a team of officers and have the main responsibility for running the RCVS.⁶

6. In 2007, there were 22,162 vets registered with the RCVS (compared to 8,143 in 1966). Of those, 60% were in general practice. The RCVS Annual Report 2007 showed that 53.5% of veterinary practices were classified as small animal practices, 41.6% were “mixed”, 3.4% were equine practices and 1.5% were farm animal practices.⁷ A survey of the profession conducted by the RCVS in 2006 found that vets felt that time spent on cats, rabbits, horses and practice management/administration was going up but that spent on dogs, cattle (both beef and dairy), sheep, poultry, meat hygiene and Local Veterinary Inspector work was estimated to be going down.⁸ The trend for practices to move away from large animal work towards small animal work was noted by our predecessor Committee in 2003.⁹

7. In addition to governing veterinary surgeons providing veterinary services, the Act also permits veterinary nurses to carry out medical treatment and minor surgery (not involving entry into a body cavity) on any species of animal. It also permits procedures considered to be “acts of veterinary surgery” to be delegated, by Exemption Orders, to suitably trained and competent non-veterinarians.¹⁰ For example, there are Exemption Orders for rectal ultrasound scanning and the artificial insemination of mares. Schedule 3 of the Act also specifies a range of treatments/operations that non-veterinarians can carry out without restriction. This includes the provision of first aid for the purpose of saving life or relieving pain. As well as the services provided by these “para-professionals” under the Act, and the services provided by farriers (who are regulated separately by the Farriers Registration Act 1975), there are increasing numbers of animals being treated with alternative and complementary therapies by non-veterinarians, e.g. chiropractic, osteopathy, homeopathic, aromatherapy and acupuncture.¹¹

Background to the Committee’s inquiry

8. The RCVS argues that the Veterinary Surgeons Act 1966 has not kept up to date with changes in the profession. It has proposed changes to the structure of the Council of the RCVS and to its disciplinary procedure which it believes would bring the regulation of the veterinary profession into line with the modernisation of the regulatory arrangements of the human health professions in recent years.¹²

9. We announced our inquiry on 10 July 2007. Its terms of reference were to examine whether the provisions of the 1966 Act were out of step with developments in the veterinary surgeon and related professions, and whether there was a need to replace the Act. We received 42 written submissions. We took oral evidence on two occasions from:

6 <http://www.rcvs.org.uk>

7 Royal College of Veterinary Surgeons Annual Report 2007, p 31

8 Royal College of Veterinary Surgeons, *The UK Veterinary Profession in 2006: the findings of a survey of the profession*, June 2006, p 21

9 Environment, Food and Rural Affairs Committee, Sixteenth Report of 2002–03, *Vets and Veterinary Services*, HC 703, para 13

10 Information on the purpose of the Act can be found at: <http://www.defra.gov.uk/animalh/ahws/vservices/act.htm>

11 Ev 2, 54

12 Ev 1–2

the Royal College of Veterinary Surgeons, Mr Chris Barker, MRCVS, the British Association of Equine Dental Technicians, the Oxford College of Equine Physical Therapy, the Association of McTimoney-Corley Spinal Therapists, the British Veterinary Association, Mr Fred Landeg, Acting Chief Veterinary Officer, and the Minister for Sustainable Food, Farming and Animal Health, Rt. Hon Lord Rooker. A full list of witnesses can be found on page 34. We are most grateful to all those who gave evidence to our inquiry.

2 Proposals for a new Act

Changes to the profession

10. In 1966 the average veterinary practice would have consisted of one or two surgeons working as sole practitioners or in partnerships. In the modern practice, care is often provided by a team of veterinary surgeons, veterinary nurses and lay staff. Some procedures are delegated to non-veterinarians, and increasingly, those using complementary and alternative therapies. The Royal College of Veterinary Surgeons (RCVS) estimates that nearly a fifth of practice premises are owned by companies or other corporate entities.¹³ This reflects the trend towards large practices and away from the more traditional sole practitioner. It was in response to the changes in the profession, and the regulation of the medical and related professions following the Shipman inquiry, that the RCVS set up a working party in 2003 to review the 1966 Act. The RCVS held two consultations in 2003 and 2005 with the veterinary profession (and separately with the veterinary nurse profession) to review whether a new Act would be desirable. The first consultation in 2003 received 470 responses from individual veterinary surgeons, from a total of approximately 20,000 registered vets, 13 responses from organisations and 124 responses from individual veterinary nurses.¹⁴ The second consultation in 2005 received only 86 responses from individual veterinary surgeons, in addition to responses from 36 organisations, four veterinary nurses and 40 others (mostly members of the public).¹⁵

11. In 2003, the Department for Environment, Food and Rural Affairs (Defra) also carried out a public consultation on whether the Act needed reforming. The consultation broadly followed the lines of the RCVS 2003 consultation. A 157 interested organisations and individuals were consulted. A total of 91 responses were received.¹⁶ Following the results of the consultation, Defra said that it was convinced of the need to modernise the Act and stated on its website that it was the intention to apply for Parliamentary time to bring forward new legislation in the 2005–06 Session. That did not happen. In its written submission to this inquiry Defra stated that the Act was in “urgent need of updating to

13 Ev 2

14 Royal College of Veterinary Surgeons, *Responses to Consultation Papers of 5 February and 12 March 2003*, 10 June 2003

15 Royal College of Veterinary Surgeons, *Review of the Veterinary Surgeons Act: Further report from the Working Party*, 3 November 2005, para 4

16 Defra, *Summary of the responses to the consultation on proposals to modernise the Veterinary Surgeons Act 1966*, December 2004

bring it in line with modern concepts of professional regulation”.¹⁷ The Department told us that “the current regulatory framework fails to meet the needs of a rapidly changing veterinary services sector and the need for public confidence in the regulatory framework.”¹⁸ The submission, sent to the Committee in July 2007, said that Defra intended to bring in a White Paper with proposals for reform in “early 2008”, taking into account the views of the Committee.¹⁹

12. Since 2003, discussions have been held between RCVS and Defra officials on proposals for modernising the regulatory framework for the provision of veterinary services.²⁰ After its 2005 consultation the RCVS adopted “firm proposals” for the main areas of the Act which it believed needed amending.²¹ However, in evidence the RCVS told us that it had not yet decided on the detail of the structure or future composition of its Council, or of a Veterinary Nurses Council, and its membership.²² The RCVS explained to us that it awaited a steer from Defra on whether the RCVS was “heading in the right direction” with its proposals.²³ The College had not attempted to draft a Bill.²⁴

The RCVS proposals for updating the 1966 Act

13. The RCVS has proposed the following changes to the 1966 Act:

- Veterinary nurses should be regulated as a profession alongside veterinary surgeons by a new independent Veterinary Nurses Council;
- RCVS should have the power to regulate the delivery of veterinary services through a mandatory practice standards scheme;
- The RCVS and Veterinary Nurses Council should have the power to require continuing professional development and revalidation;
- The RCVS and Veterinary Nurses Council should have greater representation of lay members;
- There should be a separation between the rule-setting, investigation of complaints and adjudication processes by ensuring that the board investigating complaints and the new Conduct and Competence Committee are independent from the RCVS Council and the Veterinary Nurses Council;
- The new Conduct and Competence Committee should be given a greater range of powers, including being able to make interim orders pending proceedings, and

17 Ev 51

18 Ev 54

19 Ev 53

20 Ev 52

21 Ev 1

22 Qq 24, 26, 53

23 Ev 19

24 Qq 28–31

- Veterinary Surgeons should have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council.

How the RCVS proposals have been received

14. There was general agreement amongst the majority of respondents to our call for evidence that the Act was out of date,²⁵ with particular reference to the disciplinary process. Some submissions pointed out that the existing Act had generally worked well until now and questioned whether revised primary legislation was necessary or whether the Act could be sufficiently updated through secondary legislation.²⁶ However, opinion in the veterinary profession, and in other animal treatment professions, was sharply divided over the RCVS proposals for: mandatory continuing professional development (CPD) and revalidation; a mandatory practice standards scheme; and whether or not the regulation of para-professionals ought to be brought under the control of the RCVS. We look in detail at these proposals in part three.

The need for a new Act

15. Some submissions to our inquiry questioned whether a new Act was necessary, in light of the fact that it had worked satisfactorily for over forty years. The British Veterinary Association (BVA) told us in its written submission that “there is a high level of public confidence in the veterinary profession, and on this basis it could be argued that substantial changes to the 1966 Act are neither justified nor necessary.”²⁷ The President of the BVA told us in evidence that “there is no evidence that the Act is not working satisfactorily.”²⁸

16. The RCVS argues that new legislation is necessary because it believes that the current Act does not measure up to present-day expectations for the regulation of a profession. The RCVS keeps a register of qualified vets and intervenes when things go wrong. However, it is unable to take preventative action to ensure standards are being met. In particular:

- the RCVS can not compel vets to keep their professional skills and knowledge up to date;
- the current Act does not recognise veterinary nurses as a profession in their own right or provide statutory powers to regulate veterinary nurses;
- the RCVS has no power to collect information about veterinary practices, just individual practitioners;
- there is no proper separation between the Council which sets standards and the Disciplinary Committee which adjudicates;

25 Submissions received included those from individual veterinary surgeons and farriers, regional and specialist divisions of the British Veterinary Association (the national representative body for the veterinary profession), the Dogs Trust, the Kennel Club, and associations and societies representing hoof trimmers, farriers, spinal therapists, the aquatic trade, physiotherapists, and equine dentists.

26 Ev 87, 92 [Society of Practising Veterinary Surgeons; Mervyn Harris]

27 Ev 45

28 Q 173 [Mr Nick Blayney]

- the RCVS has no jurisdiction when a vet’s competence or medical fitness to practice is at issue, and
- the mechanism for regulating the activity of practitioners, other than veterinary surgeons, providing veterinary services—e.g. ultrasound scanners and artificial inseminators—is the unwieldy system of granting *ad hoc* Exemption Orders under Schedule III of the Act; many forms of treatment, such as equine dentistry and animal physiotherapy, are not regulated at all.²⁹

Proposed changes to the Council structure

17. Under the RCVS proposals there would be one council for veterinary surgeons and another for veterinary nurses.³⁰ Each Council would be responsible for maintaining a register of qualified persons and issuing licences to practise. The Councils would issue guidance and make rules on professional conduct and competence.

18. A new, separate, Conduct and Competence Committee would receive and adjudicate on complaints against individual veterinary surgeons or veterinary nurses.³¹ This function is currently discharged in respect of veterinary surgeons by the RCVS Disciplinary Committee. The proposed Conduct and Competence Committee would be independent as members of either Council would not be able to sit on the Committee.³² The RCVS’s proposals for a new disciplinary procedure are considered further in the next section.

19. In its submission to us, Defra noted that in recent years the RCVS (along with other regulators of professions) had been subject to criticisms about transparency, trust, accountability and public confidence due to its self-regulatory structure which allowed little input from the outside.³³ In medical and related professions, the trend had been to move away from traditional “self-regulation” to a model of “co-regulation” with greater involvement of lay members of the public. Defra considered that the number of lay members of the Council ought to be significantly higher than it is now, but that there should remain a professional majority. The majority of responses to Defra’s 2003 consultation were in favour of lay appointments being made by an independent appointments panel (as opposed to Defra or the Privy Council).³⁴ Defra believed that further discussions with RCVS were needed on whether RCVS members of the Council should be wholly appointed or elected by the profession. Defra also believed discussions should be held on whether there ought to be a split between regulatory functions of the RCVS and its Royal Charter functions (the power to award Fellowships, Diplomas and Certificates to veterinary surgeons, veterinary nurses and others, to act as an informed and impartial source of opinion on veterinary matters, and also the concerns and property of the College, including its income).³⁵

29 Ev 54, 58

30 Q 56

31 Royal College of Veterinary Surgeons, *Review of the Veterinary Surgeons Act: RCVS Proposals*, November 2005

32 Q 25

33 Ev 53

34 Ev 56

35 Ev 56

20. Submissions from the British Veterinary Association (BVA), the Kennel Club and the British Small Animal Veterinary Association also placed great importance on the inclusion of lay persons on the Council.³⁶ The BVA (the national representative body for the veterinary profession in the UK) believed that the current lay representation of the Council ought to be extended, as should lay representation at every stage of the disciplinary procedures, as “lay representation [...] is an important factor in maintaining public confidence in the regulatory body; its disciplinary procedures; and the veterinary profession at large.”³⁷ Several submissions raised concerns that the cost of setting up a new structure of councils and committees would be passed down to the veterinary practice and on to the consumer.³⁸ The RCVS had indeed proposed that the new disciplinary board would be financed through registration and retention fees to be levied by the Council.³⁹

21. The RCVS thought that the current Council was too large in size and ought to be reduced from 40 members,⁴⁰ and that the lay membership of the Council should be increased.⁴¹ However, it appeared that the RCVS had not yet produced firm proposals for a new Council. It was able to tell us that “in broad terms [...] around 50%” of Council members would be lay people,⁴² but was not able to give precise detail as to the structure of the Council or whether its members would be appointed or elected.⁴³

22. We were disappointed that, given the amount of time and the level of consultation which has already taken place on the profession’s governance, the RCVS had not yet sorted out the detail involved in its reform proposals. We believe that a profession of its size and importance should by now have had drafted a new Bill as a way of firming up its proposals and to help persuade Defra of its need for action towards new legislation in this area.

23. Whilst there is general support for the greater inclusion of lay members on the Council of the RCVS, the Royal College must develop a clear plan for the structure of its proposed new Council under a new Act. The proportion of lay membership should be no less than 40% and professional members of the Council should be both appointed and elected. It is entirely appropriate that members of the profession should meet the costs of their own regulatory body through registration fees. The RCVS should analyse the additional costs likely from the creation of its new structures, in addition to the other changes it has proposed, and how these will affect the average veterinary practice and its customers.

36 Ev 46, 85, 110 [BVA; Kennel Club; British Small Animal Veterinary Association]

37 Ev 46

38 Q 114 [Mr Chris Barker], Ev 35, 93, 115 [Association of McTimoney-Corley Spinal Therapists, World Wide Association of Equine Dentistry, Dogs Trust]

39 Royal College of Veterinary Surgeons, *Review of the Veterinary Surgeons Act: RCVS Proposals*, November 2005, para 11

40 Q 7 [Professor Sheila Crispin]

41 Qq 24, 26 [Mr Bob Moore]

42 Q 24 [Mr Bob Moore]

43 Q 46 [Ms Jane Hern]

Likely timetable for a new Act

24. Despite Defra's indication that a White Paper on a new Act would be brought forward in early 2008, Lord Rooker, Minister for Sustainable Food, Farming and Animal Health, told the Committee on 3 March that, following the reassessment of Defra's budget in recent weeks, there were no resources available in the current Comprehensive Spending Review (CSR) period (up to 2011) for further work on a White Paper.⁴⁴ In addition, there was no parliamentary time available for a new Act.⁴⁵ Lord Rooker told us that work would continue on the following areas:

- the consolidation of existing Exemption Orders under the Act that permit the carrying out of certain procedures for the purposes of controlling and eradicating disease;
- updating Schedule III of the Act to bring it in line with EU welfare of animals legislation;
- resuming work on developing arrangements for allowing certain equine dental procedures to be carried out by non-veterinarians, and
- widening the carrying out of TB testing to include trained technicians other than those currently permitted to carry out tests.⁴⁶

However, it was unlikely that Defra would be able to proceed with work on a White Paper before 2011.⁴⁷

25. In answer to follow up questions from us, Lord Rooker estimated that it would take Defra about six months to prepare a White Paper, setting out detailed and costed proposals for the future regulation of veterinary services, and thus a further six months to produce a draft Bill for publication. The cost of preparing these documents was estimated at £361,000. This sum did not take into account the cost of any further public consultation that might be needed prior to or after publication of the White Paper.⁴⁸

26. Lord Rooker told the Committee that certain aspects of a new Act, for example a new structure for the complaints procedure, could possibly be introduced in a small, tightly focused Bill suitable for a Private Member's Bill,⁴⁹ but the other changes needed satisfactorily to modernise the Act would also require primary legislation as opposed to amendments made to the existing Act through secondary legislation.⁵⁰ The Minister also told the Committee that if the RCVS prepared a draft bill, Defra would provide advice on its provisions.⁵¹

44 Q 177

45 Q 178

46 Q 186, Ev 67–68

47 Q 178

48 Ev 66

49 Qq 212, 213

50 Q 213

51 Qq 216–217

27. The *Veterinary Record* reported that at a meeting of the RCVS Council on March 6 2008, the Acting Chief Veterinary Officer, Mr Fred Landeg, had stated that Defra's priorities currently lay with climate change and the environment. Mr Landeg is also reported as having advised the Council that the profession had to be clearer about what it wanted from a new Act, that it ought to communicate more effectively with Defra, and that it should aim to show a united front across the profession.⁵² This advice strikes us as entirely reasonable. However, Lord Rooker's announcement to the Committee that work would halt on the White Paper has taken the profession by surprise. The RCVS told us only two weeks before the Minister's evidence that, following indications from the then Chief Veterinary Officer who sat by convention on its Council, it believed that its case for a new Act had been accepted by Defra, was supported at all levels and that work progressed towards new legislation.⁵³ From the outward indications of Defra's memorandum to us, and its web pages on the Veterinary Surgeons Act,⁵⁴ it had appeared that Defra intended to seek parliamentary time for new legislation in the near future. However, Defra does not appear to have kept the RCVS up to date with the latest developments in this area, which is surprising considering the close links between the RCVS Council and the Chief Veterinary Officer.

28. The resources for work on a White Paper for new primary legislation for the veterinary profession are unlikely to be available before 2011. Whilst this is a disappointment, the Royal College of Veterinary Surgeons should use the time now available to elaborate and clarify its proposals in greater detail, to consider further the case for those of its proposals which do not have general support within the profession, and to assess the potential cost of its proposals for regulating professional standards to the profession and to the consumer. We find it surprising that the RCVS Council was unaware of the decision taken by Defra to halt work on new primary legislation. Defra appears to have raised the profession's expectations that a new Act would be introduced in the near future. Defra should ensure that in future its working relationship with the RCVS is improved.

The disciplinary procedure

The current complaints procedures

29. Under the current disciplinary system, the Preliminary Investigation Committee (PIC) investigates cases where allegations have been made which, if proven, would be likely to result in a veterinary surgeon being removed or suspended from the register held by the RCVS.⁵⁵ The PIC decides whether or not to refer a case to the Disciplinary Committee (DC) by considering whether the complaint is within the RCVS's jurisdiction, whether there is an arguable case against the veterinary surgeon and whether there is a realistic prospect of proving the case.

52 "Taking stock of the options on a new Veterinary Surgeons Act", *Veterinary Record*, March 15 2008, p 331

53 Qq 17–20

54 <http://www.defra.gov.uk/animalh/ahws/vservices/act.htm>

55 Ev 21

30. The veterinary profession conducts tens of millions of consultations each year. In the year from 1 April 2006 to 31 March 2007, the RCVS received only 709 complaints, which represents a very small percentage of the total number of veterinary consultations.⁵⁶ Of those complaints, 272 alleged inadequate care on behalf of the vet; 150 complained about the quality of communications between the practice and the client; and 81 concerned fees. However, of the 731 complaints dealt with in 2006–07, 301 cases (41%) were closed because the complaint was not within the College’s jurisdiction and only 11 (1.5%) were referred to the DC. Of the 13 disciplinary inquiries held during 2007, 6 vets were removed or suspended from the register, 1 vet was reprimanded, 3 cases were dismissed, 1 was postponed and 2 vets were found guilty of disgraceful conduct which was considered to be a sufficient sanction and no further action was taken.⁵⁷

31. The only sanction that the DC has is to remove or suspend a veterinary surgeon from the register, and only if:

- a) the vet has been convicted of an offence which in the Committee’s opinion renders him or her unfit to practise veterinary surgery; or
- b) the vet has been guilty of “disgraceful conduct” in any professional respect.

32. Disgraceful conduct is taken to mean misconduct as a result of unethical behaviour (e.g. misuse of controlled drugs) or clinical malpractice (e.g. serial incompetence) amounting to serious professional misconduct. This would not normally include a simple mistake, but that which might provide the basis for a civil action for damages.⁵⁸

33. A veterinary surgeon may appeal against removal from the register to the Privy Council, but there is no statutory appeal mechanism for the complainant.⁵⁹

34. The RCVS provided the illustrative example of a veterinary surgeon who operates on a dog and leaves a swab inside. The vet might be liable to be sued for negligence, on which the RCVS has no power to adjudicate, but if he or she lies about having made the mistake, this might be considered serious professional misconduct.⁶⁰

35. From the submissions received by us, there appeared to be widespread dissatisfaction with the current disciplinary procedures, particularly as, under the provisions of the Act, the members of the PIC and DC must be drawn from the RCVS Council.⁶¹ Most submissions agreed that the reputation of the profession was at stake and that change was necessary to bring the regulation of veterinary surgeons in line with changes made in the human health profession. One submission argued that complaints investigation ought to be taken away from the RCVS altogether.⁶² Others considered that the system had

56 Ev 14

57 Ev 14

58 Ev 15

59 Ev 57

60 Ev 15

61 Ev 100

62 Ev 73

produced inconsistent judgments and sentencing, and questioned whether the process was compliant with the Human Rights Act.⁶³

36. Defra considers the current system inflexible, lacking transparency and insufficiently “customer focussed”.⁶⁴ The Department agreed with the RCVS that there needed to be clear separation between those that set standards, those who investigated, and those who decided on complaints.⁶⁵ Defra considered that the system did not:

[...] meet the public need for the investigation and resolution of complaints that directly relate to the competence and care of service provided by veterinary surgeons. There is evidence that public expectations are not being met and that a system which involves veterinary surgeons judging other veterinary surgeons will not inspire public confidence and trust.⁶⁶

RCVS proposals for a new complaints procedure

37. The RCVS proposes that the current Disciplinary Committee be replaced by a Conduct and Competence Committee (CCC) which would adjudicate on complaints referred to it by a separate body which the RCVS currently calls “the board”.⁶⁷ The board would sift and investigate complaints received and decide which ones ought to be referred to the CCC.

Scope of the new “Conduct and Competence Committee”

38. The RCVS also proposed that the CCC should consider “fitness to practice” in the broadest sense—not just behaviour.⁶⁸ It should not be limited to considering the standing only of vets who had been convicted of an offence.

39. Defra believed that further discussion was needed as to who precisely should investigate, and adjudicate, on professional fitness to practice, as well as the cost of any changes to implement a new system for complaints against veterinary professionals. Defra also believed that mediation should be built into the process as part of a preliminary assessment of any complaint.⁶⁹

40. The Department acknowledged that, under the current system, as the Disciplinary Committee was limited to considering only the most serious type of complaint, the overwhelming majority of complaints were sifted out. The Department considered that the dismissal of such a large number of complaints in such a manner would inevitably harm the reputation of the veterinary profession.⁷⁰ A submission to the Committee from a pet

63 Ev 81, 101 [Richard Jones; John Parker]

64 Ev 57

65 Ev 52

66 Ev 57

67 Ev 4

68 Ev 15

69 Ev 57–58

70 Ev 57

owner illustrated what must be a common frustration amongst complainants, which was that cases of alleged negligence by a vet were not dealt with by the RCVS. In that case, the complainant believed that pet food sold to her by her vet had caused the death of her cat.⁷¹ The RCVS also provided us with several examples of cases which had been considered by the PIC but were not referred to the Disciplinary Committee.⁷²

41. Defra's recommendation is that as well as professional misconduct, the RCVS should be able to investigate the lesser charge of "unsatisfactory" professional conduct:

It is inevitable that, in some cases, things will go wrong and owners who feel that their animals have suffered or perhaps died because, in their view, a veterinary surgeon, was at fault want somewhere to take their concerns. They see their case as a serious injustice and want recognition of mistakes made and an assurance that lessons will be learned. It is impractical for the RCVS to provide a detailed second opinion for every disputed case. However, a complaints system must enable the regulator to consider if there are grounds for concluding that a veterinary surgeon has not maintained adequate levels of professional expertise or standards. Therefore, as well as "professional misconduct", the regulator should have powers to address "unsatisfactory professional conduct", with appropriate remedies, which forms the basis of the vast majority of complaints received by the RCVS.⁷³

42. We agree wholeheartedly with the Department's assessment of the drawbacks of the present disciplinary system. It is not satisfactory for customers who have a genuine case for complaint about the professional standards of a vet to only have recourse to the civil law, without any appeal to a regulatory body.

Range of sanctions open to the RCVS

43. Several submissions argued that there ought to be great flexibility in the disciplinary process to allow a wider range of sanctions less severe than suspension or removal from the register.⁷⁴ One submission suggested that the Committee should have the power to raise fines to penalise minor offences as current sanctions seemed to range from "the draconian to the ludicrously lenient".⁷⁵

44. The RCVS proposed that both the board and the CCC would be able to dispose of a complaint by giving a formal warning. The board would also be able to give formal advice to a veterinary surgeon. The RCVS further recommended that the CCC should be able to impose conditions or restrictions in addition to suspension or removal from the register which are the only sanctions currently available to the DC, although power to impose fines was not canvassed. Defra agreed with the RCVS's proposals.⁷⁶ **We agree that there ought to be a wider range of sanctions available to the Royal College of Veterinary Surgeons**

71 Ev 69–70

72 Ev 16–18

73 Ev 57

74 Ev 44, 71, 96, 111 [BVA; Richard Stephenson; Patricia Gail Saluja; British Horse Society]

75 Ev 71

76 Ev 57

in order to give greater flexibility and proportionality to the operation of the complaints process.

45. The RCVS propose that there should be a power to make an interim order pending disciplinary proceedings.⁷⁷ The BVA was:

[...] very concerned about the possible consequences for a practitioner who was suspended prior to their hearing and subsequently found not guilty. Such action would remove the practitioner's means of earning a living, and could potentially jeopardise the future of their business, neither of which are acceptable unless the individual is actually guilty of unprofessional conduct.⁷⁸

46. The RCVS admitted that responses to its two consultations had indicated that its proposals for interim orders were "controversial":

Circumstances can, however, arise from time to time where intervention is necessary, particularly where a practitioner suffers severe health problems. In such cases it seems right to have power to take action in the public interest, subject to the same safeguards as apply under the human health legislation (see, for example, article 31 of the Health Professions Order 2001, SI 2002/254).⁷⁹

The Department agreed that, for exceptional cases, there should be a power to make an interim order pending proceedings, suspending a veterinary surgeon or imposing conditions.⁸⁰

Recent revisions to the complaints process

47. The Royal College has been exploring non-statutory changes to its procedures.⁸¹ Following a review in 2007 of its Preliminary Investigation Committee's procedures, and with the aim of making the disciplinary process as transparent as possible, on 5 March 2008 the RCVS published revised procedures for the handling of complaints. These involve:

- separating out the Committee's two functions of investigating complaints and deciding whether they merit referral to the DC (so that the same people do not undertake the investigation and then assess the outcome);
- providing for complaints to be initially assessed by a legal qualified member of staff to see whether or not they fall within the jurisdiction of the College, and involve an independent lay observer in deciding whether there is an arguable case which should be referred to the PIC, with the aim of targeting the cases that the PIC and DC are able to deal with and help to speed up the process;

77 Ev 4

78 Ev 47

79 Ev 4

80 Ev 57

81 Ev 21

- providing greater transparency in decision making, for example through making written guidance on the decisions of the PIC and DC available online, and in the posting of a guidance note for the public on how to make a complaint to the RCVS.

48. However, the RCVS told the Committee that there was only so much it could do without a change to the governing legislation:

Our aim is to ensure that our procedures are fair to both complainants and respondents, transparent and credible. There is, however, one problem. The Act requires both PIC and the Disciplinary Committee to be composed entirely of Council members. As you know, this is something that we want to change, because it makes it difficult for us properly to separate standard-setting, investigation and adjudication. We do all that we can to keep the membership and functions of the two Committees separate, but there is no way round the fact that the members of both are involved as Council members in policy debates which may be relevant to cases which they handle as Committee members. No matter how we improve our internal procedures, we cannot get over the fact that the Act entrusts the screening and adjudication of complaints to two Committees whose composition is specified on the face of the legislation.⁸²

49. There is a pressing need for the disciplinary process for veterinary surgeons to be updated. We agree that there ought to be a separation between the RCVS Council, which sets rules for the profession, and the Disciplinary Committee, which adjudicates complaints on the basis of those rules. This should not wait until 2011. The RCVS should hold further discussions with Defra on whether changes to the process could be achieved through a more modest legislative proposal than would be required for wholesale reform of its procedures. For example, a Private Member's Bill drafted with advice from Defra could be taken through by a Member of Parliament sympathetic to the RCVS proposals. Meanwhile, the RCVS should continue to improve its current procedures through administrative reforms which can be achieved within the current legislative framework.

3 Other changes to the regulation of the profession proposed by the RCVS

Proposals for a mandatory practice standards scheme

50. The RCVS has implemented a voluntary scheme since 2005 to accredit veterinary practices in the UK. The scheme aims to promote and maintain the highest standards of veterinary care through setting standards and carrying out regular inspections.⁸³ To become accredited, practices volunteer for rigorous inspection every four years and will have met a range of minimum standards including hygiene, 24-hour emergency cover, staff training, the availability of certain types of equipment, and cost estimation procedures. They may also be subject to spot-checks between inspections. An accredited practice logo indicates to pet owners that the practice has passed an independent inspection. Currently about half of all practice premises belong to the scheme.⁸⁴

51. The RCVS proposed that there should be a mandatory practice scheme to regulate the delivery of veterinary services, whether by a traditional partnership of veterinary surgeons, a corporate body (under veterinary or non-veterinary control) or a charity. The RCVS considers that a mandatory practice standards scheme is necessary as the number of practices owned by companies or other corporate entities is growing and the College has no jurisdiction at present over the actions or omissions of managers or practice owners who are not veterinary surgeons. The RCVS estimated that a fifth of the practice premises known to the RCVS were in corporate ownership.⁸⁵ Under a mandatory scheme the RCVS claims that, both in corporate practices and in partnerships, complaints over relevant aspects of staffing, practice protocols, clinical standards, emergency cover, hygiene and equipment could be pursued without holding veterinary surgeons to account for matters outside their control or being forced to tell complainants that their concerns cannot be addressed.⁸⁶

52. The RCVS proposal has proved to be controversial with the profession. RCVS told us that it acknowledged that a mandatory scheme did not have the wholesale support of the profession and that it remained an area for debate.⁸⁷ The RCVS was in discussions with the BVA over it: “it is undoubtedly one of the sticking points.”⁸⁸

83 See RCVS website for information on its Practice Standards Scheme, <http://www.rcvs.org.uk/Templates/InternalHome.asp?NodeID=94628>

84 Ev 2

85 Ev 2

86 Ev 2

87 Q 86

88 Q 85

53. Several submissions to the Committee expressed concerns over the proposal to introduce compulsory practice standards,⁸⁹ and considered it both unnecessary and likely to be costly:

Mandatory standards would be expensive and complicated to implement, enforce and oversee, and might not achieve the desired result anyway.⁹⁰

It is essential that all members of the veterinary team work with equipment and in premises fit for the services which they provide. However, the emphasis should still be on the quality of the individuals and their responsibility to provide appropriate facilities, rather than the facilities themselves [...] the operation of a voluntary scheme will provide the public (and the practitioners themselves) with reassurance that a facility has met the threshold standards.⁹¹

[t]his would be extremely demanding in terms of time and resources, yet would not necessarily improve the delivery of veterinary services nor animal welfare.⁹²

The costs of a mandatory scheme may result in compromises in the service provided by veterinary practices or may be passed on to clients, resulting in certain procedures being pushed out of their financial reach.⁹³

54. The British Veterinary Association (BVA) was against the introduction of a mandatory scheme. It felt that employment and health and safety law already covered elements within the practice standards scheme, and that many vets did not see an added benefit to the practice, or their clients, of belonging to the RCVS scheme.⁹⁴ Instead of a mandatory scheme, the BVA would favour a form of self-regulation backed up by disciplinary powers. It suggested that a “Guide to Practice Standards” could stipulate the minimum standards which practices are expected (and obliged) to adhere to. The RCVS should have the power to inspect the practice concerned following any complaint and would judge it against the standards set out in the guide. Adherence to these standards would be considered in any disciplinary case which may be brought against a practice.⁹⁵ We note, however, that many premises are not owned by the vets who work in them.

55. The BVA were of the firm opinion that a mandatory scheme would not be in the public interest. It believed that the associated costs to practices of a mandatory scheme would also almost certainly result in higher costs for the animal owning public.⁹⁶ The BVA also raised

89 Ev 77, 87, 92, 100, 106, 110, 112 [Eamon McAllister; British Equine Veterinary Association; Society of Practising Veterinary Surgeons; Mervyn Harris; Professor S A May; Richard Matson; British Small Animal Veterinary Association; British Horse Society]

90 Ev 92 [Mervyn Harris]

91 Ev 100 [Professor S A May]

92 Ev 110 [British Small Animal Veterinary Association]

93 Ev 112 [British Horse Society]

94 Q 151 [Ms Nicky Paull]

95 Ev 46

96 Ev 46

the issue of non-vet ownership of practices and the question of who should be responsible if the employer instituted policies which contravened RCVS rules.⁹⁷

56. However, several submissions to the Committee did support the RCVS's proposal.⁹⁸ In particular, the Central Veterinary Society (a territorial sub-division of the BVA) thought that this would provide a level of protection for the general public in corporate practices where the influence of vets at senior management level was significantly reduced in comparison to traditional practices.⁹⁹

57. Defra was less clear about whether or not there should be a mandatory practice standards scheme. It considered that RCVS should do more to encourage take up of the existing voluntary scheme,¹⁰⁰ and argued that some of the issues raised by RCVS were already covered by existing regulations (e.g. health and safety legislation and rules for storage and dispensing of veterinary medicines), whilst others could be matters for individual businesses to decide. From Defra's point of view, a mandatory scheme that duplicated some existing statutory requirements would not be an attractive option. For example, the Veterinary Medicines Regulations 2007 were bringing into force a new requirement for the registration of premises used by veterinary surgeons for the storage and supply of veterinary medicinal products. This would enable controls on veterinary medicinal products to be enhanced and bring premises used by veterinary surgeons into line with those of other Registered Qualified Persons such as pharmacists.¹⁰¹

58. Defra also thought that the RCVS proposal appeared to be motivated in part by the growth of non-veterinary ownership of practices and the RCVS's fear that this increased the risk of conflict between the requirements of veterinary professionalism and commercial imperatives.¹⁰² The Department did not consider that there was any evidence to support RCVS concerns that non-veterinary ownership could lead to inadequate veterinary care. In the absence of any hard evidence, Defra considered that it would be difficult to see how a mandatory practice standards scheme could be justified at the present time. It would require a persuasive cost benefit analysis for the Department to support any proposal for a mandatory scheme in new legislation.¹⁰³

59. The BVA was not concerned about the growth of practices owned by non-veterinary surgeons:

There is no evidence to suggest that the nature or the pattern of the complaints has changed in any way because of ownership by a non-veterinary surgeon. The ethical

97 Ev 46

98 Ev 74, 83, 86, 114 [Royal (Dick) School of Veterinary Studies; Central Veterinary Society; British Veterinary Nursing Association; Dogs Trust]

99 Ev 83

100 Ev 55

101 Ev 55

102 Ev 55

103 Ev 55

pressures upon an individual veterinary surgeon remain the same whether they are employed by another vet or by a non-veterinary person.¹⁰⁴

In addition, the BVA believed that some of the larger, non-veterinary owned corporate practices have set “extremely promising” standards.¹⁰⁵

60. We also probed the RCVS and BVA on concerns raised with reference to the financial connection between the pet food industry and the veterinary profession. The BVA told us that it was up to individual vets whether or not to sell pet food through their practices and vets tended to sell food if they had been scientifically convinced that the food was of value.¹⁰⁶ Subsequently, the BVA has written to us to clarify the situation on the scale of the pet food market as sold through veterinary practices.¹⁰⁷

61. The RCVS’s case for a mandatory practice standards scheme does not appear to be proven or to have the support of the wider veterinary profession. The RCVS should for the present focus its energies on promoting its voluntary scheme to the profession to demonstrate the potential benefits to veterinary surgeons who do maintain high standards of a mandatory system.

Proposals for compulsory continuing professional development and revalidation

62. Although veterinary surgeons and registered veterinary nurses have a professional obligation to undertake continuing professional development (CPD), the RCVS believed that it, and Veterinary Nurses Council, should have power under new legislation to require that in order to remain on the register any professional had devoted time to keeping abreast of new developments.¹⁰⁸ The RCVS considered that mandatory CPD was necessary to maintain public confidence in the profession, and that there would be “no extra costs involved” for the profession in introducing compulsory CPD.¹⁰⁹

63. The RCVS also thought that revalidation or re-accreditation of qualifications would provide “a positive assurance of continuing competence”.¹¹⁰ The subject of revalidation had been under debate by the profession for some years, but the RCVS had no firm proposals for what form revalidation might take.¹¹¹

64. There was general agreement in the submissions to the Committee that CPD was a good thing. Several responses agreed with the proposals for compulsory CPD and revalidation.¹¹² However, a number of responses, including the BVA, questioned whether

104 Q 153

105 Q 154

106 Qq 160–164

107 Ev 118–119

108 Ev 3

109 Q 103

110 Ev 3

111 Ev 3

112 Ev 74, 86, 99, 100, 110, 112 [Royal (Dick) School of Veterinary Studies; British Veterinary Nursing Association; Patricia Gail Saluja; Professor S A May; British Small Animal Veterinary Association; British Horse Society]

CPD should be compulsory and whether revalidation should be introduced. In particular, the concerns focussed on over the potential cost and time of compulsory CPD and revalidation, and the increase of bureaucracy, especially for smaller practices and professions.¹¹³ Mr Chris Barker, MRVS, a veterinary surgeon from a small practice in Cumbria, said that “I am not sure that making it mandatory will make anybody obey it more than they are at the moment. Any vet worth its salt will be keeping up to date as it is.”¹¹⁴ The Oxford College of Equine Physical Therapy advised that compulsory levels of CPD must be realistic in terms of content and time spent.¹¹⁵ Mr Stuart Hudson, Director of the College, told the Committee:

In all likelihood, there are a lot of people out there doing pretty good work who are not earning an awful lot of money but who are doing no harm and are very competent. You can make things extremely difficult for them to carry on doing what they do if you set out something that is unattainable for them.¹¹⁶

65. The BVA, and some other submissions, supported mandatory CPD but were less convinced of the case for revalidation without an evaluation of how it would work in practice and a cost benefit analysis.¹¹⁷ Mr Nick Blayney, President of the BVA, told the Committee that an institute the size of one of the veterinary schools would be necessary in order to allow for revalidation of all the veterinary surgeons currently in practice. He also believed that very few of the complaints made to the RCVS about veterinary surgeons would have been avoided by greater attention to CPD.¹¹⁸

66. Mr Chris Barker thought that there was a gulf between the profession and its ruling body which did not give sufficient thought to how its proposals might be complied with.¹¹⁹

They are talking about revalidation with no idea of how they would apply it, but—“it is a good idea; trust us, we will do it right” [...] their expectations are just not realistic for the profession to deliver [...] I do not think they have thought though the consequence of how we would provide it and what the costs would be.¹²⁰

67. Defra agreed with the RCVS that it should be able to require mandatory CPD and revalidation, as life long learning was considered essential to ensure safe and effective practice.¹²¹ The Department argued that the details of how mandatory continuing professional development and revalidation should be achieved would need further detailed

113 Ev 46, 73, 77, 83, 92 [BVA; Adrian Palmer; Eamon McAllister; Central Veterinary Society; Mervyn Harris]

114 Q 119

115 Ev 37

116 Q 148

117 Ev 46, 108, 114–15 [BVA; Worshipful Company of Farriers, the Farriers Registration Council, the National Association of Farriers, Blacksmiths and Agricultural Engineers; Dogs Trust]

118 Q 165

119 Q 106

120 Qq 112, 122

121 Ev 56

consideration and would need to take into account the cost of additional requirements on what were relatively small, private practice-based professions.¹²²

68. We accept that continuing professional development is good practice, but the RCVS still has a long way to go to convince the profession of the need for mandatory continuing professional development and revalidation. We support some form of mandatory requirement in principle, but the College, together with other bodies in the veterinary professions, should consider carefully the potential impact of these proposals on smaller practices and prepare an analysis of the likely costs for consideration as part of the work towards a new Act.

Should “Para-professionals” be regulated?

69. In recent years there has been an expansion in the number of non-veterinarians or “para-professionals” providing veterinary services. Currently, for example, there are some 7,415 veterinary nurses, 76 equine dental technicians, 652 artificial inseminators (of mares), and 132 ultra-sound scanners (of cattle). The activities of the latter two of these practitioners are regulated through a process of specific exemption orders granted by Defra under Schedule III of the Act; the others are self-regulated. There are approximately 2,500 farriers who are regulated separately under Farriers (Registration) Act 1975. There are also approximately 2,000 staff employed by the Meat Hygiene Service (MHS) to carry out ante and post mortem inspections of animals and meat intended for human consumption under veterinary supervision.¹²³ The MHS is itself going through considerable change with the proposals to privatise and outsource the Service being pursued by Defra despite the controversy this is causing. In addition, and as in the sphere of human health, a significant complementary/alternative treatment sector has evolved. These include chiropractic, osteopathy, physiotherapy, homeopathy, aromatherapy and acupuncture.¹²⁴

70. Several submissions raised concerns over the lack of regulation of non-veterinarians providing services to animals, and therefore the lack of protection for animals and their owners.¹²⁵ The RCVS has said that animal health and welfare could be at risk if people without veterinary training diagnose illness and prescribe treatment.¹²⁶ The BVA had serious concerns about the risk to animal welfare and public health posed by other unregulated groups and individuals performing acts of veterinary surgery in contravention of the Act.¹²⁷ The BVA believed that the system of granting exemption orders under Schedule III should be continued, and would support further exemptions where appropriate. It said that it was “not opposed” to the extension of regulation to other providers of veterinary care, but had not reached any conclusions how that might practicably be done.¹²⁸

122 Ev 56

123 Ev 54

124 See <http://www.natural-animal-health.co.uk/index.htm>

125 Ev 79, 82, 112, 114 [British Equine Veterinary Association; Central Veterinary Society; British Horse Society; Dogs Trust]

126 Ev 2

127 Ev 45

128 Ev 46

71. In its submission, the RCVS argued that although Ministers can make exemption orders allowing non-veterinarians to carry out specified procedures, the order-making process has proved slow and laborious and the powers did not extend to full regulation of the conduct of these practitioners. For example, work towards an exemption order for equine dentistry had taken six years.¹²⁹ The RCVS suggested that veterinary surgeons should have power to delegate appropriate procedures to people holding qualifications recognised by the RCVS, provided the animal remained under the care of the veterinary surgeon. The RCVS believed that this could offer a quicker way forward when new disciplines emerged and encourage team working between veterinary surgeons and other trained providers of veterinary services.¹³⁰

72. The Committee received submissions from several groups of para-professionals including spinal therapists, physiotherapists, equine dentists and hoof trimmers. Opinion across these groups varied as to whether para-professionals ought to be brought within a new statutory framework, or whether they should continue to self-regulate.

73. The Chartered Society of Physiotherapists raised the issue of a lack of regulation in the animal physiotherapy field in that people were able to call themselves animal physiotherapists without specific animal physiotherapy training.¹³¹

74. The Association of McTimoney-Corley Spinal Therapists told the Committee that many providers of alternative veterinary services were members of their own professional organisations, underwent appropriate training to ensure they were competent in their particular field of expertise, followed a code of conduct and had knowledge of contraindications and referral procedures should veterinary help need to be sought. They were also covered by indemnity insurance, should something go wrong. In these circumstances, where the veterinary service provider worked in a professional capacity alongside veterinary surgeons, the Association thought that it would seem sensible to make certain changes to the 1966 Act to allow alternative providers of veterinary care that were recognised by the veterinary profession to treat an animal where appropriate, as long as they were competent to do so, without direct veterinary referral.¹³² The Association also thought that representatives on the governing body of the RCVS ought to take into account the views of all organisations providing veterinary care, including manipulative therapy.¹³³ The Oxford College of Equine Physical Therapy considered that properly trained physiotherapists ought to be able to administer treatment without the need for referral by a vet.¹³⁴ It thought that it would be difficult to use a risk assessment to decide which groups of para-professionals should be brought under the new regulatory structure.¹³⁵

75. Unlike for physiotherapy, an exemption order had not yet been granted for equine dentistry. The British Equine Veterinary Association submission said that it was extremely

129 Royal College of Veterinary Surgeons, *RCVS proposals for new veterinary legislation*, 22 February 2007

130 Ev 4

131 Ev 89

132 Ev 33

133 Ev 34

134 Ev 36

135 Q 130

concerned about unregulated groups and individuals treating horses, and did not feel that animals were being adequately protected.¹³⁶ It thought that the current system of exemption orders did not adequately protect animals and their owners against unsatisfactory work, and instead recommended that regulation should be extended to all providers of veterinary care within a new legislative framework. Therefore, it did not agree with the proposal of the RCVS for vets to be able to delegate procedures to qualified persons.¹³⁷ The British Horse Society regularly received complaints from horse owners about paraprofessional groups. It was “very strongly of the opinion that there is a need for robust and transparent regulation of all providers of veterinary care whether veterinary surgeons or those in differently qualified, but associated, roles.”¹³⁸

76. The British Association of Equine Dental Technicians told the Committee that it had its own practice standards scheme, that its members took compulsory examinations, were subject to a code of conduct, and that both insurance and CPD were mandatory for its members. It would want the regulation of equine dentistry to be brought within a new Act to prevent untrained or unqualified people calling themselves an equine dentist.¹³⁹ Other equine dentists agreed that equine dentistry ought to be regulated, but suggested the Farriers’ model of regulation, with an overarching responsibility by the RCVS for monitoring training and discipline.¹⁴⁰

77. The Equine Podiatry Association believed that self-regulation for hoof-trimmers was preferable to a statutory framework.¹⁴¹

78. Defra stated its position as being that any new regulatory framework would need to reflect the full spectrum of veterinary services in the UK and not simply focus on those provided by veterinary surgeons. The Department defines “veterinary services” as:

[...] interventions by suitably qualified practitioners ultimately to promote the health and welfare of animals and avoid unnecessary pain and suffering. This would, therefore, include diagnosis and treatment of injuries and diseases in animals, surgery, palliative and nursing care, humane euthanasia, assisted reproduction services, the taking of samples from animals for diagnostic purposes, diagnostic testing, prescription and administration of medicines, complimentary treatments and alternative therapies, ethology (animal behaviour), prophylactic interventions including dentistry and farriery, as well as other preventive measures e.g. farm health planning, disease control, control of animal by-products, health certification for travel/trade, veterinary epidemiology, etc. [Defra’s] definition would also include veterinary public health which involves both preventative measures and pro-active intervention through inspections.¹⁴²

136 Ev 77

137 Ev 80

138 Ev 112

139 Qq 124, 131

140 Ev 103 [Tony Rose and Mark Slingsby]

141 Ev 115–116

142 Ev 53

79. Defra believed that the current restrictions on which procedures were exclusively the preserve of RCVS registered veterinarians and the current policy and legal mechanisms for enabling some of these activities to be done by others (via exemption orders) were inadequate and not sustainable.¹⁴³ The Department saw value in the approach adopted by the Legal Services Bill in defining “reserved legal activity”, and considered that a set of “reserved services” could be circumscribed that could only be provided by registered RCVS members. Services outside that scope could be provided by other qualified persons.¹⁴⁴

80. Defra also believed that all veterinary service providers should be subject to regulation, but that the extent of that regulation should depend on a risk assessment:

Where there is a high risk to animal health and welfare as a consequence of any intervention, then this would establish a *prima facie* need for statutory regulation of the provider of veterinary service. Where there is low or no risk, then voluntary self regulation should be encouraged and left at that. The proportionality test would need to take into account the numbers of practitioners of a given type of intervention/activity in determining the appropriate form of regulation.¹⁴⁵

Consequently, the Department did not agree with the RCVS’ proposal that the RCVS should have the power to delegate specified procedures to people holding qualifications recognised by the RCVS. In addition, Defra stated that statutory regulation would only extend to those disciplines that were supported by scientific evidence as to their efficacy.¹⁴⁶

Veterinary nurses

81. There are some 7,415 veterinary nurses in the UK. The RCVS Veterinary Nurses Council was established in 2002 and replaced the Veterinary Nurses Committee. It has overall responsibility for all matters concerning veterinary nurse training, post-qualification awards and the registration of qualified veterinary nurses. The RCVS has stated that veterinary nurses should be recognised as a profession in their own right and has proposed the creation of a new Veterinary Nurses Council, separate from a new Council for veterinary surgeons.¹⁴⁷ The BVA strongly supported this proposal as it considered that veterinary nurses were “an integral part of the veterinary team”.¹⁴⁸ The British Veterinary Nursing Association believed that the availability of qualified nursing care for veterinary patients has “enabled the veterinary surgeon to delegate appropriate aspects of clinical management to suitably trained individuals which in turn allows for the maximisation of patient welfare.”¹⁴⁹ The Association agreed that appropriately trained veterinary nurses should be required to subscribe to a framework of accountability by a regulatory body.¹⁵⁰

143 Ev 55

144 Ev 54

145 Ev 54

146 Ev 55

147 Ev 2

148 Ev 45

149 Ev 85

150 Ev 85

82. The Republic of Ireland has given formal recognition to nurses, with a Veterinary Nurses Board due to be created. In its submission, Defra said it was attracted by this approach: “[w]e are of the view that in the UK, there are sufficient numbers of veterinary nurses [...] to justify the establishment of a separate regulatory body.”¹⁵¹

Farriers

83. Farriers are regulated by a separate Act. We received several submissions from both individual farriers and farriery associations which showed the profession to be divided between those who thought that farriery should not be brought in any form within a new veterinary regulatory framework,¹⁵² and those who thought that it should.¹⁵³ The Department said that it will have to consider whether to bring this within the scope of any overarching veterinary services legislative framework.¹⁵⁴

Our views

84. There appears to be general agreement that the veterinary nurse profession has evolved to a stage where it warrants its own statutory framework of regulation. We recommend that the Royal College of Veterinary Surgeons and the Veterinary Nurses Council develop their proposals further to present a clear structure for future consideration. However, there is no clear view across the animal care professions on how other “para-professionals” ought to be regulated, but the balance of opinion, which we support, is in favour of some form of regulation to protect animals and their owners against the depredations of the wholly unqualified practitioners of potentially harmful treatments. There is more work to be done by Defra, the RCVS and the veterinary and animal health professions on Defra’s proposal for a risk-based approach to a new veterinary services legislative framework.

4 Conclusion

85. Defra’s decision to walk away from work on a White Paper has left the revision of the Veterinary Surgeons Act 1966 in a mess. Whilst Defra’s budgetary pressures may not enable it to complete all the functions that would currently be required to introducing a new Veterinary Surgeons Act, its decision to halt work completely on new legislation is untenable. However, the Royal College of Veterinary Surgeons has not done enough itself to provide a clear picture of its proposals for a new statutory framework for the regulation of the profession. The Royal College must provide greater detail to the profession, and other interested parties, about its proposals for a new Council and disciplinary structure. In order to take its proposals further, the Royal College must also analyse the cost of its proposals to the profession and to the

151 Ev 55

152 Ev 70, 88, 105 [P Hampson; P N Baker; UK Horse Shoers Union]

153 Ev 73, 107 [Adrian Palmer; Worshipful Company of Farriers, the Farriers Registration Council, the National Association of Farriers, Blacksmiths and Agricultural Engineers]

154 Ev 54, see footnote 7

consumer. The main purpose of any new legislation must be to protect the consumer, but the veterinary profession must not be overloaded with unnecessary regulation.

86. It is unlikely that a complete overhaul of the regulatory structure will occur before 2011 unless the veterinary profession irons out its differences and decides what it wants. We believe that a working party comprising Defra, the Royal College of Veterinary Surgeons and the British Veterinary Association should share the costs of developing a new Bill by the end of 2008 with a view to its being introduced to the House in mid 2009. The profession must take the matter into its own hands and as a priority coalesce round some specific proposals to amend the disciplinary process for veterinary surgeons. This is generally agreed to be the area of the existing legislation most in need of updating.

List of recommendations

1. We were disappointed that, given the amount of time and the level of consultation which has already taken place on the profession's governance, the RCVS had not yet sorted out the detail involved in its reform proposals. We believe that a profession of its size and importance should by now have had drafted a new Bill as a way of firming up its proposals and to help persuade Defra of its need for action towards new legislation in this area. (Paragraph 22)
2. Whilst there is general support for the greater inclusion of lay members on the Council of the RCVS, the Royal College must develop a clear plan for the structure of its proposed new Council under a new Act. The proportion of lay membership should be no less than 40% and professional members of the Council should be both appointed and elected. It is entirely appropriate that members of the profession should meet the costs of their own regulatory body through registration fees. The RCVS should analyse the additional costs likely from the creation of its new structures, in addition to the other changes it has proposed, and how these will affect the average veterinary practice and its customers. (Paragraph 23)
3. The resources for work on a White Paper for new primary legislation for the veterinary profession are unlikely to be available before 2011. Whilst this is a disappointment, the Royal College of Veterinary Surgeons should use the time now available to elaborate and clarify its proposals in greater detail, to consider further the case for those of its proposals which do not have general support within the profession, and to assess the potential cost of its proposals for regulating professional standards to the profession and to the consumer. We find it surprising that the RCVS Council was unaware of the decision taken by Defra to halt work on new primary legislation. Defra appears to have raised the profession's expectations that a new Act would be introduced in the near future. Defra should ensure that in future its working relationship with the RCVS is improved. (Paragraph 28)
4. We agree wholeheartedly with the Department's assessment of the drawbacks of the present disciplinary system. It is not satisfactory for customers who have a genuine case for complaint about the professional standards of a vet to only have recourse to the civil law, without any appeal to a regulatory body. (Paragraph 42)
5. We agree that there ought to be a wider range of sanctions available to the Royal College of Veterinary Surgeons in order to give greater flexibility and proportionality to the operation of the complaints process. (Paragraph 44)
6. There is a pressing need for the disciplinary process for veterinary surgeons to be updated. We agree that there ought to be a separation between the RCVS Council, which sets rules for the profession, and the Disciplinary Committee, which adjudicates complaints on the basis of those rules. This should not wait until 2011. The RCVS should hold further discussions with Defra on whether changes to the process could be achieved through a more modest legislative proposal than would be required for wholesale reform of its procedures. For example, a Private Member's Bill drafted with advice from Defra could be taken through by a Member of Parliament

sympathetic to the RCVS proposals. Meanwhile, the RCVS should continue to improve its current procedures through administrative reforms which can be achieved within the current legislative framework. (Paragraph 49)

7. The RCVS's case for a mandatory practice standards scheme does not appear to be proven or to have the support of the wider veterinary profession. The RCVS should for the present focus its energies on promoting its voluntary scheme to the profession to demonstrate the potential benefits to veterinary surgeons who do maintain high standards of a mandatory system. (Paragraph 61)
8. We accept that continuing professional development is good practice, but the RCVS still has a long way to go to convince the profession of the need for mandatory continuing professional development and revalidation. We support some form of mandatory requirement in principle, but the College, together with other bodies in the veterinary professions, should consider carefully the potential impact of these proposals on smaller practices and prepare an analysis of the likely costs for consideration as part of the work towards a new Act. (Paragraph 68)
9. There appears to be general agreement that the veterinary nurse profession has evolved to a stage where it warrants its own statutory framework of regulation. We recommend that the Royal College of Veterinary Surgeons and the Veterinary Nurses Council develop their proposals further to present a clear structure for future consideration. However, there is no clear view across the animal care professions on how other "para-professionals" ought to be regulated, but the balance of opinion, which we support, is in favour of some form of regulation to protect animals and their owners against the depredations of the wholly unqualified practitioners of potentially harmful treatments. There is more work to be done by Defra, the RCVS and the veterinary and animal health professions on Defra's proposal for a risk-based approach to a new veterinary services legislative framework. (Paragraph 84)
10. Defra's decision to walk away from work on a White Paper has left the revision of the Veterinary Surgeons Act 1966 in a mess. Whilst Defra's budgetary pressures may not enable it to complete all the functions that would currently be required to introducing a new Veterinary Surgeons Act, its decision to halt work completely on new legislation is untenable. However, the Royal College of Veterinary Surgeons has not done enough itself to provide a clear picture of its proposals for a new statutory framework for the regulation of the profession. The Royal College must provide greater detail to the profession, and other interested parties, about its proposals for a new Council and disciplinary structure. In order to take its proposals further, the Royal College must also analyse the cost of its proposals to the profession and to the consumer. The main purpose of any new legislation must be to protect the consumer, but the veterinary profession must not be overloaded with unnecessary regulation. (Paragraph 85)
11. It is unlikely that a complete overhaul of the regulatory structure will occur before 2011 unless the veterinary profession irons out its differences and decides what it wants. We believe that a working party comprising Defra, the Royal College of Veterinary Surgeons and the British Veterinary Association should share the costs of developing a new Bill by the end of 2008 with a view to its being introduced to the

House in mid 2009. The profession must take the matter into its own hands and as a priority coalesce round some specific proposals to amend the disciplinary process for veterinary surgeons. This is generally agreed to be the area of the existing legislation most in need of updating. (Paragraph 86)

Formal Minutes

Wednesday 30 April 2008

Members present:

Mr Michael Jack, in the Chair

Mr James Gray	Sir Peter Soulsby
Lynne Jones	Dr Gavin Strang
David Lepper	David Taylor
Miss Anne McIntosh	Paddy Tipping
Mr Dan Rogerson	

Draft Report (*Veterinary Surgeons Act 1966*), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 86 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 7 May at 4.15pm

Witnesses

Page

Monday 18 February 2008

Mr Bob Moore, President, **Professor Sheila Crispin**, Senior Vice-President, **Ms Andrea Jeffery**, Chair, Veterinary Nurses' Council and **Ms Jane Hern**, Registrar, Royal College of Veterinary Surgeons Ev 4

Mr Chris Barker, MRCVS, Ashlea Veterinary Centre Limited Ev 24

Monday 3 March 2008

Ms Emma Roberts, Public Relations Representative, Association of McTimoney-Corley Spinal Therapists, **Mr Ivan Stockdale**, Chairman and **Ms Gill Spinney**, Secretary and Council Member, British Association of Equine Dental Technicians, **Mr Stuart Hudson**, Director, Oxford College of Equine Physical Therapy Ltd Ev 38

Mr Nick Blayney, President and **Ms Nicky Paull**, President-Elect, British Veterinary Association Ev 47

Rt Hon Lord Rooker, Minister for Sustainable Food and Farming and Animal Health and **Mr Fred Landeg**, Acting Chief Veterinary Officer, Department for Environment, Food and Rural Affairs Ev 58

List of written evidence

The Animal Health Distributors Association (UK) Ltd	Ev 107
Animal Medicines Training Regulatory Authority	Ev 69
Ashlea Veterinary Centre Ltd	Ev 22, 28
Association of McTimoney-Corley Spinal Therapists	Ev 33
P N Baker	Ev 88
British Association of Equine Dental Technicians	Ev 35
British Equine Veterinary Association	Ev 77
The British Horse Society	Ev 110
British Small Animal Veterinary Association	Ev 109
British Veterinary Association	Ev 44, 118
British Veterinary Nursing Association	Ev 85
Patrick J. Burke & Janet I. Burke	Ev 118
Central Veterinary Society	Ev 81
Chartered Society of Physiotherapy	Ev 88
Council of the Laboratory Animals Veterinary Association	Ev 89
Department for Environment, Food and Rural Affairs	Ev 51, 66
Dogs Trust	Ev 113

The Equine Podiatry Association	Ev 115
Lorna Gowers	Ev 73
P. Hampson	Ev 70
Mervyn Harris	Ev 92
Richard Jones	Ev 81
The Kennel Club	Ev 84
Lantra	Ev 90
Eamon McAllister	Ev 76
Fiona MacMillan	Ev 69
Richard Matson	Ev 105
Professor S A May	Ev 99
National Association of Agricultural Contractors	Ev 102
Ornamental Aquatic Trade Association	Ev 75
Oxford College of Equine Physical Therapy	Ev 36
Adrian Palmer	Ev 73
John Parker	Ev 101
Tony Rose & Mark Slingsby	Ev 103
The Royal College of Veterinary Surgeons	Ev 1, 14, 19, 21
Royal (Dick) School of Veterinary Studies	Ev 74
Patricia Gail Saluja	Ev 94
Society of Practising Veterinary Surgeons	Ev 87
Richard Stephenson	Ev 71
United Kingdom Horse Shoers Union	Ev 104
Richard Wiggins	Ev 77
World Wide Association of Equine Dentistry	Ev 92
The Worshipful Company of Farriers, Farriers Registration Council, and the National Association of Farriers, Blacksmiths and Agricultural Engineers	Ev 107

List of Reports from the Committee during the current Parliament

(Government Responses to Committee Reports appear in brackets)

Session 2007–08

Fifth Report	Flooding	HC 49-I
Fourth Report	Badgers and cattle TB: the final report of the Independent Scientific on Cattle TB	HC 130-I
Third Report	The work of the Committee in 2007	HC 250
Second Report	Climate change: the “citizen’s agenda”: Government response to the Committee’s Eighth Report, Session 2006–07	HC 189
First Report	The UK Government’s “Vision for the Common Agricultural Policy: Government response to the Committee’s Fourth Report, Session 2006–07	HC 48

Session 2006–07

Eighth Report	Climate change: the “citizen’s agenda”	HC 88-I (HC 189 07–08)
Seventh Report	British Waterways	HC 345-I (HC 1059)
Sixth Report	The Implementation of the Environmental Liability Directive	HC 694 (HC 1058)
Fifth Report	Draft Climate Change Bill	HC 534-I (CM 7225)
Fourth Report	The UK Government’s “Vision for the Common Agricultural Policy”	HC 546-I (HC 48 07–08)
Third Report	The Rural Payments Agency and the implementation of the Single Payment Scheme	HC 107-I (HC 956)
Second Report	Defra’s Annual Report 2006 and Defra’s budget	HC 132 (HC 522)
First Report	The work of the Committee in 2005–06	HC 213

Session 2005–06

Eighth Report	Climate change: the role of bioenergy	HC 965-I (HC 131 06–07)
Seventh Report	The Environment Agency	HC 780-I (HC 1519)
Sixth Report	Bovine TB: badger culling	HC 905-I
Fifth Report	Rural Payments Agency: interim report	HC 840
Fourth Report	The Departmental Annual Report 2005	HC 693-I (HC 966)
Third Report	The Animal Welfare Bill	HC 683
Second Report	Reform of the EU Sugar Regime	HC 585-I (HC 927)
First Report	The future for UK fishing: Government Response	HC 532

Oral evidence

Taken before the Environment, Food and Rural Affairs Committee

on Monday 18 February 2008

Members present

Mr Michael Jack, in the Chair

Mr David Drew
Mr James Gray
Miss Anne McIntosh
Dr Gavin Strang

David Taylor
Paddy Tipping
Mr Roger Williams

Memorandum submitted by the Royal College of Veterinary Surgeons (Vet 11)

INTRODUCTION

1. The Royal College of Veterinary Surgeons seeks to promote and sustain public confidence in veterinary medicine. We welcome the Committee's decision to undertake the inquiry.

2. The Veterinary Surgeons Act gives the College the task of regulating veterinary surgeons. Regulation is a form of quality assurance and involves managing the interface between a profession and its clients or patients. In the case of the veterinary profession there are both clients and patients and a general public interest arising from veterinary work in relation to food safety and disease control. Our overriding objectives are:

- To safeguard the health and welfare of animals committed to veterinary care through the regulation of the educational, ethical and clinical standards of the veterinary profession, thereby protecting the interests of those dependent on animals and assuring public health.
- To act as an impartial source of informed opinion on animal health and welfare issues and their interaction with human health.

3. The first objective relates to the role of the College under the Act. The second concerns the exercise of the College's powers under its Royal Charter.

4. RCVS consulted veterinary surgeons, veterinary nurses and other interested bodies in 2003 and 2005 on possible improvements to the Veterinary Surgeons Act 1966, and in November 2005 adopted firm proposals for the main areas where changes are needed.

EXECUTIVE SUMMARY

5. The College seeks new legislation because the present Act does not measure up to present-day expectations for the regulation of a profession. Currently RCVS keeps the register of qualified veterinary surgeons and intervenes when things go wrong, by looking into complaints about the professional conduct of veterinary surgeons. We cannot take preventative action to ensure that proper standards are being met and can only take action when a complaint is made against an individual veterinary surgeon. This may mean that an animal has to suffer before the College can do anything. This is not satisfactory, especially in the light of the new animal welfare legislation.

6. The College's proposals are designed to address the following main shortcomings in the Veterinary Surgeons Act:

- It allows veterinary surgeons, once registered, to practise with no means of ensuring that their professional skills and knowledge are kept up to date. This does not fit with a modern regulator's role of prevention rather than prosecution.
- The Act does not allow a proper separation between the Council which sets the standards for professional conduct, the Preliminary Investigation Committee which looks into allegations of misconduct and the Disciplinary Committee which adjudicates.
- The Disciplinary Committee has no direct jurisdiction in cases where a veterinary surgeon's competence or medical fitness to practise is at issue rather than their conduct.

- The Act deals with the regulation of individual practitioners and gives no power to collect information about the businesses in which veterinary surgeons work. Most veterinary care is provided by practices, and the standards they observe need to be assured. Veterinary practices are not always controlled by veterinary surgeons.
- The Act deals only with veterinary surgeons. It does not recognise veterinary nurses as a profession or give statutory powers to regulate them.

7. The College's answers to the questions posed by the Select Committee are below.

Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?

8. The Act focusses on the qualifications and conduct of individual veterinary surgeons. These days, however, care is generally provided through teamwork between veterinary surgeons, veterinary nurses and lay staff. There has also been a change in the legal character of veterinary practices. Traditionally veterinary surgeons worked as sole practitioners or in partnerships, but a growing number of practices are now owned by companies or other corporate entities (nearly a fifth of the practice premises known to RCVS appear to be in corporate ownership). Veterinary surgeons who direct or are employed by such practices are answerable to RCVS for their conduct, but the College has no jurisdiction over the actions or omissions of managers or practice owners who are not veterinary surgeons.

9. In response to these changes we are seeking power to introduce mandatory regulation of practice standards, building on the existing voluntary RCVS Practice Standards Scheme which covers about half of all practice premises. This would mean that, both in corporate practices and in partnerships, complaints over relevant aspects of staffing, practice protocols, clinical standards, emergency cover, hygiene and equipment could be pursued without holding veterinary surgeons to account for matters outside their control or being forced to tell complainants that their concerns cannot be addressed.

10. There have been other developments which go wider than the veterinary profession. The changes we propose are in line with the modernisation of the regulatory arrangements of the human health professions in recent years, and with the Government's further decisions as set out in the recent White Paper, *Trust, Assurance and Safety—The Regulation of Health Professionals in the 21st Century*, Cm 7013. Our proposals for a new structure to deal with complaints against veterinary surgeons and veterinary nurses also take particular account of the Human Rights Act 1998.

Ought there to be regulation of providers of veterinary care other than veterinary surgeons?

11. Veterinary nurses work closely with veterinary surgeons as an integral part of the veterinary team, and we believe they are ready to be recognised as a profession in their own right. The College keeps a list of qualified veterinary nurses, but there is no power to regulate their conduct. Pending legislation we are introducing such regulation under powers in the RCVS Royal Charter. Veterinary nurses whose names have been entered in the list from 1 January 2003, and other listed veterinary nurses who volunteer, are now registered and subject to a code of professional conduct and a requirement to undertake continuing professional development. In due course complaints will be investigated and appropriate disciplinary action taken, but statutory powers are necessary to require all veterinary nurses to be registered and for the regulation to be effective.

12. The College's proposals concern the regulation of veterinary surgeons and veterinary nurses. Other providers of veterinary care ought also to be regulated, under arrangements which are appropriate to the assessed risks.

13. There is an issue over enforcement of the legislation. The Act makes it unlawful for anyone other than a veterinary surgeon to practise veterinary surgery, unless they fall within the terms of certain specific exceptions. There is anecdotal evidence, however, of an increasing numbers of animals being treated with alternative and complementary therapies by non-veterinarians. Whatever view may be taken of the efficacy of the therapies in question, animal health and welfare is at risk if people without veterinary training diagnose illness and prescribe treatment. Veterinary surgeons are free to use complementary therapies, but they are qualified to diagnose what is wrong with the animal, can judge whether or not the treatment is working, and can be called to account if it goes wrong. It is therefore a matter of concern when non-veterinarians practise veterinary surgery except within the limits set by the Act. We do not, however, think it appropriate for the College to seek to police such activities, because this could give the impression that we wish to protect the veterinary profession from competition.

Ought the delivery of veterinary services to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

14. We propose both. The public still needs to be assured that individual practitioners are properly qualified, up to date and answerable for their professional conduct and competence. For the reasons mentioned in paragraph 9 above, though, we think that the framework of statutory regulation should encompass practice standards and extend to the delivery of veterinary services, whether by a traditional partnership of veterinary surgeons, a corporate body (under veterinary or non-veterinary control) or a charity. The public increasingly expect the College to address complaints which do not relate to individual veterinary surgeons. In order to deliver risk-based regulation in accordance with current good practice it is necessary to look beyond individual practitioners to take account of other members of the team and the environment (including equipment, systems and protocols) in which they all work. The regulation of the veterinary team should be pro-active in setting standards and in ensuring compliance by means of advice and visits. This approach would also make it easier to monitor the activities of individual practitioners in context and identify and address abnormalities and irregularities.

15. Such regulation already exists for human healthcare service providers, primarily through the Healthcare Commission. It is worth noting also that the Veterinary Medicines Directorate of DEFRA propose to introduce a register of premises from which veterinary surgeons supply medicines. The specific object is to assist the enforcement of the medicines legislation, but the new register, to be maintained by RCVS, will also incidentally serve to identify most of the points where veterinary services are delivered.

16. The voluntary RCVS Practice Standards Scheme has paved the way for statutory regulation of practices, but we do not suggest that new legislation should simply make the present scheme mandatory. In line with the Government's better regulation policies any regulatory scheme needs to be risk-based so as to minimise the costs and focus attention where it is most needed. The present scheme is providing the information which will be needed in order to set the benchmarks for risk-based regulation of practice standards under new legislation.

Should the RCVS and Veterinary Nurses Council (VNC) be given the power to require continuing professional development and revalidation?

17. Veterinary surgeons and registered veterinary nurses are already under a professional obligation to undertake continuing professional development, and we think the RCVS and Veterinary Nurses Councils should have power to require this under new legislation. The public has a right to expect that any professional is devoting time to keeping abreast of new developments. Science moves forward at a rapid pace, and what was suitable as treatment twenty years ago may no longer be so. Keeping up to date is vital in order to maintain public confidence and maintaining a licence to practise should be subject to such a requirement.

18. Revalidation or reaccreditation would provide a positive assurance of continuing competence. That would go well beyond checking that practitioners had taken steps to keep up to date. What form revalidation might take in the medical profession has been under debate for several years. Cm 7013 announced the Government's decision that it should be introduced but left much of the detail for further discussion.

19. The veterinary and veterinary nursing professions have yet to begin a formal consideration of what form revalidation might take, although some thought has been given to it by RCVS committees. There is of course no veterinary equivalent of the National Health Service, and veterinary care is predominantly provided by small independent businesses. Practical arrangements for revalidation would have to take realistic account of the likely costs and logistics. There would be little benefit in introducing Rolls Royce arrangements to assure the public of the competence of veterinary surgeons and veterinary nurses if their services became prohibitively expensive. Nevertheless, it seems right for the legislation to provide the necessary powers for the future. With the passage of time what may now seem idealistic can come to be seen as overdue, and it is worth bearing in mind that the present legislation has already been in place for over 40 years.

Ought the governing body of the RCVS and VNC to include appointed lay persons as well as veterinary professionals?

20. Yes. The RCVS and VN Councils already include lay members who make an important contribution. Any professional regulatory body needs lay members to represent the public interest and to ensure that self-regulation is not self-serving. We also propose that the Councils should include appointed veterinary surgeons and veterinary nurses.

21. Cm 7013, published after the RCVS Council adopted its proposals, announced the Government's decision that the regulators of the human health professions should be wholly appointed bodies. Our proposals envisage retaining elected veterinary surgeons and veterinary nurses on the two Councils. Otherwise there would be a loss of accountability, particularly for expenditure (which has to be met from the registration and retention fees paid by individual members of the professions).

Ought the RCVS and VNC to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings?

22. We think the Conduct and Competence Committee needs to be separate from the RCVS and VN Councils so that rule-making and adjudication are kept at arm's length. If those who sit in judgment are involved in writing the rules, they are liable to have regard to what they intended rather than what the rules actually say. The public is also likely to have more confidence in the impartiality of an independent tribunal.

23. We do not propose that the Conduct and Competence Committee should investigate complaints: that job would be given to a different body, which we refer to as the "board", in order to keep standard-setting, prosecution and adjudication separate. The board would set up its own arrangements for sifting and investigating complaints and deciding which of them ought to be referred to the Conduct and Competence Committee.

24. Both the board and the Conduct and Competence Committee would have the option of disposing of a complaint by giving a formal warning. The board could also give formal advice, and the Conduct and Competence Committee would be able to impose conditions or restrictions as an alternative to suspension or removal from the register. There was general support for such powers in the responses to the RCVS consultations of 2003 and 2005.

25. By contrast there was sharp controversy on the question whether the Conduct and Competence Committee should be able to make interim orders pending proceedings to suspend respondents or to allow them to practise only subject to conditions or restrictions. This is certainly a difficult area. The circumstances would have to be quite exceptional to justify stopping someone practising their profession without a full hearing of the allegations against them and their response, particularly where this could lead to serious loss of income. (Suspension by a professional regulator is a very different matter from suspension by an employer on full or even partial pay.) Circumstances can, however, arise from time to time where intervention is necessary, particularly where a practitioner suffers severe health problems. In such cases it seems right to have power to take action in the public interest, subject to the same safeguards as apply under the human health legislation (see, for example, article 31 of the *Health Professions Order 2001*, SI 2002/254).

Ought the RCVS to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council?

26. We think this would be helpful. As noted above, the current legislation allows non-veterinarians to practise veterinary surgery within certain limits—for example farmers can give their animals medical treatment and carry out minor surgery, and trained technicians can take blood samples—but there is a problem in keeping pace with developments. Ministers can make exemption orders allowing non-veterinarians to carry out specified procedures, but the order-making process has proved slow and laborious and the powers do not extend to full regulation of conduct. That is why we suggest that veterinary surgeons should have power to delegate appropriate procedures to people holding qualifications recognised by RCVS, provided the animal remains under the care of the veterinary surgeon. This could offer a quicker way forward when new disciplines emerge and encourage team working between veterinary surgeons and other trained providers of veterinary services.

CONCLUSION

27. We believe that new legislation is necessary in order to set in place a regulatory structure which will meet the proper expectations of Parliament and the public. Over the years we have found ways of working round some of the constraints in the present aging Act—notably by introducing a voluntary Practice Standards Scheme and non-statutory regulation of veterinary nurses—but there are limits to what we can do without a modern legislative framework. We hope that the Committee will endorse the need for new legislation, and we look forward to hearing whether or not the Committee agrees with the specific proposals which we have put forward.

September 2007

Witnesses: Mr Bob Moore, President, Professor Sheila Crispin, Senior Vice-President, Ms Andrea Jeffery, Chair, Veterinary Nurses' Council, and Ms Jane Hern, Registrar, Royal College of Veterinary Surgeons, gave evidence.

Q1 Chairman: Good afternoon. Welcome to the Committee's first formal session on our short inquiry into the need for change in the Veterinary Surgeons Act 1966. I welcome from the Royal College of Veterinary Surgeons, Bob Moore, the current President, Sheila Crispin, Senior Vice President, Andrea Jeffery, the Chair of the Royal

College's Veterinary Nurses' Council, and Jane Hern, their Registrar. The Committee had the benefit of an informal briefing just before this session to get some idea of the landscape and structure of the profession and to ask one or two points to enable us to get a better understanding, as lay people in this field, about how the profession

is structured and operates, and to look at one or two aspects of the Act. However, from now onwards the proceedings are fully on the record and in public; that which you say cannot be altered, although we are always open to further submissions if there is something you have thought about afterwards but did not think to tell us. I thank everybody who has sent evidence in writing to the Committee; we are very grateful indeed for that. Can I start with a general question and ask you to put on record why you think the current Act is limited and why we need a new piece of primary legislation. I must say that at constituency level I have not been bombarded by local vets crying out for change—they send out other pieces of paper but not those! It would be helpful, looking at the structure of the Act, to outline to us where it is deficient, for example in secondary legislation order-making powers that might enable some of the concerns you have expressed to us to be dealt with in terms of legislation. What is your impression about Defra's willingness to get on with the job of bringing the 1966 Act up to date, to effectively recognise over forty years of change in your profession?

Mr Moore: Shall I start at the beginning? Your first question is—

Q2 Chairman: Yes, it would be good to start at the beginning; otherwise it will lose the lucidness of the logic and flow.

Mr Moore: Why we feel there is a need for new legislation to control the veterinary profession: there are five points I would like to make. The first one is that we think it is essential to separate the functions of rule-making, investigation of complaints and adjudication of complaints. Currently, all of those functions are vested in individuals of the Royal College of Veterinary Surgeons' Council, the Disciplinary Committee and the Preliminary Investigation Committee and the rule-making, which is a function of the whole Council. That is the first and major point. Perhaps I will develop that one a bit further. The perception is, to those from the outside, that that may not be a fair and equitable state of affairs. It is not consistent with other healthcare professions. It is not compliant with human rights legislation; and although we have made as many changes as we can, within the current legal framework, we feel that those changes do not go far enough. It leaves the College open to a legal challenge that the people involved with the rule-making are also there as investigators and judges.

Q3 Chairman: That is a perceived legal challenge. You have not had one yet, have you?

Mr Moore: No.

Q4 Chairman: So it is a risk you think might be there.

Ms Hern: There has been an issue raised before the Disciplinary Committee by a respondent who felt that Council members sitting on the Disciplinary Committee may not be as impartial as they might be because they—

Q5 Chairman: They did not push it.

Ms Hern: No.

Q6 Chairman: So it is a fear that has been alerted, but it has not happened yet. Carry on, Mr Moore.

Mr Moore: In very brief summary, that is the first point. The other points are not as urgent but they are, we feel, very necessary. The second one is to have powers to ensure that veterinary surgeons keep up to date. Currently, there is a professional duty for them to carry out continuing professional development, CPD, but there is no legal requirement for them to do so. Thirdly, we want to recognise the veterinary nursing profession as a profession in their own right and to bring veterinary nurses into full statutory regulation. We have the Chairman of the VN Council with us this afternoon. We feel that it is necessary to change the composition of the Royal College Council to increase the amount of lay representation. At the moment there are five lay members of the Council, and we feel that is not enough in a council of forty people.

Q7 Chairman: Just to be clear, you do not want to go beyond forty, but you want more lay people to make up the forty.

Professor Crispin: The numbers might actually reduce as well. That is something we would look at. That is important because we do feel forty is quite large.

Ms Hern: If you were having separate people performing the adjudication and the investigation functions that you would not need to take from members of Council, you could have the Council as the standards-setting body with a much smaller number.

Q8 Chairman: Can I be clear, as a small point: is this proposal for the whole of the United Kingdom?

Ms Hern: Correct, yes.

Q9 Chairman: I am assuming from that, as far as Scotland is concerned, that there is not a problem with devolved legislation.

Ms Hern: Not for the current profession of veterinary surgeons, no. I am not so certain about regulation of new professions, as it were, of veterinary nurses and others.

Q10 Chairman: In theory, unless it is fixed, you could have Scotland saying, "Ah, well, there are a lot of all these para-professionals; we will have a separate subset of law dealing with them because they are not affected by Royal Charter matters; and we can have one in England and Wales that looks different."

Ms Hern: In theory I fear you might be right.

Q11 Chairman: I am just exploring the scope.

Ms Hern: I understand that what is reserved is the regulation of the profession of veterinary surgeons.

Q12 Chairman: It would make sense, though, would it not, to have something that was nationwide so that wherever you were you knew you were getting the same deal?

Ms Hern: Yes. There is an exception in relation to Northern Ireland.

Q13 Chairman: Mr Moore has got his fifth point.

Mr Moore: That was the fourth point. The fifth and final point that I want to bring to you now, is that we want to regulate the delivery of veterinary services. Currently, the royal College can only legislate or adjudicate on individual members of the profession. We have no right to legislate against a practice or a group of people working together; we have only legislative powers for the individual. We feel that the delivery of veterinary services, where currently it is much more of a veterinary team delivering those services, we need to have powers to look at the delivery of the services. Those are the five main reasons why we feel that new legislation is required.

Q14 Chairman: I made two other points. One was about the scope and opportunity for secondary legislation to deal with that, so how do you respond to that? Do we need a new act?

Ms Hern: The existing order-making powers in the 1966 Act are very limited and very specific to things like the registration process or setting the rules for the statutory exam. In other professions there are much broader ranging order-making powers that would enable us ultimately to repeal the current 1966 Act and put a completely new framework in place. There is no problem about working with secondary legislation, but we have not got the order-making powers at the moment.

Q15 Chairman: Your Council includes, as one of its members, the Chief Vet, and you are always popping round to Defra; they have always got some animal health crisis that they need your professional input and advice on, so you are really quite matey with the Department. You are good buddies together, dealing with all these animal issues. Given that you are a pretty important profession as far as Defra is concerned—if things go wrong in your area like foot and mouth, it is £4.5 billion up the shoot, so you would think the Department would be fully aware of all your professional demands and bending over backwards to assist you to be a modern, 21st century, professional body, able to deal with all of the issues. Why are we not seeing Defra beating a path to your door with a new draft act for discussion? Why this reluctance?

Mr Moore: They have had a lot of legislation to deal with recently. The Animal Welfare Act occupied a considerable amount of their time; and there is always other legislation that they are dealing with and other problems, as you so rightly pointed out. The reason that we are given is that there is not time available for them to address this issue.

Chairman: Compared to the Home Office, where hardly a day goes past without a new Home Office piece of legislation—they have the Animal Welfare Act, it is perfectly true, and they have a climate change bill in the pipeline at the moment, and they have legislative consultation on a marine bill; but I am struggling beyond that to see—

Paddy Tipping: Cost-sharing—

Q16 Chairman: Cost sharing, but that is not a piece of legislation, it is a policy. Wait and see! Mr Tipping is very good on forthcoming attractions: if you want to know what is happening, this is the man to tell you! We have done animal welfare and we are doing climate change, and we have this wonderful—

Mr Moore: That is the reason that we are given, the—

Q17 Chairman: I know you are given it, but what do you say to them? When you get the Chief Vet on your Council, do you not say: “Look here, Chief Vet, why have you not done some bidding for us and brought us a new”? You have! What did they tell you?

Ms Hern: That is the one that was progressing it rather nicely for us.

Q18 Chairman: The previous one was?

Ms Hern: Yes.

Q19 Chairman: What do you mean, Ms Hern, by “progressing it nicely”?

Ms Hern: We had spent some time with the Chief Veterinary Officer who recently retired, and she was persuaded of the need for legislation, as were a number of other officials.

Q20 Chairman: She is sitting there, and she says, “I am persuaded”—right?

Ms Hern: Yes.

Q21 Chairman: What did she then do? This does not bode well for the future if the first act of somebody who is persuaded is to leave their post!

Ms Hern: I do not think it was their first act, but—

Q22 Chairman: The reason for asking—if, in all seriousness, the previous Chief Vet was persuaded, usually this results in some kind of internal action in the Department that galvanises the wheels to start churning. I am just concerned that you have made out a case, as professionals who are well connected, who have one of Defra’s senior officials as part of your Council—but you would have thought if they needed to understand the issues they would have got the message by now, from what you have said. I am still not quite clear what is your reason, apart from the fact that you have been told. I know what you have been told, but what do they tell you quietly? When you are sitting next to the Chief Vet at the Council, what did she say to you as to why there was no action? Come on, you can tell us; you are amongst friends.

Mr Moore: My name does not come next to her, so I would not sit next to her at Council.

Q23 Chairman: It is alphabetical—I see!

Mr Moore: We are simply told that. There is the pressure of time and there are other things that are more important; and they did not feel this justified them setting aside time to deal with it now.

18 February 2008 Mr Bob Moore, Professor Sheila Crispin, Ms Andrea Jeffery and Ms Jane Hern

Q24 Mr Williams: You have speculated on what the composition and numbers of the Council might be, and said that you would like a separate system to deal with complaints about professional conduct. Have you any ideas of the composition and how you would recruit people to the committees that were going to look at complaints of professional misconduct? Would the profession still have the majority in those committees?

Mr Moore: Under the new structure that we have designed, we have not got into the fine detail of how many individuals. In broad terms we would see something around 50% of the people who were on Council being lay people. We would not expect it to go higher than that.

Q25 Mr Williams: But none of those would be on the committees.

Mr Moore: That is the Council. The committees would be appointed by a commission that would suggest people, a mixture, we hope, of veterinary surgeons, veterinary nurses and lay people to act in those capacities in preliminary investigation and as a disciplinary committee. It would be an independent commission to do that. None of those people would be members of the Royal College Council, so that the rule-making in Council would be entirely independent, and the Royal College Council would not appoint or have any influence over the appointment of any of the people who were then to investigate or judge on the rules that were set.

Q26 Chairman: Can I be entirely clear? You are absolutely clear in every detail what it is you want, because you just gave me the impression a moment ago that you had not quite thought through yet?

Ms Hern: Not down to all the bottom line, precisely how many people, but we have got the structure clear in our heads in the sense of the standard-setting—the board that would investigate complaints and take any prosecutions, and then the Conduct and Competence Committee, as we have called it, to deal with the adjudication.

Q27 Chairman: The reason I asked that question was that I was almost getting a flavour of a draft bill; in other words that you might be not quite clear on every “t” that has to be crossed and “i” that has to be dotted, and that a good first step would be a draft bill. Do you think that would be a good idea?

Mr Moore: In defence of what I said, what I meant was we did not decide whether it was 24, 26 or 30 people that should be on each of these groups, but we have an idea of how they should be constructed. We—Jane—could probably draft out, on a couple of sides of A4, the skeleton of what we wanted to see in place.

Q28 Chairman: “Could probably”—that is a little tentative for telling a department—

Mr Moore: I did not want to commit Jane to something—

Ms Hern: I could not draft anything in terms of a bill.

Q29 Chairman: I just wanted to be clear about how well thought-out the Royal College’s proposals were. If you are going to say to Government, “We need the following changes”, nobody would expect you to draft in parliamentary speak what you thought it was, but one would expect you to have a very clearly thought-out specification.

Mr Moore: Yes, we have got that.

Ms Hern: In terms of giving the policy instruction, yes.

Q30 Paddy Tipping: I just wonder why you have not done that and put this together because you have been on the case since 2003, have you not? You did some initial work in 2003 and Defra did some work in 2003. I think there is some notion now that there will be a White Paper. You are a well-resourced, professional body; why does the body not go your way and come forward with—not in parliamentary language that we do not understand, some of us, but a series of points?

Ms Hern: We have.

Mr Moore: We have done that.

Ms Hern: We have submitted fairly detailed proposals to that extent to the Department. I think you have even had copies of the documentation.

Q31 Paddy Tipping: Why do you not draft it up as a bill, a take-it or leave-it bill?

Ms Hern: Because that takes some technical expertise, with respect, which we do not have.

Q32 Chairman: No, but you can buy it in.

Ms Hern: Yes, at a cost, and it requires some technical expertise to even draft instructions for parliamentary counsel.

Q33 Mr Gray: I am sorry to interrupt, but it is not a very big cost at all; you are talking of a few thousand pounds.

Ms Hern: I think we would be talking quite a lot more than that for the complexity of the legislation that we are talking about.

Q34 Paddy Tipping: But it is a series of putting forward successive ideas and model clauses, and the form of words at this stage. What I really wanted to press you on is that earlier on you talked about changes in the health professions, and what you are recommending sounds very much like what the health professionals have done, which is to—

Ms Hern: To an extent, yes.

Q35 Paddy Tipping: Can you not pinch their ideas?

Ms Hern: We have tried, and I have even talked to officials in the Department of Health to see whether we could get on the back of the legislation they have got coming forward so that we could at least get broader order-making powers, but joined-up government does not exist to that extent. The other point in terms of why we have not drafted instructions to parliamentary counsel or the equivalent—we have been working with Defra officials and there is an extent to which we have to recognise that that is their job and not ours, and if

18 February 2008 Mr Bob Moore, Professor Sheila Crispin, Ms Andrea Jeffery and Ms Jane Hern

we start doing it, then you lose something of the working relationship that I hope we have established.

Q36 Miss McIntosh: With all the bills and acts, the detail is often in the regulations and statutory instruments giving them—if you like, the legs or tools to do the work. I would like to know why you think primary legislation is necessary and why we could not go down the path of suggesting regulations under clause 25 of the 1966 Act.

Ms Hern: There are not sufficient order-making powers in the 1966 Act to do all of the things that—

Q37 Miss McIntosh: Could you specify then precisely what order-making powers you would seek in the primary legislation? If you are saying they are not sufficient, why do you need primary legislation?

Ms Hern: To get the broader order-making powers or to put a new framework in place with subsidiary order-making powers attached to it.

Q38 Miss McIntosh: Then you must have more idea of the detail than you indicated to Mr Tipping!

Ms Hern: I think—

Q39 Chairman: I think that what Anne McIntosh has alighted upon is a possibility within the existing legislative framework for order-making powers. In our briefing session you made clear to us that whatever happened that would still require a change to the primary legislation if you were to introduce new order-making powers. Did I understand that correctly?

Ms Hern: We need new primary legislation to get broader order-making powers.

Chairman: That is clear.

Q40 Miss McIntosh: In terms of every bill that comes through competing for parliamentary time and Government priorities, how big a bill would you be looking at?

Ms Hern: You can either go for a single clause if you were being very minimalist about it, just to give the equivalent of section 60 in the Health Act 1999, and then we could go from there; or you could have something that was more detailed; but, again, it would still in the modern day be fairly skeletal with various order-making powers attached.

Q41 Miss McIntosh: Am I right in my understanding that there are currently statutory instruments either before Parliament or coming to Parliament under the European Directive?

Ms Hern: Yes.

Q42 Miss McIntosh: But you are saying it would not be appropriate to try and—

Ms Hern: They are using powers under the European Communities Act and not under the Veterinary Surgeons Act to make amendments, so the amendments are limited in that sense—frustratingly.

Q43 Chairman: Your Council is predominantly an appointed one: do you not think it should be elected?

Mr Moore: The current one, you mean?

Q44 Chairman: Yes.

Mr Moore: The current one is twelve appointed by the universities and four appointed by Privy Council, and 24 elected.

Q45 Chairman: Should they not all be elected?

Ms Hern: That would be going against the grain of what Government has accepted in the healthcare sector. I would not want to go as far as having all appointed for the very reason that the finances of the organisation come from veterinary surgeons and potentially veterinary nurses, and I think they should have some say and therefore be elected on to the body that spends the money—“no taxation without representation”, you might say.

Q46 Chairman: Give me a feel, in the new world we are moving towards, what proportion you would ideally want to be appointed and elected. We know what the current structure is, but have you given thought as to—

Ms Hern: The two splits, if you like—the veterinary surgeon and non-veterinary surgeon—I think the non-veterinary surgeon people would have to be appointed. I could not really see a mechanism for electing non-veterinary surgeons; but in terms of the veterinary surgeon component of Council members—I do not know—50/50 appointed and elected. You would, I would say, need some elected members.

Q47 Mr Drew: How do you ensure you get representation from across the whole profession? As you know, I was asking about the plight of those veterinary practices that deal with large animals: what is to prevent there being a complete—if you like, no such practice representatives being on the Council?

Ms Hern: Nothing, because it is not structured to be representative of the profession as such.

Q48 Mr Drew: You could end up with a very unbalanced Council, with more dealing with pets and small animals and so on.

Ms Hern: You could. It has not happened in the ten years that I have been involved, and in any event you can always get some redressing of that balance by membership of committees that work with Council.

Q49 Mr Drew: Presumably, parallels with BMA would be such that they could never have that situation?

Ms Hern: But they are a representative body, not the regulatory body.

Q50 Mr Drew: I know, but they have an influence over the regulatory role. I just see it a bit strange that, given you are a very diverse profession, that you cannot necessarily have that representation on your Council. Have you discussed this or is this something that—

18 February 2008 Mr Bob Moore, Professor Sheila Crispin, Ms Andrea Jeffery and Ms Jane Hern

Professor Crispin: It is interesting that you raise it because it has not happened. We have at the moment people drawn from academic life. Admittedly they are appointed, but within the people who are elected we cover most aspects of the profession, including industry and commerce, as well as small and large animal and equine. We are lucky, you could say, that it has not happened.

Q51 Chairman: Is 25% the right number of lay people on the Council?

Mr Moore: Currently or in the future?

Q52 Chairman: For the future. Given a free hand, is 25% the right number?

Ms Hern: The minimum, I would have said.

Mr Moore: I think it should be more than that—I think between 25 and 50%: Somewhere in there it is going to be about the right proportion of lay people.

Q53 Chairman: When are you going to decide on what the right number is, if you are going to try and persuade somebody to draft a new law?

Mr Moore: As soon as we put pen to paper in the final draft, we would put that figure down.

Q54 Dr Strang: Presumably, you have fairly regular consultation with veterinary surgeons and have a dialogue with them, so any ideas you have are to some extent influenced by their collective view.

Mr Moore: We have tried to maintain an open and regular relationship with the BVA. They are privy to all the paperwork that we produce. They have had representatives on the working group that has considered the new veterinary legislation, and we need both in a formal way—we have meetings with the BVA formally and we meet informally on a regular basis; and the VSA is a regular topic of conversation.

Q55 Dr Strang: Coming to the question of veterinary nurses, as you know Defra has put forward the idea that they should be separately regulated. Obviously the alternative to that is that you would regulate them. What is your view on that?

Mr Moore: We have already done as much as we can do, in giving the veterinary nurses their own council. Andrea can tell you some details about the voluntary self-regulation that is already in place. We cannot go any further than we have already gone under current legislation.

Q56 Dr Strang: Defra is envisaging setting up a separate body, presumably with new legislation.

Mr Moore: We are proposing two councils, a veterinary surgeons' council and a veterinary nurses' council—two separate bodies to regulate each of the different professions.

Ms Hern: It will come together when you come to complaints, investigation and adjudication because of the team-working; it would be difficult, I think, for a member of the public to pursue a complaint if they were having to go in two different directions for the nurse member of the team and the veterinary surgeon member of the team.

Ms Jeffery: The nurses: in September last year, following consultation, we established the Veterinary Nurses' Register and the nurses were asked then whether they would like something independent or linked to the Royal College. Those questions were also asked in 2005 and earlier when this was all first discussed. It is perceived that there will be two separate councils within the Royal College because we are all part of the veterinary team, and then this board, as Jane has just described.

Q57 Dr Strang: Defra, presumably, agrees with that as well, as far as you know.

Ms Hern: As far as we know their view, yes.

Q58 Dr Strang: They are not proposing anything that would be a complete separation.

Ms Hern: I do not think so.

Q59 Dr Strang: Moving on to the regulation of para-professionals, how do you think the new Act should regulate the different para-professional groups?

Ms Hern: We are not actively proposing that it should, on the basis that the Royal College of Veterinary Surgeons is looking at the regulation of veterinary surgeons and bringing the veterinary nurses on board to be a parallel profession. It is perhaps a little invidious of the Royal College of Veterinary Surgeons to start saying who else should do whatever they should do; but if Government has a view about what else needs to be regulated, that would be fine. We would say as a bottom line that anybody treating animals should be appropriately trained for the purpose and accountable for what they do; but beyond that there is a potential conflict of interest in the Royal College of Veterinary Surgeons saying which group of para-professionals should be allowed to do what. The profession might find it be helpful to be able to delegate procedures to certain para-professionals but there would need to be a structure for ensuring that they were adequately trained and accountable for what they do.

Q60 Dr Strang: You envisage this operating still within the broad framework of the Royal College; is that right?

Ms Hern: We are not envisaging that necessarily. We feel it is slightly invidious of us to start laying down the law for a whole raft of other people; we are just concentrating on veterinary surgeons and veterinary nurses at the moment.

Q61 Dr Strang: If one takes it as given that in the new scheme of things, whenever that comes into place, these different groups should be regulated—

Ms Hern: It would make sense to regulate the team together. I think that principle would still apply, as it does to veterinary surgeons and veterinary nurses.

Q62 Dr Strang: I have been asked to ask you whether the RCVS have a view about whether farriers ought to be brought under the RCVS umbrella, since they are rather a specialised group.

Ms Hern: We have not courted that, but we understand that they might be interested in coming into the same statutory framework, if only because they need new legislation too, and they feel that it might be useful to get on the bandwagon, as it were.

Q63 Dr Strang: That is the view of the farriers, you reckon?

Ms Hern: In general terms. I do not know that they have got a formal proposal, but I know they have been considering it.

Q64 David Taylor: There are about 2,500 farriers, but there just seems to be a bit of a divided view amongst those. We have had a joint submission from the Worshipful Company, the National Association and the Farriers Registration Council¹, and they want to keep the registration of farriers separately, certainly; but the registration process for farriers they argue could be brought under the umbrella of a multi-disciplinary committee of the RCVS. Do you think that is possible, desirable, likely?

Ms Hern: It is certainly possible.

Q65 David Taylor: However, others would argue against it. Why do you think there is this strong divide in the 2,500 group of farriers? One half thinks that disciplinary processes should be almost a shoeing for any new legislation, and the others would resist to the last—

Ms Hern: They have had their statutory independence for some while. I can imagine that they would be loath to lose that entirely. I do not know—I am not that close—

Q66 David Taylor: Do you have existing communications with the bodies that I have mentioned on any scale—the farrier representation bodies?

Mr Moore: We have done.

Ms Hern: Informally, yes.

Q67 David Taylor: Formal and informal?

Ms Hern: Yes.

Mr Moore: Yes. In the run-up to the preparation of the various options that we were considering, we certainly had conversations with them formally and informally.

Q68 David Taylor: Can I ask one other sweep of questions that I did not get a chance to ask before, which will only take us back slightly, Chairman? Jane Hern said that the position had not arisen in relation to an unrepresentative nature of the RCVS. Do you actually track the background of or the practices of the members of the RCVS at any one time to see what proportion are covering predominantly small companion animals, what proportion of exotic, or what proportion of large animals? The profession has altered dramatically, has it not, over a 40-year period, and Mr Moore said

that he had been in the profession at that time; but the big animal vets have dominated the RCVS at one time. Do they still? Do you track?

Mr Moore: We carried out a manpower survey, and we have done it a number of times. The most recent one was 2005, when we sent out to every member who is registered with us and asked them what their work involvement is. I do not have all the numbers in my head, but—

Q69 David Taylor: It does not matter, but it is whether the RCVS Council is broadly comparable to that which you are collecting from the exercise you have just described.

Ms Hern: We have not done a statistical comparison.

Q70 David Taylor: Reasonably close?

Ms Hern: I would say so, yes.

Q71 Chairman: To get this in perspective, we are talking about disciplinary matters and complaints from customers. Just give us a flavour of how many disciplinary matters a year you have to deal with, and how many complaints from outwith the profession you have to respond to.

Ms Hern: In the last two or three years the numbers of complaints that we have registered have been in the realms of 500 to 700. The number of cases that come through to the Disciplinary Committee—we had one year when there were eight or ten, but it would probably be more likely to be four or five a year. You can see from the number of complaints that get registered through to the final end game that an awful lot get dealt with along the way.

Q72 Chairman: Can you put that in context as to the proportion that represents of customer visits—the people employing a vet? Is there any way of getting a proportion?

Ms Hern: Yes, but you have to start working out how many clients a vet would see on an average day.

Q73 Chairman: I appreciate it is a very difficult question, but I just wanted to know whether it is 1% of customers who are complaining every year—just to get some kind of idea.

Mr Moore: It is not even 1% of them—it is the number of consultations, basically, that you are asking about, and it will not be 1% of the number of consultations. I do not have any realistic idea of the number as a percentage of the total consultations.

David Taylor: Could you write back to us with that information?

Q74 Chairman: What about the people who complain about nurses, Ms Jeffrey? How many complaints about your members do you get?

Ms Jeffrey: Very, very few; but that is because currently it is the veterinary surgeon where the buck stops. If you think 1991 Schedule 3 changed with the Veterinary Surgeons Act, veterinary nurses were allowed to treat under veterinary direction so the complaint—

¹ Ev . . . [Vet 36]

18 February 2008 Mr Bob Moore, Professor Sheila Crispin, Ms Andrea Jeffery and Ms Jane Hern

Ms Hern: We have only just introduced the new register for veterinary nurses and we have not introduced the disciplinary part of the self-regulation scheme, so we are not at the moment dealing formally with the complaints about nurses.

Q75 Mr Gray: Can I ask you about what sounds like an astonishing pair of figures, namely that there are 600 or 700 complaints in the year, but only a tiny handful comes to the Disciplinary Committee. Does that mean that the vast bulk of complaints are frivolous or wrongly placed? Presumably, these are people whose animals have been injured and died, and their immediate instinct is to blame the vet. Is that what it is?

Mr Moore: Of the complaints that we get, you have to remember that the only complaint that the Royal College can deal with is against a veterinary surgeon for professional misconduct. We do not deal with complaints about what might be negligence or may or may not be negligence. We do not decide on that and we do not deal with any complaints about fees. We do not deal with any complaints about bad debts. There is a whole range of complaints that come in. I would say that 40% of the complaints fall outside of the remit of the Royal College. I have not counted that to be 40%, but I read every complaint that comes in.

Q76 Chairman: It would be helpful and very useful in the light of our earlier exchanges if you could jot down some of these figures, because Mr Drew wants to pursue this as a line of inquiry. I think the Committee would genuinely find it interesting in terms of what it is that you can respond to by way of complaint, and perhaps the flavour of what you cannot. I was quite surprised when you said to Mr Moore that you could do anything about fees, whereas with lawyers you can complain about fees, for example. It would be very useful to know of the things that people write to you about and what you can do and you cannot do, and to put it into a numerical context.

Mr Moore: The Professional Conduct Department keeps very good records about all the complaints that come in, and I am sure we can pull something out for you.

Chairman: Good, that would be extremely helpful. Thank you.

Q77 Mr Drew: Can I be clear, because I have one case that has been plaguing me for some years where someone has complained about a dog that was euthanased without their permission: what is the ultimate you can do? I understood you could write a complaint to the Privy Council: is that true?

Mr Moore: Ms Hern will correct me if I am wrong. You first of all complain to the Royal College; and if you do not like the decision that the Royal College gives you—is it the Privy Council or judicial review? You have to ask for one or the other.

Ms Hern: It depends. The appeal from the Disciplinary Committee is to the judicial committee of the Privy Council; but if you wanted to challenge a decision of, for example, the Preliminary

Investigation Committee or even registration decisions, that would be a question of judicial review.

Q78 Mr Drew: Who decides which route you go along? Is that the complainant or—

Ms Hern: No, the complainant lodges the complaint, and if the Preliminary Investigation Committee decides that it is a sufficiently serious case to be referred to the Disciplinary Committee, then it is pursued by the College, and the complainant in effect is just a witness of fact, if you like. The right of appeal to the Privy Council is that of the respondent veterinary surgeon, not even of the College, let alone the complainant.

Q79 Mr Drew: So to defend their position.

Ms Hern: Yes, if—

Q80 Mr Drew: So no member of the public could complain to the Privy Council?

Ms Hern: No.

Q81 Mr Drew: That is interesting. I am not putting words in your mouth, but you are not happy with the current arrangements and you want to move to this new Conduct and Competence Committee. I know you went through it in informal session, but it is important to get on the record how this is different and how it is going to work.

Professor Crispin: Just to recapitulate, because it seems that you are not absolutely clear about what is envisaged, at the moment we would wish for two councils, a veterinary nurses' council and a veterinary surgeons' council; and they would join up as a team effort at board level so that if complaints were made they would be dealt with there, and the board would look at the seriousness of the complaint and so would be acting rather like the current Preliminary Investigation Committee. If the case was then serious enough, it would go to the wonderfully named Conduct and Competence Committee, which would be, if you like, the Disciplinary Committee but with more of a lay involvement and not so restricted as we are at present in terms of not having any say over the constitution of both the PIC and the Disciplinary Committee. It would give a situation where, hopefully, it would be more accountable; it would have greater lay representation and for the first time—which may be good or may be bad—the nurses could appear in front of the disciplinary process, which does not happen at present. It would I hope get over some of the frustrations that we do feel; that at the moment we have 700 complaints, but of those very few would justify being called “gross professional misconduct”. You are quite right that I, as an owner of an animal, would be very unhappy if my dog dies and I do not think it should have died; but unless someone can prove that is a case of gross professional misconduct, there is little I can do about it under the current system.

Q82 Mr Drew: Are you arguing in a sense that you are going to graduate the levels of complaints, because you can go from—

Professor Crispin: We would nuance—

Q83 Mr Drew:— from saying, “This was wrong; we have written to the vet in question”, to, if you like, the nuclear, which is striking the vet off—and there is not a lot between?

Professor Crispin: Yes. There would be more sanctions guidance, if you like. It would be more nuanced than it is at present, and hopefully one would get rid of some of the frustrations.

Q84 Mr Drew: In terms of that ultimate sanction, striking a vet off, give us a feel for how often that happens. My understanding is that it is more to do with other things than particular veterinary work, because that is quite difficult to judge.

Professor Crispin: You are right. One of the difficulties is that it is always much easier in black and white if somebody dishonestly signs a certificate; it is not so easy to prove that perhaps someone has killed a dog when they should not have done, rather than inadvertently. You are quite right that some things are easier to prove than others, and that was again one of the difficulties. Whether that would be changed of course is another matter.

Q85 Mr Williams: As I understand it, discipline in the veterinary profession is aimed mainly at the individual veterinary surgeon rather than a practice. You have set up a practice standards scheme to set minimum or desired standards within a practice. That, at the moment, is a voluntary scheme, but you would wish to take it forward as a mandatory scheme that would cover not only individual vets and partnerships but body corporates and charities as well. Why do you think there should be a mandatory scheme?

Professor Crispin: At the moment you are quite right that it is voluntary, with the intention of it becoming mandatory, but this is an area where we are still in discussion with the British Veterinary Association because it is undoubtedly one of the sticking points. As Jane pointed out, one of the problems we have at present is that we can deal with individual veterinary surgeons, but we cannot deal with practices or premises. Something that has happened certainly during my professional lifetime is that now we get a number of veterinary practices that are not actually owned by veterinary surgeons. Sometimes they have connections with the pet food industry or with other commercial organisations. It seems crazy that we cannot take them to task if they step out of line. The second part is that whilst the profession I think has a tremendous reputation, it can be lost very easily if you have just one practice that pulls you right down because it is awful; so, if you like, it makes a better level playing field for everybody, I would hope.

Q86 Mr Williams: Are you sure you have got the support of your profession in this matter and how many responses to your consultation were in favour?

Professor Crispin: I think it would be fair to say that at the moment it is an area for debate—I fully acknowledge that.

Q87 David Taylor: I think I just heard Sheila Crispin talk about the concerns the RCVS has about the growth of non-veterinary practice, and she included the example of pet food manufacturers. Can you elaborate on that very quickly?

Professor Crispin: I think anyone who owns an animal is very aware that when they go into veterinary practice these days there is a lot of advertising of pet foods, and some practices are now set up within pet food companies; you can go and have an animal looked at in that type of situation, but it is something that is changing and yet the legislation is not there to deal with the change.

Q88 David Taylor: The Association of Veterinary Students of Great Britain and Ireland recently debated a motion that vets should advocate feeding a manufacture of pet food, did they not?

Professor Crispin: Yes, I was there.

Q89 David Taylor: You were a guest at that debate, were you not?

Professor Crispin: Yes, I was.

Q90 David Taylor: You declined to vote on that.

Professor Crispin: I was there on an evening off; I was not there in any official capacity, so I spoke on behalf of my dogs because I thought that was the safest thing to do. But my views are quite well known: I think that we probably require a rather pragmatic approach to what we feed our animals, and that it may well in the case of my dogs include commercial and non-commercial food.

Q91 David Taylor: There are good numbers of vets, are there not, that believe—I can quote one to you: “As varied as my patients were in size, species, age, sex and breed, the one common uniting feature was their junk food diet.” Do you recognise the author of that?

Professor Crispin: I think so, yes.

Q92 David Taylor: But he speaks on behalf of growing numbers of not just vets but companion-animal owners, does he not? There is a real growing concern about the junk that we push down our pets, is there not?

Professor Crispin: I am not sure that you should equate being vociferous with speaking on behalf of large numbers. It is worth remembering that the pet food manufacturers removed bovine products from pet food before we did for humans. It is not a black-and-white situation.

Q93 David Taylor: It never is, but the veterinary profession, particularly the RCVS, has been very reluctant to be involved in this for a long period of years. That is true, is it not?

18 February 2008 Mr Bob Moore, Professor Sheila Crispin, Ms Andrea Jeffery and Ms Jane Hern

Professor Crispin: I do not think that is true. If I can now go back to my time as president, I spent a lot of time dealing very politely with the many letters that the president gets on this topic.

Q94 David Taylor: No-one denies the politeness.

Professor Crispin: No, but the line I took was to speak as president, as a scientist and as an owner of animals, and actually doing it like that, hopefully, you got a rather balanced view.

Q95 David Taylor: Do you see the thrust of the vets' professional standards being the treatment of or prevention of disease?

Professor Crispin: I think very much the prevention. Indeed, one of the aims of the new Veterinary Surgeons Act is to be proactive rather than reactive. I think that is crucial; and, yes, the debate has made me look very carefully at what I feed my dogs, and it has modified what I feed my dogs, but I have not gone so far as to go entirely for raw meaty bones.

Q96 David Taylor: It is not intended to be an approach on you; it also involves your colleagues as well. The concern that people have is that the curriculum of the veterinary colleges contains relatively little about the nutrition of companion animals. Is that a fair comment?

Professor Crispin: Actually, there is quite a lot on the nutrition of companion animals. The people like Tom Lonsdale, who you quoted, would say that it is very much weighted in terms of feeding commercial foods.

Q97 David Taylor: Is that partly because the mega pet food manufacturers have a very large slice and a captive market in every sense? They have ingratiated themselves with the profession and with the veterinary colleges, have they not? They sponsor various chairs of veterinary science, do they not? You are not going to bite the hand that feeds you!

Professor Crispin: Lectureships, I think. I do not think it is quite—

Q98 David Taylor: Professionally, you are not going to bite the hand that feeds you, are you? Mr Moore? It is not aimed at you.

Professor Crispin: No.

Ms Hern: It does not say a lot for the impartiality of the profession that they would be swayed by that sort of thing.

Q99 David Taylor: But it is something that has grown up over a long period of years with relatively few people that have questioned the given wisdom that somehow pet food manufacturers are there to promote the health of the many millions of companion animals in this country and elsewhere. Do you accept that given wisdom—that it should not be examined and should not be criticised and that we should not instigate some research into the comparative diets, which, as Sheila Crispin said, at the debate which I mentioned—you would have liked to have seen some research. Why is the RCVS not banging the drum on this?

Ms Hern: Because it is not a scientific body in that sense: we are here to regulate the profession and maintain—

Q100 David Taylor: Against professional standards, against expectations, against whether or not you are trying to prevent ill health or merely treat it.

Ms Hern: But we do not prescribe how—

Q101 David Taylor: You should be part of it though, surely?

Ms Hern: We do not tell veterinary surgeons how they should exercise their professional judgment.

Q102 David Taylor: Ah, you say you are just packing up; you are just walking by on the other side?

Ms Hern: No, but they have to exercise their professional judgment in relation to the animal and the client in front of them, and we do not go down the road of being prescriptive in all of those contexts.

Q103 Chairman: Can I ask you one last question, very briefly? Continuous professional development: have you costed it out, and would you apply it to all the professions that we have so far talked about under the veterinary umbrella?

Professor Crispin: For someone who has dealt all my life with education, I think this falls to me as well. There would be no extra costs involved. It really is market forces here. There is a lot of competition amongst the people who supply this continuing professional development, on a competitive basis. There would be no extra cost. We do spend a lot of money already on that, and a good practice will always build it into their practice plan, so that their veterinary surgeons have the CPD paid for.

Q104 Chairman: If you made it a legal requirement. It would—

Professor Crispin: It would make absolutely no difference financially.

Q105 Chairman: Applying that same dictum to other professions—farriers to nurses, to everybody else—still no difference?

Ms Jeffery: We have already introduced it. In September, when we went down the self-regulatory route we introduced continuous professional development with team nurses, and they are finding it—and it is not too expensive. We have not had any complaints about it being expensive.

Mr Moore: Continuous professional development does not necessarily have to be attendance at courses away. There is, written into the requirements that it can be distance learning, self-reading and so on. A very small proportion has to be attendance at courses, so it is not all expensive and can be tailored to suit the individual.

Chairman: Thank you very much for your written and oral evidence, and thank you for briefing the Committee. We shall consider carefully what you have said. As I said at the beginning, if there is anything further you want to put in writing, please do. We look forward to the statistics on complaints that we asked for earlier.

Supplementary memorandum submitted by the Royal College of Veterinary Surgeons (Vet 11a)

RCVS RESPONSES TO QUESTIONS FROM THE EFRA SELECT COMMITTEE

How many complaints did the RCVS receive last year?

709 in the period 1 April 2006 to 31 March 2007. The annual average over the last eight years has been about 700.

The major subject of the complaints was alleged inadequate care (272). Communications between the practice and the client were the next most important subject of complaint (150). 81 complaints concerned fees.

What is that number as a percentage of the total number of consultations?

We don't know the total number of veterinary consultations. We estimate that, of some 22,000 veterinary surgeons on the register on 31 March 2007, between 12,000 and 13,000 were in general practice, not necessarily full time. The number of consultations in a day will vary greatly according to the type of practice, but in a typical small animal practice a veterinary surgeon might see perhaps 20 cases a day. On that basis the number of consultations each year will be in the tens of millions.

How many of those complaints were considered by the Preliminary Investigation Committee (PIC) and passed on to the Disciplinary Committee (DC)?

In 2006–07 731 complaints were dealt with. 11 of them (1.5%) were referred to the Disciplinary Committee.

What happened to the rest? The sifting process involves three stages:

- assessment by a legally qualified member of staff and a veterinary surgeon to identify complaints where there is a potential case against the veterinary surgeon. At this stage any cases which do not fall within the RCVS jurisdiction are weeded out (please see the notes below on the nature of the jurisdiction);
- case examination by two veterinary surgeons to identify complaints where there is an arguable case against the veterinary surgeon;
- consideration by PIC to identify complaints where there is a realistic prospect of proving a case against the veterinary surgeon.

Of the 731 complaints dealt with in 2006–07:

- 33 (5%) were closed because the complainant chose not to pursue the matter;
- 301 (41%) were closed following assessment because there was no complaint falling within the College's jurisdiction;
- 154 (21%) were closed after case examination because there was no arguable case to be answered;
- 232 (31.5%) were closed by the PI Committee because there was no realistic prospect of proving a case against the veterinary surgeon;
- 11 (1.5%) were referred to the Disciplinary Committee.

How many of the complaints considered by the DC resulted in disciplinary action?

DC held 13 disciplinary inquiries in 2007:

- 6 veterinary surgeons were removed or suspended from the register;
- 1 veterinary surgeon was reprimanded;
- 1 health type case was postponed subject to conditions;
- 2 veterinary surgeons were found guilty of disgraceful conduct, which was considered a sufficient sanction and no further action was taken;
- 3 cases were dismissed.

Could you provide details of the type of complaints considered by the DC last year?

Please see annex A.

Could you also provide details of the type of complaints that come before the PIC but are rejected?

Examples are attached in annex B.

What is the jurisdiction of the Disciplinary Committee?

The Committee may direct the removal or suspension of a veterinary surgeon from the register if he or she has

- (a) been convicted of an offence which in the Committee's opinion renders him or her unfit to practise veterinary surgery or
- (b) has been guilty of disgraceful conduct in any professional respect.

In deciding what amounts to "disgraceful conduct in any professional respect" the Committee has regard to decisions by the courts, which have had to interpret similar words in the legislation governing other professional regulators. The courts refer to "serious professional misconduct". A veterinary surgeon may be guilty of such misconduct as a result of unethical behaviour (for example, false certification or misuse of controlled drugs). Clinical malpractice (for example, serial incompetence) may also amount to serious professional misconduct. A simple mistake would not normally amount to serious professional misconduct, but it may provide the basis for an action for a civil action for damages.

To illustrate the point, a veterinary surgeon who operates on a dog and leaves a swab inside may be liable to be sued for negligence. If he or she lies about having made the mistake, this may be considered serious professional misconduct.

In some cases there is an overlap between serious professional misconduct and negligence. More serious negligence may amount to serious professional misconduct. For example, if a veterinary surgeon is reckless in the care of an animal or makes the same error repeatedly, this could amount to both negligence and serious professional misconduct.

What difference would new legislation make to the way complaints are dealt with?

The legislation which RCVS proposes would make a difference in two ways.

First, we propose that the jurisdiction of the new Conduct and Competence Committee should, as the name implies, embrace fitness to practise in the broadest sense—not just behaviour. The Committee should be able to consider issues of health and professional performance. "Fitness to practise" is currently only relevant in the case where a veterinary surgeon has a criminal conviction, and that is clearly a different sense of the expression.

The change in the jurisdiction of the tribunal would affect the complaints that could properly be referred to it. At the moment PI Committee has to consider whether the facts support the allegation of disgraceful professional conduct, or whether a veterinary surgeon has a criminal offence which calls into question his or her fitness to practise.

Secondly, we think the legislation should give power to introduce mandatory standards for the delivery of veterinary services. The present legislation only regulates individual practitioners, and does not offer remedies to complainants who are concerned about the way a practice has treated them. Currently complaints about bad communications, inadequate staffing, poor standards of hygiene or equipment and the like can only be dealt with if an individual veterinary surgeon can be shown to have been guilty of disgraceful conduct. Very often such deficiencies will be the result of management failings, and the practice may not be controlled by veterinary surgeons. We want all practices to be publicly accredited against statutory standards, with compliance monitored through inspections, so that we can spot problems at an early stage rather than waiting for complaints to come in.

RCVS

February 2008

Annex A

DECISIONS BY RCVS DISCIPLINARY COMMITTEE IN 2007

<i>Nature of the complaint</i>	<i>Outcome</i>
Dishonesty—false certification to allow a horse to compete under Jockey Club rules	Directed to be removed from the register; reduced to 6 month suspension by the Privy Council
Theft of controlled drugs	Removed from the register
Hitting his horse once while riding in a competition	Facts proved but not found to be disgraceful conduct
Prescription and supply of medicine to a racing greyhound contrary to the rules of racing	Disgraceful conduct, no further action

<i>Nature of the complaint</i>	<i>Outcome</i>
Dishonesty on pre-purchase certificate for a horse—giving his opinion that the animal was fit for purpose when not true	Removed from the register
Transport of a horse when it was alleged the animal was unfit to travel	Case dismissed, DC decided the veterinary surgeon made a reasonable decision
Reckless, false certification to insurers for the benefit of the animal owner	Suspended for 2 months
Failure to make a home visit to an animal in need of veterinary treatment	Removed from the register
Informed consent to treatment options and fees of £4,667	Case dismissed after evidence of consent provided
Prescription and supply of medicines to partner	Reprimand
Conviction—causing death by careless driving while under influence of alcohol	Judgment postponed 2 years with conditions
Reckless false certification	Directed to be removed from the register—appeal pending
Prescription and supply of medicine to a racing greyhound contrary to the rules of racing	Disgraceful conduct, no further action

Annex B

SAMPLE CASES CONCLUDED BY PRELIMINARY INVESTIGATION COMMITTEE

CASE 1

During 2004, the complainant's four year old bitch was spayed. In January 2007 the bitch developed a lump (later diagnosed as a subcutaneous cyst) on her right-hand side, which burst twice. After several unsuccessful procedures to treat the subcutaneous cyst, the first practice referred the bitch. The referral practice carried out exploratory abdominal surgery which confirmed there was a mass behind the bitch's right kidney. The mass and right kidney was removed together. After the procedure the mass was opened and within the centre was a surgical swab, which had been acting as a foreign body causing irritation to local tissues.

The complainant alleged that the veterinary surgeon had been negligent to leave the swab. On the complaints form, the complainant expressed concern that although the veterinary practice accepted the error, it did not accept responsibility, because the veterinary surgeon who had carried out the spay procedure had since left its employment.

The complaint was closed on the basis that the complainant's allegation was an allegation of professional negligence, against the practice and veterinary surgeon, which even if proved, could not amount to serious professional misconduct against the veterinary surgeon.

CASE 2

A 12 year old cross breed bitch suffering with constipation was admitted for radiographs to be taken of the pelvic area, for the purpose of eliminating a tumour as a cause for her constipation. The complainant alleged that due to the bitch's age, she was informed that it was safer to carry out the radiographs under sedation rather than general anaesthetic. The bitch was sedated and the radiographs obtained but no tumour was diagnosed.

Later another practice diagnosed the bitch as having a tumour. It was questioned whether a radiograph taken under general anaesthetic might have been of better quality. She said she was not told by the first practice that radiographs taken using general anaesthetic were likely to be of better diagnostic quality and detail than those taken under sedation.

The complainant submitted a complaint to the College alleging missed-diagnosis. The complaint was closed on the basis that the missed-diagnosis could not amount to serious professional misconduct. It was accepted that good communication is essential to good veterinary practice but the communication issue identified could not, even if proved, amount to serious professional misconduct.

CASE 3

A two year old male cat was taken to a veterinary practice with a high temperature. A fee of £150 was given, and the cat was hospitalized overnight, fluids administered and various tests undertaken. The next day the complainant says she was told by the veterinary surgeon that he suspected the cat was suffering with a virus, but to identify the virus would involve high costs. As the cat's temperature had reduced and all its vital organs appeared to be functioning, it was discharged with a five day course of antibiotics. The final bill was £225.

The cat improved over a period of 10 days but ultimately lost its appetite again and the complainant took it to another veterinary practice where it was diagnosed with Feline Aids. The complainant says that she was advised the infection would not improve and elected for euthanasia of the cat.

The complainant submitted a complaint to the College because she was dissatisfied that she paid £225 to the first practice "for nothing" because the illness was terminal.

The complaint was closed on the basis that there was no issue of conduct.

CASE 4

A cat was anaesthetised without the consent of the client. The client had signed a consent form specifically requesting that no anaesthetic be given. The veterinary surgeon accepted that there had been a breakdown in communication within the practice and that the information concerning the client's wishes had not been passed to him. Taking into account the full and frank response from the practice the case was closed with advice rather than referral to DC.

CASE 5

The complaint concerns a veterinary practice's alleged failure: to seek the client's permission for an alternative veterinary surgeon to undertake surgery in the place of the agreed clinician; to inform the client that another veterinary surgeon had undertaken the surgery; and to provide adequate care to the bitch.

On 18 March 2005, Mr C, the client took his eight-month old bitch to one of the practice's branch surgeries for a consultation prior to the bitch's routine hysterectomy operation. During the consultation Mrs A, the veterinary surgeon, said she used a technique of internal, not external, suturing when completing a hysterectomy operation and she was asked and agreed to carry out the surgical procedure. The receptionist booked an appointment for the bitch's hysterectomy to be carried out at a different branch, because Mrs A preferred the facilities there.

On 23 March the Mr C arrived at the other branch surgery for the procedure to be carried out—he completed the consent form and the fee estimate was explained by a veterinary nurse, following which the bitch was examined by Mr B, another veterinary surgeon (not the requested clinician) who admitted the bitch for surgery and, according to Mr C, said that Mrs A was on her way.

Mrs A was at another branch, running late and she liaised with Mr B through the receptionists/nurses at the respective branches. Mrs A said she explained to her receptionist that Mr C wanted her to carry out the procedure and that Mr B should seek Mr C's permission to proceed with the hysterectomy. Mr B said he had been informed that he could perform the procedure. In addition, he said there were no notes on the computer indicating Mr C's preference and at no point that morning did Mr C request a specific veterinary surgeon.

Mr C called the following day at 4pm to collect his bitch, but was asked to come back. Later, the bitch was discharged by the branch practice's head nurse, with a dressing covering the wound and a collar. The practice said the bitch had recovered well, but Mr C said the bitch was unable to walk when discharged. Later that evening at about 6.30 Mr C noticed that the dressing was blood stained and telephoned the practice's out-of-hours emergency service. Mr C was given Mr B's mobile number and called him and they agreed to meet at one of the branch surgeries. During the telephone conversation, Mr C said that Mr B told him this did not usually happen with Mrs A's work, a comment which Mr B denied. Mr B attended to the bitch at the branch surgery as agreed and observed that the bitch was distressed by the collar; he suggested that it could be removed while the bitch was under supervision.

On 26 March, the Mr C returned the bitch to the practice. There was a build-up of fluid at the site of the wound and antibiotics were prescribed. Later that day Mr C left the bitch alone, during which time the wound opened. Mr C telephoned the out-of-hours emergency service for a different veterinary practice, where the bitch was admitted as an in-patient for two days.

On 6 April, Mr C saw Mrs A for a post-op check up and Mrs A informed him that she had not carried out the hysterectomy. In the PI Committee's view Mr C was understandably upset by this news; Mr C considered that as the procedure was elective it could have been postponed until Mrs A was available.

On the first issue, the practice accepted that Mr A's wishes had not been met and apologised for the breakdown in communication. The PI Committee acknowledged this and commented that if the anticipated veterinary surgeon is not available for a routine operating list, it is not uncommon for other veterinary surgeons in a practice to carry out the procedures.

On the second issue, the PI Committee noted the disputed evidence and considered that an indication of serious professional misconduct might exist, but only if Mr B had deliberately misled Mr C. The PI Committee decided there was insufficient evidence to support such an allegation against Mr B.

On the third issue, the PI Committee indicated that the different methods of suturing would not have affected the post operative complications, which were unfortunate but not an issue of conduct.

In the circumstances, the Committee decided that the complaint should be closed with advice to Mr B that when there is an agreement of this nature with a client, the client should give informed consent to any change.

CASE 6

A 10-year old male Cocker Spaniel was admitted for a dental procedure. The complainant, who was the daughter of the owners, considered that an additional extraction was carried without the consent of her parents, the owners of the dog, and that dog's hearing had been affected following the procedures.

On 16 November 2006, Vet "A" examined the Cocker Spaniel. The owners said the dog experienced pain on the right side of its mouth when eating. Vet "A" diagnosed an ulcer above the upper right last molar and noted on the clinical record ". . . very painful and reluctant to open mouth and allow cleaning, needs removal tci tomorrow, clip claws". The complainant said the owners understood that only one molar needed to be extracted and the risks of the procedure were not discussed with the owners.

On 17 November 2006, the Cocker Spaniel was admitted for the procedures to be carried out. A consent form was completed and signed, which included "GA + Dental including extractions + check lump left side + clip claws (one grown into pad) The attending veterinary surgeon or veterinary nurse has discussed the risks with me."

The procedures were carried out by Vet "B" (the Respondent veterinary surgeon), who having carried out the procedures, noted on the clinical notes, "extract both upper caudal molars where gum is receding and kissing ulcers developing. Polish remaining teeth. Cauterise cyst left lateral thorax. Re-exam Monday".

On 20 November 2006 the owners returned to the practice for the dog's post-operative check-up. The owners queried the extraction of the second molar. In the written response to the complaint, Vet "B" indicated that without the second extraction the problem would have developed on the left side within a short period of time and the decision to extract the additional tooth was taken to avoid a further general anaesthetic and further cost to the owners.

The owners told Vet "B" that they suspected the dog had suffered hearing loss since his operation. Vet "B" suggested there may have been some stretching of soft tissues, including nerves, in order to gain adequate access to the dog's teeth and if this contributed to the hearing loss it would be temporary. Vet "B" said the owners seemed to accept the explanation without further question.

On 24 November 2006, the complainant telephoned Vet "B" querying the dental procedures and hearing loss.

During investigation of the complaint, the complainant said that prior to the dental procedures; the dog had had "selective hearing, rather like a child or an adult when they choose to hear what they hear."

PI Committee noted that the complainant had not accompanied her parents to the veterinary surgery at any time and that her complaint was based solely on her parents' recollection and her telephone conversation with Vet "B". The Committee commented about the difficulty of relying on hearsay or "second-hand" information.

The Committee considered there was no evidence to suggest a lack of informed consent, noting the consent form was signed and dated. The PI Committee suggested that if the practice had provided the owners with a copy of the consent form prior to the procedures, any misunderstanding about the procedures to be carried out would have been less likely.

The PI Committee expressed doubt that the dog's reduced hearing could have been as a result of the dental procedures and in the absence of more detailed clinical information could not comment further. It was noted that Vet "B" had explained the possible causes of the dog's deafness and had expressed "sympathy" for the dog's condition.

The Committee decided there was no indication of serious professional misconduct against Vet "B"—nothing that could question fitness to practise—and closed the complaint.

Further supplementary memorandum submitted by the Royal College of Veterinary Surgeons (Vet 11b)

INTRODUCTION

1. This note offers clarification on a number of points which came up in discussion when the College's representatives gave evidence before the Committee on 18 February.

2. We were sorry to hear the Minister tell the Committee on 3 March that DEFRA do not intend to put resources into updating the veterinary legislation for the next three years. Ministers must of course make hard decisions on priorities. It was surprising, though, to hear that the Department is prepared to defer dealing with the shortcomings of the Veterinary Surgeons Act as it relates to veterinary surgeons but proposes to devote attention to exemption orders and Schedule 3. Exemption orders made under section 19 of the Act specify minor treatments, tests or operations which may be carried out by non-veterinarians, and Schedule 3 lists other things which may be done by non-veterinarians. These are certainly important provisions, but not central to the Act. It would be interesting to know why DEFRA see the priorities in those terms.

DRAFTING OF LEGISLATION

3. The Chairman queried (question 26) whether the RCVS proposals for legislation were firm in every detail, so that a Bill could in principle be drafted. This is true of most of the proposals, but we deliberately refrained from taking a hard and fast view on the future composition of the RCVS Council, the Veterinary Nurses Council and the new body which would monitor compliance with standards and deal with complaints. This was because we recognised that Ministers were likely to have specific views on such matters as the proportion of lay to professional membership and the proportion of elected to appointed professional membership. We did not think it would be helpful to adopt a hard and fast line on those questions, which are in any event very much open to debate.

4. The RCVS Council adopted its proposals in November 2005 following two consultations with the profession, in February 2003 and June 2005. DEFRA carried out its own public consultation in September 2003, and the Department was privy to the College's review of the legislation as a result of the Chief Veterinary Officer's position as a member of the RCVS Council. We therefore expected that, once Council had considered the outcome of the June 2005 consultation and adopted firm views on the issues, the Department would respond and give some indication whether Ministers thought we were heading in the right direction. Such a steer has not been forthcoming in fact, and in the light of the evidence which the Minister put to the Committee on 3 March it seems that the College will need to plough its own furrow. But for a Private Member's Bill to be successful it will need Government support, so we still need to know whether DEFRA think we are on the right lines and what they would support or not.

ORDER-MAKING POWERS IN THE VETERINARY SURGEONS ACT

5. Miss McIntosh suggested (question 36) that there might be scope for making the necessary changes to the Act through existing order-making powers within it. Those powers relate only to the following matters:

- recognition of UK veterinary degrees (section 3 of the Act);
- constitution and procedure of RCVS Registration Appeals Committee (section 5D);
- examinations for holders of overseas veterinary qualifications which are not recognised for the purposes of registration in the UK (section 6);
- maintenance of the register of veterinary surgeons (section 11);
- appeals against decisions of the Disciplinary Committee (section 17);
- carrying out of treatment, tests or operations by veterinary students (section 19);
- making of exemption orders and amendments to Schedule 3 (section 19);
- agreements with the Republic of Ireland (section 21);
- election of Council members (Schedule 1); and
- procedure of Disciplinary Committee and functions of legal assessors (Schedule 2).

6. Section 25 of the Act contains procedural provisions about subordinate legislation made under the Act. It does not itself confer power to make orders or regulations.

REPRESENTATION OF THE PROFESSION

7. Mr Taylor asked (question 68) whether the College tracked the background of members of the RCVS Council to find out how far they were representative of the profession. The answer is no. The Act provides for 24 Council members to be veterinary surgeons elected by their peers, and we have not thought it proper to scrutinise or question the way in which the electors cast their votes. Our 2003 consultation paper raised the question whether elections for Council members might be regionally based, but the responses did not support this.

8. We also recognise, particularly from the criticism of the General Medical Council made in the Shipman Inquiry, that a regulatory body must be seen to act in the public interest and not perceived to be representing the profession in any defensive sense. The Government has now indicated that such governing bodies should be appointed rather than elected. RCVS would wish to retain some elected members of Council, so that the organisation is still accountable to the profession that funds it, but if a number of members of Council (professional and lay) were to be appointed that would provide some means of ensuring that there was a balance of background and expertise on Council.

AVENUES OF APPEAL FOR COMPLAINANTS AND RESPONDENTS

9. Mr Drew asked (question 77) about appeals to the Privy Council. The respondent in a disciplinary hearing may appeal to the Privy Council against a decision by the Disciplinary Committee, such appeals being heard by the Judicial Committee of the Privy Council. Complainants have no right of appeal, because they are not party to proceedings before the Disciplinary Committee.

10. In addition the Privy Council—the Government, in effect—has default powers to step in if the College fails to discharge any of its functions under the Act. This does not in any real sense provide members of the public or the profession with a grievance procedure, although they may well choose to write to Ministers or their MPs. The Privy Council has similar default powers in relation to a number of other professional bodies, but we understand that they have never in practice been used.

NEW ARRANGEMENTS FOR HANDLING COMPLAINTS

11. Mr Drew also asked (question 81) for clarification of the new structure we envisage. Briefly, we propose a new statutory body, which we have labelled the “board” for the purposes of debate, to take on the job of enforcing the standards of conduct and competence set by the RCVS and VN Councils. The board would investigate complaints and decide which of them should be heard by a new, wholly independent Conduct and Competence Committee. There would thus be a clear separation between the functions of standard-setting, investigation and adjudication.

RCVS

March 2008

Further supplementary memorandum submitted by the Royal College of Veterinary Surgeons (Vet 11c)

I am writing to you about the evidence which RCVS gave before the Committee on 18 February. In question 85 Roger Williams asked why the College, which currently regulates individual veterinary surgeons, proposed to extend regulation to veterinary practices. The transcript records that in replying I said:

“Something that has happened certainly during my professional lifetime is that now we get a number of veterinary practices that are not actually owned by veterinary surgeons. Sometimes they have connections with the pet food industry or with other commercial organisations. It seems crazy that we cannot take them to task if they step out of line”.

One of our Council members has suggested that my response to question 85 was ambiguous. As you can see I said that sometimes veterinary practices “have connections with the pet food industry or with other commercial organisations” and this has been interpreted by my colleague as indicating ‘ownership’ of veterinary practices by the pet food industry or other commercial organisations. I do not feel that my statement was ambiguous, but am happy to emphasise that that as far as RCVS is aware there is no pet food company ownership of UK veterinary practices.

RCVS does not in fact have reliable information about practices. We publish a voluntary directory to help animal owners find a local practice, but we do not have power to ensure that our information is comprehensive. Veterinary surgeons do not have to tell us where they practise, and the powers in the Veterinary Surgeons Act relate to individuals, not practice entities. If a client feels that a practice (other than one accredited voluntarily under the RCVS Practice Standards Scheme) has delivered unacceptable care the College has no power to take action unless there is evidence of serious professional misconduct on the part

of a veterinary surgeon. We think this needs to be put right, because the policies adopted by practices and the standards which they set themselves can have as much impact on animal welfare and the interests of the public as the actions of individual practitioners.

Professor S M Crispin
Senior Vice President
RCVS

March 2008

Further supplementary memorandum submitted by the Royal College of Veterinary Surgeons (Vet 11d)

It has been suggested that the Committee would be interested to hear of recent changes in the College's procedures for handling complaints about veterinary surgeons.

The Act requires the RCVS Council to set up a Preliminary Investigation Committee (PIC) to look into cases in which it is alleged that a veterinary surgeon is liable to be removed or suspended from the register. PIC must decide whether or not to refer such a case to the Disciplinary Committee. Last year PIC carried out a review of its procedures in the light of the Fifth Report of the Shipman Inquiry and the Government's subsequent decisions on the regulatory arrangements of the human health professions.

There are three main threads in the changes which we have now introduced:

- separating out the Committee's two functions of investigating complaints and deciding whether they merit referral to the Disciplinary Committee;
- greater lay and legal involvement in the investigation process; and
- greater transparency in our decision making.

On the first point the Act, if taken literally, requires PIC to investigate complaints. A committee cannot, however, very well undertake an investigation in person. Realistically, it has to commission enquiries by others and then take stock of the results. It is in any case undesirable for the same people to undertake an investigation and assess the outcome, because the investigator is bound to form impressions which make it harder to take an objective view of the evidence. That is why in the enforcement of the criminal law the functions of investigation and prosecution are separated between the police and the Crown Prosecution Service. PIC has therefore decided that when a visit is made as part of the investigation of a complaint this should normally be done by a suitably trained veterinary surgeon who is not a member of the Committee, accompanied by a member of the College's staff when appropriate.

On the second point, we take the view that the investigation of complaints needs veterinary, lay and legal input. All complaints are initially assessed by a legally qualified member of staff to see whether or not they fall within the jurisdiction of the College, and following investigation an independent Lay Observer is now normally involved in deciding whether there is an arguable case which should be referred to PIC.

On the third point, we have written protocols or guidance for the decision-making by PIC and the Disciplinary Committee. The full RCVS complaints procedure and the decision-making protocols are set out in the attached guidance note, "Processing a complaint". You may also be interested to see the note which we produce for the public, "Making a complaint to the RCVS". The Disciplinary Committee Guidance issued at the end of last year is also attached.¹

Our aim is to ensure that our procedures are fair to both complainants and respondents, transparent and credible. There is, however, one problem. The Act requires both PIC and the Disciplinary Committee to be composed entirely of Council members. As you know, this is something that we want to change, because it makes it difficult for us properly to separate standard-setting, investigation and adjudication. We do all that we can to keep the membership and functions of the two Committees separate, but there is no way round the fact that the members of both are involved as Council members in policy debates which may be relevant to cases which they handle as Committee members. No matter how we improve our internal procedures, we cannot get over the fact that the Act entrusts the screening and adjudication of complaints to two Committees whose composition is specified on the face of the legislation.

Dr R P Moore
President
RCVS

March 2008

¹ Not printed.

Memorandum submitted by the Ashlea Veterinary Centre Ltd (Vet 04)

PREAMBLE

The Council and Officers of the Royal College of Veterinary Surgeons have, for several years, made it abundantly clear that they believe that the welfare of those animals entrusted to the care of members of the veterinary profession would be better served if the Royal College were granted more powers to regulate and control the profession than are currently available under the Veterinary Surgeons Act 1966.

However, as Council's plans have become ever more complex the interest of the Membership has dwindled. When the first consultation paper was published (February 2003) there were 475 responses from individual members of the profession, but in June 2005 a second consultation paper elicited but 86 replies from the Membership. So while the RCVS may rightly claim that it has "consulted" the profession, whether its proposals are supported by the majority of the profession is open to doubt.

Indeed any review of the future governance of the veterinary profession should consider the growing disengagement between the practising profession and its governing body, a schism which has seen less than 18% of the "electorate" bothering to vote in either of the last two RCVS Council elections. While the RCVS may seek to represent this simply as "voter apathy", I would suggest that it more properly reflects the growing frustration of vets in practice who have found that there very few routes by which they can influence policy discussions within either the Advisory Committee or RCVS Council itself.

With notable exceptions, RCVS Council remains dominated by University nominees and by veterinary surgeons that are no longer active in clinical work. The track record of RCVS Council on practical issues is poor, with a tendency for decisions to be made without adequate thought as to how the practising arm of the profession might comply. For example, it took a rearguard action by practitioners, deluging the Advisory Committee with letters of complaint, to dissuade Council from insisting that qualified veterinary nurses must monitor all general anaesthetic procedures performed in practice. The recommendation was being made despite there being an under-supply of such qualified staff and with no apparent regard for the cost implications, to both practices and clients, of the implementation of such a requirement.

Before the announcement of the EFRA Committee enquiry, the impression given to the profession was that there was little prospect of parliamentary time being made available for discussion of a new Veterinary Surgeons Act. Consequently RCVS Council has investigated various ways of extending its control of the Profession beyond those areas allowed by the 1966 Act (eg by encouraging practices to join the voluntary Practice Standards Scheme and by altering bye-laws to impose additional control over recently qualified veterinary nurses).

Now RCVS Council is formally seeking additional powers by asking for revision of the VSA. It is clear that Council's proposals form the core of the enquiry by EFRACOM. In assessing Council's requests it is vital that EFRACOM should consider:

- whether the requested changes will truly improve the welfare of animals entrusted to the care of veterinary surgeons;
- whether any changes deemed right and proper could be achieved without invoking the need for a completely fresh Act; and
- whether the costs incurred by the changes (be they costs of compliance, of regulation or of enforcement) risk damaging animal welfare by increasing the cost of veterinary attention and thereby putting the care of certain animals beyond the financial reach of their owners.

RESPONSES TO SPECIFIC POINTS RAISED IN THE INQUIRY ANNOUNCEMENT

1. *Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions*

1a. In the wake of events such as Shipman it is evident that there is a growing distrust of the principle of self-regulation. And consequently there is the prospect of more regulation being heaped upon the veterinary profession.

1b. There is the danger that in seeking a new VSA to satisfy perceived "public expectations" our ruling body is becoming too precious. Other professions are facing increased regulation in order to protect the end-user—the public. The end-user for the veterinary profession is the animal-patient, not the human-owner. The ethical requirements are entirely different. It is not the job of the RCVS to protect the public from veterinary surgeons in terms of any relevant financial transaction—this is a straightforward business situation, adequately governed by the current law of the land.

1c. In terms of the vet-patient relationship I fail to see that there have been any significant changes which require a new VSA; the Guide to Professional Conduct has more than adequately kept up with clinical developments within the veterinary field.

2. *Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons*

2a. The RCVS seems inordinately worried by the rise of corporate ownership of practices. I believe their fears are misplaced.

2b. The RCVS seems to believe that employed veterinary surgeons may act in ways which may be considered “not in the best interests of the animals entrusted to their care” in order to protect their continued employment. It was always so—I fail to see what has changed.

2c. If a practice owner, corporate or otherwise, were to make unethical demands of their veterinary staff it remains the employee’s responsibility to make the owner/manager aware that business policy compromises their professional duty under the RCVS Guide to Professional Conduct. To seek to regulate providers rather than veterinary surgeons simply adds another layer of bureaucracy and complexity—if enacted I foresee some very expensive test cases!

3. *Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis*

3a. Before any such change is made it is for the RCVS to demonstrate that the present system is putting animal welfare at risk. I do not believe that such evidence exists.

3b. There may indeed be veterinary surgeons operating out of premises which other vets would consider substandard. But animal welfare is protected by ensuring the standard of care offered across the consulting table, not by the size of the consulting room, the standard of the flooring or the number of gadgets available in an adjacent room. Unless animal welfare is being compromised it is not the job of the RCVS to insist that premises be upgraded at massive expense to satisfy arbitrary standards.

3c. I am unconvinced that defining practice standards will have any significant effect on the quality of care offered to patient animals. The current Practice Standards Scheme concentrates far too heavily on the building involved and the equipment used. However, outline proposals to assess and improve the standards of clinical care seem to rely far too heavily on a proposed system of clinical audit. For small, independent businesses this would be massively wasteful in terms of time and money, resources that would be far better spent on providing clinical services. And of itself clinical audit would be a meaningless exercise as there are no set levels of expected clinical outcome for the profession against which the practising vets might compare themselves.

4. *Whether the RCVS and Veterinary Nurses Council should be given the power to require continuing professional development and revalidation*

4a. There is no doubt that both veterinary surgeons and nurses need to keep their clinical knowledge up-to-date. And most do this quite satisfactorily at present through the ready availability of a plethora of journals and CPD courses. But in order to be seen to be dealing with the few individuals that fail in their current professional responsibility, the RCVS proposes compulsion on the whole profession.

4b. To date the RCVS has tried to achieve its wishes in several ways:

- It has declared that continuing professional development “should be considered mandatory”—this despite it having no legal responsibility for post-graduate education.
- It has established the voluntary practice standards scheme. By subscribing to this scheme practices have, in effect, allowed the RCVS more stringent controls over the professional lives of veterinary surgeons employed by participating practices than is allowed under the 1966 Act (eg with regard to CPD requirements).

4c. While it is clearly a nonsense that the profession’s governing body has no means of ensuring that veterinary surgeons “keep up to date” I would suggest that compulsion is a large sledge hammer to crack a very small nut.

4d. As yet I have seen no evidence that the principle of compulsion has been adequately thought through. The current requirements are simple—as vets we are expected to complete a stated number of hours of self-chosen study each year. However, even now there is no accommodation made for part-timers or for those on career breaks—people for which the financial cost is significant having part-time incomes yet full-time CPD requirements. Responsibility for personal CPD currently lies with the individual vet and already responsibility is clouded somewhat for those employed by practices subscribing to the PSS. Other issues that need to be faced include:

- What happens to the principle of professional indemnity insurance if a vet has not performed “sufficient” CPD?
- For practices employing locums—who is to monitor the CPD carried out by such temporary employees?

4e. The current situation serves the profession perfectly adequately—should you be called before the Disciplinary Committee and your level of CPD be found wanting then it can be taken into consideration by the Committee.

4f. Those that shirk their professional responsibility currently will do so in the future—even in the face of compulsion!

5. *Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals*

5a. The performance of lay observers on the RCVS Disciplinary Committee has drawn nothing but praise from those members of the profession who have witnessed their work first-hand. I see no objection whatsoever to the principle of independent appointees similarly sitting on RCVS Council.

5b. I would simply ask the question “who appoints the appointees?”. It is important that any appointees are truly independent and that we avoid the appointment to RCVS Council of interested parties (governmental or otherwise) with their own agenda.

6. *Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings*

6a. I understand that the disciplinary process within the RCVS needs to change to comply with Human Rights legislation. I feel unqualified to comment on the structure required to satisfy the changed circumstances. However, the ability to “make interim orders pending proceedings” smacks of sentence before trial and should be strongly resisted.

7. *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

7a. I would be in general agreement with this. It would certainly be an improvement on the current situation where the Government is considering the delegation of a procedure currently regarded as an act of veterinary surgery (TB testing) to lay persons despite the stated opposition from RCVS Council.

CLOSING COMMENTS

- For all its expressed desire to increase its control over the practising profession the RCVS still demonstrates a considerable reluctance in becoming involved with judging a fellow professional’s “clinical performance”. Consequently the public is bemused as to why it has to pursue cases of incompetence and negligence through the courts while the RCVS will only act on issues of “professional behaviour”.
- The cost to individual practices of running a professional service are rising inexorably—rates, salaries, national insurance, waste disposal regulations, medicine regulations, health and safety regulations . . . the list is seemingly endless. Each new layer of bureaucracy adds to the costs that must inevitably be passed on to the client. If the new proposals from the RCVS add further to the cost of providing veterinary attention then they will damage rather than promote animal welfare.

August 2007

Witness: **Mr Chris Barker, MRCVS**, Ashlea Veterinary Centre Limited, Carlisle, Cumbria, gave evidence.

Q106 Chairman: Thank you very much for coming down from Carlisle today. It is kind of you to spare the time to come out of a busy practice. Thank you very much for your pithy, interesting and indeed entertaining evidence, which I read. I could almost sum it up that you are saying: “Status quo; no need to change anything; Royal College’s proposals far too bureaucratic, far too expensive and we can get on and do it by other means.” Is that a fair summary of where you come from?

Mr Barker: Do things need to change? I am totally convinced that our disciplinary system does not match the human rights requirement and that has got to change. What I cannot comment on is whether that has to be done through primary legislation; that is for the people like yourselves to work out. I have

a major problem with a ruling body that expects a lot of the profession and expects a lot of the profession and makes various demands without what I feel is an adequate understanding of how the hell we are meant to comply. This is a profession under some pressure. There is a lot of depression within the profession. The documented rate of suicide in the profession is double that of the medical profession and four times that of people in the general public. This is a profession that feels a lot of stress. I am not saying that there should not be change, but I want to be sure that the change is warranted, that it is evidence-based and not just a good idea of a committee based in London; that if it is genuinely required, it has been thought through how the profession can comply and put it into action, and

18 February 2008 Mr Chris Barker, MRCVS

also that they have put some thought into what costs are going to be involved for the profession. At the moment I am unconvinced of most of those points.

Q107 Chairman: Given the work that the Royal College has currently undertaken on legislative change, do you feel in any way, shape or form, as a member, that you have been consulted or involved in this process?

Mr Barker: Time and again the Royal College will remind members we are declared members. However, our input to the profession tends to repay our registration fee every year. We certainly get quite a few bits of paper through, and we are asked for consultation on various items. By the time we are asked for consultation you generally find that the policy has already been decided; it has been through Advisory committee and has been to Council; and they have been through various ideas of what they might do, and then they put it out to consultation—“do you like the final result?” I do not really consider that consultation. At the moment there are something like 13,500 practising vets in the country, and to that final consultation paper—I cannot remember—it is well below a hundred that bothered to write in. There is a gulf between the profession and the ruling body. The ruling body seems to go its own way. There are no routes through which individual members of the profession are able to influence policy.

Q108 Chairman: Do you have any feedback? I am not certain whether there is a kind of “opposed change” group within the Royal College that is formulated in any way, where you can meet with fellow professionals to talk about these matters.

Mr Barker: I am not a member of enough groups to comment too much. At the moment there is quite an active group, a web-based group of the Society of Practising Veterinary Surgeons, which tends to involve a lot of people who own practices, and also a lot of assistants, and there is a lot of discussion on that group. The President of the Royal College is actually a member of that group. I have to say he is rather selective of when he pops his head up to answer a question.

Q109 Chairman: Most of that kind of activity is, by definition, self-selecting in terms of—

Mr Barker: I do not deny that at all, but I think this is quite a representative group of practice owners.

Q110 Chairman: In relation to the majority of Council members, we were asking about the composition, as to whether they should all be elected or whether there should be this combination of elected and appointed. What is your view about that?

Mr Barker: Eight-five per cent of the profession is in practice. There is no way 85% of the seats on Council are practitioners. I have been privy to the discussion paper put forward by Defra and they even raised the idea of there being no elected members of the committee, because they are worried that an elected member may carry with him the thoughts of the

profession behind him, and therefore would not be truly independent in setting standards. I find that terrifying. It is difficult enough to nominate people and get them on to the Council of the Royal College as it is. You asked earlier about had they got a breadth of the profession: blatantly, no. Twelve members go to the universities, and there is a new university of Nottingham started in the last 18 months. The Privy Council—they get the people who have the time to dedicate to it, and I am afraid that is not the practitioners out there doing the actual work. You may end up with people who have been in practice but they have retired or they are in a situation where they have contributed to the practice, but not to the most damaging workload, which can be the provision of out-of-hours. Therefore, you are getting a view from practitioners or former practitioners but I am afraid they are one step removed from providing the service that we do nowadays.

Q111 Mr Drew: You raised the issue of out-of-hours practice. Can you give us a feel for other issues where you feel that the Royal College is either not representing the profession or could do much more, maybe with the help of legislative change, to bring up to date some of the problems that arise? I am always raising the issue of what is happening to large animal practices. That is in decline, and it has not been addressed, certainly by Defra, and maybe it is a criticism of the Royal College.

Mr Barker: First of all, let us clarify the situation. The Royal College does not represent the practising vet. It is very clear in everything it does and all the meetings it holds: it will stand there and beat the drum: “We are not here to represent you; we are here to represent the public”; and I understand that situation, but it rather undermines your question because they do not see that they do represent the profession at all. In terms of out-of-hours—and this is an illustration of how we have so little communication with them—we have a situation where we are the only country that provides 24/7 cover. It is not asked of us under the Veterinary Surgeons Act; it has been instituted through the Guide to Professional Conduct. At the moment there is a major crisis, which the Royal College will not admit to. Basically, we cannot serve two masters. We have working time regulations specifying the length of time that people can work, and most especially we have to have a compulsory 11-hour break between working days. This actually is impossible to comply with if your practice is below a certain size, and that size is five. I have a practice where we have five part-timers. We work as an equivalent of a three full-time vet equivalents, but because there are five of us we just about comply—just—but there are nights I get called out where I am expected at work at nine the next morning. I am breaking the law! The Royal College has been closing its eyes and will not enter into proper discussions with the profession about this. It is basically saying that we need to provide 24-hour cover, and I am saying that if you get down to the many practices of only three people—that is the

18 February 2008 Mr Chris Barker, MRCVS

average practice size in Britain—you cannot comply with the law and with the Guide to Professional Conduct. The Royal College is digging in its heels and will not talk to us. Basically, it is relying on us either to break the law or relying on practice owners, who they argue are self-employed and therefore the working time regulations do not apply. They will not talk to us about it; they just keep spouting, “it is possible”. In June last year, in the communication that comes round, we were promised an advice note to show us how we could all comply with ease: it has not been published yet. Apparently, they have taken—

Q112 Chairman: Mr Barker, to bring us back to what we are discussing, which is the potential changes that the Royal College would like to see in the Act, what you have just been talking about is a disagreement, frustration, about the advice given to the profession about what is good practice and its compatibility with a piece of European law. I did not get the impression that the Royal College wanted to put into law the type of framework that is currently causing you a problem. By all means put me right if I have misunderstood that.

Mr Barker: We have a lot within their proposals that is not spelt out. They are talking about validation with no idea of how they would apply it, but—“it is a good idea; trust us, we will do it right”. As a professional I do not see how we can do it. I do not know where the manpower is going to come to apply this. There may be a whole string of subjects which we do not have time to go into here, which their expectations are just not realistic for the profession to deliver.

Q113 David Taylor: You complained a moment or two ago that the Royal College did not represent the veterinary profession. Parallel to this debate in this room, in the Commons there is a major piece of legislation just looking at the regulation of the various professions within the Health Service. The medical profession, the 60 million people in the UK, is split in terms of the BMA, which you can say represents the profession—

Mr Barker: As our BVA would, yes.

Q114 David Taylor: Which deals with the regulation. Is that the line and direction of travel that you would like to see, with at least some body, some organisation, charged with the responsibility of “representing the profession”?

Mr Barker: I think if it was given the ability to communicate with us and charge us about the real problems, then there may be some strength in that idea. The Defra submission talks about regulation. It talks that it should be risk-based and it should be proportionate. I think there is a lot of real importance here. Proportionality: 85% of the profession are working in practice, a total of under 15,000 vets. Add to that, 7,500 nurses. We are a small profession. We may only have 23,000 there, but Defra has been prepared to find parliamentary time to re-jig this. Compare that with 200,000 doctors, 400,000 nurses and midwives: even on the

lawyer side there are over 140,000. To find parliamentary time, one has to ask why Defra—and Defra is suggesting a White Paper—is finding time for what is actually a very small profession. Money—proportionality: it is only those practising vets that have got the money to pay for any new layers of regulation. These three new bodies that are going to be set up—I am sorry, I do not believe that that is going to be less expensive than it is now. These costs are going to be put on to the profession. One final thing is that it is a proportionality of whether we are an equivalent to the medical profession and should we be regulated in the same way? I do not believe we should. The difference between the veterinary profession—I am not going to deride what we do as veterinary surgeons because we have standards as high as anywhere in the medical profession—and general practice—the practice, in terms of being able to things, is probably better equipped than the GP. In terms of what we do—does it require the same level of regulation that Shipman has ended up being brought down on to the medical profession? I doubt that it does. Say I am doing an operation, a basic operation, and, sadly, for whatever reason, an animal under an anaesthetic dies: I am going to regret that. I, as a professional, will re-examine what happened in the theatre and try and work out what happened. I will sympathise and I will share the loss that the owner has of losing that pet: but it does not begin to compare with the tragedy involved if a human dies under an anaesthetic.

Q115 David Taylor: Of course not.

Mr Barker: The responsibility is an order of magnitude different, and yet the Royal College is arguing that on this small profession, this self-financing profession, it should bring down all of the regulations that have been brought forward and which the BMA and everyone else is trying to think, “Does this work for medics?” You have a huge profession being supported by the NHS. To bring the same level of regulation down on the vets, I think, would be financially crippling.

Q116 David Taylor: You are dealing with tens of millions of sentient beings. You said right at the very start of your evidence that the Royal College was blatantly not representative—paraphrasing slightly—

Mr Barker: It is their words, not mine; these are their words. They make it quite clear that they are not there to represent us; they assume that the BVA is the body that should—

Q117 David Taylor: Which important strands of opinion do you believe are not getting a proper hearing in the councils of the Royal College? Which attitudes within the profession are not being given any great weight or—

Mr Barker: I fear that the BVA is very representative of the large animal side of the profession. That may be quite right because that is the only way it gets

18 February 2008 Mr Chris Barker, MRCVS

presented to the Government. Defra, indeed—one has to say, what is the interest of Defra in the small animal side of our profession?

Q118 David Taylor: But you were complaining that the RCVS was not representative of the profession. Which parts of the profession is it not representative of, and what are the effects of that disproportionality?

Mr Barker: My main complaint is that they will create policies which, on the surface are good ideas; but because they do not have sufficient representation from the practising side of the body, they do not recognise the law of unforeseen consequence. I put in my evidence that they tried to consider that veterinary nurses—they are desperate to recognise veterinary nurses, and, yes, veterinary nurses need to be applauded for their knowledge and contribution; but the Council got as far as almost putting a date of 2010 beyond which it would be illegal in veterinary practice for anybody to monitor an anaesthetic other than a qualified veterinary nurse. There are insufficient qualified veterinary nurses in this country to satisfy that need; and it was not until the practice deluged the Advisory Committee with letter after letter that they finally went, “oops”! The intention still lies on the books as an aspiration, and this is the problem. We are faced with something that is completely unmanageable for the profession, and it got that close to becoming the policy of the Royal College of Veterinary Surgeons, even though it was completely impractical. They had no idea how it had been put into operation and they had no idea of the costs or the way it would disrupt emergency work. You would say, “we have a veterinary nurse—oh, she is off sick today, we cannot operate; it is illegal”. These things were not being put through Advisory and put to Council, and there were insufficient practitioners on the Council to say, “Wait a minute, guys, this will not work”. It only got out to the profession through the forum of the website I mentioned, at which point everybody went, “Wow, let us move”! But because of the way the Royal College works—minutes are not circulated early enough; there is no way for practitioners to input—we got that close to having an impossible situation foisted on the profession.

Q119 Chairman: Just before we go, because I am conscious there may be a vote, I want to press you on an area where in your evidence you feel very strongly over this question of a mandatory requirement for continuous professional development. You feel that the existing arrangements can work perfectly satisfactorily. You said that the guide to professional conduct has more than adequately kept up with clinical developments in the veterinary field, and you go on to develop this point later in your evidence. Tell us why you do not think that is a good idea.

Mr Barker: I believe keeping up to date is vital to the profession; there is no doubt about that. I am not sure that making it mandatory will make anybody obey it more than they are at the moment. Any vet worth his salt will be keeping up to date as it is. The

Royal College makes great play that science is bounding forward. In reality, practice is not bounding forward at the same speed. It is not a gradual process. Occasionally, we get leaps forward where new ideas come in and are applied. Therefore, I am not denying that keeping up to date is right but I am not sure that making it mandatory will make people obey it any better.

Q120 Chairman: How do you currently keep yourself up to date in your practice?

Mr Barker: We have journals. We spent five years at university learning from books, and we are still able to do so. I tend to relate it directly to cases I have seen, so if I see something I am not quite up to date with, I will go away and read about it. The British Veterinary Association produces an excellent journal called *In Practice*, which every month will produce articles which are published by the very people who might go on these courses and sit there, bum on seat, to watch them, talk to me, put up slides. The same stuff is presented to me in a brilliant way by something like *In Practice* and I have time to take it in at home when I have time. There are many ways of achieving CPD without having to go on courses.

Q121 Chairman: That means that when you are confronted in the field—you do not have to sit there, do you, with the animal in your photograph, saying, “I have read about this”—

Mr Barker: It has been known! The first case of over-active thyroid in a cat I ever diagnosed, I diagnosed three days after reading an article in one of our professional journals. The method works.

Q122 Chairman: Do you think it would add a great deal to practice costs if the Royal College’s suggestion in this respect was introduced?

Mr Barker: No, as long as they will admit to us being able to learn still off our own bat, sitting down and reading books. The thing that I think would be very expensive is the revalidation process that they propose, and I have not seen any proposals from them about how they know they would do it. Take a for-instance. We are a profession of less than 15,000 people. If we are as incompetent as the Royal College seems to be suggesting, we will probably have to revalidate every five years: 3,000 vets a year, 60 vets a week! If you went to one of the universities and said, “Can you revalidate 60 vets a week?” they would go, “no, no way—that is like running our final-year exams every week throughout the year”. If we cannot do it by that way, how else are we going to do it? Are we going to do a paper exercise? Maybe we will sit down and look at multiple choice, or maybe I will do a protracted essay, something I would have to research. How does that confirm my competence over the breadth of my experience and the work that I do? If it ends up as a paper exercise, it is wallpaper; it does not convince anybody that you have truly revalidated the profession! I do not think they have thought through the consequence of how we would provide it and what the costs would be. “It is there as an aspiration: trust us, we will get it right.” I do not trust them. They are not practically

18 February 2008 Mr Chris Barker, MRCVS

based. I do not think they understand the way that we would have to do such things. When you are working in the north of Scotland, if you want to go on a CPD course not only have you got to find time out of practice, but you have got to do the travelling; you have to employ a locum to come and fill in for you for maybe three days, to get down, go to the course and then return. Has that been thought through by the Royal College? Not at all.

Q123 Paddy Tipping: You told us earlier on, Mr Barker, that you agreed there was a need for the College to change the way it handled its disciplinary procedures. Can you explain how that should be?

Mr Barker: I do not know how it should be. In essence they are saying: “At the moment we have forty councillors from which we have the Council; you draw Preliminary Investigation and you draw Disciplinary: they all come from the same pool.” So they make the rules, they apply the rules and then judge it. That, apparently, is not compatible. The problem I have—and this is something they have not spoken about—is that the Preliminary Investigation and Disciplinary have the heaviest workloads of the committees within the Royal College. My suspicion is that the people seconded on to these do it as a duty and are quite grateful when they are out of there and can then spend another two years of their four-year term influencing policy in other parts. If you are going to remove those people from the central council that is making policy, where is the glory? I do not know who they are going to get to volunteer to fill these positions, and if they are not going to volunteer, they are going to have to be paid, which,

again, adds to the cost. As a profession, we are now becoming a niche supplier to those sorts of people who can afford us. My head nurse went on a CPD meeting only last week and came back with the take-home message: “The heart of our business is women who have children.” Apart from pensioners, I do not know of any other part of Joe Public that is more hit by the cost of food, the cost of energy, the council tax going up. If all this regulation adds to the cost of me providing veterinary surgery, my prices will go up and fewer people will come through the door. We already mirror the retail trade. Last September retail sales in the shops went down: our turnover went down. The year before, retail was high in January and low in February and March, and we were the same. Whatever the Welfare of Animals Act says, people have to be careful with their money. They will find money for emergencies. I would not like to be a farmer having to call out a vet—but they will find money if the animal is ill; but for the routines, like vaccination, worming and flea control, routine neuterings—even things like dental work, they will postpone. If we add to the cost of providing veterinary attention, we damage animal welfare, and all this regulation will add to costs.

Chairman: Mr Barker, despite the fact that our Division Bell has been going, your words have been recorded. I am sorry we have got to go in a rush, and I know you have a journey north. Thank you very much for coming and spending your time. Your evidence will be taken obviously as part of your contribution to our inquiry. Thank you very much for joining us today. I am sorry we have had to cut things a little bit short.

Supplementary memorandum submitted by the Ashlea Veterinary Centre Ltd (Vet 04a)

Many thanks for your invitation to address the Committee; I hope I was able to offer some useful insight into what might be loosely termed the practical wing of our profession. And I apologise if while on my soapbox my replies strayed too far from the questions actually being posed!

Discussion was necessarily cut short by the division bell and you did suggest that if I had any other relevant comments I should pass them to you. So forgive me . . . I have! Together with some points of clarification on matters raised during the RCVS session and on documents made available to me by the Committee.

A. SUBJECTS RAISED DURING QUESTIONING OF THE RCVS

1. *David Taylor MP raised what he perceives to be the undue influence of the Pet food industry on the veterinary profession*

- My veterinary training has given me sufficient understanding of the complexities of animal nutrition for me to recognise that even with my knowledge I would struggle to create a satisfactory home-cooked diet which would adequately supply the nutritional needs of my pets.
- Natural diets, in effect, supply an excess of nutrients from which the body selects the necessary and excretes the surplus. Scientific formulation of diets seeks to minimise such waste while avoiding the inclusion of unnecessary or even harmful ingredients.
- Since I qualified in 1980 the average life expectancy of the domestic cat has risen from 11–12 years to somewhere in their late teens. While I would like to claim that the improvement stems from the particular achievements of veterinary surgeons, in reality the reason is far more prosaic—the standard of lifelong nutrition which has improved markedly allowing pets to live to their true potential.

- In answering further questions Sheila Crispin revealed a limited grasp of how veterinary practices have to function—both as a healthcare provider and as a viable business. Within practice we sell our knowledge, we sell our veterinary skills and we sell product. Unavoidably, even the provision of the “best” wormer, the “best” flea product, or the most suitable antibiotic involves not only a professional choice but also a business choice. It is no different when we come to assess commercial diets or when we consider whether a “natural” diet would be more suitable for a particular animal. We apply our professional training and make a professional decision.

2. *During her evidence Sheila Crispin suggested that concerns had been raised within the RCVS because a proportion of “corporate” practices had “connections with the pet food industry or other commercial organisations”*

- I struggled at the time to understand this assertion and, after due reflection, I still do!
- I can only think that Sheila is referring to “Companion Care”, a corporate that developed originally as a franchise system based in retail-park based pet food stores. Companion Care is now a wholly owned subsidiary of Pets at Home, a pet food retailer with 200 stores across the UK. The Company runs 39 clinics countrywide, 35 within Pets at Home stores, with veterinary surgeons installed in each branch on a “joint venture partner” basis.
- Of the 39 Companion Care clinics no less than 28 are already registered as members of the RCVS’s Practice Standards Scheme . . . Given that membership of the PSS has been held out by the RCVS as evidence of all that is great and good about the practising veterinary profession, I find it very strange that Sheila should choose this corporate as an illustration of the concerns which have driven the RCVS to seek powers to regulate all veterinary practices.
- I also feel that Sheila overstated the case when she claimed that one “awful” practice could bring down the reputation of the whole profession.

3. *Discipline*

- The subject of professional discipline is central to the RCVS case, and also features strongly in DEFRA’s submission to the Committee.
- There is little doubt that whatever the stated nature of most complaints made to the RCVS, the majority of complaints centre on poor clinical outcome and the costs associated with clinical work.
- I believe there is a valid case to be made for widening the remit of the RCVS to cover areas of clinical competence. At present the RCVS can only investigate ‘professional misconduct’ and unless alleged incompetence is sufficient to warrant a charge of professional misconduct owners must seek recompense through the Courts.
- However for the RCVS to become involved in assessing clinical competence would represent a complete sea-change in professional regulation. I have little doubt that the costs of professional indemnity insurance for veterinary surgeons would rise significantly, with knock-on effects for the cost of veterinary services.
- The Chair asked for some statistical detail on the incidence level of complaints.

Our practice is purely small animal, three full time veterinary equivalence with some 2800 “active” clients. In the last year we performed 2,194 first consultations, 2,650 vaccinations, 232 routine neutering procedures and 397 other surgical procedures. Allowing a 5% error for other initial investigations not recorded under these headings I estimate some 5,750 client-vet interactions, any of which could have resulted in either a satisfied client or a complaint!

We can, cautiously, scale these number using RCVS figures from its 2007 Annual report:

There are 15,671 registered “home practicing vets”

General practice 13,380 in (85.4%), Universities 791 in (5%), Government 856 (5.5%) etc

There are 3,932 practices currently known to the RCVS

Small animal 2103 (53.4%) Mixed 1635 (41.6) Equine 134 (3.4%) Large animal 64 (1.5%)

Average practice size = 3.4 FTVE

As we are slightly smaller than the average practice size, our figures need to be inflated by a factor of $3.4/3 = 1.13$.

So if our work rate is typical of small animal practice SA then the total number of client-vet interactions in small animal work in the UK per annum = $1.13 \times 5750 \times 2103 = 13,301,475$

We might assume that mixed practice interactions are at a lower level (allowing for non-consulting time (travelling) during the working day)—for calculation I will assume 30% lower.

Client- vet interactions in mixed practice in the UK per annum = $1.13 \times 5750 \times 0.7 \times 1635 = 7,436,389$

Without including equine and LA practices Total interactions per annum = c. 20 million.

Complaints to RCVS per year = 700

- In summary I don't think we do badly as a profession!
These figures represent no more than 1 complaint per year for every 5.5 practices.
Or to put it another way a complaint incidence of 0.0035% per consultation/operation.

4. *The Corporate "threat"*

- The distrust that the RCVS shows towards corporate business structures is long-standing. When I first entered the profession I witnessed the RCVS's dogged resistance to the entirely legal conversion of veterinary partnerships into limited companies. Eventually the RCVS recognised that it could not legally obstruct the converting veterinary partnerships, veterinary practices owned by limited companies emerged, and the sky did not fall in . . . But the distrust continues.
- There is little doubt that current developments within the profession will continue to favour the gradual amalgamation of practices. Fewer assistants are prepared to make the commitment (both financial and personal) required to become principals. Feminisation of the profession may accelerate this process.
- Whether these merged practices form part of a growing corporate business structure, or simply function as multi-centre practices run on traditional lines remains to be seen.
- There is nothing empirically stronger about the corporate practice business model. Corporate "chains" have not grown at anything like the speed predicted in their original prospectuses and the first corporate failure occurred in 2007 when the VPI (Veterinary Practices Initiatives) ceased trading.
- The largest corporate, CVS, now runs 49 group practices—a total of 134 individual sites. CVS tends to buy small animal practices, preferring to buy practices situated in rented buildings and ones close to dedicated out-of-hours clinics, so that it can offer proper work-life balance to its employees. It tends to ask the previous owners to stay in post as employees for 6-24 months after purchase. And it doesn't rock the boat—if the practice offers an idiosyncratic service which benefits the profitability of the practice in the particular locality (eg. healthcare schemes etc) it leaves them undisturbed.
- None of this is typical of the type of predatory corporate that the RCVS seems to fear. CVS has now bought its own specialist laboratory, its own specialist histopathology service, and is, I given to understand, negotiating to purchase its own veterinary referral centre. All sensible business moves, none of which compromise animal welfare, in fact probably quite the opposite.
- And as mentioned previously in relation to Companion Care, CVS supports the PSS—of its clinics 19 are already registered under the voluntary scheme with five of them being Tier3/Hospital status.
- I genuinely see little threat to animal welfare from the growth of corporate ownership. The point I made in my original submission remains—at the point of delivery there is a professional relationship between a client and an attending veterinary surgeon over which the RCVS has full jurisdiction without any recourse to the extra powers it seeks with which to regulate the management of veterinary practices, be it by veterinary surgeons or by non-veterinary owners.

5. *Compulsory Practice Standards*

- As I said as the Division bell sounded, I fear that the profession is already on its way to becoming a niche provider to those members of the public that can afford our fees, fees which necessarily rise as the result of inflation, new hazardous waste disposal regulations, extensions to employment law, etc, etc. Increasing our costs further through additional regulation, such as compulsory practice standards, can only increase the number of people who find us non-affordable and thereby directly compromise animal welfare.
- Compulsory practice standards would undoubtedly see the end of small charity-supported clinics, such as the one run in Carlisle by the local branch of the RSPCA. Such clinics employ veterinary surgeons on an occasional basis in order to offer a basic level of veterinary attention to owners of limited financial means; to upgrade such facilities would be unaffordable to local branches (which have to raise all their income locally), with inevitable knock-on consequences for animal welfare.

6. *Veterinary Nurse registration*

- However laudable it may be to recognise Veterinary Nursing as a separate profession, with attendant registration, defined areas of responsibility and formal disciplinary machinery, this is not without cost and consequence and I do not believe that this has been adequately thought through by the RCVS.

- At present the law recognises the ultimate responsibility of the veterinary surgeon for all that happens to an animal during the course of any veterinary treatment. To return to the illustration I used during the evidence session, if an animal dies while under anaesthetic responsibility is clear—as the controlling veterinary surgeon I would bear ultimately responsibility. Any monitoring of the anaesthetised animal by an assisting veterinary nurse is just that, assistance. I carry the necessary indemnity insurance to protect me and the practice in case of any error of judgement, and should any allegations of negligence be made the chain of responsibility is clear for the owner to be able to draft any legal proceedings.
- In the “new world” the veterinary nurse will carry his/her own responsibility plus the additional cost of his/her own indemnity insurance. Now if an animal dies under an anaesthetic responsibility is unclear, or is shared. At a stroke the RCVS has changed the team ethos.
- It is no longer—“What went wrong . . . and what can we do about it?” It becomes “Who did what . . . and who did what incorrectly?”. Out goes team spirit; in comes a blame culture.
- I do not argue that this is insurmountable, but simply that it illustrates that once again the RCVS is functioning at a simplistic “good idea” level with inadequate regard for the consequences and costs of their proposals.

B. COMMENTS ON THE DEFRA SUBMISSION VET 18

- I greatly appreciated the opportunity to read the submission from DEFRA before travelling to London to appear before the Committee. It did, of course, mean that I had to sit and squirm in embarrassment for the profession as our governing Council revealed just how poorly informed it has been with regard to DEFRA’s true intentions towards a new VSA.
- As I mentioned in my oral evidence I think there is an unspoken agenda at work which has led DEFRA to lend its support to the re-opening of the VSA. While the DEFRA document seeks to argue its case from first principles a clear undercurrent flows throughout.
- DEFRA sees the re-opening of the Act as “an opportunity to clarify roles”. It believes that “the definition of veterinary surgery contained in the Act needs to be looked at again”. And it is quite ready to emasculate the RCVS—“the current restrictions on what procedures are exclusively the preserve of RCVS registered veterinarians and the current policy and legal mechanisms for enabling some of these activities to be done by others is, in our view, are inadequate and not sustainable”.
- It foresees a regulatory framework similar to that recently established in New South Wales (the Oz version, not the Cardiff one . . .) where acts of veterinary science are either “restricted” (vet only) or “non-restricted” (. . . open to defined “others”). Regulation would be “risk-based and proportionate”. A veterinary procedure would only be “restricted/reserved” if in being performed it threatened the wellbeing or welfare of the animal; lesser interventions would require less regulation. And DEFRA envisages that the assessment of which procedures should be restricted or reserved “could be done by an Advisory Committee appointed by the Minister”.
- At a stroke this would remove the log-jam created by the RCVS’s current refusal to countenance the downgrading of the performance and interpretation of the Bovine TB skin test from its current status as “an act of veterinary surgery”.
- To DEFRA this could represent a significant financial saving as it would allow properly trained technicians to take over responsibility for both major cattle health monitoring schemes (Brucellosis—blood testing; Tuberculosis—skin testing). And the change could be hidden behind claims that a renewed Act introduced a lighter touch to regulation, allowing additional competition into the provision of veterinary surgeons, etc. All pet Government policies.
- However, as in all situations, the law of unforeseen consequences will intrude . . .
- I spoke over the weekend with a former colleague who is now principal of a 21-vet practice south of Glasgow, in an area that has seen two mixed practices withdraw from the provision of large animal services within the last 18 months. He tells me that his practice has already “dropped” one vet following DEFRA’s decision to increase the interval between herd Brucellosis blood tests. If TB testing were to be taken away from veterinary surgeons this would cause his practice to shed another veterinary post. But for another practice he knows in Gloucestershire the change would be far more significant, removing c.£200K of turnover. This turnover is not replaceable—with it would go 2–3 vet and 1–2 vet nurse posts.
- And so the policy change would see a shrinkage in the pool of available experienced LA practitioners at a time when the need for veterinary surveillance on farms is growing—be it for dealing with self-inflicted injuries such as the release of Foot and Mouth virus from Pirbright or climate-associated diseases such as Bluetongue which threaten to become endemic in the UK.

- And that is before one considers similar consequences to the Profession's ability to maintain the sacred cow of 24/7 emergency provision which I highlighted to the Committee on 18 February.

At this point I must stop for fear of overwhelming you with detail. I hope these insights will be of use to you and your Committee. And again, thank you for the opportunity to contribute to the debate.

C T Barker BVSc Mlitt CertVR MRCVS
Ashlea Veterinary Centre Ltd

February 2008

Monday 3 March 2008

Members present:

Mr Michael Jack, in the Chair

Mr Geoffrey Cox
Mr David Drew
Mr James Gray
Miss Anne McIntosh

Dr Gavin Strang
David Taylor
Paddy Tipping
Mr Roger Williams

Memorandum submitted by the Association of McTimoney-Corley Spinal Therapists (Vet 12)

1. I am writing with reference to your email dated 10 July 2007 concerning the above, and would like to thank you for consulting our organisation and inviting us to provide evidence on the proposed changes to the 1966 Act.

2. The Association of McTimoney-Corley Spinal Therapists (AMCST) was established in July 2002, and supports 150+ members who practise the McTimoney-Corley Spinal Therapy technique on animals and humans. Our organisation supports graduates from the Oxford College of Equine Physical Therapy (OCEPT), who have sent a separate response to this inquiry, and the former Oxford College of Chiropractic (OCC). The British Association for Applied Chiropractic (BAAC), formed in 1988, was the original representative body of graduates from the OCC. Our member animal diploma graduates have for many years provided a competent and responsible manipulative therapy service working alongside veterinary surgeons. We would like to point out, however, that we are a completely separate organisation and have no links to the McTimoney Chiropractic Association.

3. We agree that many changes have taken place in the veterinary profession since 1966 and generally welcome the proposal to modernise the Act, but at the same time want to make sure the livelihood of our members is not compromised as a result of any amendments made.

4. We have responded to the proposed changes to the Act identified in your email in order as follows:

Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions?

5. Since 1966, many new types of complementary therapy and other veterinary services have become available to owners and their animals, but the current law stipulates that, subject to a number of exceptions eg, Farriers, only registered members of the Royal College of Veterinary Surgeons (RCVS) can provide veterinary treatment. *The Veterinary Surgery Exemptions Order* of 1962 refers to these exceptions, including certain complementary therapies, which can only be applied to an animal under direct veterinary referral.

6. Whilst the welfare of the animal is of course of paramount importance, many providers of alternative veterinary services are members of their own professional organisations; undergo appropriate training to ensure they are competent in their particular field of expertise; follow a code of conduct and have knowledge of contra-indications and referral procedures should veterinary help need to be sought. They are also covered by indemnity insurance, should something go wrong. In these circumstances, where the veterinary service provider works in a professional capacity alongside veterinary surgeons, it would seem sensible to make certain changes to the 1966 Act to allow alternative providers of veterinary care that are recognised by the veterinary profession, to treat an animal where appropriate, as long as they are competent to do so, without direct veterinary referral.

Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons?

7. We are in agreement that there ought to be regulation of other providers of veterinary care as this protects the welfare of the animals concerned, as well as the public from lay practitioners who have very little if any training and could potentially cause more harm than good. However, we would like to see this achieved in a fair and equitable manner, where the regulatory council is represented fairly by all parties involved eg, if the council had a larger representation of veterinary surgeons, they could be biased in making decisions in their favour in order to eradicate or control competition from others in the veterinary care market place.

Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

8. As there are many different organisations providing alternative forms of veterinary care, we believe it would be very difficult to provide a mandatory practice standards scheme that would cover all forms of manipulative therapy. We believe it would inevitably lead to the many forms of manipulative therapy techniques losing their individuality and also restricting the future development of valuable manipulative techniques. This could also lead to less choice of manipulative therapies being available to the general public and loss of personal choice. Whilst vets can advise a form of alternative therapy for their animal, owners still have control over the service they are willing to pay for and will choose what they believe to be the best form a treatment for their animal. This choice is often wrongly or rightly based on personal experience as well as how their animal reacts to the form of treatment provided.

9. As our organisation fully understands the McTimoney-Corley manipulative therapy technique, we believe we are best placed to provide our own professional code of ethics, although we are willing to consider any suggestions from the RCVS that relate specifically to animal welfare and to the veterinary referral process etc.

Whether the RCVS and VNC should be given the power to require continuing professional development and validation?

10. We already request that our members attend continuing professional development (CPD) courses but, as an organisation, we have to be mindful as to what type of development training is appropriate. Our members are fully insured to perform the McTimoney-Corley Manipulative Therapy technique, which is a gentle form of manipulation. It would therefore, not be appropriate for our members to attend courses teaching techniques that would deem their insurance cover invalid. Whilst many CPD courses specified by the RCVS/VNC may be valid and useful, other courses specified by our organisation may be more appropriate and better aid the future development of our manipulative therapists. For this reason, our organisation believes it important that the RCVS/VNC is not given complete power over CPD requirements.

11. The Oxford College of Equine Physical Therapy (OCEPT) has provided training to our animal therapists for many years, and we believe the veterinary profession has generally been confident of our members' abilities to provide alternative therapy in a safe and competent manner. Training is provided by professional tutors who are very experienced and established practitioners in their own right. We believe handing complete powers of validation over to the veterinary profession would not be appropriate as it could result in them having control over what training is appropriate in their view, when they are not properly qualified to decide what this should be from a manipulative therapy standpoint. However, as our members work alongside the veterinary profession we would welcome their input and any suggestions for improvement which we will more than happily pass on to OCEPT.

Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals?

12. We believe this would be a very good idea, as it would potentially introduce unbiased and broader views across the veterinary profession. In relation to matters regarding manipulative therapy or other alternative veterinary care services, appropriate representatives on the governing body would ensure that the views of all organisations providing veterinary care could be made known. As veterinary surgeons are not manipulative therapy experts they would not in our opinion be best placed to offer a fair and educated opinion on any related matters that reach the discussion table of the governing body.

Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings?

13. Our organisation has its own disciplinary procedure should any of its member's professional activities be brought into question. Should we receive any customer complaints these are investigated and the practitioner dealt with in the appropriate manner. Whilst there may need to be an open communication channel between the RCVS/VNC and our organisation to report complaints etc, as we have a full understanding of the manipulative therapy provided, we consider we are best able to discipline our members if deemed appropriate.

Whether the RCVS ought to have power to delegate specified procedures to people holding qualifications recognised by the RCVS Council?

14. Currently, in order to perform manipulative therapy our members need permission from the appropriate veterinary surgeon. As veterinary surgeons are busy individuals and not always easy to contact, delegation of certain aspects of veterinary care would definitely make sense. This could be achieved if organisations such as ours, whose members undergo training in order to reach an acceptable standard of competency, became listed as a recognised veterinary care organisation for veterinary delegation of manipulative therapy.

COST CONSIDERATIONS

15. Whilst we would like to offer our full support for the regulation of other veterinary service providers, there are also other considerations relating to extra costs, which may affect our members. Setting up a regulatory body, will obviously cost money and who will fund this? Assuming the veterinary profession will wish to impose certain standard conditions in order for any organisation, such as ours, to become listed as a recognised veterinary care provider, this may well increase our administration costs, which in-turn will be passed onto our members. Whilst we realise that this is inevitable in the interests of continued professionalism, we would hope that careful thought is given to keep any imposed conditions/costs to a minimum, especially as some of our members prefer to work on a part-time basis.

16. Assuming our organisation would have representation on any regulatory council, who will incur the cost of attending meetings? Who will hold lists of individual practitioners that are deemed competent—if not our organisation then would the RCVS incur extra costs in setting up more database records?

17. In conclusion, we would like to thank EFRA once again for inviting us to comment on the proposed changes to the Veterinary Surgeons Act of 1966, and would like to offer our full support. We hope that the points we have made are useful and will help to ensure that any necessary changes can be achieved in a fair and equitable manner. We also hope that any changes to the Act will improve the provision of alternative veterinary services available, whilst ensuring continued freedom of choice in the market place, and preserving the rights of any current alternative veterinary care professional to continue working alongside veterinary surgeons.

18. If you wish to discuss any of the points above or require further information please do not hesitate to contact us.

September 2007

Memorandum submitted by the British Association of Equine Dental Technicians (BAEDT) (Vet 42)

1. BAEDT does consider that the provisions of the 1966 Act are out of step with developments in the Veterinary Surgery and related professions. Therefore new legislation, preferably a new VSA is required.

2. BAEDT strongly believes that there should be regulation of providers of veterinary care other than Veterinary Surgeons. This regulation must be fully part of any new legislation in order to protect the welfare of equines, to protect horse owners and to safeguard the professionalism of the service providers. (In this instance qualified Equine Dental Technicians.)

3. BAEDT feels that the delivery of veterinary services should be regulated through a mandatory practice standards scheme with a professional code of ethics. This has been BAEDT practice since its inception over six years ago.

4. The BAEDT practises mandatory CPD and supports the proposal for the RCVs and Veterinary Nurse's Council (VCN) to do likewise.

5. BAEDT strongly believes that the governing body of the RCVs and VNC should include appointed independent lay persons as well as veterinary professionals.

6. BAEDT believes it is of paramount importance that the RCVs and VNC have a separate conduct committee with the powers to investigate complaints and give warnings. It is also of equal importance that such a committee involved in disciplinary matters be totally independent and separate from the RCVs Council and contain independent expertise in the appropriate field, ie in our case Equine Dentistry.

7. BAEDT supports the power to delegate specified procedures to people holding qualifications recognised by the RCVs Council. All members of the BAEDT having passed the British equine Veterinary Association (BEVA) and British veterinary Dental Association (BVDA) Equine Dentistry examinations are already carrying out dental procedures delegated by RCVs members on a daily basis.

SUMMARY

The BAEDT feels strongly that the replacement of the VSA should reflect the changing fields of veterinary services and paraprofessionals in today's climate.

All members of the BAEDT, (Britain's largest Association of Equine Dental Technicians working closely with and Supported by BEVA Britain's largest Veterinary Association) have voluntarily undertaken to operate under a strict code of ethics/practice standards. With compulsory CPD in order to maintain high welfare standards, accountability for the protection of the horse owning public and the improvement of Equine Dentistry standards overall, all members of the BAEDT will welcome any change to the present VSA, not only to maintain these standards already in practice but to allow them to develop to match the changing field of Equine Dentistry in the future.

September 2007

Memorandum submitted by the Oxford College of Equine Physical Therapy (VET 29)

1. Thank you for the opportunity to present evidence to this inquiry.

2. *Oxford College of Equine Physical Therapy (OCEPT)* has for the past five years been offering an educational programme in the manipulative treatment of animals, primarily horses. The course is managed and run by both registered and retired chiropractors, with substantial input from a veterinarian and other suitably qualified ancillary staff. The course actually has its origins in post-graduate chiropractic education, having evolved from the course in animal chiropractic, which was run by Oxford College of Chiropractic for approximately 10 years prior to the formation of OCEPT.

3. The primary method of animal manipulation taught is the McTimoney-Corley technique, but please note that this College is in no way associated with the McTimoney College of Chiropractic in Abingdon.

4. The course is currently twelve months in duration, functioning on a part-time, mixed-mode educational basis, and is presented throughout with due reference to the Veterinary Surgeons Act, which at this time dictates that the treatment of animals can only be administered with veterinary approval.

5. Tutorials are held at The Witney Stud Farm, now a part of Abingdon and Witney College, which has specialist facilities for equestrian training courses. Students also make visits to the Bristol Veterinary College Equine Unit, and the Hartpury Equine College Therapy Unit.

6. Applicants to the course are required to possess a significant background of appropriate prior academic achievement, preferably to degree level, with a clear motivation to pursue the course. People below the age of twenty-five must have a first degree on entry, but in common with most educational institutions consideration is also given to motivated, mature people with a demonstrable record of achievement in non-academic areas, where a high level of determination and will to succeed can be evidenced. However, prior equine experience and a general competence in handling horses is a necessary prerequisite for all applicants.

7. Graduates of the OCEPT programme are awarded a Diploma from the College that bestows the title “Animal Manipulator”, and thus become eligible to join the Association of McTimoney-Corley Spinal Therapists (AMCST—who have also made a separate submission to this inquiry).

8. With regard to your specific terms of reference, we would like to submit the following:

Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?

9. The professional *expertise* of any person providing any kind of veterinary care needs to be assured in the following four principal areas:

- competence in the administration of that particular mode of treatment/therapy;
- knowledge of any contraindications and possible adverse side-effects of that particular mode of treatment/therapy;
- competence in assessing when that particular mode of treatment/therapy both is and is not indicated; and
- knowledge of referral procedures where further opinion or other veterinary input is required.

10. The ethical *conduct* of any person providing any kind of veterinary care needs to be assured in the following principal areas:

- that they confine their activities to those disciplines in which they do have professional expertise;
- that the welfare of the animal is their primary concern;
- that they are honest and open in all dealings with the owners or guardians of the animals that they see;
- that they do not make any definite claims to the efficacy of the treatment/therapy that they offer that cannot be substantiated; and
- that they do not make any claims of superiority of their particular form of treatment/therapy over other viable alternatives where that superiority cannot be substantiated.

11. With strict adherence to all of the above points relating to both expertise and conduct, it would appear to be appropriate for any such veterinary service to be administered without requiring the (mandatory) approval of a veterinary surgeon, and as such the Veterinary Surgeons Act 1966 may require some changes.

12. The course of education provided by OCEPT is designed to produce animal manipulative therapists who do meet all of the above points relating to both expertise and conduct.

13. Many past OCEPT graduates have established good working relationships with veterinary surgeons, who are evidently confident in the form of manipulative therapy that they provide.

Should there be regulation of providers of veterinary care other than veterinary surgeons?

14. For the protection of members of the public, and for their animals, we would say that the introduction of regulation for veterinary practitioners of all persuasions appears to be a sensible one.

15. In reality its introduction will most likely be fraught with problems, as those with aspirations of “elite” status may well view such a process as a vehicle to impose unnecessary educational standards, thus eliminating other entirely competent practitioners from the equation, whilst those devoid of ambition will seek to evade the imposition of anything to which they may become accountable. Neither of these extremes will ultimately benefit the people or the animals that such regulation will be meant to protect.

16. Any significant changes to the current situation, and certainly the introduction of anything mandatory, must only be implemented with the provision of a substantial period of transition, and the facility to “grandfather-in” those people who are already established in practice.

17. Any initial or ongoing costs to the individual practitioner of introducing and maintaining a mandatory form of regulation must be minimised as far as possible.

Should the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

18. The introduction of regulation together with an associated mandatory practice standards scheme/code of ethics for providers of veterinary care other than veterinary surgeons appears to be sound in principle. However, care must be taken to ensure that.

19. Any stipulated minimum educational standards are appropriate for that particular mode of treatment/therapy, and that those standards are dictated by practical reality rather than by the academic and/or professional ambitions of a minority.

20. Where there is significant clinical disparity between the application of that particular mode of treatment/therapy to humans as opposed to animals then the setting of minimum educational standards for the treatment of animals must not be unduly influenced by those established for the treatment of humans.

21. The content of any Code of Practice/Conduct, or similar, for a particular mode of treatment/therapy must again be based on practical reality rather than on the desires of an academic/professional minority.

22. If a single Code of Practice/Conduct, or similar, were to be implemented to cover all forms of veterinary care, it must be suitably “broad-brush” to cover the great diversity of veterinary care available.

23. Given the great diversity mentioned above, thought should be given to whether the existing professional associations/organisations might continue to be best placed to police the activities of practitioners in the field, and to what part they might continue to play post-regulation.

Should the RCVS and the Veterinary Nurses Council (VNC) be given the power to require continuing professional development and revalidation?

24. Mandatory continuing professional development (CPD) is common in many other professions, and the imposition of a reasonable requirement here for those providing veterinary services should not be perceived as unduly onerous by those with a genuine interest in what they do. However, again, given the diversity within the veterinary services field, considerable latitude must be allowed in the content of such CPD, and the minimum annual stipulated CPD hours must also be dictated by practical reality rather than by the academic and/or professional ambitions of a minority.

25. The current (2007) OCEPT student’s “Terms of Agreement” already stipulates that: “*The Student, when qualified, shall make a commitment to a process of continuing education to keep abreast of developments in animal manipulative therapy, to further his/her own professional development, and to comply with any requirements resulting from any future changes to the Veterinary Surgeons Act or other legalities governing the treatment of animals*”.

26. Revalidation is potentially a far more significant issue than CPD and serious thought must be given to the mechanism for its implementation, and to ensure that it does not develop into yet another tool for any “elitist” faction to cynically exploit to eradicate competition.

Should the governing body of the RCVS and the VNC include appointed lay persons as well as veterinary professionals?

27. The governing body responsible for any aspect of any regulated veterinary activity should comprise a balanced mix of professional expertise and those who can provide a strong, objective and politically neutral perspective in the conduct of any of its affairs. In theory, an appointed lay person should be able to provide this input. In reality, great care must be taken over their selection to ensure that they do in fact possess these essential qualities.

Should the RCVS and VNC have a separate conduct committee with the powers to investigate complaints, give warnings and make interim orders pending proceedings?

28. The need for any such committee will be driven by the detail in the terms under which statutory regulation is introduced, and the content of its associated Code of Practice/Conduct, or similar, against which any practitioner's performance would be judged.

29. If regulation of all veterinary services does happen, and it can be shown that the provision of such a committee will have the potential to speed-up processes, and/or reduce the associated costs, then this must be considered.

30. Thought should also be given to the contribution that the existing professional associations/organisations might be able to offer here, perhaps in an initial case "screening" capacity or in the execution of other associated duties.

31. Again, given the great diversity of veterinary care available, such a "core" committee may be appropriate, but with the provision to co-opt external personnel, perhaps from the existing professional associations/organisations, where the core committee lacks the specific knowledge or expertise needed to properly assess a particular case.

Should the RCVS have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council?

32. Referring back to paragraphs 9–11 of this submission, where the particular expertise and conduct of practitioners can be assured there appears to be no reason why any such procedure should not be considered for delegation.

EXECUTIVE SUMMARY

33. *Oxford College of Equine Physical Therapy* has a long and well-established history of successfully training suitable students in the field of animal manipulative therapy. Graduates gain access to membership of the Association of McTimoney-Corley Spinal Therapists, who have also made a separate submission to this inquiry.

34. From the perspective of an institution that currently falls outside of the existing regulatory framework, we would say that the introduction of regulation for veterinary practitioners of all persuasions appears to be a sensible one. However:

35. The introduction of any mandatory changes to the current situation must only be implemented with the provision of a substantial period of transition, and the facility to "grandfather-in" those people who are already established in practice.

36. It must be ensured that any mandatory changes are realistic, manageable, cost-effective, and are not adversely influenced by the wishes of a professional/academic minority at the ultimate expense of the animals and members of the public, whose interests such changes will be required to protect.

37. The setting of any minimum educational standards, and the formulation of any Codes of Practice/Conduct, or similar, must be based on practical reality rather than on the desires of an academic/professional minority. The setting of minimum educational standards for the treatment of animals must also not be unduly influenced by those established for the treatment of humans.

38. An ongoing role for the existing professional associations/organisations should be considered, and the professional composition of any particular conduct committee must be tailored to the particular case being considered.

39. If changes are implemented, then this College will seek to participate in any developmental discussions in good faith, and from a position of common-sense and sensible compromise. We have confidence in the form of manipulative therapy that we teach, and in the competence of the practitioners that we produce. However, we will also acknowledge the limitations of our methods (as should everybody) and our willingness to consider sensible changes in the education that we provide.

September 2007

Witnesses: Ms Emma Roberts, Public Relations Representative, Association of McTimoney-Corley Spinal Therapists; *Mr Ivan Stockdale*, Chairman, and *Ms Gill Spinney*, Secretary and Council Member, British Association of Equine Dental Technicians; *Mr Stuart Hudson*, Director, Oxford College of Equine Physical Therapy Ltd, gave evidence.

Q124 Chairman: Good afternoon, ladies and gentlemen. Can I welcome you to the second and final evidence session on the Committee's inquiry into the need for change of the Veterinary Surgeons Act 1966? Can I formally welcome from the Association of McTimoney-Corley Spinal Therapists Emma Roberts, who is their public relations representative; from the British Association of Equine Dental Technicians Ivan Stockdale, who is their chairman, and Gill Spinney,

3 March 2008 Ms Emma Roberts, Mr Ivan Stockdale, Ms Gill Spinney and Mr Stuart Hudson

the secretary and council member; and from the Oxford College of Equine Physical Therapy Stuart Hudson, their director. Thank you for your written evidence and advice to the Committee. That was much appreciated. Perhaps all three of you, in terms of your respective organisations, could give us the benefit of your views about the wider question of how para-professionals should be regulated.

Mr Stockdale: What I am going to discuss is how the British Association of Equine Dental Technicians set about self-regulating and how we feel. This is a very good model for regulation in terms of the Veterinary Surgeons Act. All our members are examined and have past examinations set out by the British Equestrian Veterinary Association and the British Veterinary Dental Association. These take on average about three and a half to four years to get to a decent standard in order to pass these exams. Once the examinations have been passed—they are over a two day period—all members are then subject to a code of conduct and mandatory CPDs so they have to perform three days of CPD that is monitored each year in order to renew their membership. They also have to have full indemnity insurance and professional indemnity insurance in order to be members of the Association. Once they agree to be members of the Association, also there are certain codes of ethics and practice involving procedures, their length of expertise and when to involve veterinary surgeons in that. Also, there are certain procedures where you would be involved with the veterinary surgeon from the word go. It is a self-regulatory body, if you like, but it is something all our members have voluntarily joined in order to push equine dentistry forward.

Q125 Chairman: So that we understand a little bit about the work of the dental technician in this field, I do not know a great deal for example about the dental needs of horses but, like humans, perhaps there are occasions when somebody has to take a tooth out. Who does that and where do you come into the process?

Mr Stockdale: This is a bit of a grey area with the present Veterinary Surgeons Act in respect of where the procedures start and stop. If you are looking at a tooth removal, that can range from literally a loose tooth that can be removed with the fingers to full sedation, nerve blocking by a veterinary surgeon and possibly even a couple of hours of procedure. That would be done under veterinary supervision in an environment such as an equine hospital or something like that. It is a very broad spectrum of tooth removal.

Q126 Chairman: In other words, there are times when your members work with fully qualified vets and times when you will be called in because that is what you do?

Mr Stockdale: That is correct. On a daily basis our members would be used in conjunction with present veterinary practices, equine practices, hospitals. I for instance am involved in a clinic at Liverpool Vets' School where we do dental procedures and are

referred horses for lengthy and necessary treatment. We have the expertise and the equipment and training to carry out these procedures.

Q127 Chairman: Ms Roberts, do you want to give us the benefit of your views on this question? I was intrigued when I was learning about what your therapists do to understand that in addition to horses you also look after human beings. Perhaps you could explain, for those of us who might have the odd bad back, whether it is something you could help us with.

Ms Roberts: Our members are graduates from the Oxford College of Equine Physical Therapy and the Original Oxford College of Chiropractic and have for many years provided a competent and responsible manipulative therapy service working alongside veterinary surgeons. A lot of the practitioners who are members are human and animal trained although obviously I have just prepared this today based on the veterinary side. It crosses over because obviously the mammalian skeleton has similarities and in terms of manipulation it is possible to help the range of movement to mobilise and to speed up the recovery rate after injury in both an animal and a human being via manipulative care.

Q128 Chairman: Do you only do spinal activity or do you do other things?

Ms Roberts: We do treat the whole spinal column but we also look at the extremities. If there is a lower limb injury, we are trained to pick that up and diagnose it.

Q129 Chairman: You have covered what you do but what about the central question about regulation of your members? What do you think is the appropriate approach?

Ms Roberts: In terms of regulation I do feel that we are adequately regulating our own membership. We have disciplinary procedures. We have a CPD criterion which they have to meet annually. We have an annual general meeting after which there is an open forum for discussion about any disciplinary matters that may have arisen in that annual period. Everybody has to provide proof of their insurance annually in order to maintain their membership and there is a fee of course as well.

Q130 Chairman: Mr Hudson, you are the director of the Oxford College of Equine Physical Therapy and it would be very helpful to us if you could perhaps add your observations to the question about how para-professionals should be regulated.

Mr Hudson: First of all, I am talking from the perspective of somebody who is regulated because I am a chiropractor so I understand what is involved. It is reasonable to say that if you view this from the perspective of the animal and the owner regulation is sensible. Regulation is not a cure all or a magic bullet as there are negatives to regulation. First of all, costs. As a registered chiropractor I pay £1,000 annually just to be a chiropractor. Secondly, it can make people very defensive. If you make any

regulation too onerous people can be overly-concerned about trying to cover their backsides rather than concentrating on the work they are doing. Thirdly, if it is too onerous, you could end up with a reduction in practitioners in the field. I have a proposal for how it should be done. I am concerned slightly with the Defra proposal that there should be some kind of selective regulation based on risk. There are four components to risk. There are risk components to competence and conduct. If the treatment is administered incorrectly, is there potential for danger to the animal? Second, there are risks associated with the administration of that treatment in the presence of contra-indications. These two are the things that I think people are going to focus on if they try to select particular groups for regulation. There are two other areas that are very important. If you do not apply regulation to everybody, you are going to miss these and they are applicable. A competence risk is associated with failing to recognise red flags, red flags being basically things that need to go on to somebody else; the failure constantly to review diagnosis or progress and the failure to refer when appropriate. If you do not cover every practitioner in the field, you are going to miss people out. Secondly, conduct is very important. If I can cite as an example, confidentiality. There can be a racing yard with race horses. The trainer calls a practitioner in to treat an animal that has a perceived problem, the practitioner treats the horse, then goes to the pub and talks to the landlord about the horse he has treated. There are implications here. This is the same for everybody, whether you are a vet, a veterinary nurse, an acupuncturist or a massage therapist. This is an important point. I am concerned that if you only regulate certain people on perceived risk you are going to miss out people who are going to be guilty of these things as well. Perceived risk is a difficult one for manipulative therapists. You are going to get different people arguing from different perspectives. Some people do not want any regulation and they are going to say there is absolutely no risk whatsoever in what they do. Some people are going to inflate the risks because they will say they are the gold standard in education and everybody needs to do exactly what they do. The truth probably sits somewhere between the two, I feel. I think the solution for how to regulate people has to make sense to the public, to the third party observing this. It does not have to make sense only to the practitioner. First of all, there should be a committee to govern all complementary therapists. I do not know how that ought to be formed or who should be on it but there should be a committee. There should be a voluntary register produced and people should apply to go onto the register. They have to provide evidence of a qualification in their field, a written statement to the effect that they are aware of contra-indications to what they do and evidence of insurance. All applicants, I feel, should be mandated to attend a seminar run by the RCVS to cover issues of red flags and referral procedures so that everyone has a level playing field. I think all applicants should also have to sign up to a common

code of conduct which should be applicable to every single person who treats an animal, whether they are a complementary practitioner or a veterinary surgeon, because these issues are common. Having done that, there should be a unified effort to promote a culture change within the UK by getting practitioners, the RCVS, the government, whoever to promote the message that people should go to practitioners on that register. There should be a means of regulating those people and maybe striking them off the register or whatever. My concern is, if you go down the route of trying to have accreditation of particular courses, there is going to be a bloodbath. You will never reach a consensus of opinion. You will have people who will be polarised at the gold standard and people who do not want to do anything at all.

Q131 Chairman: That was a very interesting contribution. Thank you for it. What none of you have said is that there should not be any unqualified activity in the field. You have all placed particular emphasis on the qualifications of your respective members, the high standards that you currently operate to, the question of insurance indemnity and all the key things that, if you were looking for a top quality professional, somebody who understood the service they were buying may well look for. What about people who do what you do but who are not as well qualified? Should we be legislating to legislate them out or legislating, if legislation be necessary, to pick out the people who adhere to the high standards that you have just talked about?

Mr Stockdale: When we mentioned the BAEDT, this is voluntary. All these things that we do are voluntary in the hope that it is not set up for an exemption order. We would be wanting to be regulated in a new VSA. That would be something we would welcome. As far as the equine industry goes, we proposed and put forward a paper to Defra where we would be allowing certain grandfather rights for people who are unqualified, giving them time to register an interest because, at this moment in time, there is nothing to stop anybody in this room buying a set of rasps and calling themselves a horse dentist. As long as they do not claim to be qualified, they have not broken any law and that clearly cannot be right for the animal or the consumer. What we propose with Defra is allowing a registration of probably 12 months where people could register an interest—i.e., that they are unqualified or deemed by the law to be unqualified—and then a register of interest in order to make themselves known. Then we would give them a time limit of possibly four years in order to pass their exams or at least to take their exams. Once they have taken their exams, they then get a further exemption of two years in order to pass those exams. That gives them a five or six year window to get their qualifications and be in the regulatory body. At the moment there is nothing to stop anybody from buying rasps and calling themselves a dentist. That cannot carry on. That is how we would envisage encompassing people who are out there at the moment. There is an estimation of close to 600

people which is quite a serious problem. That is how we would envisage encompassing these people. We are not trying to stop people from making a living. All we are asking is that if they are going to charge people money and treat horses they do it professionally and are regulated so that there is some accountability.

Q132 Mr Gray: Is there not another way of doing this which would be to say obviously any sensible horse owner—and I am one—would use someone who was on or other of the registers that you describe? I use a chiropractor and there is no way in the world he would get himself qualified. He is an absolutely brilliant fellow, a gypsy guy and a fantastic worker. We use him for our horses and it would be very difficult for him to register. That would become a matter for the market. I, as a horse owner, can choose to use a gypsy who is not on the register but I think what the Chairman was asking a moment ago was: should we go one stage further and say, “Okay, gypsy. You are not on the register. You are never going to be on the register and therefore you are not allowed to touch a horse. If we catch you touching a horse, you are in trouble with the law.” I wonder how far down that spectrum you reckon we should go.

Mr Stockdale: I can see exactly where you are going but I must admit that my view is if somebody wants to be a doctor they have to pass medical exams. If somebody wants to be a human dentist they would have to pass dentistry exams. I am afraid to say that if they are putting themselves forward to pass on treatment to an animal, then they have to show they are up to the standard or stop.

Q133 Mr Gray: Would that apply to chiropractic as well?

Mr Hudson: Yes. But the reason I mentioned perhaps having a register on a voluntary basis is it will be pretty much impossible to stop people doing things out there in reality.

Q134 Mr Gray: You could make it against the law. You could say that treating a horse when you are not on the register is breaking the law.

Mr Hudson: Sure, but enforcing it might be difficult. You could have your chap who is a gypsy who is extremely competent at what he does, and there is nothing wrong with that, because we are talking about things that are vocational. This is why training and education issues need to be looked at with regard to the end product. It is so easy to get caught up in academia and things like this and kind of miss the point in a way. The issue here is accountability, is it not, and recourse for the owner of the animal or the animal itself in the event that there is a problem. Again, I am saying that regulation as viewed from the perspective of the animal or the owner seems sensible but I do not know in reality how many problems there have been. I do not know if anyone has asked the insurance industry about claims for competence-based injuries to animals. I would doubt that there have been any but I do not know. In terms of risk, if a manipulative

therapist puts their hands on a horse and does things, if you compare the forces on that skeletal structure from an engineering perspective with the dynamic loads on that animal as it is going through its activities of daily living, as it is rolling around in a field or trotting down the road, the forces applied by the practitioner are probably fairly small. Some people will say it is hugely risky if you do not do this or that. I would say try and look at it from a sensible perspective but again it is about accountability and a means of recourse which is why I mentioned having a voluntary register. But somebody has to show evidence of insurance. You cannot get insured to do the work we do if you do not have a qualification. Insurers will not insure you unless you can present evidence of this so that would take those people out of the register anyway.

Q135 Mr Cox: Surely the owner would know if he goes to the gypsy that he is not going to be insured or registered and it is his risk.

Mr Hudson: Absolutely. That is why I am saying it should be a voluntary register and there should be freedom of choice for the owner to choose but the regulatory body should encourage the public to use people who are on the register.

Mr Stockdale: We have been involved in this in the dentistry world for about five or six years now and in reality it does not happen. There are people out there who would give themselves not bogus qualifications but dress up their business cards so that they do look highly qualified. The Trading Standards say that you only break the law if you intimate qualifications so as long as you do not put down a qualification that actually exists you are fine. You find EQDT after lots of names. That indicates that they are qualified but in reality they are not. I take your point about the chiropractor. In dentistry things have moved on an awful lot. We also are dealing with a lot of problems in the mouth. The horse does not show initial signs but if it is left it can show quite serious signs. Of course by that time it is too late. People say that the guy is okay but it is not until five years down the line that you are presented with a problem that cannot be fixed or requires veterinary intervention to remove the tooth and so on. It could quite easily have been fixed if it was sorted earlier on. I still go back to the same point that if you are charging people for a service I think the least anybody can expect is that they pass a level of examination to be adjudged on their expertise.

Q136 Mr Cox: Can that not to be dealt with by simply reserving certain procedures for those who are on the register and other procedures can be left to the market?

Mr Stockdale: The problem in reality with that is that you are talking about hand floating which is not a government procedure. People say, “I just want to hand float a horse’s teeth”. They go along and charge the money. People have presented their horses for treatment and everything is okay. The problem is that there is a major cavity that is starting to form or a fracture of the tooth and so on that has not been picked up, or even slight misalignments.

Because that practitioner cannot do that procedure as it would involve power tool work for instance or over-correction of the tooth, it then gets left and that is the problem.

Q137 Mr Cox: That may be an argument for having dentistry as one of the reserved procedures only for those on the register.

Mr Stockdale: Are you talking about a register only for dentists? That is something we want to push for.

Q138 Mr Cox: I am sure you would but we are looking much more broadly across dentistry and other things as well. One issue is what should be regulated and what should not be.

Mr Stockdale: If you get into the regulation of certain procedures—again, this is something we have been working with in the last five or six years—what it has done is allow a proliferation of people who have taken no examinations to put themselves out there as horse dentists. In reality, they are saying, "I am not breaking the law because I am only doing a category one procedure." Also, you have dentistry schools starting up with no qualifications at all but charging people money in order to give them category one status. Everybody has category one status because it is not governed.

Q139 Paddy Tipping: You have a practice standards scheme at the moment which is voluntary but you are advocating that over a period of years it should become mandatory?

Mr Stockdale: That is correct, but not necessarily to the BAEDT. There are other people who want to provide dentistry in their own associations out there. As long as they get to the same standard as the BAEDT or the BEVA examinations, we have no problem at all with 20 associations starting up. The degree of accountability comes into play here. The consumer needs to be satisfied that people who work on horses' mouths are up to a recognised standard. This is something that needs veterinary involvement. You need a degree of knowledge about it and at the moment it is not working in respect of having categorisation of those.

Q140 Paddy Tipping: What are the costs to your members of doing that?

Mr Stockdale: You would be looking in terms of costs at probably close to £3,500 and all of this is done voluntarily because we see this as the proper way to go.

Q141 Paddy Tipping: Mr Hudson, you told us earlier on that to be a chiropractor you had to pay £1,000. Presumably that is for insurance?

Mr Hudson: No. I was involved with the introduction of statutory regulation. There was a King's Fund working party report etc., but because chiropractic was a small profession we had to give a commitment to pay £1,000 a year to get things up and running as there were so few practitioners. We still pay £1,000 a year. That basically allows us to call ourselves chiropractors. In my opinion, this is where regulation can go wrong. If I can draw a parallel

with the treatment of humans. Much of the regulation of health care on humans is really by title. There is statutory regulation of chiropractic and osteopathy and I think the Health Professions Council governs another 13 disciplines, but it does not govern what people do. It governs people by what they call themselves. You could have a situation where two people go through a chiropractic college. They qualify at the end with a chiropractic award and they set up next door to each other in the high street. Person A decides he is going to call himself a chiropractor. He pays £1,000 and then he is subject to a great deal of procedural things he has to do. Person B sets up next door and decides he is not going to call himself a chiropractor. He is going to call himself a spinal specialist and he is outside of regulation. They are doing the same thing but only one is regulated. I was talking earlier on about the issue of red flags. I really believe that this is important and I am sure that people in the veterinary world and veterinary surgeons will agree. People come to somebody like me with back pain and I have to go through all sorts of things to diagnose what they have. What I have to rule out is a red flag. It is not rocket science. Have they got unremitting back pain? Is it waking them up at night? Are they losing weight? Are they tired all the time? All of those suggest to me I need to refer that person to somebody else. The same person could go to a massage therapist with his back pain where there is no regulation at all. He could undertake a treatment of massage for 12 months and not get any better and wonder why. It does not really make sense and this is why I think you have to look at what people do, but when it comes to risk the gentleman was asking about selective procedure and how you select. What criteria do you use? If you are going to look at risk, you have to look at all aspects of risk, not just the treatment. What could happen to this animal, this horse, this dog or this cat if this is done? The worst case scenario for me as a healthcare professional that treats humans is that I miss something that needs urgent referral elsewhere. That is why I ask as many questions as I do and examine people as I do. There are not the same examination procedures on an animal as there are on a human. I have to do an orthopaedic assessment, a neurological exam and check the vital signs of the patient, their blood pressure and their temperature. I take a comprehensive history, do a systems review and then I do all my examination procedures on top. If you go into an academic book shop and look for texts on the orthopaedic examination of a human, there is a multitude. The challenge is to find a comprehensive text on the orthopaedic examination of a horse. There is not a lot of information out there. Also, you have a situation where people come to me in my clinic. But some people ask if I do home visits. I prefer not to because I cannot do the job properly. I need my controlled environment to do that. Somebody who is treating a horse is going to that horse at somebody's stable yard. My concern is if there is going to be regulation and standards are to be set they have to be set to reality, not to the wishes

of people who think you should be doing X, Y and Z when they are not being done by people in the field because you just cannot do them.¹

Q142 Paddy Tipping: Ms Roberts, what are the costs involved to your colleagues of being a practitioner?

Ms Roberts: To join the Association it is £100 a year currently and insurance normally costs, for animal practitioners, around £120 a year so the costs are fairly low. A lot of our members do work part time. The human costs are different. I am a chiropractor. I do pay £1,000 a year for my registration to treat people, but in terms of this Association, the animal practitioners are a separate profession and their membership costs are a lot lower.

Q143 Paddy Tipping: If things go wrong, what are the recourses?

Ms Roberts: We have only had one disciplinary action so far, to date, and that was a conduct issue between one professional and another professional. However, we are aware of animal welfare being the primary issue and, in terms of changing the Act, we are in agreement with regulation for that reason. However we do currently regulate ourselves. We want to make that point. Yes, we agree that all the organisations should join a voluntary register as opposed to it being the gypsy who is out there practising and who cannot join the register. If he is practising in a safe manner, then we have no problem with him joining a voluntary register during the transitional period but ultimately we would much prefer to see people working who are qualified and insured.

Q144 Mr Drew: Have you any idea at all how many complaints there are out there? One of the issues we pick up as MPs is that this is an area where people do feel very strongly. Is it that there are not many complaints and we are probably getting a disproportionate amount of interest or are there complaints and people have nowhere to go to complain if they feel that they are getting bad treatment or whatever?

Ms Roberts: It is difficult for me to say because I hear complaints from my animal clients and from vets in my practice but I have to view them as gossip because they are outside the remit of this Association because they are not complaining about members of the Association.

Q145 Mr Drew: What do they do about their complaint? Can they do anything? Can they physically take legal action if they feel so disposed?

Ms Roberts: At the moment some people do feel that there is not enough regulation and legislation.

Q146 Mr Drew: They have to go for an individual court case?

Ms Roberts: They do if the animal is injured and certainly if there is financial loss involved.

Mr Hudson: I think there is a misunderstanding amongst a lot of practitioners in the field about what a voluntary association is and what statutory regulation means. The associations are just collective groups of people who set their own standards. They have no teeth in reality because the only leverage they have is, "If you want to stay in our association you have to do this". They cannot legally stop somebody from doing what they do, so the recourse is not there. An association can only go so far. I guess it would come down to financial compensation if the animal was injured. I do not know what else there would be.

Q147 Miss McIntosh: You are talking about the cost of joining in each case, the cost of joining a professional body. What would the cost of continuing, ongoing and professional development be?

Mr Hudson: In chiropractic we have to do 30 hours a year and 15 hours of that has to be in a group learning environment. I am talking here as a chiropractor who treats humans. The costs can vary because it depends on what the seminars are that you go to. I do not think CPD is a cure all. The good thing about our work as complementary practitioners is it has a very long learning curve. You do not get to the top of the learning curve. If you think you have, you are in the wrong job. There is always another thing to learn. People who are enthusiastic about what they do will do CPD anyway. Enforcing CPD does not make people learn. It makes them go to seminars. I would support that CPD ought to be mandatory. I think it is the only way of doing it, but it is not a magic bullet to solve the problem and keep people up to date. Costs can be significant. It just depends on the course you go on and how you do it. It can be hundreds of pounds.

Q148 Miss McIntosh: When you say it should be manageable, which you did say in your written submission, in terms of content and time spent and it should be realistic—

Mr Hudson: That is right. It has to be sensible. You need quite a lot of latitude in the allowable content of CPD because of the diversity of people in the field doing what they do. You should not be too prescriptive. It has to be manageable for people out there. In all likelihood, there are a lot of people doing pretty good work who are not earning an awful lot of money but who are doing no harm and are very competent. You can make things extremely difficult for them to carry on doing what they do if you set something that is unattainable for them.

Q149 Mr Williams: Even though, as you said, the complaints that you come across are anecdotal rather than substantiated, are they in general complaints that treatment given was ineffective and

¹ Note by witness: Mr Hudson acknowledges that there are many competent and well qualified massage therapists who will recognise red flags and refer for further medical opinion if indicated. Mr Hudson would also like to point out that whilst person B in the above example would hold a chiropractic award, they would be prohibited from in any way implying that they were a 'chiropractor' unless they were registered with the General Chiropractic Council.

3 March 2008 Ms Emma Roberts, Mr Ivan Stockdale, Ms Gill Spinney and Mr Stuart Hudson

therefore a waste of money or that it was positively harming an animal and therefore dangerous, or a bit of everything?

Ms Roberts: It is the first mainly. I have heard complaints of the pain being increased in animals to a level that was not necessary. It was not necessarily a healing process; it was a worsening due to the treatment. There is a difference. Sometimes you get a reaction after treatment anyway. Also, the key

issue is that animals may need pain killers. They may need to have pain relief and that is something that someone unqualified would not have been trained to recognise.

Chairman: Thank you all very much indeed. I wish we could have longer but we do have the benefit of your written evidence. Again, many thanks for your contribution and thank you for joining us this afternoon.

Memorandum submitted by the British Veterinary Association (Vet 38)

Please find enclosed the British Veterinary Association (BVA) submission regarding the Environment, Food and Rural Affairs Committee inquiry into the need to replace the Veterinary Surgeons Act 1966. The BVA is the national representative body for the veterinary profession in the United Kingdom and represents over 11,000 individual members. In keeping with its role, the BVA's submission pulls together the views of our many Specialist and Territorial Divisions, and therefore provides a summary of comments made from interested veterinary surgeons and veterinary bodies who have made responses to this EFRA Committee inquiry via BVA.

It is our observation that whilst the existing Veterinary Surgeons Act has, and continues to provide, adequate regulation of the profession, it is generally agreed that modernisation of the Act is needed. In particular there is wide consensus that the disciplinary process requires updating to include a wider range of disciplinary powers and a greater level of transparency. The regulation of veterinary nurses alongside veterinary surgeons has widespread approval.

The views of the profession are, however, more divergent in relation to other areas of the Act. There is widespread support for the RCVS to continue in its position as the regulatory body, however a significant proportion of the profession have concerns regarding their proposals for increased regulation of both practices (through a mandatory practice standards scheme) and individual veterinary surgeons (by means of revalidation). Whilst the profession is united in its support of the highest possible practice standards, how such standards are regulated is of paramount importance; BVA has included a regulatory model for Practice Standards that we believe fulfils the principles of "better regulation", not over-regulation, and would achieve the desired aims without passing on extra costs to businesses and the public. No meaningful detail has yet been presented for how revalidation might be enforced, so many in the profession feel unable to commit to any such proposals until detail is available. Finally, the need to address the regulation of paraprofessionals is well recognised, however there is considerable disagreement on how best this might be achieved.

We hope that we will have the opportunity of expanding on our submission at the oral evidence stage, but if in the meantime there are any issues of clarification which you feel might be helpful, please do not hesitate to get in contact.

EXECUTIVE SUMMARY

1. The British Veterinary Association (BVA) believes that the provisions set out in the Veterinary Surgeons Act 1966 provide an adequate means of regulating the veterinary profession for the purpose of protecting animal health and welfare and maintaining public confidence.

2. The BVA nevertheless accepts that increased flexibility and accountability, especially in terms of the disciplinary procedures, with greater lay representation, would be desirable and in the public interest.

3. The BVA has serious concerns regarding the practices of unregulated groups and individuals who carry out acts of veterinary surgery in contravention of the 1966 Act. We recommend that in light of this inquiry, it might be timely for the committee to investigate this area and ascertain what action (be it regulation or otherwise) could be taken to best protect the public interest.

4. The BVA believes that veterinary services ought to be regulated both through a practice standards scheme *and* regulation of individual veterinary surgeons. However, we can see no advantage in a mandatory practice standards scheme and believe that practice standards ought to be self regulated in order to ensure best value for the animal owning public.

5. The BVA supports the proposal that the Royal College of Veterinary Surgeons (RCVS) and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development. However, we remain unconvinced that a meaningful revalidation process could be implemented.

6. The BVA believes that in the interest of objectivity and maintaining public confidence, the RCVS and VNC should have appointed lay members both on the Council and all committees involved in disciplinary procedures.

7. The BVA is supportive of the proposal that the RCVS and VNC have conduct committees separate from the RCVS and VN Councils. The BVA has serious reservations about whether such a committee should have the power to make an interim order suspending a veterinary surgeon, leading to loss of income and potential for financial hardship for the veterinary surgeon and others working in the practice on the basis of what might prove to be an unfounded allegation.

8. The BVA believes that veterinary surgeons should be able to delegate specified procedures to people holding qualifications recognised by the RCVS provided that clear guidelines for doing so exist and that the animal remains under the care of the veterinary surgeon.

INTRODUCTION

9. The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom and represents over 11,000 members. Our chief interest is to protect and promote the interests of the veterinary profession in this country and we therefore take a keen interest in all issues affecting the veterinary profession, be they animal health, animal welfare, public health or employment concerns.

10. The BVA welcomes the opportunity to provide evidence to EFRA Committee on the need to replace the Veterinary Surgeons Act 1966. We have confined our response to the seven questions we have been asked. Our comments are consistent with the BVA's "Beliefs on Professional Regulation", a copy of which can be provided on request. This document defines "Professional Regulation" as "the statutory framework governing a distinct group entitled to carry out procedures by virtue of their training and registration. Registration determines training, training requirements, the practising standards required, and who does and does not meet them." It also sets out the BVA's view that the purpose of veterinary professional regulation is to; "protect the health and welfare of animals, to safeguard human health, to ensure the respect and fair treatment of the public and to maintain the reputation of the veterinary profession".

BVA RESPONSE TO QUESTIONS POSED BY EFRA COMMITTEE

(i) *Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions*

11. Significant changes have occurred in the *modus operandi* of the veterinary profession since the introduction of the Veterinary Surgeons Act 1966. Such changes include the rise in corporate ownership of veterinary practices, the increase in practices owned and run by non vets, the decline in farm animal practice relative to companion animal practice, the number and nature of referrals to specialist centres, and the emergence of a range of "paraprofessional" groups wishing to treat animals. Additionally, regulatory "norms" and the regulatory structures of other similar professions have shifted somewhat over time.

12. Despite these changes, the provisions of the 1966 Act have continued to provide an effective means of regulating the veterinary profession for the purpose of protecting animal health and welfare, and safeguarding public health. The BVA believes (on the basis of empirical evidence) that there is a high level of public confidence in the veterinary profession, and on this basis it could be argued that substantial changes to the 1966 Act are neither justified or necessary.

13. However, the BVA does accept that the 1966 Act lacks flexibility in terms of its disciplinary procedures, and that there is a need to enhance the range of sanctions available to the RCVS' disciplinary committee. Sanctions which are less severe than suspension or striking from the Register are highly desirable, and the ability to apply measures which would be designed to proactively prevent problems arising would also be desirable. The BVA also accepts that current thinking indicates a need for greater involvement of lay personnel in the regulation of the veterinary profession.

14. The BVA recognises that the 1966 Act does not define "animals" and that more recent legislation, such as the Animal Welfare Act 2006, does. However, the BVA believes that the 1966 Act is quite satisfactory in this respect and that no definition is required. Problems can arise when legislation defines the meaning of a particular word, and to qualify the definition of "animals" may raise questions which would otherwise not exist.

(ii) *Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons*

15. The BVA strongly supports the regulation of veterinary nurses, who work very closely with veterinary surgeons and are an integral part of the veterinary team.

16. The BVA has serious concerns about the risk to animal welfare and public health posed by other unregulated groups and individuals who are performing acts of veterinary surgery in contravention of the Veterinary Surgeons Act 1966.

17. The Veterinary Surgeons Act 1966 sets out that only veterinary surgeons are permitted to carry out acts of veterinary surgery. It also provides for exemptions for specified activities performed by suitably qualified people: examples include veterinary nurses and Schedule 3 procedures, lay blood sampling, bovine

ultrasound scanning, and a cattle AI exemption is expected to be introduced soon. There is, therefore, a mechanism in place to enable particular acts of veterinary surgery to be performed by competent non-veterinarians whilst protecting animal health and welfare, even though the exempted groups are not subject to the same regulations as veterinary surgeons. The BVA would like to see these provisions continue, and might support further exemptions in appropriate circumstances. The problem is that the restrictions specified in the 1966 Act are not being effectively enforced and unqualified and unregulated providers continue to carry out acts of veterinary surgery without hindrance, to the potential detriment of animal health and welfare.

18. Although the BVA is not opposed, in principle, to the extension of regulation to other providers of veterinary care, it has not reached any conclusions as to whether this is practicable at present or how it might be achieved. The existing system is satisfactory in theory but is not effectively enforced, and we suggest that it would be prudent for the committee to investigate this area further and seek some means of ensuring that animals and the public are better protected.

19. For the purpose of protecting animal welfare, the BVA believes that the definition of an act of veterinary surgery as set out in the 1966 Act should remain unchanged. Acts of veterinary surgery should continue to be restricted to qualified veterinary surgeons.

(iii) *Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis*

20. The BVA believes that veterinary services ought to be regulated both through a practice standards scheme and on an individual basis. We are in favour of the highest possible standards and support the continuation of the existing RCVS voluntary Practice Standards Scheme. We would encourage the public and other bodies such as Animal Health to use practices which participate in the Scheme.

21. However, the BVA does not support the introduction of a *mandatory* practice standards scheme, with all the associated costs which such a scheme would entail. Instead, the BVA would favour a form of self-regulation backed up by disciplinary powers. We envisage the introduction of a “Guide to Practice Standards” similar to the existing “Guide to Professional Conduct” (and perhaps forming part of the Guide in future). The guide should stipulate the minimum standards which practices are expected (and obliged) to adhere to. This scheme would be self regulated, and there would be no mandatory inspections or licensing. However, should a complaint be made against a practice then the RCVS should have the power to inspect the practice concerned and judge it against the standards set out in the guide. Adherence to these standards would be considered in any disciplinary case which may be brought against a practice.

22. In recommending a voluntary practice standards scheme, the BVA has given careful consideration to the RCVS’ proposal and arguments for a mandatory scheme. In deliberating on this issue we have reached the firm opinion that a mandatory scheme would not be in the public interest. The veterinary profession is constituted primarily of individuals working in small practices, the vast majority of whom are deeply conscientious and committed to providing high quality care to their patients. The costs associated with running small businesses are relevant and challenging, and the BVA feels that the increased cost to practices of a mandatory scheme would also almost certainly result in higher costs for the animal owning public. We also believe that a voluntary scheme is consistent with the Government’s deregulation policy.

23. The BVA is, however, concerned that the emergence of practices owned and run by non-vets has the potential to put veterinary employees in an invidious position, if, for example the employer institutes policies which contravene RCVS rules. As the RCVS has no powers to regulate non-vets, a vet could have action taken against them for simply following practice policy. Such action might more appropriately be directed at the practice owner. The BVA would encourage the Committee to give consideration to how this issue might best be resolved.

(iv) *Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation*

24. The BVA supports the proposal that RCVS and VNC should be given the power to require continuing professional development.

25. The BVA remains unconvinced of the need for revalidation, and could not support this proposal without first examining a detailed overview of how meaningful revalidation would work in practice and what costs and benefits would be involved. The BVA could not support a revalidation proposal which limited the current flexibility of veterinary surgeons to move within the different specialty areas of the profession.

(v) *Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals*

26. The BVA supports the appointment of lay members to all RCVS committees. We note that RCVS Council already has limited lay representation, and would like to see this extended, as well as lay representation at every stage of the disciplinary procedure.

27. The BVA feels that lay representation at the RCVS is an important factor in maintaining public confidence in the regulatory body; its disciplinary procedures; and the veterinary profession at large.

(vi) *Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings*

28. The BVA supports the proposal that the RCVS and VNC ought to have conduct committees separate from the RCVS and VN Councils.

29. However, the BVA has serious reservations about whether such a committee should have the power to make interim orders (including suspension) pending proceedings. Although we understand the argument for having such powers, the BVA is very concerned about the possible consequences for a practitioner who was suspended prior to their hearing, and subsequently found not guilty. Such action would remove the practitioner's means of earning a living, and could potentially jeopardise the future of their business, neither of which are acceptable unless the individual is actually guilty of unprofessional conduct.

30. Should a veterinary surgeon be suspended prior to their hearing, and subsequently found not guilty, the BVA would like to know what recompense would be available to them for actual and further losses.

31. The BVA supports the introduction of a more flexible disciplinary procedure for both individuals and practices.

(vii) *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

32. The BVA supports the proposal that veterinary surgeons should be able to delegate specified procedures in respect of animals that are under the veterinary surgeon's care to people holding qualifications recognised by the RCVS.

33. The BVA believes that such a system would need to be tightly controlled, with the delegated person only permitted to carry out the specific procedure recommended by the veterinary surgeon on a particular named animal or group of animals. The animal(s) in question should remain under the care of the veterinary surgeon. There has been considerable debate in recent years about the meaning of the term "animals under care", and it would therefore be helpful for the RCVS to publish an improved definition of "animals under our care" so that the lines of responsibility are clearly delineated. The BVA has produced a discussion document on what constitutes an animal under veterinary care, which can be provided on request.

34. The BVA would wish provision to be made for Named Veterinary Surgeons operating within Home Office licensed premises to be given powers to delegate procedures carried out for non-ASPAs purposes to non-vets holding a Home Office licence for that technique. Further details regarding this point can be provided on request by the Laboratory Animal Veterinary Association, a specialist division of BVA.

September 2007

Witnesses: Mr Nick Blayney, President, and Ms Nicky Paull, President-Elect, British Veterinary Association, gave evidence.

Chairman: We move to the British Veterinary Association and we welcome Nick Blayney, their president, and Nicky Paull, their president-elect. I should make clear to the audience and those who read our proceedings that a number of us have in the past accepted the post of an honorary associate of the British Veterinary Association. It is an unremunerated post but nonetheless we like people to know where we are coming from occasionally in our lines of questioning. We get a free copy of the magazine. It is very good and I always read the leader. I am afraid in the rest of it the pictures are too lurid and I do not understand about past page three.

Q150 Dr Strang: Why does the BVA believe that a voluntary practice standards scheme is preferable to a mandatory scheme?

Mr Blayney: We believe there are practical difficulties in setting up a mandatory scheme which, we believe, is too equipment based and not enough outcome based. It would be useful to fill in on the background. The profession is very much in favour of practice standards. The original scheme did not come from the Royal College. It came from the work of the British Small Animal Veterinary Association

which is one of our major divisions. They developed and pioneered the idea of practice standards through the nineties and latterly the Royal College took on the mantle and, more recently still, indicated that they had a desire to make the scheme mandatory.

Q151 Dr Strang: Do you believe that the Royal College has the support of the profession for its practice standards scheme?

Mr Blayney: We can measure the amount of support it has because, in the time that it has been there, about 50% of premises are on the scheme. That is not to say that the other 50% fall short of the standards but simply that 50% have chosen to go into the scheme. The figure might be slightly skewed positively by the fact that, if you are a veterinary nurse training practice—and many practices are—the scheme is such that you would choose to join the practice standards scheme as it stands at the moment. When the scheme first came into being under the Royal College aegis, there was a rapid migration into the scheme of all the teaching practices. Since then, the flow into the scheme has

3 March 2008 Mr Nick Blayney and Ms Nicky Paull

pretty much dried up and I believe it has sat at about 50% for some considerable time—that is to say, certainly in excess of a year.

Ms Paull: You have to bear in mind that quite a lot of the current practice standards cover areas that are already covered by other law. For instance, employment and health and safety law and so on. Therefore, some practices feel because they are addressing those standards quite adequately directly with their law enforcement agencies the need to go down the route of practice standards as provided by the Royal College currently, cost-wise, they do not see as a benefit to the practice or to their clients necessarily.

Q152 Dr Strang: Presumably you have had some discussions with the RCVS on this issue?

Mr Blayney: We have and it is recognised that there is a disagreement between us on where we see the scheme going. We have proposed, since the profession embraces the idea that there should be some bench marking, some aspirational standards, for the way practices are structured, the idea of a guide to practice standards to sit parallel with the guide to professional conduct, which is the document by which the Royal College judges our behaviour.

Q153 Dr Strang: To what extent is the BVA concerned by the growth of practices owned by non-veterinary people?

Mr Blayney: We are not concerned about it in the same way that the Royal College appears to be. There are a number of players who have come into the market place now and it is now perfectly legal for practices to be owned by non-veterinary surgeons. We have sought to inquire after this. There is no evidence to suggest that the nature or the pattern of the complaints has changed in any way because of ownership by a non-veterinary surgeon. The ethical pressures upon an individual veterinary surgeon remain the same whether they are employed by another vet or by a non-veterinary person and the ethical pressures come from above, from your employer, and in instructions they may wish to give you, but also from your client as well. The veterinary surgeon is in a position of making ethical judgments on both counts.

Q154 Dr Strang: What you are saying is you are not concerned that there might be financial pressures from such an ownership, bringing undue pressure to bear on the vet to compromise his standards?

Mr Blayney: We do not believe there are. We have considered it. There is certainly no evidence to support the view and indeed some of the larger, non-veterinary owned corporate practices that have grown up have probably set extremely promising standards.

Q155 Dr Strang: Are a large number of practices now sponsored by pet food manufacturers?

Mr Blayney: There are no practices sponsored by pet food manufacturers.

Q156 David Taylor: You represent about half of the vets that are registered, do you not, in this country?

Mr Blayney: Slightly more than half, but yes.

Q157 David Taylor: Why do the other half not find themselves in membership?

Mr Blayney: The level of professional membership is about the same as it is with equivalent organisations in other professions. The BDA has about the same level of membership. We have a rather strange conglomeration of professional organisations. We have the BVA which was the original one. We have the Society of Practising Veterinary Surgeons, BSAVA, BCVA for cattle and BEVA for vets. There are vets who are members of each one of those but they are not members of BVA. Because those divisions are divisional members of the BVA, we can notionally claim a considerably larger membership than our immediate, direct membership.

Q158 David Taylor: Whilst no pet food manufacturers own any practices, what proportion of the income of some of your practices would you say is derived from the promotion or sale of pet food?

Mr Blayney: I cannot give you that statistic off the top of my head but I am sure we would be glad to research it and provide it to you at a later date.

Q159 David Taylor: Would it be a substantial amount in some practices?

Mr Blayney: I am not prepared to answer that without some data in front of me, other than to say that most veterinary practices do sell pet food. The reason they do it is because veterinary practices supply goods and services to their clients, goods and services that presumably they have judged to be useful to their clients. The goods we supply include a lot of medications and food. There is no doubt that the arrival of commercial pet foods has improved the quality of life and wellbeing of a lot of pets because it provides well prepared, scientifically based, nutritionally acceptable diets.

Q160 David Taylor: What evidence do you have that it has improved the quality of life and indeed the longevity of companion animals?

Ms Paull: This is more of a clinical discussion. We could look at ready made meals at Marks and Spencer that people eat. They might be better for them than eating bags of crisps and biscuits because they do not have time to cook. It is trying to balance sensibly what clients are available to do for their animals. For instance, an owner could get together a nutritionally balanced diet or could opt for purchasing one but I think that is a decision that has to be made between the veterinary surgeon and the client. The pros and cons of each diet can be discussed. To insinuate that because we happen to have dog food available for sale in the practice means that we are going to force this down our clients' pets' throats is not the case. Nick is right. Some practices do sell pet food but equally many do not. It is a commercial decision as to whether that is

3 March 2008 Mr Nick Blayney and Ms Nicky Paull

something that we are going to supply to our clients just the same as we might offer pet collars or something like that.

Q161 David Taylor: Are you aware that out there amongst the millions of owners there are companion animal owners—dogs and cats in particular—and there is a fairly significant lobby that argues that vets are promoting the sale and sometimes selling the pet foods which create the illnesses which keep you in business?

Mr Blayney: This is complete nonsense.

Q162 David Taylor: You are aware of the lobby?

Mr Blayney: Very much so. It is quite a dangerous lobby because it is seriously misinformed and very good at lobbying. The reason that vets choose to use foods is because they have been scientifically convinced that these foods are of value.

Q163 David Taylor: By whom?

Mr Blayney: By the data that has been produced by the manufacturers in the same way—

Q164 David Taylor: Would these be the same manufacturers who sponsor good numbers of the chairs of veterinary science at universities in the UK?

Mr Blayney: They do contribute to education. If the government funding was higher then perhaps the universities would not have to look elsewhere for funding.

Ms Paull: You could argue the same with pharmaceutical companies as well that give CPD lectures to us and so on. At the end of the day, it is the responsibility of the veterinary surgeon to make a clinical decision with the owner of the animal as to what is the best thing for that animal. To say that because a pharmaceutical company sponsors a course automatically we are going to supply lots of their product and sell it out to an owner where it is not required I would take offence at.

Mr Blayney: Vets are very good at seeing the woods for the trees in much the same way that I am sure, when MPs are entertained by various lobbying groups, you can see right through what their mission is. What we are exercised by is good science. The pet food manufacturers have invested a lot of money in this and it is up to veterinary surgeons, judging by their own levels of professional integrity, to decide whether this is appropriate for their animals in the respect that they do absolutely everything else for the good of the animals under their care.

Chairman: My cat is the ultimate determinant of what it eats. It listens to the advice and then tells you what it wants.

Q165 Miss McIntosh: I will not list all the pet food manufacturers in my constituency but I would like to advertise their products, if I may. Can I turn to continuing professional development and ask, if you do have concerns about making this mandatory, what those concerns would be?

Mr Blayney: There is a great appetite for continuing professional development in the profession and as evidence for that I would cite the huge amount of

commercial CPD training that is available. The universities are weighing in as well. They are selling training courses to vets and goodness knows what. Indeed, the BVA at the moment is looking at developing a web based television service called Vets TV along the lines of Teachers TV because we see it as a useful income stream for the BVA, selling CPD to our members. The problem arises when you try to record it in a manner that is appropriate and to mandate that recording. Vets are governed by the guide to professional conduct. They must keep their skills up to date and they must only practise in areas of their competence. The outcome is made very clear in the guide to professional conduct and vets seek the appropriate CPD so that they are up to speed with the areas in which they choose to practise. If they do not choose to practise in those areas, as long as they recognise that, there is no particular need to keep up their competence. The move from a formal registration of CPD to validation is another area that gives us grave concern because, if you think that through and you think about the business plan of some sort of structure that would allow for the revalidation of veterinary surgeons in practice, you are talking about developing an institute the size almost of one of the veterinary schools in order to service that with concomitant costs on top. If you look at the complaints that come into the Royal College, there are very few of them that would have been solved by greater attention to CPD. There are some and every veterinary surgeon knows that, if a complaint is found against them and there is an angle on it that might relate to their level of training and skill, they will be held to account upon it.

Q166 Miss McIntosh: Are you able to put a figure on what the costs of revalidation would be?

Ms Paull: The devil would definitely be in the detail with that. Certainly, looking at what is happening in the NHS who are currently also struggling to look at how to cope with revalidation, the cost depends on what the rules and regulations became. If all it was mandatory CPD then currently the majority of practitioners would be doing the required amount of CPD anyway, so the cost would only be the extra cost of recording and letting the Royal College know evidence that we are doing it. Obviously if the revalidation goes further than that we would have to know what was expected before we could suggest a cost.

Q167 Miss McIntosh: Do you have a view on mandatory CPD, whether it is desirable for para-professionals?

Mr Blayney: Well, there are several questions that would need to be addressed before we got to that level of detail insofar as how one would recognise what particular bodies of para-professionals we were talking about. It would not really be for us to say, but clearly some record of CPD and some clear commitment to CPD is, I think, as far as my body would be prepared to commit themselves at the moment.

3 March 2008 Mr Nick Blayney and Ms Nicky Paull

Q168 Chairman: We have had the benefit of your thoughts on various elements of what might be in a new Veterinary Surgeons Act. Do you think there is a need for a new one?

Mr Blayney: In a word, no. In slightly more words, we have addressed all the shortcomings of the current Act. We have engaged with the Royal College from their very first consultation document in 2003 and we have put our thoughts very openly into your own consultation document. We have tried to look at this from the point of view of animal welfare and public interest rather than self-interest. We recognise, and indeed we have outlined, where we see some of the shortcomings of the current legislation. We have also got some ideas about where a lot of those shortcomings could be addressed within the current legislation.

Q169 Chairman: Would you like to develop that point?

Mr Blayney: There are particular areas. For instance, with the matters considering the Royal College Council there are two big areas. One is lay representation and the other is the actual disciplinary procedure. As far as lay representation is concerned, we think that the lay representatives on Council contribute hugely to the balance of the opinion. We have worked with them and they are individuals who give a great deal. The arrival of more of them would appeal to the public interest. There are two mechanisms by which they could possibly be introduced. One is simply by appointing lay observers to Council, whose opinion I am sure Council would be foolish not to consider, and, secondly, to appoint a lay committee, sub-committee, to review whatever areas of the Royal College Council's work they chose to examine. When it comes to discipline, we recognise there are some issues there which need to be addressed but we feel there is a lot that could be addressed within the current Act. We welcome the fact that the Royal College is embarking upon a review of its disciplinary procedures and process. We welcome this because as long as it is broad enough and deep enough we think that it will probably review some of these areas that in recent years have given some cause for a bit of concern about the way the disciplinary procedures have gone. If it is not in sufficient detail then there is always the possibility of an external disciplinary review. Until that has been done I really do not think that we can confirm that nothing can be done to correct the shortcomings within the current Act.

Ms Paull: In the last 20 years of being senior partner in my practice, when the Royal College speak about there being a limit to what they can do and there is a disciplinary and you go potentially to be struck off or suspended, from personal experience in the last 20 years I have had two occasions to go before preliminary investigation, or initially a complaint made against the practice. I cannot stress in both situations how concerned the whole practice is about it. It is not something where its, "Oh, it's just one of those things that happen", it is very serious. Not only that, but normally for many of these

preliminary investigation cases that go no further the Royal College will actually write to the practice and suggest ways of altering things or doing things differently, and one takes those very seriously because you know if you do that again that would hold badly against you. Maybe it is an area that even under the current Act the Royal College could do a little bit more with in as much as if a complaint is made against you there is more that could be done from the Royal College's perspective of recommendations as to how that may be prevented from happening again, even though it does not go as far as misconduct.

Q170 Paddy Tipping: This is just on the point you made, Mr Blayney, about more lay people on the Council. How should they be appointed? Should there be an independent body that appoints them? How would you do that?

Mr Blayney: Our preference would be that they are utterly independent, they are not appointed by any stakeholders. They must be there purely to represent the public interest and, therefore, they must be utterly independent, as they are currently.

Q171 Paddy Tipping: Would you like to put some proportions on this?

Mr Blayney: Specific proportions, no, other than to say that there is a considerable amount of donkey work involved in the disciplinary procedures and it requires technical expertise to do it. From that point of view it is likely that the Council will still need to retain a majority of veterinary surgeons in order that that workload can be dealt with. Beyond saying that we think a majority of veterinary surgeons is appropriate we do not have a number in mind.

Q172 Mr Drew: One of the reasons people push for legislation is to highlight a particular area of professional expertise, interest, as well as just wanting to do something with the law which may appear to be in need of change. Do you think this makes a statement about the veterinary profession, that you have got a law that dates back to 1966 and there is unhappiness out there, because we as constituency MPs find unhappiness, over various issues to do with veterinary practice? This is a bit of a dilemma given that we called this inquiry to be now told it is okay, minor changes can really sort these things out. Are we barking up completely the wrong tree?

Mr Blayney: The BVA has never called for a review of the Veterinary Surgeons Act. As I say, we have been involved in the consultations and have responded to the best of our ability, and we have consulted widely throughout our organisations. We have outlined shortcomings and we have suggested some improvements. It is up to the Committee to decide whether those improvements can be met within the current Act. We have quite simply highlighted the areas that we think could be improved on. The question about whether the legislation needs to be opened or not is one, I think, for the Committee. Our view would be—

3 March 2008 Mr Nick Blayney and Ms Nicky Paull

Q173 Mr Drew: You are here to strike a note of professional integrity, to say to us this is an important profession. Next to medicine, for an awful lot of people dealing with vets is a pretty key part of their life. We have medical legislation coming through, not quite as much as the Home Office but if we have not got some Bill in a session to do with some aspect of medicine various people think that is an unlikely scenario we are pursuing. Why is this area relatively untrammelled in terms of this need for some legislative updating?

Mr Blayney: I do not believe there is any evidence that the Act is failing and, from that point of view, to meddle with it for the sake of it I would see as a waste of parliamentary time. It is not a bad thing to review what is going on, and you may well arrive at the conclusion that the Act does need updating. We know that medical legislation has been changed for a number of reasons, pretty draconian ones of late, and probably with good cause, but the medical profession is a much bigger and in many ways more significant part of society than the veterinary profession. There is no two ways about it, animal welfare is important but human welfare is a much, much bigger issue. A comparison between the two is not necessarily the only thing. I come back to the point that we have reviewed the Act in every way that we have been asked to and those are our comments, we believe there is no evidence that the Act is not working satisfactorily.

Ms Paull: The current legislation was put forward to protect animal health and welfare and also protection of the public. I know you say you do get complaints, but when we get look at the figures that the Royal College have recently produced the percentage of complaints is not high for the number

of consultations and animals treated. That is not to say that we can never do better, because that is not our belief, but our opinion is that the current Act is fit for purpose.

Q174 Chairman: Just so that we are clear, as a matter of principle you would accept that if the only way to change matters, particularly in the governance structure of the profession, was to change the primary legislation, or you indicated there were some areas that you did accept needed to be improved, a revised Act might be the only way of achieving that.

Mr Blayney: We have listed the shortcomings and we would be bound by the decisions of the Committee on how those issues were corrected.

Q175 Chairman: I wish we had the final decision on all these things but our next witness is the man who may well be able to give us the answers on those.

Ms Paull: In a way, if you ask anybody about anything and say "Can it be improved", the answer is going to be "Yes". Whether the improvements that are required here are not in certain part addressed under the current Act one could argue that possibly would be the case, and that is how we feel.

Chairman: That is a jolly good point at which to say thank you very much for your contribution. The man who has the job of dealing with this is going to be our next witness, so we look forward to hearing what Lord Rooker has to say because he has been here all the time and he has had the benefit of listening to what you have had to say as well. Thank you very much indeed both for your oral and written evidence, it is much appreciated.

Memorandum submitted by the Department for Environment, Food and Rural Affairs (Vet 18)

EXECUTIVE SUMMARY

Defra welcomes the EFRA Committee inquiry into the Veterinary Surgeons Act 1966 ("VSA") which provides the regulatory framework for the not just veterinary surgeons but also for other veterinary service providers (through amendments to Schedule III and secondary legislation). We take the view that the VSA is in need of urgent updating to bring it in line with modern concepts of professional regulation. Our general approach to designing any new regulatory framework is by starting with the question: what should be the regulatory objectives of the framework? In this regard, we would propose the following:

- (a) to protect the health and welfare of animals;
- (b) to protect the consumers of veterinary services;
- (c) to deliver a competent veterinary service in the United Kingdom which provides:
 - (i) protection to public health;
 - (ii) protection to the consumer from unqualified and/or incompetent practice; and
 - (iii) protection to the national economy from animal disease outbreaks;
- (d) to provide a flexible, responsive, risk based and proportionate framework for the regulation of veterinary services.

1. In summary, our responses to EFRA Committees questions are as follows:

Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?

Yes. The VSA is out of date and needs to be brought into line with modern concepts of professional regulation.

Ought there to be regulation of providers of veterinary care other than veterinary surgeons?

In principle “yes”. But this will need to be risk-based and proportionate to the numbers providing the particular veterinary care service.

Ought the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

This is not an either/or question. Practitioners should continue to be regulated on an individual basis. The case for mandatory practice standards is less clear cut.

Should the RCVS and the Veterinary Nurses Council (VNC) be given the power to require continuing professional development and revalidation?

Yes. A commitment to life-long learning is essential if a veterinary surgeon or veterinary nurse is to ensure safe and effective practice.

Ought the governing body of the RCVS and VNC include appointed lay persons as well as veterinary professionals?

Yes. Our view is that lay membership of any Council should be significantly higher than it now stands in the RCVS Council but that there should remain a veterinary professional majority.

Ought the RCVS and VNC to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings?

Yes. There needs to be a clear separation between those that set standards and those who investigate and those who decide on complaints. In exceptional cases, there should be a power to make an interim order pending proceedings, suspending a veterinary surgeon. In disposal of complaints, there should be a mediation process built into the process as part of the preliminary assessment of any complaint.

Ought the RCVS to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council?

No. We envisage that a new risk-based regulatory framework will determine which veterinary services can be delivered by which group.

INTRODUCTION

2. Defra is the lead Government Department responsible for the regulation of veterinary services in the United Kingdom. Defra welcomes the EFRA Committee inquiry into the Veterinary Surgeons Act 1966. In 2003, Defra carried out a public consultation on the issue and has since been in dialogue with the Royal College of Veterinary Surgeons (RCVS) on possible approaches to modernising the regulatory framework for the provision of veterinary services.

3. By way of preliminary remarks, the EFRA Committee questions and the RCVS Council’s proposals for reform¹ make the presumption that the current system of regulating veterinary services is in need of updating. We agree with this. However, our general approach to the issue of designing any new regulatory framework is by starting with the question: what should be the regulatory objectives of the framework? In this regard, we would propose the following:

- (a) to protect the health and welfare of animals;
- (b) to protect the consumers of veterinary services;

¹ *Review of the Veterinary Surgeons Act, Proposals from RCVS Council, June 2005.*

- (c) to deliver competent veterinary service in the United Kingdom which provides:
 - (i) protection to public health (eg through food safety and the control of zoonotic disease);
 - (ii) protection to the consumer from unqualified and/or incompetent practice; and
 - (iii) protection to the national economy from animal disease outbreaks;
- (d) to provide a flexible, responsive, risk based and proportionate framework for the regulation of veterinary services.

4. To achieve this, any new regulatory framework needs to reflect the full spectrum of veterinary services in the UK and not simply focus on those provided by veterinary surgeons. For the purposes of this submission, we define *veterinary services* as interventions by suitably qualified practitioners ultimately to promote the health and welfare of animals and avoid unnecessary pain and suffering. This would, therefore, include diagnosis and treatment of injuries and diseases in animals, surgery, palliative and nursing care, humane euthanasia, assisted reproduction services, the taking of samples from animals for diagnostic purposes, diagnostic testing, prescription and administration of medicines, complimentary treatments and alternative therapies, ethology (animal behaviour), prophylactic interventions including dentistry and farriery, as well as other preventive measures eg farm health planning, disease control, control of animal by-products, health certification for travel/trade, veterinary epidemiology, etc. Our definition would also include veterinary public health which involves both preventative measures and pro-active intervention through inspections.

5. The main benefits of updating the current system would be to:
- (a) ensure public and consumer confidence in veterinary services;
 - (b) maintain the confidence of our international trading partners in our veterinary services;
 - (c) clearly embed public health protection and control of animal disease as fundamental responsibilities of all veterinary surgeons and those providing veterinary care; and
 - (d) ensure that no unjustified restrictions are placed on veterinary practice or on competition between providers of veterinary care.

6. Taking account of the views of EFRA Committee, we propose to move forward with revision of the VSA by (publishing a White Paper on Government proposals for reform in early 2008.)

EFRA COMMITTEE QUESTIONS

Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?

7. The Veterinary Surgeons Act 1966 (“VSA”) set out the regulatory framework for the practice of veterinary surgeons and also for some other veterinary service providers (through amendments to Schedule III and secondary legislation). The Act made provision for the continuation of a register of veterinary surgeons and veterinary practitioners, and the regulation of their professional education and professional conduct. It also made provisions for cancelling or suspending registration in cases of misconduct. The Act also provided for the continuation of the RCVS Council as the regulatory body for the veterinary profession.

8. The purpose of the Act was to “protect the public and to prevent unqualified practice” and largely sought to bring the regulation of the veterinary profession into line with other professions at the time. However, the paradigm of professional regulation then prevalent gave a great deal of independence to professional groups. The paradigm relied on the implicit trust placed by the public in the professions to “keep their house[es] in order” with relatively little interference from the outside. In recent years, however, the RCVS as the regulator of the veterinary profession has been subject to the same kinds of criticisms around transparency, trust, accountability and public confidence that have been directed at the regulators of other professions.

9. In the medical and related professions, the *Shipman Inquiry* has led to a fundamental rethink of the way these professions should be regulated in future.^{2, 3} In the area of regulation of the legal professions, a similar fundamental rethink has resulted in a new Legal Services Bill which is currently undergoing Parliamentary scrutiny.^{4, 5} The trend appears to be a move away from traditional “self regulation” by the professions to a model of “co-regulation” with greater involvement of lay members of the public so that the regulatory framework is seen to work for the benefit of the public rather than for the benefit of the profession. For both professional groupings, issues of mandatory continuing professional development, fitness to practice, and independence of complaints handling processes are receiving detailed consideration.

² *Good Doctors, Safer Patients*, Proposals to strengthen the system to assure and improve the performance of doctors and to protect the safety of patients, A Report by the Chief Medical Officer, Department of Health, 2006.

³ *Trust, Assurance and Safety—The Regulation of Health Professionals in the 21st Century*, Cm 7013, The Stationery Office, 2007.

⁴ *Review of the Regulatory Framework for Legal Services in England and Wales, Final Report*, Sir David Clementi, 2004.

⁵ Draft Legal Services Bill, Cm 6839, The Stationery Office, 2006.

10. As well as developments in the regulatory frameworks of other professions, there have been significant developments in the delivery of veterinary services in the United Kingdom. Starting with veterinary surgeons, in 1966 there were 8,143 veterinary surgeons registered with the RCVS. Of those 3,864 (48%) were working in general practice, 690 were in government service, 280 engaged in teaching and 334 in research. Of the remainder, 42 were employed in welfare societies and 34 in the Army Veterinary and Remount service. By 2007, there were 22,162 veterinary surgeons registered with the RCVS of which 13,380 (60%) were in general practice, 769 were in Government service, 812 were in teaching and research, 357 were employed by charities and 266 worked in industry. In 2007, 53% of veterinary practices were classified by the RCVS as small animal practices and only 1.5% as farm animal practices.⁶ Of the remaining practices, 42% are classified as mixed and the rest as equine practices.

11. The expansion of the veterinary profession has also been accompanied by a trend towards larger practices and increased corporate ownership of veterinary practices. The RCVS considers that the increase non-veterinary ownership of practices is a cause for concern in itself. The implication is that there is a tension between professional requirements and the commercial imperative and as RCVS has no jurisdiction over the acts or omissions of non-veterinary owners, there is currently a lacunae in the regulatory framework. The solution proposed by the RCVS is the introduction of mandatory practice standards (This point is addressed in more detail below).

12. In recent years there has also been an expansion in the number of “paraprofessionals” providing veterinary services. Currently, for example, there are some 7,415 veterinary nurses, 2,500 Farriers,⁷ 76 equine dental technicians, 652 Artificial inseminators (mares), and 132 Ultra-sound scanners (cattle). (There are also ca 2,000 staff employed by the Meat Hygiene Service to carry out *ante* and *post mortem* inspections of animals and meat intended for human consumption under veterinary supervision.) The activity of many of these practitioners are regulated through an unsatisfactory *ad hoc* process of specific exemptions (see below). In addition and as in the sphere of human health, a significant complimentary/alternative treatment sector has evolved.⁸ These include chiropractic, osteopathy, physiotherapy, homeopathy, aromatherapy and acupuncture.

13. In our view, the current regulatory framework fails to meet the needs of a rapidly changing veterinary services sector and the need for greater public confidence in the regulatory framework. Under a new regulatory framework for the delivery of veterinary services, there will be an opportunity to clarify roles, provide appropriate risk-based regulation for those engaged in delivering veterinary services, and greater assurance for the consumer of the on-going competence of providers.

Ought there to be regulation of providers of veterinary care other than veterinary surgeons?

14. The primary focus of the VSA was to regulate veterinary surgeons and restrict treatment by unqualified persons. The Act, through the broad definition of “veterinary surgery” (section 27) and the restriction on practice (section 19) effectively established a professional monopoly for those on the register. Other providers of veterinary services were regulated by exception to the general rule through Schedule III of the Act. However, sections 19(4) and (5) of the Act gave Order making powers to Ministers define “minor treatment” or to amend the provisions of Schedule 3. These powers have been exercised from time to time on an *ad hoc* basis.⁹

15. In our view, the definition of veterinary surgery contained in the Act needs to be looked at again. We see value in the approach adopted in the Legal Services Bill in defining “reserved legal activity”. Applying this approach to the veterinary services area, one could circumscribe a set of “reserved” services that can only be provided by registered RCVS members. Services outside the scope of the “reserved” services could then be provided by other qualified persons. This kind of approach has been adopted in the New South Wales *Veterinary Practice Act 2003* where Part 2 established a category of “*restricted acts of veterinary science*”. Taking this approach further would, of course, need further discussion with the RCVS and the other providers of veterinary services.

16. We believe that all veterinary service providers should, in principle, be subject to regulation. However, the kind and extent of regulation needed would need to be moderated by applying tests such as, (i) risk to animal health and welfare (ii) risk to public health and (iii) proportionality. Where there is a high risk to animal health and welfare as a consequence of any intervention, then this would establish a *prima facie* need for statutory regulation of the provider of veterinary service. Where there is low or no risk, then voluntary self regulation should be encouraged and left at that. The proportionality test would need to take into account the numbers of practitioners of a given type of intervention/activity in determining the appropriate form of regulation.¹⁰ We believe that adopting this kind of approach would enable innovation in veterinary practice and wider veterinary services whilst continuing to protect the public and animals from

⁶ Royal College of Veterinary Surgeons Annual Report 2007.

⁷ Farriers have a specific and separate regulatory framework—Farriers (Registration) Act 1975 (as amended). A consideration will be whether to bring this within the scope of any overarching veterinary services legislative framework.

⁸ See <http://www.natural-animal-health.co.uk/index.htm>

⁹ For example, most recently in The Veterinary Surgery (Artificial Insemination) Order 2007, SI (UK, General) No 1315 [2007] which defines artificial insemination as a minor treatment, test or operation.

¹⁰ This assessment could be done by an Advisory Committee appointed by the Minister. An approach like this is set out in the New South Wales Veterinary Practice Act 2003 and in Ontario Regulated Health Professions Act 1991.

unqualified practice. The current restrictions on what procedures are exclusively the preserve of RCVS registered veterinarians and the current policy and legal mechanisms for enabling some of these activities to be done by others is, in our view, are inadequate and not sustainable.

17. With regard to veterinary nurses, we agree with the RCVS that this group is ready to be recognised as a profession in its own right. We note that in the Republic of Ireland, the *Veterinary Practice Act 2005* gives formal recognition to veterinary nurses, defines their role and makes provision for the establishment of a “Veterinary Nurses Board”. We are attracted by the approach adopted in Ireland. We are of the view that in the UK, there are sufficient numbers of numbers of veterinary nurses in the UK (see paragraph 12) to justify the establishment of a separate regulatory body.

18. As for other providers, we agree with the RCVS position that arrangements proposed for veterinary surgeons and veterinary nurses would be disproportionate. However, we will need to further discuss with the individual technician groups the most appropriate mechanisms for regulating the routes of entry, continuing professional development and whether there is a need to maintain a register of practitioners.

19. Finally, we concur with the RCVS in their view that statutory regulation should only extend to those disciplines that are supported by scientific evidence as to their efficacy.

Ought the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

20. This is not an either/or question. Regulation of individual veterinary surgeons is a given and should continue in some form or other. However, the case for regulating practices through mandatory practice standards is less clear cut. In our view, more could and should be done to encourage the widespread adoption of the Voluntary Practice Standards Scheme which was launched as recently as 2005.

21. The RCVS proposal for mandatory practice standards appear to be motivated by the growth of non-veterinary ownership of practices and the fear that this increases the risk of conflict between the requirements of veterinary professionalism and commercial imperatives. The RCVS argue that the regulation of professional conduct and competence does not cover all aspects of public concern in that the quality of veterinary care is affected by inadequate premises, equipment, staffing, record keeping and communications. The RCVS argue that they cannot currently hold non-veterinary owners of practices to account for inadequate veterinary care as a result of these concerns.¹¹

22. Whilst this may be the case, some of these issues are already covered by existing regulation (eg health and safety legislation and rules for storage and dispensing of veterinary medicines) whilst others seem to be matters for individual businesses to decide. It is entirely reasonable for the regulator to seek to improve standards of service provision to the public. However, as a general policy, Government would prefer to reduce and simplify the administrative burdens faced by businesses as far as possible consistent with meeting basic, minimum standards.¹² From our point of view, a mandatory scheme that duplicates some existing statutory requirements is not an attractive option.

23. In any event, Government has proposed some regulation of practices. Under the Veterinary Medicines Regulations 2007, the Veterinary Medicines Directorate (VMD) are bringing into force a new requirement for the registration of premises used by veterinary surgeons for the storage and supply of veterinary medicinal products. These Regulations come into force on 1 October 2007. They will enable controls on veterinary medicinal products to be enhanced and bring premises used by veterinary surgeons into line with those of other Registered Qualified Persons such as pharmacists. The provision will also help address the emergence of website shops set up by veterinary surgeons which are difficult to locate and enable inspections of their records as required under EU legislation. The VMD are working with the RCVS so that they can use the College’s existing systems for registration of premises.

24. Although RCVS have expressed the fear that non-veterinary ownership could lead to inadequate veterinary care, this has been not been supported by any evidence provided to Defra. Indeed, there may be a case for expecting a move to corporate management of practice to result in higher standards of service to the customer. It would be helpful to have some projections on the extent of non veterinary management of practice. However, in the absence of any hard evidence, it is difficult to see how a mandatory scheme could be justified at the present time.

25. We recognise the potential benefits to customers of having minimum professional standards for all veterinary practices but need to be satisfied that there are problems that justify a statutory solution. Any intervention must be proportionate and we would need a cost benefit analysis to support any proposal for a mandatory scheme. These are issues that Defra would be prepared to discuss further with the RCVS and BVA.

¹¹ Tension between professional ethics and employer obligations are not a new phenomenon for veterinary surgeons. Government veterinarians have frequently been the subjects of complaints on these grounds in the course of disease control operations.

¹² Indeed, in the Republic of Ireland, New South Wales and Canada veterinary premises are required to be licensed and this is conditional on meeting acceptable levels of care for animals before, during and after major surgery.

Should the RCVS and the Veterinary Nurses Council (VNC) be given the power to require continuing professional development and revalidation?

26. Yes. A commitment to life-long learning is essential if a veterinary surgeon or veterinary nurse is to ensure safe and effective practice. Moreover he/she cannot hope to fulfil the promise made on registration to ensure the welfare of animals committed to his/her care if clinical skills and competence are not maintained. Therefore, like the RCVS, we take the view that, in line with developments in other professions, the regulator ought to have the power to require mandatory continuing professional development and revalidation/relicensing of registrants.

27. Given the overriding objective of protecting animal health and welfare, it seems to us that the idea of omni-competence (ie that they can set up practice in any area of veterinary medicine on being registered) of newly qualified veterinary surgeons needs to be revisited. We also take the view that newly qualified veterinary surgeons ought to undergo a period of further on-the-job training and demonstrate a minimum standard of competence and skill before being licensed to practice by their respective regulators.

28. The details of how mandatory continuing professional development and revalidation should be achieved will need further detailed consideration and will need to take into account the cost of additional requirements on what are relatively small, private practice based professions.¹³ Government is also a major employer of veterinary surgeons and through Debby Reynolds in her role of Head of Profession, is committed to continuing profession development in its own staff. The Government Veterinary Surgeons (GVS) initiative also works closely with the RCVS in the development of the post graduate modules that support the new Advanced Certificate of Veterinary Practice.

Ought the governing body of the RCVS and VNC include appointed lay persons as well as veterinary professionals?

29. We agree with point made in the Department of Health's White Paper *Trust, assurance and safety: the regulation of health professionals* that

“... in order to exercise their functions effectively and command the confidence of patients, the public and the professions, regulators of the professions need to be seen to be independent and impartial in their actions”.

The proposition contained in the White Paper is that Councils that regulate health professionals have, as a minimum, parity between lay and professional members.

30. The VSA currently provides that the Council be made up of 24 elected members of the RCVS, four persons appointed by the Privy Council and two persons appointed by each of the six recognised Universities, one of the two to be a member of the RCVS. This provides a majority of elected RCVS members with a potential percentage of 25% lay appointees to 75% veterinary surgeon members. Currently, lay appointees equate to 15% of the total Council membership.

31. In our consultation on proposals to modernise the VSA in 2003, we put forward options for changing the composition of the Council by reducing the number of elected members and increasing lay membership. We also asked whether lay appointments should be made either by Defra, the Privy Council or an independent appointments panel. The majority of responses as to who should make appointments were in favour of an independent appointments panel.

32. However, the question as to whether RCVS members of the Council should be wholly appointed rather than elected by RCVS members was not asked in our consultation document.¹⁴ There is a case for considering this issue alongside the objective for greater public accountability and trust. Currently, whilst the hope is that decisions of the Council will be made in the public interest, elected members are also accountable to the profession who elected them and this could give rise to potential conflict of interests. The College's powers and duties under the Royal Charter, are not limited to the management of profession alone and also include supervision over the affairs, concerns and property of the College—including the income generated by membership fees. Members will have a vested interest in how that income is distributed and an expectation that it will be used appropriately to advance and promote the veterinary profession. This might point to having a wholly appointed regulatory body and a split between the Charter functions of the RCVS and its regulatory functions. However, this would be a big step and would need further discussion with the RCVS.

33. Our view is that lay membership of any Council should be significantly higher than it now stands in the RCVS Council but that there should remain a veterinary professional majority (whether appointed or elected, and the relative proportions of each, to be decided following further discussion). Lay membership should be drawn from a broad enough range of stakeholders so as to ensure that the views of consumers are adequately represented and the interests of all stakeholders are considered.

¹³ As mentioned previously there are just over 22,000 registered veterinary surgeons and over 7,000 veterinary nurses. This compares with ca 200,000 doctors, over 400,000 nurses and midwives, and 143,000 lawyers.

¹⁴ The Department of Health White Paper *Trust, assurance and safety: the regulation of health professionals* proposes that Council members should be independently appointed to dispel any perception that they are overly sympathetic to the professionals that they regulate.

Ought the RCVS and VNC to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings?

34. The case for modernising the regulatory framework in respect of conduct and complaints is compelling. The current system is inflexible, lacking transparency and not sufficiently customer focused.¹⁵ It does not meet the public need for the investigation and resolution of complaints that directly relate to the competence and care of service provided by veterinary surgeons. There is evidence that public expectations are not being met and that a system which involves veterinary surgeons judging other veterinary surgeons will not inspire public confidence and trust.¹⁶ The public are entitled to greater re-assurance that the investigation process is fair, unbiased and independent. Veterinary Surgeons who are subject to a complaint are entitled to the same degree of confidence. They should also have the opportunity to appeal disciplinary decisions and be confident that the complaints system is balanced and fair.

35. The VSA provides for Council to establish a preliminary investigation committee (PIC) to investigate every disciplinary case involving a veterinary surgeon, which if proven could result in their removal or suspension from the register and to decide whether the case should be referred to the disciplinary committee (DC). The disciplinary committee may remove names from the register for crime or disgraceful conduct. To apply this sanction, the DC must be satisfied that conviction of a criminal offence renders a person unfit to practise veterinary surgery; or that they are judged to be guilty of disgraceful conduct in any professional respect. A person may appeal against removal from the register to Her Majesty in Council. There is no statutory appeal mechanism for the complainant.

36. Between 1 April 2006 and 31 March 2007, the RCVS received 709 complaints whilst 213 cases were referred to PIC after initial scrutiny. The main complaint was alleged inadequate care by the veterinary surgeon but, as the RCVS point out in their Annual Report 2007, such complaints may amount to negligence for which RCVS has no power to adjudicate. At the PIC's request during this period, the RCVS in-house investigation team undertook 45 investigations and referred 27 cases to external solicitors who then take statements from the complainant and other witnesses. The RCVS Annual Report sets out the details of 11 DC hearings. The outcomes included four cases where direction was made for removal from the register and concerned behaviour related to alcohol, false certification and theft of controlled drugs. Three cases resulted in either a reprimand or no additional penalty. The average cost of the 11 disciplinary committee hearings was £35,000.

37. We fully accept that complaints about conduct of individual veterinary surgeons which brings the profession into disrepute must be thoroughly investigated and appropriate disciplinary action taken. However, concentrating only on instances when a veterinary surgeon is guilty of "disgraceful conduct" (whatever that is taken to mean) means that the Disciplinary Committee is limited to considering a small number of the most serious type of complaint. The overwhelming majority of complaints received by the RCVS are sifted out at some point during the process. Allowing such a large number of complaints each year to be dismissed in this way inevitably harms the reputation of the veterinary profession.

38. Animal owners place significant amount of trust in veterinary surgeons and rightly expect that their animals will receive appropriate care. Today's consumer takes a much greater interest in the decisions taken by veterinary surgeons and wants to know why decisions have been taken. They also expect to be closely consulted throughout the process.

39. It is inevitable that, in some cases, things will go wrong and owners who feel that their animals have suffered or perhaps died because, in their view, a veterinary surgeon, was at fault want somewhere to take their concerns. They see their case as a serious injustice and want recognition of mistakes made and an assurance that lessons will be learned. It is impractical for the RCVS to provide a detailed second opinion for every disputed case. However, a complaints system must enable the regulator to consider if there are grounds for concluding that a veterinary surgeon has not maintained adequate levels of professional expertise or standards. Therefore, as well as "professional misconduct", the regulator should have powers to address "unsatisfactory professional conduct", with appropriate remedies, which forms the basis of the vast majority of complaints received by the RCVS.

40. The RCVS readily accept that the provisions in the VSA relating to complaints and conduct need to be strengthened and have set out their proposals on how this might be achieved.¹⁷ We agree that there needs to be a clear separation between those that set standards and those who investigate and those who decide on complaints. We also agree that there should, for exceptional cases, be a power to make an interim order pending proceedings, suspending a veterinary surgeon or imposing conditions and that there should be powers to dispose of complaints against individuals by giving a warning and, finally, there should be powers to impose conditions of practice on a respondent. Something not in the RCVS proposal, but which we believe will assist in disposal of complaints is that there should be a mediation process built into the process as part of a preliminary assessment of any complaint.

¹⁵ Indeed much of the impetus for change in the regulation of the legal profession has come from the feeling that complaints were not dealt with in a manner that was clear, transparent and user friendly (see Clementi Review—Final Report).

¹⁶ A number of petitions for reform have been launched by disappointed complainants who have felt that they have not received a satisfactory response from the RCVS to their complaints.

¹⁷ Review of Veterinary Surgeons Act, *Proposals from RCVS Council*, June 2005.

41. As for issues of single portal for complaints against veterinary professionals (and perhaps some Ombudsman-type scheme), who precisely should investigate, and who precisely should adjudicate, as well as the cost of any changes etc, further discussion between interested parties will be needed to reach agreement on the final form of these arrangements.

Ought the RCVS to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council?

42. No. As we have said above, the current restrictions on what procedures are exclusively veterinary and the current mechanism for enabling veterinary activities to be conducted by others, eg in an emergency situation, is not sustainable and needs to change. We are conscious of the different needs for veterinary supervision which may be relevant in a commercial environment, compared with those people working in a statutory role, e.g. to achieve disease control objectives. We would propose a risk-based regulatory framework (see above) which would provide assurance both for protection of animal welfare and for public health as well as providing a transparent method for the consumer to find a competent individual who can provide a particular veterinary service. This approach could be applied to new techniques or new demands and could be audited. There may be a role here for the RCVS in relation to providing an auditing role on the quality of training provision by the FE and/or HE sectors.

September 2007

Witnesses: Rt Hon Lord Rooker, Minister for Sustainable Food and Farming and Animal Health, and *Mr Fred Landeg*, Acting Chief Veterinary Officer, gave evidence.

Q176 Chairman: Once again we have the pleasure of welcoming an old friend of the Committee, Lord Rooker, the Minister for Sustainable Food and Farming and Animal Health. He is supported by Fred Landeg, the present Acting Chief Veterinary Officer. Thank you very much indeed for coming. Thank you in particular for being here to listen to the earlier witnesses because I think it has given you a flavour, as in fact the written evidence has done, of some of the issues. I think it is fair to say, and I hope I am not misquoting Defra, your Department said that the Veterinary Surgeons Act was “in urgent need of updating to bring it into line with modern concepts of professionalism”. Does that remain your Department’s position on the legislation?

Lord Rooker: No.

Q177 Chairman: Right, good. So what has changed?

Lord Rooker: First of all, we have no resources to do anything. I am not denying the fact that there may be parts of the legislation that need upgrading on various procedures, as you have heard this afternoon, but the opportunity to do so is not going to prevail during the current Spending Review round.

Q178 Chairman: So tell the Committee why it is going to cost something, apart from the cost of drafting a new Act, bearing in mind your Department started out in 2003 with a consultation exercise? Let us, if we may, separate out the principle from the practice. In 2003 there must have been a view within Defra that you needed to take advice from the profession as to whether the legislation needed to be updated. Is that a correct starting point?

Lord Rooker: Yes. Of course, in 2003 things were slightly different departmental resource-wise, plus the fact there have been several bids for parliamentary time, all of which have failed, and, therefore, there is an impetus in the Department if you do not get the slot the pressure for the White

paper and everything else is not there. That is a factor. The new factor, since the memo of September or, indeed, since the last few days, is the departmental resources that are available to ministers and others on a whole range of issues do not stretch to getting together to draft a White Paper because we would have to stop doing other work. We have had to look at resources, the budget, and you have seen some of the top line figures but the penny has not dropped yet on the consequences lower down on other issues. There simply will not be the resources within the Department to start what would be a big operation, because one is dealing with not only this Act but various legislation. There would be a need for a White Paper and a good deal of consultation; it would be quite a massive job. Put simply, there are not the resources during the current CSR review and there is no parliamentary time. We are happy to make it quite clear that we will make a bid for the next spending round for the resources for this, plus the parliamentary time, but I have to say before 2011 there is no prospect of Defra starting any work on this. I have to make that absolutely clear because to do that we would have to stop other activities.

Q179 Chairman: I just want to clear up a point. Why then in your written evidence did you say to the Committee that you: “intend to bring a White Paper on Government proposals for reform in early 2008 taking into account the views of the Committee”?¹⁸ You are entitled to change your mind, but it is a bit short after writing that down.

Lord Rooker: No. As I have said, the memo that came to the Committee was some months ago and since then we have looked at our resources following the decisions on the spending round and decisions have been made only in the last few weeks that lead to consequences in the Department which are substantial. This is one of them where the decision

¹⁸ Ev 53, para 6

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

has been made not to make any progress because there simply are not the resources and we would have to stop doing other activities. That, I have to say, impinges on other areas of the Department's work, particularly in the animal welfare field where resource implications have led to a reordering of priorities and abandonment of some work streams. As I have said, in the overall scale of all the figures that you have seen in the recent letter that you had from the Perm Sec, at that level it does not cover this kind of detail.

Q180 Chairman: How much will you not have to spend now?

Lord Rooker: I cannot put a figure on it, but in terms of human resources—

Q181 Chairman: You must have had a figure in mind when you wrote to us saying you could do it. You said a moment ago in the last few weeks you have had to take a view that we have not got the resources.

Lord Rooker: We have.

Q182 Chairman: What did you have pencilled in a few weeks ago?

Lord Rooker: The resources come two ways, do they not, there is money and people. We have a lot less people, and we are going to have a lot less people in the next 12 months.

Q183 Chairman: Yes, but come on, if you went back as Minister and said to the Finance Officer "How can we live within our means?" you would get a list of things that you do not have to do and I cannot believe on it would not be something that said, "not proceed with White Paper on revising this Act saving X".

Lord Rooker: No, no. When we took those decisions and had those discussions late last year, the actual detail at this level in terms of this level of programme, a White Paper on this, would not have figured until one started to carve it up in greater detail, which we have only done in the last few weeks just before you had the memo from the Permanent Secretary. Today I am giving you the consequences of some of those high level decisions.

Q184 Chairman: If you do not know the answer now, let me ask if you would be kind enough to go back and ask your Finance Officer if he would cost out for the benefit of our greater knowledge and understanding how much this might be, because if you are saying you have not got the resources now at some point in the future a Defra department might have the resources and somebody, seeing a bit more cash coming on the horizon, might say, "We would like this Act" and they would need to know how much it is going to cost.

Lord Rooker: With respect, I have already said for the next spending round we will put a bid in for resources to do this, but what we are saying is during the current spending round, which is only just about to start for three years, the way the money is divvied up and given what we have got in this area we cannot start the work.

Q185 Chairman: What I want to know is what is the order of magnitude of spending? I do not expect you to come down with an absolute to the last ten quid's worth. Are we talking about the Department saving £100,000, a million pounds, five million pounds? What is the order of magnitude?

Lord Rooker: The order of magnitude on this is the resources we have got. First of all, we will have less people. We have got work streams already in this area now, particularly on changing legislation because this is not something one can do off the top of your head. Let us make this clear, we have got no parliamentary time for this. We have bid for it but we have not got it.

Q186 Chairman: I appreciate that.

Lord Rooker: By definition, if you have not got parliamentary time you are not going to gear the Department up for a massive work stream that comes to nothing at the end of the day. We would have to sacrifice the work we are doing, for example, on trying to change the regulations about bovine TB testing for a start, because that is a priority for us, to allow other people to do that kind of work because that is not possible, but that is a priority for us. There is the consolidation of an existing range of exemption orders, there are about ten of those, where there is work carrying on and we do not want to stop doing that. There is equine dentistry, strangely enough, which you have raised partly today, to develop an exemption order. It is true that if we went ahead with this operation of looking at this Act the dentistry order would fall by the wayside because it would be covered by the legislation, but as a one-off small-time exercise it is worth doing that now.

Q187 Chairman: I will tell you, Minister, you are doing a wonderful job of straight batting my simple question of how much you are going to save.

Lord Rooker: It is not a question of money. First of all, the numbers of people—

Q188 Miss McIntosh: It is priorities. What you are saying, Minister, which is very honest of you—

Lord Rooker: I am saying that.

Q189 Miss McIntosh: —is this is not a top priority.

Lord Rooker: The things that I have just listed are a higher priority than the reform of the Act, it is as simple as that.

Q190 Chairman: We are not disputing what you are saying, but normally when people take a decision about the use of resources when they prioritise somebody usually comes along and says, "Well, if you don't do this you can put X to something else", but we do not know what X is. I will tell you what, we are going to park that.

Lord Rooker: No, with respect—

Q191 Chairman: Have you got an answer for us?

Lord Rooker: No, no. With respect, as ministers we were faced with a range of issues at this level of detail in the Department above and below a line.

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

Q192 Miss McIntosh: What is the line?

Lord Rooker: Above the line we can do.

Q193 Miss McIntosh: What is the line?

Lord Rooker: A literal physical line on a piece of paper.

Q194 Miss McIntosh: Is it people or money?

Lord Rooker: Activities.

Q195 Chairman: Are we talking about within your Departmental Expenditure Limit?

Lord Rooker: Activities.

Q196 Chairman: Is that DEL or AIM?

Lord Rooker: Hang on a minute. Above the line we have got the resources to do the jobs; below the line we have not. If we wanted to move an activity from below the line to above the line something has to go from above to below, it is as simple as that. In other words, we have had to make a choice. Some of the examples I have just given to you are more of a priority in the Department than a review of this Act, it is as simple as that. The question of the size of the money does not come into it.

Q197 David Taylor: It must have been sized and costed to know if it went below the line what would have to go above the line to compensate. There must be some broad comparability figures that are available, surely.

Lord Rooker: They are in activities, as I have said to you. If we started the work on this we would have to stop a whole load of other activities, because it is physical people we are talking about.

David Taylor: I understand that.

Q198 Chairman: We understand that. In the new—

Lord Rooker: We have got a lot less now than we had last year and this time next year we will have a lot less than we have got now.

Q199 Chairman: We have had the benefit of a briefing from your Department about Defra's new ways of working, and we understand about the teams that go from one task to another and we understand that there are only so many tasks you can do, that is not a point of issue. We are grateful for your candour in making it clear at the outset that at the moment this has not crossed the line in a way that you can afford to do anything about it, but I cannot believe in a Department that costs out the alternatives, which is what Mr Taylor was saying, that somebody has not said, "Look, Minister, you cannot spend X hundred thousand or a million, whatever pounds it is, on this", because the sacrifice will be all the other things you have said have a priority that you could not do. I do not think it is unreasonable for us to have some idea of what the order of magnitude of spend would be to achieve this. You consulted on it in 2003, you wrote a paper to the Committee a few weeks ago saying you were going to produce a White Paper in 2008, and now the resources are short, the priorities have changed and you have ruled it out. That is a perfectly respectable

thing for a department to do but we would all like to know how much the resource would have been to have taken the exercise forward. I cannot believe somebody did not cost it.

Lord Rooker: It is costed out in terms of the other activities.

Chairman: There is an opportunity cost to anything, but how much is it in money terms?

Q200 Miss McIntosh: What has changed since you submitted the memorandum?

Lord Rooker: An enormous amount has changed since we put the memorandum in. You have had a note on some of the money.

Q201 Chairman: You have another 30 million of cost savings.

Lord Rooker: There are a lot more issues, I have to say, and I have only come here today with one, which will hit the fan when you get down to this level of decision-making following the bigger decisions.

Q202 Chairman: We wanted to ask about your observations on the state of the law in the veterinary profession, and I would love to get on to that, but I do not think it is unreasonable to press you for an answer to a very simple question. By changing your priorities and freeing up resources from doing this you are going to do other things, and we must respect that, but how much resource has been freed up by the decision taken not to do it? There must be a number to this.

Lord Rooker: As I have told you, the consequence is that some of the things I have listed here we would not be able to do.

Q203 Chairman: These things that you are going to do, how much do they cost?

Lord Rooker: I will give you money for it if you like, if I can do, but the fact of the matter is that—

Q204 Chairman: If you cannot do it now later will do, but we would like an answer.

Lord Rooker: It will not make any difference if I give you a figure of money. First of all, we have not got the money and, secondly,—

Q205 Chairman: I think you have said that. You have said that plenty of times.

Lord Rooker: I know, but I have got to make this clear.

Q206 Chairman: Tell us how much it is going to save.

Lord Rooker: We not only have not got it, we are not going to ask for it either.

Q207 Chairman: I think we have got the idea.

Lord Rooker: You seem to imply if we can put a figure on it we can go to the Treasury and ask for a bit more money, but we are not going to do that.

Q208 Chairman: I am not implying anything, I am merely asking a very polite question, how much money have you effectively been able to redeploy?

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

Lord Rooker: Enough for the resources to cover the bovine TB testing, the consolidation of existing exemption orders, amending the update of Schedule 3 of the Act which we need to be able to look at for new purposes, and to deal with the exemption order for equine dentistry.

Q209 Chairman: Brilliant. So how much does that lot cost?

Lord Rooker: I have not got a financial figure for it.

Q210 Chairman: Well, all right. That might have saved us five minutes of questions.

Lord Rooker: You wanted a simple answer and I am afraid the issue is more complex than that.

Q211 Chairman: Can you get us an answer to our question?

Lord Rooker: If there is a financial figure on that, yes, if it is a people figure on it, yes, but it may be more complicated than that.

Q212 Chairman: Well, it may be but when the Permanent Secretary comes to see us to tell us about your spending priorities perhaps you would be kind enough to inform her that that will be one of the questions we will ask because she will have had a few weeks to have worked out what the answer is. In terms of looking at the Act, had you been able to do something about it, what would you have liked to have done by way of improving the Veterinary Surgeons Act 1966?

Lord Rooker: I think probably the one thing above all others, which you have probably touched on a bit today, is the public's perception. By definition, you have got an Act of Parliament that is 50-odd years old and things have changed in a whole host of other professions and complaints procedures is probably the single biggest one so you have got a degree of transparency, a degree of where the public do not think they are looking after themselves or investigating themselves. That has been over a range of professions, estate agents, police, over the last few years. That would be one of the key areas. Also, to modernise the way the complaints procedures are dealt with but also to have input, as you heard earlier on, from lay people as well. That falls into line with virtually every other activity where the public are buying a service or paying for a service. That is probably the one above all others. I have to say, by the way, if one took a very narrow view of what could be done that might even be a runner for a handout bill for a private Member. The minute you go beyond that you start to get complex legislation which would not be suitable for a private Member. As I say, I do not come here with preordained views on this, it is the principle of the issue. To do a White Paper we would obviously have to have an extra amount of consultation updating what we did before which was some years ago now.

Q213 Chairman: So a low-cost route might be possible for some upgrading of the core of the Act, if you like, because the question of the complaints procedure touches on the structure of the way in

which the Royal College currently operates. If it were going to be dealt with by the route you have just outlined, and I appreciate that is a possibility, a maybe, could that be something that could be done by secondary legislation or would it require an amending Act to the primary legislation that we have currently got?

Lord Rooker: That is a good question. I think it requires primary legislation from when I looked at bits of the legislation. I have not gone right through the detail of the Act but I think it is primary legislation, which is why I referred to a handout Bill and private Members. Of course, that would have a resource implication on Defra but it is a free country and Members of Parliament are entitled to promote whatever Bill they like and we would respond to that obviously. If it was very narrow, dealing with that more central issue without going into all the other areas, then you could argue you would not need a White Paper, you would not need a massive consultation for it.

Q214 Miss McIntosh: There are only 11 investigated in any one year, so that does not seem exactly top priority.

Lord Rooker: If you look at the figures of the complaints that were made for the last year I have got, which is 2007, there were 709 and the vast majority of those were dismissed as not being relevant. It is that area of public perception. I do not form a judgment on whether that should be widened and how it should be widened, but quite clearly—

Q215 Miss McIntosh: Surely it should be narrowed.

Lord Rooker: —there may be dissatisfaction amongst the public that they have got nowhere to go to complain. It is an issue for debate and consultation, that is what this is about. In terms of the wider issue, as I have said, after 50 years it can wait three more years if it is going to be done as part of a big package, but if there was a narrow effort that might be a possibility.

Q216 Paddy Tipping: Can I just pursue that a bit, Lord Rooker, because when the Royal College came to see us, some of us suggested that they ought to draft their own Bill and promote their own Bill, and your advice is to take a very tightly focused Bill which is around independent appointment of lay members to deal with complaints. If that were done, the Bill were promoted and if someone was successful and prepared to push it, are you saying that your officials would not back the Bill but at least would give professional advice on it?

Lord Rooker: Absolutely, because as the Department we would have to react. It would not be unknown for an outside body that wants to get itself updated to come forward to Members with a two or three clause Bill. You know about Bills, you are more up-to-date than I am. If they get complicated, go wide, they will not get through. There are many one and two clause Bills that have made an enormous difference to the way society operates that have gone through that way because the people concerned have come forward, done the

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

consultation, found someone successful in the ballot and got a readymade Bill that while not supported by the Government would be neutral and have the necessary positive back-up from the minister.

Q217 Paddy Tipping: Just going on from that, if the RCVS put a Bill together your officials would give it the once-over, would they?

Lord Rooker: We would comment on it, yes, there is no doubt about that. As I say, we are in no position to run it ourselves but we would naturally comment on any Bill before Parliament and ministers have got to be properly briefed.

Q218 Mr Drew: The issue of complaints is the one that keeps coming up in our discussions. Given that, as far as I know, it is possible to complain to the Privy Council about the actions of a particular vet, and you said most of the complaints you have got are not serious enough to be worthy of further investigation, is there a handle on what is going on out there? You know formerly as an MP, and we know as MPs, that this is an area where you do get complaints and you get people who feel totally dissatisfied with what has happened to one of their animals, so it is not without some justification that we ought to be looking more seriously at this area.

Lord Rooker: I have not really formed an overall judgment on that. I have only got the figures I have got in front of me and also, I have to say, the other information I get from your House is the daily letters that I sign, which I do read. I cannot remember the last time I answered a Member of the Commons raising the issue on behalf of a constituent about a vet. I am not saying I have not, but there are literally hundreds. The 709 complaints are important for those people and there are a lot of pet owners, there is no question about that, but the point I was making was on the narrow issue of complaints dealt with by the Committee, the 1%. The type of complaint of alleged inadequate care was about 272. There were 40 complaints about 24-hour emergency cover. Lack of communication or general communication, 150. Those would not be covered. It may be there is an avenue to look at as to where the aggrieved pet owner goes to make a complaint which does not border on the professional misconduct, the conduct of the practice, opening hours and that kind of access. I have to say with the range of letters and complaints that constituents are not slow in bringing forward to Members of Parliament this has not come on the radar at all as far as I am concerned since the last reshuffle, because Ben was doing it before.

Q219 Mr Williams: If I understand it correctly, from the Royal College there is a concern that the present disciplinary procedure would not stand scrutiny in terms of human rights, that somebody who has been accused of something does not have the opportunity for any decision of the Royal College to be judged other than by people who have already taken a view on it. The Royal College feels in some, I do not know if jeopardy is too strong a word. Surely that is an

issue that should be addressed by new legislation. This is a human rights issue for people practising in the profession.

Lord Rooker: I agree, Roger, but what I do not know is how many other organisations are in the same boat. Obviously there has been a lot of upgrading since the human rights legislation. It is more than human rights, it is natural justice and transparency really. Something that is 50 years old is bound to be behind closed doors, the great and the good. That has to be modernised, that is true. That narrow area might satisfy a degree of the discomfort that people feel, or as parliamentarians we would all feel, that this is not modern enough. Of course the other issues go way beyond that. You are quite right, if people feel as though they can be judged and not have a court of appeal or have to appeal only to those involved in the original decision, that was abandoned as a process in colleges of further education when I was on a governing body, one had to have a different set-up. The legislation might prevent from them doing it in that way, I do not know, but if that was something they could go back and look at themselves and come up with a proposal to deal with it then you could probably find a way to fast track that.

Q220 Chairman: In terms of the nature of the short Bill that might hypothetically turn up, would you prefer in principle to see something drafted that attempted to fix in the primary legislation those areas where you could have a narrow change, say to the disciplinary procedure, or to have the Bill modified to have, for example, as in Section 60 of the 1999 Health Act, a mechanism which would enable secondary legislation to subsequently affect different parts of the profession?

Lord Rooker: No. Without going back to my brief, I would advise against that. First of all, if it was a Private Members' Bill, that is an enormously large power which would probably fall at the Delegated Powers Committee of my House. Anything that smacked of—I use words I should not use—trying to slip something through with a bigger power I would strongly advise against.

Q221 Dr Strang: The RCVS has told us that it thinks the Council is too big and should be reduced in size. It has also said that at least 50% should be lay members. I wondered if you and the Department have a view on that that you might express to us today.

Lord Rooker: I have had no discussions about that. You are quite right, it is important. The Council is 40 strong. I have no view on that. 40 members is huge. I know that lots of other organisations outside of this, university governors and college governors, are attempting to slim down having grown like Topsy over the years to this kind of figure, I might add, 40 or 50 is not unknown, but they are trying to slim them down to a couple of dozen, which is large anyway. There is an effort on that. I do not make a judgment about the Royal College at all on this.

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

Q222 Dr Strang: Are you really saying that because the Government is not going to do anything on this now that you have not really addressed these issues and you do not see any need to do so? Is that really where we are?

Lord Rooker: Yes, in a way. From a practical point of view, yes, because of my first answers. Obviously we have got to deal with the issues as they come up, but in terms of answering the question that Michael asked me about what is the key issue, the key issue from my looking at it is if you could do one single change to modernise a 50 year-old piece of legislation it would be that area. I am not saying the rest is not important, do not get me wrong, we still stand by the substance of the memo, it is just the practicalities. I have to say it is not something that will occupy a lot of ministerial time in Defra.

Q223 Dr Strang: If I could just try one more. In terms of the members, if you have to make a choice between members being elected or being appointed, what would you choose?

Lord Rooker: I suppose if I was playing to the gallery I would say elected, but then you look at what happens when you have elections.

Dr Strang: Are you looking at us now! Is this your view of the Committee?

Q224 Paddy Tipping: We are not talking about the House of Lords now!

Lord Rooker: I am well aware of my position as a completely unelected Member of the Government there by patronage alone. These days one sees adverts in the press. Lots of institutions look for, if you like, external trustees or governing bodies and have a process. I am not sure election is a good idea. You could run a mini public appointments process to actually put people on boards like this. For all practical purposes there could be an advert for the job and you go through the process. You are looking for people to serve just a few hours or days a year with some expertise. You would want to cover, I would imagine, a range of expertise and if you do that the chances are you will not get it by election.

Chairman: I was just looking back to see how you dealt with it in your evidence and you say: "There is a case for considering this issue . . ." ¹⁹

Paddy Tipping: What does that mean?

Q225 Chairman: I had better read the rest of the sentence: ". . . alongside the objective for greater public accountability and trust". Masterful.

Lord Rooker: If we were going to proceed with a White Paper and we started getting the draft of a White Paper underway we would have gone into all of these issues in greater detail, but we have not. Basically we did very much a general scoping paper for you. We do not have fixed views in Defra because this is not something we have spent an awful lot of time on this time round and we will be spending even less time following the decision we made just last

week on this issue. These are current decisions which is why I do not come with the pounds, shillings and pence figures.

Q226 Paddy Tipping: Just diverting from the script a moment, Lord Rooker. You read out a list of things you were going to do and you told us there were lots of things that you were not going to do. The Animal Welfare Act has a lot of secondary legislation attached to it.

Lord Rooker: It certainly does, yes.

Q227 Paddy Tipping: Where does that now stand, that secondary legislation? Has that gone below the line?

Lord Rooker: I have not come with a brief on that, but basically—

Q228 Mr Drew: That is why he has asked you!

Lord Rooker: There are issues which we will proceed with. The resources of the animal welfare team in Defra by this time next year will be a third less, it is as simple as that, the number of bodies will be a third less. Obviously one looks for productivity gains and things like that but, nevertheless, with a third less you cannot carry on the existing programme. Some issues will continue because they are underway now and some of them will conclude and, therefore, resources will be freed up. We have got an A list, a B list and a C list, which we abandoned, although some of them we may say we have abandoned for this CSR only. We have some which are high profile on which decisions had to be made. I am reluctant, in a way, to share everything with you because the penny will not have dropped, although it will do.

Chairman: I think the penny is dropping rather rapidly at the moment.

Q229 Mr Drew: More like a tonne of bricks.

Lord Rooker: There is a lot of them. Defra has serious financial difficulties. In some areas we will be spending a lot more money and putting a lot more resources into more priority areas but we are in a slimming down process. On the animal welfare side, yes there are things above and below the line and to move one above meant we had to move one below and that means the work will not continue in some areas. The work on the grounds will continue, for example, but the work on circuses will not. You have got a scoop there, you see.

Mr Drew: To cheer up the RSPCA.

Q230 Chairman: Just to help us to draw up a letter to the postcard monitors, I think.

Lord Rooker: It will not make any difference. I have made the position clear. If pressure was to come to put something back in then we have got a list of things that have to come out. I suppose that is what we are in Government for. At the end of the day I am accountable for the decisions but they are not easy, they are not easy.

Chairman: Government is not easy, you are right, it is difficult. That is why you are there and we are here!

¹⁹ Ev 56, para 32

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

Q231 David Taylor: You are aware that since 2005 the Royal College has had a voluntary scheme for accrediting veterinary practices, setting standards and organising inspections, things of that kind.

Lord Rooker: Yes.

Q232 David Taylor: A good idea? Worthwhile?

Lord Rooker: It is probably time to maybe have a quick review of it. The thing is, if we were going ahead with the wider consultation it would be natural to have a look at the operation of that but certainly a chance to have a review of it. In principle, the issue of whether it is mandatory or voluntary, our view is—

Q233 David Taylor: Hold on. You must have had some feedback from the profession about the existing scheme's efficacy, as it were. Is that feedback positive and encouraging or not?

Lord Rooker: It is something we would have to consult on, I think. We have got a note here. The costs and the benefits of a mandatory scheme as opposed to a voluntary scheme—

Q234 David Taylor: I am not asking about a mandatory scheme.

Lord Rooker: I know you were not asking.

Q235 David Taylor: I am just asking about the voluntary scheme. Is it worthwhile? Are its aims laudable? Is that the direction that the profession ought be taking?

Lord Rooker: I think I just heard that 50% have signed up to volunteer and they obviously think it is worthwhile, and it is probably more than that. If that is the view, who are we to complain about that. This is something we would have looked at. We have got no information on that and it is probably time to have a review of it.

Q236 David Taylor: If it does drive up standards and there remained a sizeable proportion of practices that fell outside or declined to volunteer to be part of it, is that not a strong case for it to be mandatory?

Lord Rooker: No. With such a short time I think you would have to look at why and do some serious work on trying to lift the voluntary approach and see if you can find out what has stopped the other groups joining. It may be you might turn people off who have joined it and gone into it because it is voluntary. We did not see a massive case for it being mandatory. Under the existing arrangements we did not see a massive case to divert it to mandatory given the very preliminary view we have taken in looking at it.

Q237 David Taylor: So what is the key argument against making it mandatory?

Lord Rooker: If it is voluntary and it is working, why—

Q238 David Taylor: But covering a proportion of practices.

Lord Rooker: As I said, if it has only been working a short period of time no-one can say it has failed. Have a look at why it is only 50% or thereabouts, but if it can be made better on a voluntary basis that is much better than doing things mandatorily. My experience in Government, I have to say, has probably changed in the last ten years if you can get something done voluntarily, and you can usually do it a lot quicker than you can mandatorily. The spray no pesticides voluntary arrangement has been very successful, much more successful being voluntary than if we had gone mandatory. If it had been mandatory we would probably still be waiting for the legislation.

Q239 David Taylor: Do you believe there are rogue veterinary practices?

Lord Rooker: I have no comment on that. I have no information to give a view on that. I have had no experience of visiting a veterinary practice myself, either as a Minister or as a client or customer.

Q240 David Taylor: How about the area of para-professionals? You have heard some of the evidence today. Do you believe that they should be subject to some form of recognised standard?

Lord Rooker: Well, yes, but it is quite clear, not only from what I have heard today, and I do not want to pass comment on that because it is unfair on the people giving the evidence, that the role of people in the profession, the nurses, the technicians—

Q241 David Taylor: All the professions, yes.

Lord Rooker: It is quite clear at the present time there is not a common consensus. For example, on one of the issues I raised with you earlier on on priorities, we would like technicians to do some work that is currently undertaken by vets. Properly trained, we think they are more than capable of actually doing that. I do not know whether there is a consensus within the profession that we could go down that route.

Q242 David Taylor: What is your definition of "consensus" then?

Lord Rooker: Consensus would be a good way of making progress.

Q243 David Taylor: Yes, but what is the scale of consensus? What is the size of the majority?

Lord Rooker: That you have not got a profession at war with itself arguing about demarcation disputes, different kinds of training. All jobs are worthwhile, everybody's activity, I do not take the view that there is such a thing as an unskilled job anywhere, but, nevertheless, there has got to be accountability, training, as you have heard constant updating of one's qualifications and techniques, and I think that is fine. It may be that it should go down a regulatory route for the whole of the level of the profession, but we have not drawn a view on that.

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

Q244 David Taylor: So if there is a blocking minority of para-professionals who do not want to see what they are doing constrained within some new framework they will have a veto on progress, will they?

Lord Rooker: Not necessarily so, as the changes in the Health Service have shown over recent years. There was a blocking minority at one time, they were called consultants, and that is not there any more.

Q245 David Taylor: Is there an equivalent within the animal world?

Lord Rooker: I am not in a position to know the detail, but it is quite clear that there is not a consensus.

Q246 David Taylor: Moving on to a related topic, to what extent is the Department concerned by the growth of non-veterinary ownership of practices? You will have heard that question put to others.

Lord Rooker: I know nothing about it other than my briefing. Some 2% of veterinary practices have got corporate ownership. It is not an issue that we have got information on complaints about in that respect. The issues I heard raised about the sponsorship of products and things like that, I have not got any information about that. In terms of non-veterinary ownership, I have got a figure of 2% that are currently corporate owned. We would need more evidence and examples if there were commercial practices that were thought to be competing with the ethics of the veterinary practice. We just do not have that information.

Q247 David Taylor: So, in theory at least, commercial pressures and imperatives could well clash with professional ethics and standards, could they?

Lord Rooker: Well, we would like some evidence if they are, but at 2% we have not got any evidence of that. We have not got any evidence in Defra about it.

Chairman: Let us leave that one there. Paddy?

Paddy Tipping: I am fine.

Chairman: Let us move on to our last area of questioning, which is you.

Paddy Tipping: I think the position is very clear, Chairman.

Chairman: I do not like to curtail any reasonable line of questioning. Gavin, do you want to finish off?

Q248 Dr Strang: Lord Rooker, do you agree that there should be a separate committee where complaints should be considered? The RCVS has proposed a conduct and competence committee and I do not know if you would like to comment on that, accepting you have not cast your mind to that specifically?

Lord Rooker: From what I have said in earlier answers, as a priority that issue of conduct of complaints after 50 years needs modernising. How it is modernised I do not have a view on. I know what you need. You need different people at different stages of accusation, inquiry, appeal and final appeal dealing with it because you cannot have the people involved reviewing their own decision and they have

to be taken out of the original area. That is normal in a lot of other professions. I have no view as to whether it should be done by an arbitration service or something like that separate from ACAS or a separate committee or sub-committee. That is the kind of thing I would welcome advice and consultation on at an appropriate time, but not in the next three years.

Q249 Dr Strang: Finally, and you may not want to say anything on this, in terms of unsatisfactory professional conduct, what do you think that should include and, furthermore, would you like to comment on what punishments should be available?

Lord Rooker: I am not qualified on that. What I have said, and I think it would be quite legitimate from the public's point of view, is you have almost got to delineate between professional misconduct in a way we might understand that with the public saying, "They were rude to me", or "Their phone doesn't get answered" or "Their hours of opening are unsatisfactory" or "They haven't got 24-hour cover". You could argue is that professional misconduct in the sense of giving the wrong drug, not paying attention, not doing a proper examination, I do not know, but from the public's point of view they need to feel that they have got recourse if they have got a legitimate complaint. I could argue the Royal College is not the place, as it were, for dealing with opening hours but it will not stop the public complaining about it. Finding a solution as to the avenue for those complaints, which may not be classed as professional misconduct, is something that could be looked at when you are looking at the issue of complaints anyway. Is that a fair way of putting it, Fred? I am not trying to drop you in it.

Mr Landeg: There is difficulty, which we accept, and had we prioritised this and had the resources and time then the Veterinary Surgeons Act does need revision. The scope of the RCVS is limited in terms of the fact that it can only deal with unprofessional conduct and that is a small part of the complaints from the public. Having said that, of course, the number of complaints are quite small. When you look at something like 16 or 17 million dogs and cats in this country and 700 complaints in a year, it is quite small. To the individuals that is important, quite clearly, and the value they put on their pets. I can see the argument for certainly separating out, if you like, the investigation of complaints and in terms of a regulatory body actually imposing something other than just striking off the register, which is currently all the recourse there is, or suspending an individual, to other things like requiring retraining and so on. Having said that, of course, currently, as we have heard this afternoon, the RCVS does give quite a lot of guidance where there have been individual complaints.

Q250 Mr Drew: You have not mentioned charging. The area that I certainly have more complaints on, and I do not know if it is the same for you, Lord Rooker, but it would reach you, is that somebody has gone along, a pensioner, they have taken their

3 March 2008 Rt Hon Lord Rooker and Mr Fred Landeg

animal to the vet, this is their nearest and dearest being, and they are faced with that dilemma of some cost. I know a lot of vets are very good and will basically subsidise that in a major way, but to me that is an area which is quite interesting. This is a welfare issue.

Mr Landeg: I think it is a public perception. There is an element—

Q251 Mr Drew: It is more than a public perception.

Mr Landeg: There are complaints. For example, there are people who believe that veterinary treatment should be free at the point of delivery just like the National Health Service, and that is not the case, veterinary practice in the main is a private practice, it is a private business. These are issues of communication, not explaining properly to individuals about the cost of treatment, how long it is going to take and so on. The Royal College is addressing that by advising the profession. Of course, the individual pet owner or any animal keeper does have a responsibility for their pet and

before they take on a pet they should consider the costs of veterinary treatment, which are not inconsiderable, and there are now ways of funding this through insurance schemes and so on, and these are quite widespread. The individual pet owner does bear some responsibility in terms of the cost, but I accept there is something for the profession in terms of communicating those costs to their clients.

Q252 Chairman: Gentlemen, thank you very much indeed. We would still like an answer to the question about the resource that you save by your change in priorities. Whether it is something you can write to us about in the interim period or whether the Permanent Secretary can supply the answer, I will leave up to you. We would find it very helpful to know what the resource involved is. In saying that, can I thank you for the written evidence which Defra has put before us and thank you for your contribution this afternoon to our inquiry.

Lord Rooker: I will supply you as quickly as possible with what I can do in the sense of what you want.

Chairman: Thank you.

Supplementary memorandum submitted by the Department for Environment, Food and Rural Affairs (Vet 18a)

Letter to the Chairman of the Committee from Lord Rooker, Minister for Sustainable Farming and Food and Animal Welfare, Department for Environment, Food and Rural Affairs, 30 March 2008

VETERINARY SURGEONS ACT 1966

Thank you for your letter of 11 March 2008 asking a number of questions relating to the oral evidence I gave the Committee on 3 March.

Dealing with each of your questions in turn:

What savings will Defra have made by not proceeding with work on a White Paper on revision of the Veterinary Surgeons Act 1966?

While we acknowledge that the Veterinary Surgeons Act is in need of modernisation, this policy area is not a high enough priority for Defra to justify diverting staff from other more urgent activities.

Defra currently spends approximately £113,000 per annum in staff costs for the maintenance of the Veterinary Surgeons Act—one full-time policy officer and one full-time administrative officer supported by senior policy and veterinary colleagues.

This resource is focused on the administration of the current Act, including the development of “exemption orders”, supporting the development of RCVS orders, implementation of the EU Directive on the mutual recognition of professional qualifications and responding to general enquiries. If Defra were to press ahead with modernising the VSA, most routine activity could be stopped, but we estimate that £12,200 of staff resource would be needed to maintain essential work.

Additional staff resource would be needed to be diverted from other activities to take forward a VSA modernisation project. In particular, this new team would need to include dedicated senior staff and up to three policy officers.

We estimate that it would take about six months to carry out further research and prepare a White Paper setting out detailed and costed proposals for the future regulation of veterinary services. It could take a further six months to 12 months to produce a draft Bill ready for publication. Getting the Bill ready for introduction in Parliament and the parliamentary process itself would require sustained resource throughout this period.

We therefore estimate that to produce a White Paper would cost approximately £180,500 and that we would need to spend a similar amount to produce a draft Bill. This estimate does not take account of the legal and other Defra resource needed to take the Bill through Parliament.

We are conscious that whilst the veterinary profession and other veterinary service providers have been consulted on the principles of modernising the VSA, the impact and cost of detailed proposals would need to be fully understood. A further public consultation on detailed proposals—taking a further three months—may therefore be justified either prior to or after the publication of a White Paper. The cost of carrying out a public consultation has not been included in the preparation of the above estimates.

How much work on the proposed White Paper had been completed between July 2007 and the date when the decision was made to postpone work on a new Act?

Defra has considered whether the VSA needs to be replaced and the broad principles of any replacement regulatory framework. However, we have not considered in much detail how these principles would be implemented in practice. We therefore need to invest significant resource in working out how issues like:

- establishing a new governance model for veterinary services;
- increasing lay membership and an appointments system for the RCVS Council and its Committees’;
- which aspects of veterinary care should be restricted to veterinary surgeons only;
- establishing a proportionate system of regulating para-professionals;
- how mandatory CPD and revalidation would work in practice;
- how to replace the current complaints system; and
- how the new regulatory structure would be funded.

Further work is also needed to test the case for a mandatory practice standards scheme.

I took the decision not to proceed with a White Paper on 27 February 2008.

Would it be possible to make narrow amendments to the Act, eg to the disciplinary procedure, by means of delegated legislation rather than primary legislation?

Changes could be made to the VSA through Orders made under sections 1 and 2 of the new Legislative and Regulatory Reform Act 2006. However, we could not introduce new burdens or new sanctions using these powers and many of the changes wanted by the RCVS could not be introduced in this way.

Overall we do not favour a piecemeal approach to changing the current regulatory framework.

Had Defra discussed with the RCVS its proposal that newly qualified veterinary surgeons ought to undergo a period of further on-the-job training and demonstrate a minimum standard of competence and skill before being licensed to practise by their respective regulators?

Defra has not discussed the specifics of this proposal with the RCVS.

The introduction of a “probationary period” for vets would need to be considered alongside the need to introduce a licence to practice and periodic re-validation. We would need to consider any evidence offered by the RCVS that new graduates should have some formal limitation on their ability to practice as veterinary surgeons.

We note that the RCVS has recently introduced the Professional Development Plan for new graduate veterinary surgeons, and an assessment of its effectiveness would be helpful.

Could you provide more details on the work that Defra intends to complete on consolidation of Exemption Orders and the amendments to Schedule 3 of the Act?

Final decisions have still to be taken on which VSA work will be taken forward now that we have decided not to prepare a White Paper. There are a number of projects which we need to prioritise. These include:

- Resuming work on the developing arrangements for allowing certain equine dental procedures to be carried out by non-veterinarians. There is a broad range of stakeholder views on the extent to which this work can be delegated and the level of veterinary supervision or direction needed.
- Widening the carrying out of TB testing to include trained technicians other than those currently permitted to carry out tests under the Veterinary Surgery (Testing for Tuberculosis in Bovines) Order 2005.
- Consolidation of existing exemption orders made under s.19(4)(e) of the VSA that permit the carrying out of certain procedures for the purposes of controlling and eradicating disease (including taking samples for testing and vaccination). One of the aims would be to simplify and harmonise provisions that are currently not in line with each other because they were introduced at different times over the last 40 years—some many years apart.

- Updating Schedule 3 of the VSA to bring it in line with EU welfare of animals legislation for example.

Lord Rooker

Department for Environment, Food and Rural Affairs

March 2008

Written evidence

Memorandum submitted by the Animal Medicines Training Regulatory Authority (Vet 01)

1. AMTRA is responding to the invitation make a submission on the need to replace the Veterinary Surgeons' Act 1966. These are some preliminary comments in advance of discussion by the Council and Board of AMTRA, after which AMTRA may wish to make a further submission.

2. AMTRA is recognised by the Secretary of State under the Veterinary Medicines Regulations as the body responsible for the training and registration of Suitably Qualified Persons (SQPs) who are permitted under those Regulations to prescribe and/or supply POM-VPS and NFA-VPS Medicines.

3. Until 2005 only Veterinary Surgeons could prescribe animal medicines, but from 30 October 2005 a new category of animal medicine, POM-VPS was introduced and they can be prescribed by veterinary surgeons, pharmacists operating from a pharmacy and AMTRA SQPs operating from registered premises. That is a fundamental change which has implications to the role of veterinary surgeons. Indeed many veterinary nurses are now registering with AMTRA so they may legally prescribe and supply POM-VPS and NFA-VPS medicines.

4. AMTRA does have some initial representations to make. In particular the offering of advice on the selection of, or use of, a licensed POM-VPS medicine is what AMTRA trains its SQPs to do. It is therefore wrong for the Veterinary Surgeons Act, as the current one does, to try to prevent SQPs from using that training and expertise in offering appropriate advice to animal owners based upon their specialist training.

5. When an animal owner enters a premises registered for the sale and supply of POM-VPS medicines, and asks for a medicine for a particular purpose it must be open to the SQP to ask the customer a number of questions to determine if a particular medicine, eg an anthelmintic, is the appropriate product to offer, and if so which particular product. It is no longer appropriate for the skilled SQP to be expected to merely say to the animal owner in such circumstances "all I can suggest is that you consult your vet". That is both unnecessary and a waste of the SQP's training and expertise in the field of POM-VPS medicines. It is also appropriate, so that SQPs can offer the right advice on the selection and use of POM-VPS anthelmintics, that they be permitted to offer a faecal egg count service to the customers, so that the advice they offer can be of the highest possible quality. In general, the main aim of any new Act should be to help ensure the highest degree of animal health and welfare, it should avoid unnecessary prohibitions, or restrictive practices, allowing those qualified to do so to offer the necessary service to the animal owner.

6. For example, the following should be specifically allowable under any new Veterinary Surgeons Act.

- the provision of advice on the selection of and/or the use of an animal medicine that is POM-VPS or NFA-VPS by a persons who is a member of the AMTRA Register of Suitably Qualified Persons operating from a premises registered for the sale and supply of POM-VPS or NFA-VPS medicines, or by a pharmacist operating from a registered pharmacy.
- the provision of a service to animal owners involving the sampling of faeces and the subsequent offering of advice on the appropriate choice of POM-VPS anthelmintics based upon the interpretation a scientific analysis of the sample of faeces by an approved veterinary laboratory.

7. As indicated earlier, AMTRA may wish to make a further submission after discussing the issue at its Council/Board meetings in September 2007.

July 2007

Memorandum submitted by Fiona MacMillan (Vet 02)

I would be very grateful if you could please tell me who will be chosen to give oral evidence in regard to the RCVS Complaints Department because I am deeply concerned that the RCVS never addresses my complaint and has sent me 50–60 acknowledgements but never actually addresses my complaint that the veterinary profession in being allowed to sell pet food is creating the illness that keeps the Vets in business. I am backed by Vets in my concern about this such as Vet, Richard Allport who like me is deeply concerned that Vets are being allowed to sell pet food but despite my giving the President of the RCVS a large amount of veterinary research proof that pet food is causing serious and even fatal illness in cats and dogs they totally refuse to give any comments on it because they are incredibly allowing pet food companies to teach nutrition to veterinary students at British veterinary schools eg I have proof that Hills pet food are being allowed by the RCVS to teach nutrition at London and Glasgow Vet Schools and this produces Vets who do not even know that you must not feed carbohydrate to a cat or dog because of the serious illness this can cause such as diabetes and struvite crystals which can kill the cat if it is not urgently catheterised.

I made a complaint to the RCVS that my own cat is needlessly dead just as Dr Elizabeth Hodgkins who is a Vet who only treats cats says he is needlessly dead because he was fed the dry pet food my Vet in his ignorance about nutrition told me to feed my cat when he should have known that feeding this dry food could give my cat struvite crystals. My Vet made a lot of money out of trying to save my cat eg operating on him and catheterising him on numerous occasions but could not cure him and the cat was euthanased

because nothing the Vet did could my cat to pass urine but Elizabeth Hodgkins who is a Vet who only treats cats tells me and also say in her new book which Waterstones will stock shortly called *Your Cat* that only cats fed dry food ever get this illness. I have on a number of occasions taken this up with the RCVS but they have never addressed my complaint that my cat is dead because of my Vet's ignorance that dry food is the cause of this illness. I have disclosure from the RCVS which shows they are not independent but are on the side of the Pet Food Manufacturers Association and because of this are allowing Vets to sell the very pet food that is creating the illness that keeps the Vets in business. I am appalled the RCVS refuse to even give any comments on the veterinary research which shows the tremendous illness pet food is causing and that the RCVS seems totally unaccountable. However, Martyn Jones MP and Privy Council member of the RCVS has looked at the research and in writing to me has said that dry food is causing illness and has said that a warning should go on dry pet food and that the pet food companies must be stopped from making the claim that dry food contains adequate nutrition which he says is misleading since it not contain anything like the nutrition a cat or dog needs The pet food companies are being allowed by the RCVS to fund the veterinary schools and because of this the pet food companies have been able to "buy" the silence of the majority of the veterinary profession about the illness that feeding this food is giving cats and dogs.

I wonder if you would please consider whether I might be allowed to give oral evidence. I understand that a White Paper currently says that self-regulation should be removed from the medical profession and I strongly believe that self-regulation should be taken from Vets since the RCVS as Vet, Joe Inglis, says in his book *It shouldn't happen to a Vet* is just an old boy's network and he says that because of this he himself decided not to report a negligent Vet to the RCVS because he knew it was pointless since they take the side of Vets.

I look forward to hearing from you. I am appalled at the huge number of acknowledgements I have from the RCVS and that they have completely failed to address my legitimate complaint and it is a complete betrayal by the RCVS that Dr Moore, the new President refuses to give any comments on the veterinary research but I know he refuses because he knows that if he gave comments he would have to admit that it shows clearly that pet food is creating the illness that Vets depend on to stay in business.

I am sending a copy of this email to the RCVS to let them know that I have told you that I am appalled at the number of acknowledgment letters I have from the RCVS in which they totally fail to ever address my concerns about the illness pet food is causing and have totally ignored the veterinary research I gave them which proves my Vet was negligent to leave my cat on dry food when he had struvite crystals and that because of this negligence my cat suffered horrendously and ended up euthanased.

August 2007

Memorandum submitted by P Hampson (Vet 03)

Enclosed is my written submission from a working farriers viewpoint concerning the case for changes to the Veterinary Surgeons Act and its possible implications for the regulation of farriery.

I was trained and a Registered Shoeing Smith before the current Farriers legislation. The Farriers Registration council has historically had a strong veterinary input. The RSPCA has increased animal welfare powers. The Farriers Registration Act is out of step with the EU.

The Farriers Registration Act has had the following effects:

- (i) Produces a closed shop.
- (ii) Entrance requirements to the trade has become restrictive.
- (iii) Exceeded its powers concerning employment law (employers liability insurance family member exemption).

The Farriers Registration council have a proven history of misappropriation of funds. The current legislation is poorly drafted (bare foot trimmers). The Veterinary Services Act will try to increase the Farriers Registration Council powers. With in excess of 30 years of farriery legislation we like every other country in the world have lame horses. Donkeys are not covered by the Act and are the responsibility of the RSPCA.

My answer to all the terms of reference are that we need deregulation not more regulation.

August 2007

Memorandum submitted by Richard Stephenson (Vet 05)

I note the call for submissions to the House of Commons Environment Food and Rural Affairs Committee in the *Veterinary Record* Vol 161 No 2 page 39.

I have been a member of the College for 20 years and I am an active practitioner in full-time equine work. I am a partner in a 16-man practice with both small animal (pet) and equine services. I append a brief professional CV.¹ By and large I believe that the RCVS has an almost impossible task and does its best to try to and discharge it. The current VSA has served both public and profession well for four decades however it now requires some degree of reform to bring the regulation of the profession into the 21st century. It should not be forgotten that the current system provides a powerful regulator at virtually no cost to the general public or the government.

Given that it is unlikely that any public funding will be forthcoming to assist in regulation it must be kept in mind that the costs of any new structure will ultimately have to be carried by the consumer in the form of increased veterinary fees—this is likely to be very unpopular.

I should like to confine this submission to the regulatory activities of the college and in particular the Disciplinary Committee (DC) and the Preliminary Investigation Committee (PIC). Following several recent controversial cases I have taken an interest in this aspect of the work of the College—although these comments are made as an “outsider” to the system. I will make some brief observations as to the role of the RCVS in general.

PARTICULAR VETERINARY PROBLEMS

It seems to me that regulation of the veterinary profession is becoming more problematic as we become more diverse. In some respects there is more difference between branches of our profession than there would be between dentists and doctors. Yet the same people try to regulate all parts of the profession. This causes a problem with the PIC. This committee is composed of three officers of the College and three other members of council. There are two lay observers (who currently have no statutory standing). Six people can not hope to cover the whole range of the profession and as a result very expensive errors have occurred. The case of *Margarida Correia v RCVS* illustrates this very clearly. A misconduct charge being brought against Miss Correia whose failure to diagnose a non displaced tibial fracture in a horse was said to be so disgraceful as to warrant sanction. To a small animal practitioner missing a tibial fracture would seem a fairly elementary error. In equine practice the diagnosis can be very challenging or in the case of a none displaced fracture virtually impossible. After a four-day hearing and a year of extreme stress for Miss Correia the case was dismissed. It was obvious to anyone with appropriate knowledge that the charges could in no circumstances amount to “disgraceful misconduct”. I would suggest that the PIC should be expanded to include respected specialists who could be called upon to assist in managing such cases. It is right that democratically elected members of council should be represented on the PIC and hold the deciding share of the votes but the net should be cast wider to ensure that each branch of the profession is represented by an expert. This must certainly be the case if issues of competence are to be determined.

THE DC

The current committee is composed of members of Council. This is unacceptable. The committee acts in a judicial capacity and as such should be selected from suitable persons to perform such duties. The present system seems to be good at delivering the correct verdict—it is in the exercise of its sanctions that things have gone wrong in the past. Most recently in the *Susie Mcleod v RCVS* appeal to the Privy Council.

LACK OF TRAINING AND EXPERIENCE

The problem here is that if DC members are to be properly trained and to sit regularly enough to gain experience the amount of time that needs to be committed (already said to be 52 days per year) is likely to be off putting to most rank and file members of the College (or indeed independent lay people). Would it not be better to restrict the committee to findings of fact (ie to perform the function of a jury) and leave sentencing to a properly qualified legal assessor *or* for there to be a proper indicative sanctions guide enforced by the legal assessor. The legal assessor should “chair” all hearings of the DC. This should produce a greater consistency of disposal. The practice of members of the committee cross examining witnesses should also be actively discouraged and used in only the most exceptional of circumstances under the direct control of the legal assessor. In the civil courts Judges seem very reluctant to question witnesses directly. In a recent RCVS DC case the respondent was cross examined by Counsel for the college, his own counsel and all seven committee members—this is clearly unfair. If the DC is to be seen as independent then no member of council should be present. This leads to the question of how then should members of the DC be selected. Direct election? Appointment by a committee of Council? The committee should have a majority of veterinary surgeons (or it will not command the respect of the profession) but should also have lay representation. The current practice of having seven members present (rather than the five required by law)

¹ Not printed.

is intimidating to witnesses and respondents alike. The committee should be composed of no more than four plus the legal assessor. A unanimous verdict should be required (so no need for an uneven number as at present) in all decisions. At least two members of the committee actually sitting should be from a similar branch of the profession as the respondent.

APPEALS

This is another difficult area. Currently the only mechanism for an Appeal against the RCVS is via the Privy Council. If appealing is too easy every member subject to any form of discipline will appeal clogging the system up or resulting in it being totally ineffective. Never the less the right to an appeal is a central tenet of Justice effectively denied by the vast expense of even a one day hearing before the Privy Council (currently around £32,000 for each side). Members of the RCVS currently receive no financial help from the Veterinary Defence Society for Appeals and therefore the current DC is largely unaccountable to anyone (except the richest of members). I have no idea if an appeal to a lower court would be any cheaper—but should perhaps be investigated.

FINES

The lack of a full range of disposal hampers the work of the DC. Penalties seem to swing from the draconian to the ludicrously lenient. The FRC (Farriers Registration Council) Registrar in his submission to the RCVS “consultation” on a new VSA suggested that the committee should have the power to raise fines (presumably backed up with the sanction of removal in default). I feel this would enable the DC to deal realistically with many minor offences which currently seem to go largely unchecked. I am disappointed that the RCVS did not adopt this excellent suggestion from the FRC.

CONDUCT AND COMPETENCE

The RCVS proposals for a new VSA suggest the creation of a conduct and “competence” board which will be lay dominated. In my view the competence of members with regard to *specific cases* should be tested in the civil courts as for any other profession. Where a pattern of negligent actions emerges then the RCVS should have power to intervene but only once the civil courts have dealt with the matter.

UNFIT BY VIRTUE OF A MEDICAL CONDITION OR ADDICTION

There seems to be many sad cases of veterinary surgeons who abuse alcohol or are otherwise medically unfit to practice. The college should be empowered to suspend such members or impose conditions on their continued practice and not have to wait until a serious complaint is made. This would require expert medical evidence to be presented.

ROLE OF RCVS AND ELECTION OF COUNCIL

The RCVS should remain as the standard setter and central body of the profession with membership being compulsory. The Council should be reduced in size by limiting the university representation to one member per university. Agriculture now plays a small part in the activities of the profession and I would suggest that the Chief Veterinary Officer should be invited to attend Council meetings but not to be a voting member. The Privy Council should continue to appoint a further three lay people.

The elected members should be elected on a regional basis to try and make the college less remote from its membership.

SUMMARY

- The PIC to be much larger with sub committees of experts in each veterinary discipline. Oversight by a committee with lay representation but accountable to RCVS council via elected members.
- The DC NOT to be composed of RCVS council members. An RCVS appointments committee to select members of the DC based on ability to include lay representation.
- Committee to sit in smaller numbers to facilitate rapid decision making, chaired by a legal assessor.
- Committee to determine verdict but to be led by legal assessor in determination of the sentence.
- At least two members of the committee to be from a related veterinary discipline to the respondent.
- Increased power and range of disposal—including if necessary substantial fines.
- Power on receipt of expert medical evidence to suspend on medical grounds.
- A published indicative sanctions guide.
- Power to award costs to members wrongly accused of misconduct.
- Review of Appeals procedure to ensure adequate accountability of the DC.

- RCVS to retain its role as the standard setter for the profession.
- Reduce the size of council by getting rid of the duplication in university representation.

August 2007

Memorandum submitted by Lorna Gowers (Vet 06)

REMOVE SELF REGULATION FROM THE RCVS

I write concerning the review of the Veterinary Surgeons Act. I would support removal of self regulation by the RCVS. I do not believe that a profession can effectively regulate itself and can only be competently regulated by an independent body. The Veterinary Profession must be brought into line with other professions. Currently many complaints are being swept under the carpet!

August 2007

Memorandum submitted by Adrian Palmer (Vet 07)

RE: CHANGES TO THE 1966 ACT WHICH HAVE BEEN PROPOSED BY THE ROYAL COLLEGE OF VETERINARY SURGEONS

Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

1.1 *Hoof trimmers.* I contact you as a registered farrier which I presume would be considered one of the related professions. There is a continual overlapping in the veterinary and farriery professions that could make joint regulation under the proposed act advantageous to both groups. The present regulation of hoof care is far from perfect, particularly in regard to trimming where loopholes in the farriers registration act are being exploited. This unfortunate development means unregistered and unregulated people are at present allowed to trim horses hooves. I would not however be in favour of simply taking the easy option by throwing open the doors and bringing them in under a new act. Trimming should be the foundation to all farriery and should only be undertaken, in the spirit of the farriers registration act, by fully trained and qualified people. I would hope that a new act would ensure that only registered farriers were permitted to trim the hooves of equines, others would have to undertake the same training and reach the required level of competence in order to practice.

Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation

1.2 Continuing professional development (CPD). There are also many differences as well as similarities in the structure of veterinary and farriery businesses and I would ask your consideration of this in regard to the possible introduction of compulsory CPD. I feel it would be a mistake if the farriery profession were to be drawn down this path. Most farriers are self employed sole traders, many have become specialist in specific areas and levels of work. Farriers are acknowledged by the current governing bodies to undertake CPD on a voluntary basis, this is done in areas of their specific choice and at time and locations that fit in with a busy work load. The voluntary nature of this ensures market forces maintain the quality of lectures and seminars offered and avoid excessive bureaucracy. I remain very much in favour of continued learning and am currently studying for recognised higher qualifications, I would welcome any opportunities to further my studies but would ask not to be burdened with the possibility of compulsory CPD, should it arrive via this proposed act or otherwise.

1.3 I fear, that from a farriery point of view, the possible benefits of the new act incorporating related professions could be overshadowed if:

- A group of self appointed practitioners such as hoof trimmers be given unduly elevated status, by-passing formal farriery training;
- or “one size fits all” approach to CPD is taken, that may be suitable to veterinary practices and employed veterinary nurses, but not suitable for farriers.

1.4 Perhaps in the interests of openness and democracy it would be possible to have a ballot of registered farriers prior to any new legislation affecting the profession?

1.5 I would be pleased to hear any of your comments on the points I have raised or if you require any additional information from me.

August 2007

**Memorandum submitted by the Royal (Dick) School of Veterinary Studies,
University of Edinburgh (Vet 08)**

The response by the senior clinical staff of the Royal (Dick) School of Veterinary Studies, University of Edinburgh to the request by the Environment, Food and Rural Affairs Committee on 10 July 2007 for evidence regarding proposed changes to the Veterinary Surgeons Act are outlined below.

1. Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

We agree that a more transparent, accountable approach is required to regulation of the veterinary profession, with greater involvement of lay members in regulatory committees. Bringing the veterinary nursing profession, which has matured as a profession in its own right, under similar regulation within the RCVS is also desirable.

We believe that an amended Act should address the possibility of career tracking from an early stage, with the possibility of veterinary surgeons being licensed to practice with certain species or within specific disciplines only (with exceptions for emergency situations).

2. Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

We consider that there should also be regulation, under the auspices of the RCVS, of other service providers including dental technicians, animal behaviour consultants and providers of complementary therapies, whether they are working within or independently of veterinary practices.

3. Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis

We agree that there should be a mandatory practice standards scheme and that the standards should be set jointly by new Councils, as proposed by the RCVS. However, the details of how this would be policed and funded require to be clarified.

4. Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation

We support the introduction of mandatory CPD and agree that power should be given to the RCVS and VNC for this purpose. The increasing prevalence of career breaks with the increased numbers of women in the veterinary profession needs careful consideration in this regard. Regarding licensing, it is agreed that there should be different categories of licence, as proposed. In particular, this may help address shortages in certain specialties such as veterinary public health, pathology and poultry health.

5. Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals

It is considered that it is desirable to include lay persons to improve transparency, provide experience from other professions and represent the views of end users.

6. Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings

We support the proposed new structure for the councils, boards, and the separate independent Conduct and Competence Committee. It is not clear what sanctions the Committee would have to require persons other than the respondent to disclose information in disciplinary hearings, as proposed. This requires clarification. We also support the suggestion that the Conduct and Competence Committee should be able to give warnings and interim orders pending proceedings, but there should be clear guidelines as to when interim orders can be given, for example in cases where the respondent would constitute a danger to animals under their care, to the public or to themselves, if allowed to continue to practise. If such guidelines are not clear, there is a danger that respondents could be deemed guilty until proven innocent.

7. *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

We agree with the above statement, provided the specified procedures are individually agreed. See also response to point 2., above.

August 2007

Memorandum submitted by the Ornamental Aquatic Trade Association Ltd (Vet 09)

OATA represents the interests of some 750 businesses. Among our members are importers, consolidators, breeders, wholesalers and retailers of ornamental fish and invertebrates. The species traded vary from the coldwater goldfish and koi carp, through freshwater tropical species to coral reef fish and invertebrates. Many of these species have been in trade for many decades, some for more than a century. Thus the industry has build up an immense wealth of information on the care, husbandry and welfare of the 2,000 species of ornamental fish in trade.

In addition to businesses selling live fish, many other members manufacture and distribute dry goods such as pumps, fish treatments, aquariums, filters and other ancillary equipment which helps ensure the welfare needs of ornamental aquatics specimens can be readily met.

Advice on both the live animals, and the equipment, required to ensure their welfare has always been readily available from retailers or relevant manufacturers.

OATA members have a code of conduct. We have developed and made available to the industry two levels of distance learning material. A range of point of sale information to help inform customers and further enhance the welfare of specimens in trade has been printed and distributed.

OATA was one of four organisations that helped develop the Local Government Associations "Model standards pet shop licence conditions". OATA is also recognised as an "organisation to consult in the case of specialist or unusual species" in the guidance notes to the Protection of Animals (Amendment) Act 2000.

THE FISH KEEPING HOBBY

Fish are the third most popular pet group, after cats and dogs, being kept in over four million (approximately 15% of the total) households in the UK. Surveys by OATA canvassing some 4,000 customers visiting members retail premises indicated that there are between 100 and 150 million pet fish in the UK, making them by far the most populous pet group.

Fish are usually purchased from retailers and may cost, depending on species or characteristics, from as little as a couple of £s through to many £000s for rare high quality koi carp.

WELFARE OF FISH: COST AND OMNICOMPETENCE OF VETS

Should any proposals be implemented they must enhance and protect the health and welfare of animals.

To ensure the welfare of ornamental fish, kept in either aquaria or ponds, or indeed any other animal, care and advice must be both professionally competent and accessible. Those providing care or advice must be familiar with the animals concerned. Their services must be affordable. Economic constraints to owners seeking advice and providing the care needed to ensure the welfare of animals in their care, must be minimized as far as is reasonably possible. Care and advice should be available within a reasonable distance.

Currently ornamental fish keepers obtain most advice on husbandry matters from their local aquatic retailers for free. Further advice is available from fish biologists working either as consultants or within government agencies eg the CEFAS Fish Health Inspectorate. Some vets apparently refer their clients to aquatic retailers for detailed advice that they are currently unable to provide. This reflects a lack of confidence, on the part of some vets, that they are able to provide professional advice with regard to fish.

Some concerns that the 1966 Act apparently excluded fish from its purview have been expressed. However, in the interim little training specifically concerning fish biology and welfare has been developed and made available during under-graduate veterinary courses and few, geographically disparate, vets have any specialist post graduate training. An exception to this general comment being those vet who train specifically and then join the Fish Veterinary Surgeons. In that same period importers, retailers and fish specialists have continued to train and amass even greater practical experience and knowledge of the husbandry needs of fish and the mini ecosystem in which they are maintained using a range of equipment systems. OATA's distance learning training courses have played a part in the continuing professional development within the sector.

Fish welfare would, in our view, suffer, if any proposals to revise the Veterinary Surgeons Act denied owners full access to the wealth of information and experience available in the trade and from specialised fish biologists, there being no similar bank of information and experience within the veterinary profession. Vets with experience of fish are widely spread geographically, and particularly given the difficulties in transporting fish, are far less accessible, irrespective of cost, than are ornamental fish retail outlets.

OATA would support the maintenance, under the act, of the *status quo* as far as fish are concerned. Maintenance or improvement in fish welfare, rather than protection of the interests of the veterinary profession, must be demonstrable practical outcomes of any revisions to the legislation.

THE ALTERNATIVES

If the *status quo* is altered and fish are specifically covered by any proposals to revise the Act, then in the interests of welfare, provision must be made to permit owners access to care and advice from ornamental retailers, product and food manufacturers and other non-veterinary fish specialists.

If a supplementary list of competent lay people who could provide advice to fish keepers was created, then OATA could play a leading part, in its organisation or indeed administer its own register. Any list would have to allow “grandfathering” to ensure experience and knowledge of fish welfare is not unnecessarily lost. The role of the RCVS in any supplementary lists would of necessity need to be open, transparent and administration kept simple and the least burdensome necessary, so as not to reduce standards of fish welfare.

LIMITATIONS

We believe, however, there should be limitations to activities of lay persons in the area of active surgical intervention. Routine minor procedures such as taking skin and gill scrapes, removing damaged scales, fin clipping (usually used in fisheries management but also may be used to collect samples for disease identification) and tagging and the like should be available to lay persons if they are carried out within the limits established by recent animal welfare legislation concerning mutilations.

Invasive surgery, particularly where the body cavity is opened, should not be available to anyone other than appropriately trained veterinary surgeons.

August 2007

Memorandum submitted by Eamon McAllister (Vet 10)

I must thank you for allowing me this opportunity to express my views on the possibility of a new Veterinary Surgeons Act.

I have been a Member of the Royal College of Veterinary Surgeons since 1973 and have been in general practice almost exclusively since that date, a period which included running my own successful surgeries in the London area for 25 years. For the record my relations with the RCVS have always been cordial and I have never been the subject of any disciplinary procedure.

My experience of the RCVS compels me to submit that a new VSA is necessary to address a fundamental problem within its Governing Council which in turn has a bearing on your other agenda.

The RCVS is a highly political power hungry organisation with an annual budget of £5 million and a staff of over 60.

Its members, the vast majority of whom are in general practice regard it with fear, suspicion and distrust and are resigned to the fact that they will never have any influence on decision making due to the current structure of the GC.

There are 40 seats on the GC occupied by 24 candidates elected by the membership, 12 appointed by the universities and four appointed by the Privy Council. Of the 24 elected a significant number are academics or others with little experience in practice. Thus a very strong academic bias exists in the GC and general practitioners are grossly underrepresented.

The annual election is preceded by widespread canvassing and intensive publicity emphasising the importance of exercising the franchise but paradoxically the RCVS has recently taken great pains to explain that the word “member” as in MRCVS is a misnomer and that it does not see its role as being that of a representative body.

Confusion, frustration and anger have produced apathy so extensive that “turnout” in the annual elections is consistently less than 19%—void by United Nations electoral standards and certainly no mandate to lead. (Included in this figure of 19% are a considerable number of votes cast in favour of no-hope candidates as a protest.)

As a consequence a largely self selected and unelected body of ambitious individuals with a massive bias favouring academia and related interest groups is governing a profession which is cynical and sceptical of its motives.

There is widespread alarm and dismay at the RCVS proposals to introduce and police compulsory CPD as well as mandatory practice standards. It has also offered to maintain a register of premises for the Veterinary Medicines Directorate and hopes to integrate all of the above with its own discredited Veterinary Nurses Training scheme neatly acquiring a fearful amount of power and influence which will soon choke general practice with bureaucracy and overregulation.

Public confidence in the profession is waning and our fees are rising reflecting the increased costs of compliance and extra staff not to mention the loss of very effective and cheap generic medications shamelessly banned in legislation promoted by the VMD. There is an overdependence on insurance companies for economic success and increasing ill health amongst the membership due to high stress levels from overwork and a huge burden of responsibility.

I submit that there should be a new VSA and that one of its first provisions be to address this problem so that 30 seats on the GC are reserved for elected contenders, six for university appointees and four for those appointed by the Privy Council. In addition, only those with a verifiable minimum of five years spent in general practice should be eligible for election.

I contend that with the removal of this distortion and with this basic democratic reform in situ many of the current complexities can be resolved and a sense of optimism restored to this loyal but beleaguered profession.

September 2007

Memorandum submitted by Richard Wiggins (Vet 13)

I write regarding the proposed changes to the Veterinary Surgeons Act 1966 and the possible inclusion of farrier's registration into the new framework.

I am a working farrier of 37 years standing having been registered since 1975. I feel it has worked well and doesn't need much change at present and certainly not to come under the umbrella of the Royal College of Veterinary Surgeons. Farrier registration has problems in so much as poor communication and lack of information regarding the control of the working farrier.

It seems to me that the Farriers Registration Council has little regard for the interests of the working farrier as their main concern is animal welfare; to work properly both have to intermesh. My reasoning is The Farriers Registration Council is to strongly influenced by The Worshipful Company of Farriers who draw their power from section one of the current act. All it needs to rectify the problem is for the Worshipful Company of Farriers to abdicate their responsibility under section one to a truly elected committee drawn from working craftsmen, which would not even involve amendment of the current law.

September 2007

Memorandum submitted by the British Equine Veterinary Association (Vet 14)

EXECUTIVE SUMMARY

1. BEVA does not believe that the provisions set out in the Veterinary Surgeons Act 1966 meet the current needs of the modern veterinary and related professions or of animals and their keepers. First, the disciplinary processes laid out by the Act are not satisfactory. Second, the Act does not provide for the regulation of the other (non veterinary surgeon) groups and individuals who provide veterinary services to horses and BEVA therefore believes the Act does not adequately protect equine health and welfare.

2. BEVA believes that extensive revision to the disciplinary process is essential to serve properly the needs of the veterinary profession and that such revision is in the public interest. This revision must include the constitution and independence of disciplinary committees; the recruitment, training and guidance of those committees; and more flexibility in sentencing with a broader range of sanctions.

3. BEVA is extremely concerned about the impact that some unregulated groups and individuals already have on equine health and welfare. BEVA also believes that the current system of Exemption Orders does not provide an enforceable means of protecting horses and horse owners against unsatisfactory work carried out by these groups and individuals. BEVA considers regulation of these groups and individuals to be in the public interest and therefore to be a high priority for the protection of equine welfare.

4. BEVA supports the regulation of the delivery of veterinary services through the regulation of individual veterinary surgeons and a voluntary practice standards scheme that is transparent and visible to the public. BEVA does not support a mandatory practice standards scheme and considers that a voluntary scheme and the effect of market forces will ensure best value to the public, especially in rural areas.

5. BEVA supports the proposal that veterinary surgeons are regulated by the RCVS Council and veterinary nurses are regulated by the Veterinary Nurses Council. These councils should have the power to require compulsory continuing professional development. BEVA supports revalidation of veterinary surgeons and veterinary nurses provided this is achieved through satisfactory achievement of continuing professional development requirements as laid down by the respective Councils. BEVA further believes that new legislation should provide for regulation, via an additional Council, of other groups that provide veterinary services to horses and horse owners in order to protect equine welfare and safeguard the public.

6. BEVA believes that it is highly desirable that the RCVS and VN Councils should contain lay representation. Lay representation should also be included throughout the disciplinary process.

7. BEVA further believes that it is essential that all stages of the disciplinary process are entirely independent from the Councils and that any individuals who serve on the Councils may not serve on any of the disciplinary committees. BEVA strongly believes that the Conduct and Competence Committee should not be able to make interim orders suspending a veterinary surgeon: such a system would inevitably need to justify an unjustifiable loss of income in cases where unfounded allegations had been made.

8. BEVA does support the concept of the “veterinary team”, led by a veterinary surgeon and with the animal concerned being under the care of the veterinary surgeon. However, although BEVA can see merit in the proposal that veterinary surgeons should be able to delegate specified procedures to people holding RCVS-recognised qualifications, BEVA is very concerned about those paraprofessional groups or individuals who choose not to enter into such an arrangement. Those groups or individuals who chose not to take part would remain both unregulated and outside the “veterinary team”. BEVA is therefore concerned that should this proposal be implemented, the current unsatisfactory situation with regard to equine paraprofessionals in relation to safeguarding equine welfare would be perpetuated.

INTRODUCTION

9. The British Equine Veterinary Association (BEVA) is a specialist species division of the British Veterinary Association and is a professional association representing equine veterinary surgeons within the UK.

10. BEVA has 2,400 members representing all branches of the equine veterinary profession. The large majority (approx 75%) of BEVA members are in private mixed or specialist equine veterinary practice providing ambulatory veterinary services, as opposed to the primarily clinic-based services provided by small animal veterinary practices. The UK horse, pony and donkey population has risen considerably in the last decade, to a current estimate of 1.3 million animals. In contrast to farm animal practice, the demand for equine veterinary services has increased alongside the increases in the UK horse population and the increasing numbers of people (estimated to be 4.3 million) riding either occasionally or regularly. The horse industry in the UK has an estimated annual value of £4 billion and equine veterinary surgeons play a major role in this highly successful and valuable sector of the economy.

11. The equine veterinary profession continues to provide 24 hr services to horse owners across all regions of the UK and does so without using deputising services. The equine veterinary profession has therefore developed, and maintains, an efficient, cost-effective and workable system for the provision of equine veterinary care and the protection of equine welfare.

12. BEVA strongly believes that revision of the 1966 Veterinary Surgeons Act is necessary and welcomes the current inquiry.

BEVA RESPONSES TO THE EFRA SELECT COMMITTEE’S QUESTIONS

Question 1. *Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?*

13. BEVA believes that the 1966 Act is out of step with developments in the related professions within the equine sector and therefore no longer serves the needs the public or provides a satisfactory mechanism for safeguarding equine health and welfare. It is worth pointing out that the significant changes that have occurred in both small animal practice (corporate ownership and delegation of out-of-hours provision to deputising services) and farm animal practice (decrease in demand for veterinary services and a decline in the number of practices) have not occurred in equine practice. Equine veterinary practice has increased in the last decade and equine practices provide highly efficient round-the-clock delivery of veterinary services to horse owners and their horses thereby ensuring optimum welfare and continuity of professional care. However, a significant change within equine sector has been the growth in the number of “paraprofessional” groups and individuals offering veterinary services to owners, notably equine dental technicians and equine artificial insemination technicians.

14. The existing legislation (the 1966 Act and Exemption Orders) is not satisfactory with respect to the regulation of these paraprofessional groups. Complaints received by BEVA about unsatisfactory or illegal work by equine dental technicians and artificial insemination technicians suggests that members of the

public are not aware of the regulatory framework provided by the existing legislation. BEVA does not believe that the current legislation safeguards the public interest, or equine welfare, and is not sufficiently robust to safeguard public confidence in the veterinary profession or protect equine welfare.

15. BEVA considers that the disciplinary processes laid out by the 1996 Act do not meet the needs of the modern veterinary profession. BEVA believes strongly that revisions to the disciplinary process are required to provide more transparency and independence of the process; a greater range of sanctions including warnings and remedial measures; and improved procedures for recruitment, training and guidance of those serving on disciplinary committees.

Question 2. *Should there be regulation of providers of veterinary care other than veterinary surgeons?*

16. BEVA believes that the definition of an act of veterinary surgery should not be changed and that performance of acts of veterinary surgery should be restricted to veterinary surgeons or to properly regulated, suitably qualified individuals who are not veterinary surgeons carrying out specified veterinary procedures.

17. BEVA supports regulation of veterinary nurses along the lines proposed by the RCVS, with a Veterinary Nursing Council.

18. BEVA is very concerned about the equine welfare problems currently caused by some members of unregulated paraprofessional groups performing substandard work or acting in contravention to the 1966 Act. BEVA is further concerned that such welfare problems will not be addressed if regulation of these groups together with effective enforcement is not achieved by new legislation to replace the 1966 Act.

19. BEVA believes very strongly that regulation should be extended to all providers of veterinary care and should not be restricted to veterinary surgeons and nurses. This is essential to safeguard equine health and welfare. Furthermore, maintenance of public confidence in the “veterinary team” is dependent on there being regulation of all providers of veterinary care, not simply the veterinary surgeon and veterinary nurse.

20. BEVA does not consider that Exemption Orders provide a suitable mechanism for regulating the activities of paraprofessional groups and individuals. Whilst BEVA accepts that Exemption Orders provide, in principal, a mechanism to allow competent individuals who are not veterinary surgeons to carry out specified acts of veterinary surgery, the lack of enforcement means that Exemption Orders do not properly safeguard equine health and welfare. BEVA therefore strongly believes that Exemption Orders are not satisfactory and should not be continued. Equine health and welfare can only be safeguarded by regulation of paraprofessionals within a new legislative framework.

21. BEVA believes that the principle of self regulation should be extended to paraprofessionals and that a framework along the lines set out for veterinary surgeons and veterinary nurses in this consultation would provide a practical and workable means of achieving this goal.

Question 3. *Should the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?*

22. BEVA supports regulation of delivery of veterinary services and the standards of those services though a combination of a *voluntary* practice standards scheme and the regulation of individuals.

23. BEVA does not however support the concept of a mandatory practice standards scheme and considers that the costs of a mandatory scheme may be difficult for small rural practices to bear. BEVA is concerned that a mandatory scheme may therefore reduce the provision of veterinary care in rural areas and therefore may not be in the public interest or in the best interest of equine welfare.

24. BEVA believes that regulation of individual equine veterinary surgeons together with publicising of a voluntary practice standards scheme and consumer market forces will ensure optimum delivery of equine veterinary services. Equine practitioners are highly committed and conscientious individuals operating from small businesses delivering 24 hour veterinary care to the highest possible standards in ambulatory practice and BEVA does not consider that the imposition of mandatory practice standards is required or desirable, in particular for small rural equine practices.

Question 4. *Should the RCVS Council and VN Council be given power to require continuing professional development and revalidation?*

25. BEVA supports mandatory CPD for veterinary surgeons and veterinary nurses and that requirements for mandatory CPD should be determined by the relevant Council.

26. BEVA supports revalidation for veterinary surgeons and veterinary nurses provided that this is based on satisfactory completion of CPD as laid down by the RCVS and VN Councils.

Question 5. *Should the governing body of the RCVS and VNC include appointed lay persons?*

27. BEVA believes that it is essential that the governing bodies include lay persons. Public confidence in the regulation of the veterinary and nursing professions is best achieved with effective lay representation on the RCVS Council and the VN council. BEVA notes that the current limited lay representation on RCVS Council has been beneficial and supports extension of this principle in the current proposals.

28. BEVA further believes that there should be effective lay representation at every stage of the disciplinary process so that public confidence in the disciplinary process and in self regulation of the profession is maintained.

Question 6. *Should the RCVS and VNC have a separate conduct committee with powers to investigate complaints, give warnings and to make interim orders pending proceedings?*

29. BEVA strongly supports the proposal that RCVS and VNC have conduct committees that are separate from their councils. BEVA further believes that it is imperative that such conduct committees are *entirely* separate from the councils and that individuals may not serve on both Council and conduct committee.

30. BEVA believes that the constitution of the conduct committee, the recruitment of its members, together with provision of appropriate training, guidance on sanctions and self-review of performance are vital for the proper function of the conduct committee. The operations of the equivalent conduct committees of the General Medical Council and General Dental Council provide suitable working models.

31. BEVA does not support the proposal that the conduct committee should be able to make interim orders pending proceedings. Such an order will have serious financial impact on a practitioner and, should the allegation prove unfounded and the individual not be found guilty of professional misconduct, such loss of earnings and possible damage to professional standing would be entirely unacceptable.

32. BEVA strongly supports the proposal that there should be greater flexibility in the disciplinary process and a greater range of sanctions should be available to the conduct committee, including warnings and remedial action to correct deficiencies. BEVA believes that the aim of the disciplinary process should, wherever possible, to improve standards of professional practice to safeguard animal welfare and protect the public: the current limited range of sanctions available to the RCVS disciplinary committee does not achieve these aims.

Question 7. *Should the RCVS have the power to delegate specified procedures to people holding qualifications recognised by RCVS Council?*

33. BEVA does support the concept of the “veterinary team” providing integrated care of an animal. This team should be led by a veterinary surgeon and the animal concerned should be under the care of the veterinary surgeon.

34. BEVA does not, however, consider that the proposal to delegate procedures to individuals recognised by the RCVS would provide satisfactory working arrangements between veterinary surgeons and equine paraprofessionals. Whilst this proposal would integrate some paraprofessionals into the “veterinary team”, BEVA is very concerned about those paraprofessional groups or individuals that choose not to enter into such a RCVS recognition scheme along the lines proposed and would thus remain outside the “veterinary team”. BEVA is concerned therefore that this proposal will not properly safeguard equine welfare because it would include some paraprofessionals only.

35. BEVA is therefore concerned that should this proposal be implemented, the current unsatisfactory situation with regard to integrating equine paraprofessionals into the “veterinary team” and to safeguarding equine health and welfare would be perpetuated.

36. BEVA notes that although veterinary surgeons would have the ability to decide *whether* to delegate and to *whom* under this scheme, the veterinary surgeon would presumably be responsible for the work carried out by those individuals and BEVA questions whether this is a satisfactory arrangement for the veterinary surgeon. BEVA also notes that the economic implications of this proposal, should such an arrangement require the veterinary surgeon to be present whilst the work is being carried out, may prove unattractive to owners.

Memorandum submitted by Richard Jones (Vet 15)

I submit that the Veterinary Surgeons Act 1966 is woefully out of date and needs a comprehensive review.

The 1966 VSA does not meet the demands of the modern veterinary surgeon and related professions.

While I am aware that there are many examples of why this is so, my submission relates to one particular example that I have been involved with. This is the Disciplinary process. The process is outdated in contrast with allied professions.

I do not believe that the present system can wait for a new VSA and requires an urgent independent and transparent review of the Preliminary Investigating and Disciplinary procedures and process. There have been too many instances of apparent inconsistency in judgments and sentencing.

I believe that the RCVS and VNC ought to have a separate conduct committees both at Preliminary Investigating and at Disciplinary levels. The sanctions need review.

It is vital that the process is in accord with the Human Rights Act.

September 2007

Memorandum submitted by the Central Veterinary Society (Vet 16)

EXECUTIVE SUMMARY

1. Although the Act remains functional, Central Veterinary Society considers that the multiplicity of changes in legislation, the structure of the profession, and public perception of regulation of the professions, including the veterinary profession, since 1966 make revision of the Veterinary Surgeons Act inevitable. However, we consider it important that any proposals take into account the Charter.

2. Central considers that the increasing number of paraprofessionals involved in the provision of veterinary services makes some form of regulation important to ensure the purpose of the Act (to protect the public and their animals' welfare) continues to be effective. Any regulation of paraprofessionals must address issues of their competence.

3. Central considers the rise of corporate veterinary practices, where the influence of veterinary surgeons at senior management level is significantly reduced compared to traditional practices, must result in changes to the process of regulation. This could be achieved through regulation of practice standards but should be in conjunction with regulation of individual veterinary surgeons.

4. Continuing professional development is important but care should be taken, if compulsion is to be introduced, to ensure that any system is practical and not excessively bureaucratic, and would have the desired effect to ensure that standards are maintained by all those who have contact with animals including those who work in the public sector.

5. Central considers the involvement of lay persons at every level of regulation to be crucial in maintaining public confidence that it is functioning properly. Those lay persons must not be in a majority as the technical input from veterinary surgeons is essential to providing fair regulation. The burden of proof in disciplinary cases should remain at beyond reasonable doubt.

6. The implications of a separate conduct committee are not entirely clear as such a mechanism is already in existence. However, some form of evaluation of individual veterinary surgeons' health with regard to fitness to practise may be desirable.

7. Central considers that the delegation of certain procedures requires careful evaluation of what effect it might have on external bodies, particularly where certification is concerned.

INTRODUCTION

8. The Central Veterinary Society is the most long-established Territorial Division of the British Veterinary Association covering Greater London and parts of the suburbs. Consequently the Central is unusual in having a significantly higher proportion of members who are, or have recently been, actively involved in the profession at a political level including retired DEFRA Chief Veterinary Officers, past BVA Presidents, and senior officials and officers of the Royal College of Veterinary Surgeons (RCVS). We therefore consider the Central to be uniquely qualified to comment on the issues raised by the EFRA Select Committee. This paper addresses the questions raised by the Committee as below:

Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

9. Since the recognition of the veterinary profession by Royal Charter in 1840, there have been only three principal statutes relating to the veterinary profession: the Veterinary Surgeons Acts of 1881, 1948 and 1966. The change in the structure of the profession since the last of these has been very significant and arguably more than change between previous Acts. The most notable changes since 1966 have been the introduction of a formal veterinary nursing qualification, the introduction of formal specialist qualifications for veterinary surgeons in specific disciplines, the rise of Continuing Professional Development (CPD), and the rise of corporate veterinary practices. In addition changes outside the profession, such as entry into the EU and devolution, have also had significant influence with the introduction of significant amounts of animal-related legislation and mutual recognition of qualifications. Other professions have changed in parallel and the consequent effect of inquiries, such as that into the actions of Dr Shipman, and EU legislation have similarly influenced the other medical professions. Global change has also had an influence with significant numbers of veterinary surgeons from countries outside Europe now practising in the UK.

10. The Act has remained essentially unchanged and we consider it is, in some respects, becoming less fit for purpose although it remains functional. The rise of corporate practice perhaps best illustrates a deficiency of the Act. Corporate practices may have no veterinary representation at Board level where significant decisions are made on funding that affect the work of the veterinary surgeon in the practices and may compromise their professional obligations. Under current legislation RCVS is unable to influence the Board and can only take action against individual veterinary surgeons.

11. The 1966 Act and the Royal College's Supplemental Royal Charter of 1967 are complementary and the amendment or replacement of the Act should not be considered without scrutiny of the Charter and awareness of changes which would have to be requested in the latter. Doubts have been raised about the legality of applying members' annual retention fees to any but the statutory obligations of the Act. Central does not share this view: the exercise of the College's powers under the Charter is an example of proper purposes for the use of members' fees. Any amending legislation should make clear the right of RCVS (subject to the approval of the Privy Council as at present) to charge fees to cover not only its statutory functions but also its role under the Charter as a Royal College.

12. Devolution also raises issues in the drafting of new legislation, applicable to the whole of the United Kingdom. There is already an instance of this, in the differing views on, and subordinate legislation by the Westminster and Scottish Parliaments on the matter of the docking of dogs' tails. More fundamental issues are quite likely to arise in future.

Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

13. We assume that the term "providers of veterinary care" indicates persons other than veterinary surgeons who might be permitted to carry out certain minor acts of veterinary surgery under prescribed conditions, and this raises the matter of statutory definitions. If such rights are to be granted or delegated to non-veterinarians (and we strongly support such a concept), it is vital that there should be re-definitions of the terms "animal" and "veterinary surgery", which appear in the interpretation section of the 1966 Act, but have proved inadequate in the past.

14. The definition of the word "animal" in the 1966 Act specifically included birds and reptiles but not fish. However the Animal Welfare Act 2006 (and the equivalent Animal Health and Welfare (Scotland) Act) define "animal" as "a vertebrate other than man" on the grounds that those species are sentient. Central considers that the definition should be revised to the more modern one used in the welfare legislation.

15. The existing definition of an act of veterinary surgery has led, in several instances to uncertainty as to whether a particular action or procedure falls within the definition. The definition is frequently misconstrued as offering a good degree of detail, when, in fact, the lettered paragraphs of the section are specific about four areas only which do not affect the generality of the definition. For example, the question as to whether the ascertainment of pregnancy in an animal was an act of veterinary surgery was a contentious issue, since pregnancy is neither a disease nor injury and does not fall naturally within the wording of the section. The use of behaviour therapy is also contentious. Central considers that redefinition should include the mental and physical health of the animal as is also used in the welfare legislation

16. Additionally, if it were to be the case that veterinarians could delegate specific acts of veterinary surgery to qualified paraprofessionals, the term "animals under their care", would require statutory definition.

17. If certain paraprofessionals are to be given the right to carry out limited acts of veterinary surgery, Central considers that they ought to be subject to some kind of regulation and control to ensure that they confine themselves to their permitted role. Additionally there should be some measure of their competence at the time of qualification and of ensuring they undertake appropriate CPD to maintain this competence. In view of the current self-regulation climate, it is possible this could be achieved by a body other than RCVS.

Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics

18. The 1948 Veterinary Surgeons Act (section 5) provided that no unqualified person should be permitted to practise veterinary surgery. In law, the word “person” covers both a natural person and an artificial person ie a collection of natural persons formed into a corporate body eg a company. In the 1966 Act (section 19) however this ban on unqualified practice was reworded to prohibit such practice by unqualified individuals and companies were therefore not covered. It is assumed that this change was made *ex improviso* since the Act contained no provision for the registration of corporate bodies

19. We have already referred to the introduction of corporate practices and the inability of RCVS to regulate their corporate activities. The introduction of a mandatory practice standards scheme would provide a significant level of protection for the general public and the welfare of their animals in such practices. Furthermore, the Veterinary Medicines Directorate has stated their intention to introduce a practice registration scheme as an element of medicines control legislation. It would therefore seem an anachronism not have formal regulation of practice standards by RCVS.

20. However, Central considers that regulating practices alone would not provide adequate protection of animals’ welfare as the accountability of an individual veterinary surgeon would be too remote. We therefore consider that there should be continuing direct regulation of individual veterinary surgeons by RCVS in addition to regulation of practice standards.

Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation

21. There is no doubt that the pace of change in the veterinary profession is as great as it is in other technical sectors and Central therefore considers CPD to be a professional responsibility. Current RCVS advice lays down an acceptable minimum with which Central concurs.

22. However, provisions for mandatory CPD are relatively simple to draft, but exceedingly difficult to enforce, as other professions have discovered, unless one goes so far as to require members of the profession to sit a revalidation examination periodically. If there were to be such provisions, which we consider unwise, Central considers that care would have to be taken to consider their sustainability in the light of European legislation affecting the freedom of movement and rights of practice of veterinarians from other Member States.

23. In relation to veterinary nurses and other paraprofessionals, there would be even greater complications in the European context, not only in regard to CPD but also the recognition of qualifications of those trained elsewhere, their competence relative to VNs trained here, and their eligibility to carry out permitted acts of minor veterinary surgery.

Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals

24. The present legislation empowers the Privy Council to appoint four members of RCVS Council. Although currently one of these is the CVO of DEFRA, all four appointees could be lay persons. It is also open to each of the universities with veterinary schools to appoint a non-veterinarian as one of its representatives. If such possibilities were made requirements, or like numbers were to be appointed by other means, the membership of the RCVS Council would have 25% lay membership. Central considers that would strike an acceptable balance between satisfying public perceptions of the need for greater transparency and accountability, and reducing the number of veterinary Council members to the point where the profession would no longer be self regulating.

25. However, Central considers there may be confusion between membership of the Council *per se* and membership of the Disciplinary and Preliminary Investigation Committees. There are undoubtedly some real public concerns about the Council “managing the affairs of the profession”, as per the long title of the 1966 Act. The pressure appears to be for self-governing professions to demonstrate that they are not self protectionist bodies which close ranks in the face of any complaints, and it would be at the level of these two Committees that the case could be made for greater lay involvement. There must, however, continue to be sufficient numbers of veterinarians on the Committees to ensure that they have a full understanding of the science and the context of the matters under scrutiny, if they are not to lose the trust of the profession in return for public approval.

26. There have also been suggestions that the burden of proof in disciplinary cases should be reduced to the balance of probabilities. Central considers that, where there is the possibility of a veterinary surgeon being deprived of their livelihood, it would be entirely inappropriate for the burden of proof to be anything less than beyond reasonable doubt. Similar proposals have been made for regulation of the medical profession and opinion there is concurrent with our own.

27. Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings

28. The implications of this question are not entirely clear. The RCVS already has a Preliminary Investigation Committee (PIC) with the statutory obligation to investigate any complaints which might lead to disciplinary proceedings, and although statutory authority to issue warnings may be absent, warnings and advice have been given in the past, although these have not been made public. If it is suggested that the Committee's powers should be extended to make warnings a matter of record and to issue interim orders, careful and extensive drafting of the appropriate provisions would be required.

29. The Disciplinary Committee, unlike the PIC, does not report to RCVS Council to ensure its impartiality. Central considers that the independence of the Committee is essential and recommend that no change is instituted that might adversely affect the Committee's impartiality.

30. If, however, the question was intended to inquire about the need for both a Professional Conduct Committee and a Health Committee, with the former considering broadly the cases now heard by the Disciplinary Committee, and the latter adjudicating upon allegations that the ability to practise of a veterinarian is seriously impaired by reason of his physical or mental condition, this would reflect provisions in other comparable legislation.

Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by RCVS Council

31. In our responses above Central have indicated that provisions for the delegation of specified procedures would be a much more complex matter than the simplicity of this question might suggest. Without any detail regarding the types or extent of procedures which might be delegated and subject to what conditions and control, it may be wise to reserve judgment on such a proposal. If, as is believed, the purpose of the current and previous Veterinary Surgeons Acts was to protect the public and their animals against unqualified and/or incompetent treatment, Central questions how far it is possible to delegate to paraprofessionals without jeopardising the gold standard of veterinary care and expertise expected by the public for their animals. Clearly the mechanism by which the competence of paraprofessionals is measured is pivotal, but no body other than RCVS has the technical ability to assess that. We therefore consider that the authority to delegate should rest with RCVS.

32. Delegation of certain procedures or minor acts of veterinary surgery to non-veterinarians would, in certain circumstances, raise issues of certification, particularly in relation to the export of animals and foodstuffs of animal origin. The certificate for the importing country will normally require the assurance of the signature of a veterinary surgeon (and always does in the EU), but if the veterinarian has not personally carried out the necessary work or was not present when it was carried out by a paraprofessional, Central considers he could not legally or ethically sign the certificate. We also consider it unlikely that the importing country would consider any such certificate acceptable.

ADDITIONAL MATTERS

33. The final question that arises is of the form which any new legislation should take. If the current Act were to be replaced root and branch by a new Veterinary Surgeons Act, Parliamentary time is a significant obstacle to which must be added the considerable additional resources that would have to be provided by DEFRA. A Bill simply to make amendments to the existing Act would be shorter and less consuming of Parliamentary time but would still have to contend for a place with other Bills which may be considered of more importance. The other option currently being canvassed is the amendment of certain sections of the current Act by Regulatory Reform Orders. While this may seem an attractive means of making essential changes without having to bid for Parliamentary time, there is a danger that only a few matters will be selected, without full appreciation of the effect upon the remainder of the fabric of the Act. Central can envisage, for example, an Order being made which would make provision for veterinary surgeons to delegate minor acts of veterinary surgery to trained paraprofessionals without amendments being made to the interpretation section of the Act in regard to the meaning of the terms "animal", "animals under their care" or "veterinary surgery". It is submitted that, if Government considers that there are good and compelling reasons to replace the 1966 Act, it should accept the responsibility of making the necessary Parliamentary time available, and draft a Bill so that words can be tested against ideas and proposals.

September 2007

Memorandum submitted by the Kennel Club (Vet 17)

The Kennel Club is the governing body for dog activity in the United Kingdom among whose main objectives is to promote in every way, the general improvement of dogs and encourage responsible dog ownership. Although not a veterinary organisation our membership base does include veterinary surgeons and all those involved in the canine world are major users of veterinary services.

The Kennel Club was particularly interested in the part of the inquiry which is considering whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals.

The Kennel Club strongly believes that laypersons should be appointed to the governing bodies of the RCVS and VNC primarily because of the benefits that openness and transparency can bring. To illustrate, if laypersons could be appointed they would likely bring a different dimension and different views to discussions—in particular the views of those who actually use veterinary services. Decisions that are taken in an openness and transparency are more likely to attract support and publicity, and having laypersons on the body would provide an additional layer of accountability. I hope the Kennel Club's views will be taken into account as part of the consultation process.

September 2007

Memorandum submitted by the British Veterinary Nursing Association (Vet 19)

INTRODUCTION

1. The British Veterinary Nursing Association (BVNA) is the representative body for veterinary nurses and veterinary paraprofessionals in Great Britain. It has fulfilled this role since its inception in 1965 and it has worked with other veterinary organisations including the Royal College of Veterinary Surgeons (RCVS) and the British Veterinary Association (BVA) to facilitate the development of the veterinary nursing training scheme. The main aim of the BVNA, as outlined in its mission statement, is the promotion of animal health and welfare through the ongoing development of professional excellence in veterinary nursing. As part of this commitment the BVNA fully supports the introduction of formal regulation by means of a statutory register for qualified veterinary nurses, ie individuals who have fulfilled the RCVS requirements for Veterinary Nurse or Equine Veterinary Nurse (VN/EVN) status.

1.1 The present RCVS VN training scheme has enabled standardisation of trained veterinary nurses in this country and has provided a template for the training of veterinary nurses in many other countries. In its present format it enables student nurses to attain upon qualification a level of clinical competence similar to that of human-centred nurses and indeed, the original VN training scheme was based on that of the SRN when it was introduced in 1961. Qualified veterinary nurses are trained to work in a number of aspects of veterinary practice including:

- Nursing care of inpatients;
- Client education and support;
- Monitoring of anaesthesia;
- Performing laboratory analysis on clinical samples; and
- Radiography.

The special status of qualified veterinary nurses was recognised in 2000 when an Amendment to Schedule Three specified that listed VN/EVNs were able to perform minor acts of surgery.

Are the provisions of the 1966 Veterinary Surgeons Act out of step with developments in the veterinary and related professions?

Should there be regulation of veterinary care providers other than veterinary surgeons?

2. The BVNA considers that the 1966 Veterinary Surgeons Act, whilst appropriate for its time, has now been superseded by the requirements of modern veterinary practice. Today's small animal clients demand a more sophisticated approach to the care of their pets and veterinary practice has developed to meet these demands. One of the most significant of these developments has been the broadening of the role of the qualified veterinary nurse (VN). The availability of qualified nursing care for veterinary patients has enabled the veterinary surgeon to delegate appropriate aspects of clinical management to suitably trained individuals which in turn allows for the maximisation of patient welfare.

2.1 The identification and delegation of specific nursing responsibilities mirrors the development that has taken place in human-centred nursing and the BVNA would advocate that the resultant increase in the assumption of responsibility for patient care be restricted to regulated individuals to ensure standardisation of patient care and professional accountability. These would therefore be persons who have received appropriate training and who are required to subscribe to a framework of accountability as stipulated by an appropriate regulatory body. The RCVS would appear to be the most logical regulatory body at this time and it has taken the first step towards formal regulation of VN/EVNs by introducing a non-statutory register in September of this year.

2.2 The BVNA would see this move towards regulation and accountability for qualified veterinary nurses as a positive one in that it would provide a framework for the VN/EVN to work with the veterinary surgeon in a complementary manner as part of a team of healthcare professionals. This framework should ideally promote and develop the existing role of the VN rather than undermine the existing role of the veterinary surgeon which is predominately to diagnose and treat illness and to take overall responsibility for the care of veterinary patients.

2.3 Whilst the 2002 amendment to Schedule Three of the 1966 Veterinary Surgeons Act formally recognises that qualified, listed VNs receive training that allows them to perform techniques such as minor acts of surgery, this has had no significant effect upon the development of a professional ethos for veterinary nurses that recognises the increased levels of nursing care that VN/EVNs are able to provide. This requires the definition of an individual and specific role separate to that of the veterinary surgeon. Although the recent introduction of veterinary nursing degree programmes has prompted a growth of this nursing culture, there is still a need to fully recognise the role that the veterinary nurse plays in today's veterinary practice and the BVNA believes that this can only be fully facilitated by means of the legal recognition of the existing VN/EVN qualification.

2.4 A formal framework as developed by the RCVS will allow for standardisation of training which should promote confidence in the provision of veterinary nursing care. The RCVS proposal and introduction of non-statutory regulation will, if further supported by a new Veterinary Surgeons Act which recognises the importance of the role played by these uniquely qualified individuals enable this standardisation to take place by means of compulsory regulation, retraining for those individuals who opt to return to veterinary nursing following a significant period of absence and a formal disciplinary procedure to deal with complaints against registered VNs.

Should the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

3. In principle, the BVNA supports mandatory regulation of veterinary practices by means of further development of the existing RCVS Practice Standards Scheme. However, this should not undermine the principle of individual professional accountability based upon the use of a professional code of conduct/ethics for both the veterinary surgeon as well as other potentially accountable veterinary staff such as qualified veterinary nurses.

Should the RCVS and VNC be given the power to require CPD and revalidation?

4. If the principle of regulation for qualified veterinary nurses is accepted, the BVNA fully supports the proposed RCVS model of compulsory CPD, a formal disciplinary process and revalidation of those VNs who have not practised for a significant period of time. However, whilst the initial stages of this process are being implemented by RCVS at the present time, the BVNA would welcome the eventual inauguration of a separate body specifically dedicated to the regulation of veterinary nurses. It is envisaged that this would mirror the existing regulatory structure of both doctors and nurses within the medical profession.

Should the governing body of the RCVS and VNC include appointed lay persons as well as veterinary professionals?

5. The BVNA is fully supportive of the concept of appointing appropriate lay persons to play an important role in the regulation of all veterinary professionals. The inclusion of lay persons is integral to a transparent regulatory mechanism which would help to ensure fair treatment of both veterinary nurses and the public as well as maintaining the all important concept of duty of care to patients.

Should the RCVS and VNC have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings?

6. The BVNA strongly believes that separate conduct committees for both veterinary surgeons and veterinary nurses are essential as a separate VNC conduct committee composed of nurses and lay persons would be better placed to deal with disciplinary matters concerning VNs in a fair and unbiased manner. As the majority of VN/EVNs are directly employed by veterinary surgeons it could be argued that there is a potential conflict inherent in a dual role for veterinary surgeons in this respect.

Should the RCVS have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council

7. The BVNA believes that the RCVS should have the power to delegate specified procedures to qualified, registered veterinary nurses as this concept is entirely compatible with the emerging role of the qualified veterinary nurse. The precedent has already been created with the amendment to Schedule 3 of the Veterinary Surgeons Act which allowed legal recognition of qualified veterinary nurses. However, the actual

details of what may be performed by qualified and listed VNs has been kept deliberately vague and if regulation is introduced the BVNA would strongly support the identification of a specific role for the VN which would allow for a greater degree of autonomy whilst ensuring compatibility with the existing role of the veterinary surgeon.

SUMMARY

8. The BVNA is committed to the promotion of increased animal welfare and patient care within the veterinary environment and as such considers the introduction of regulation, by means of a statutory register, an essential requirement for qualified veterinary nurses.

8.1 The proposed revision of the Veterinary Surgeons Act would be an ideal opportunity to introduce such a register and the BVNA would support legal recognition and a greater degree of autonomy within the confines of a formal nursing role for the registered veterinary nurse.

8.2 The existing veterinary nursing qualification was developed in response to a need expressed by veterinary employers and has been in existence for several decades. As such it is a proven qualification which is well recognised within the veterinary environment and increasingly by the general public.

8.3 The BVNA commends the preparatory work undertaken by the RCVS in developing and introducing a non-statutory register to replace the existing list of qualified veterinary nurses and would see this as a suitable framework upon which to build the new regulatory structure. This should be facilitated by means of the imposition of a code of conduct, a compulsory CPD requirement and a disciplinary procedure which should encompass the use of appropriate lay persons.

September 2007

Memorandum submitted by the Society of Practising Veterinary Surgeons (Vet 20)

The Society of Practising Veterinary Surgeons (SPVS) represents over 1,800 member veterinary surgeons, all of whom are involved in practising veterinary surgery in the UK, whether in first opinion general practice, referral practices or with charitable organisations. The SPVS liaises with its members through direct personal contacts, meetings and its internet based discussion group and are therefore in a good position to articulate its members' opinions.

The SPVS is a division of the British Veterinary Association (BVA) and has made representations to BVA on the subject of the EFRA Committee inquiry into the Veterinary Surgeons Act (VSA). It also wishes that the specific needs of its members to be independently heard since the VSA is of particular importance to practising vets compared to those in industry, research and teaching, who are also represented by the BVA.

The SPVS wishes EFRA Committee to take note that:

1. The SPVS does not think that a new VSA is desirable. The present system works well in terms of protecting animal welfare and the UK public from unprofessional vets. Although the SPVS recognises that some elements of the VSA need to be updated to comply with other legislation, the SPVS believes that all of those improvements can be brought about using the "Section 60 option".

2. The SPVS is keen to bring about any improvements that Government suggests through statutory instruments and will work with DEFRA, the Royal College of Veterinary Surgeons (RCVS), BVA and anyone else that Government suggests to bring about those improvements. As a profession, we have already demonstrated our willingness and ability to work with Government bodies (as evidenced by our compliance with the Competition Commission) in improving the delivery of veterinary services.

3. The SPVS is in agreement with the BVA over the need to reform disciplinary procedures. We would be in favour of separating discipline responsibilities from the RCVS and VNS to a new body.

4. The SPVS has asked BVA to seek assurances from EFRA Committee as to the likelihood of government acting on EFRA Committee's recommendations.

5. The SPVS supports the proposal that the Royal College of Veterinary Surgeons (RCVS) and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development. However, it does not believe that a meaningful revalidation process can be implemented at this time.

6. The SPVS believes that in the interests of objectivity and maintaining public confidence, the RCVS and VNC should appoint lay members, both on their respective Councils and all committees involved in disciplinary procedures.

7. The SPVS supports the RCVS in the administration of the Practice Standards Scheme (PSS) but does not believe that it should be made mandatory for the provision of veterinary services.

September 2007

Memorandum submitted by P N Baker (Vet 21)

I am primarily employed in the racing industry. I attended a full meeting of United Kingdom Horses Shoers Union on 18 September 2007, when our formal response to the Royal College Veterinary Surgeons Bill was debated and agreed; I fully accord with the submission.

I am elected to serve on FRC by my craft, one of 16, four of whom are elected farrier members. Having expressed a desire to be heard, I was prevented from representation on the tripartite committee to consider the RCVS suggestion that farriery registration should be included with Veterinary Surgeons and Veterinary Nurses within a new bill, (Veterinary Services Act).

Neither my craft or the Farriers Registration Council as groups have been allowed or invited to debate the matter of farriery registration's integration into this bill. UKHSU the only truly independent working craft organisation open to ALL farriers, were excluded from the debate after a preliminary meeting, in all probability due to the doubts UKHSU raised. As a consequence of which UKHSU by letter consulted every farrier in the UK, I included a brief resume in my role as their elected member on the Registration Council and as a consequence I was placed on a disciplinary charge by FRC for doing so.

The views of rank and file working craftsmen has not been sought in formulation of the NAFBAE, WCF, FRC tripartite committees response to you. In fact even as a member of the Farriers Registration Council, I can only suppose such documented views exist, as to date a submitted document has never even been viewed.

September 2007

Memorandum submitted by the Chartered Society of Physiotherapy (Vet 22)

SUMMARY

1. Chartered physiotherapists and other health care professionals, other than veterinary surgeons, closely involved with the care of animals are in the situation of being recognised as professional in the human but not animal practice environments.
2. Other health care practitioners working with animals are able to call themselves animal or veterinary physiotherapists; such practitioners have not necessarily undertaken a primary physiotherapy qualification nor continuing professional development resulting in demonstrable competence to practice as an animal physiotherapist.
3. The Veterinary Surgeon's Act 1966 is not adequate in terms of recognising the extent and nature of the role of physiotherapists in the treatment of animals, nor the current standards of professional regulation.

BACKGROUND

4. The Chartered Society of Physiotherapy (CSP) is the professional and trade union body representing some 48,000 Chartered Physiotherapists in the UK. Chartered physiotherapists are recognised and registered as autonomous practitioners in human practice.
5. The Association of Chartered Physiotherapists in Animal Therapy (ACPAT) is the recognised clinical interest group of the CSP, supporting the development of Chartered Physiotherapists working in animal physiotherapy practice.
6. All chartered physiotherapists, including ACPAT members must comply with the CSP standards of practice and ethical code of conduct. Contravention of the CSP standards of practice and ethical code may lead to exclusion from chartered status and membership of the CSP but as a professional and not statutory body. The CSP does not have the power to prevent an individual practising providing such an individual remains registered with the Health Professions Council (HPC).
7. The HPC is the statutory body that may, if required, remove the name of a practising physiotherapist from the Health Professions Register, and therefore prevent an individual from practising, thus providing protection to the public.
8. The title physiotherapist (and physical therapist) is protected and in order to practice all physiotherapists must be registered with the HPC.
9. The remit of the HPC is human physiotherapy practice.
10. The prefix "Chartered" is not protected.

ISSUE

11. Chartered physiotherapists are regulated by the HPC and under the Health Professions Order (2001) have legal protection of title in respect of human physiotherapy practice. The HPC does not recognise animal physiotherapy practice.

12. ACPAT members working in human practice are registered via the HPC and subject to HPC standards of practice; any proven contravention potentially leading to exclusion from the register and prevention of practice. In respect of ACPAT members work with animals, no such protection is available.

13. Chartered physiotherapists and other health care professionals, other than veterinary surgeons, closely involved with the care of animals are in the situation of being recognised as professional in the human but not animal practice environments.

14. Other health care practitioners working with animals are able to call themselves animal or veterinary physiotherapists; such practitioners have not undertaken a primary physiotherapy qualification and continuing professional development resulting in demonstrable competence to practice as an animal physiotherapist.

15. There is a real need for regulation of veterinary care providers in addition to that for veterinary surgeons.

SOLUTION

16. The Veterinary Surgeon's Act 1966 is not adequate in terms of recognising the extent and nature of the role of physiotherapists in the treatment of animals, nor the current standards of professional regulation.

17. In June 2005, the Council of the Royal College of Veterinary Surgeons (RCVS) proposed a new structure for regulation of veterinary surgeons and veterinary nurses.

18. The RCVS indicated that it would discuss regulatory arrangements with providers of veterinary services other than veterinary surgeons and veterinary nurses.

19. The RCVS Council also proposed that veterinary surgeons should have the power to delegate appropriate elements of veterinary surgery, in respect of an animal under their care, to persons holding qualifications recognised by the RCVS Council from time to time.

20. The CSP and ACPAT is seeking recognition of the qualification of Chartered Physiotherapist in Animal Therapy and the inclusion of Chartered Animal Physiotherapist as a protected title within the revisions of the Veterinary Surgeons Act.

21. Appropriate regulatory governance structures that draw on existing practices within both the CSP and RCVS, to ensure that only suitably qualified Chartered Physiotherapists were able to provide animal physiotherapy would be necessary.

22. Suitably qualified may be defined as having a first qualification in physiotherapy and the agreed level of appropriate evidence of post-qualifying professional development in the specialist field of animal physiotherapy.

23. The Veterinary Surgeons (Exemptions) Order 1962 states: "one permits the treatment of an animal by physiotherapy provided the veterinarian who has examined the animal has prescribed treatment of the animal by physiotherapy". This mimics the status of physiotherapy in the human field prior to the granting of autonomy via the terms of the Health Circular (1977) 33.

24. It seems timely with the enormous increase in physiotherapy knowledge and skills in the management of animals that such a status is worked towards in animal physiotherapy. The first steps in this pathway are: the protection of the titles animal physiotherapist/physical therapist and veterinary physiotherapist/physical therapist, and through regulation and registration the ability to de-register in light of proven poor practice. Such initiatives would improve and promote protection of the animal, in common with protection of the public.

September 2007

Memorandum submitted by the Council of the Laboratory Animals Veterinary Association (Vet 23)

EXECUTIVE SUMMARY

1. The Council of the Laboratory Animals Veterinary Association (LAVA) believes that the Royal College of Veterinary Surgeons (RCVS) should have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council.

2. It believes that one such group of people should be non-veterinary surgeons who hold Personal Licenses granted under ASPA by the Home Office.

3. It believes that such Licensees should be allowed to use the techniques specified on their licence for diagnostic or therapeutic purposes, so long as they are working at Designated Establishments, under the direction of the Named Veterinary Surgeon who has the animals under his or her care.

SUBMISSION

1. The Council of the Laboratory Animals Veterinary Association (LAVA) supports the view that the Royal College of Veterinary Surgeons (RCVS) should have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council.

2. This is in agreement with the RCVS stated aim of increasing the range of tasks that veterinary surgeons are able to delegate to appropriately trained paraprofessionals.

3. The following comments apply specifically to the role of veterinary surgeons and persons holding Personal Licensees in establishments designated under the Animals (Scientific Procedures) Act 1986 (ASPAs).

4. In ASPA Designated Establishments, many of the same procedures may be carried out on an animal for either clinical (diagnostic or therapeutic), or scientific reasons. The former are carried out by veterinary surgeons as acts of veterinary surgery under the Veterinary Surgeons Act 1966 (VSA), the latter by Personal Licensees under ASPA: the distinction being whether or not the procedure is carried out for the benefit of the animal or its peers, or whether it is for a scientific purpose.

5. Personal Licensees are persons licensed by the Home Office to carry out specified techniques under ASPA for a scientific purpose. Personal Licensees must be competent to perform the techniques for which they are licensed and frequent repetition of the procedure can allow them to become very skilled indeed at a limited number of techniques. For example, in small rodents, a Licensee may be more skilled at withdrawal of a blood sample, or embryo transfer, than a veterinary surgeon that performs such procedures only rarely. In this case, allowing the skilled Personal Licensee to perform the same technique for diagnostic reasons would actually result in improved animal welfare.

6. We suggest that Named Veterinary Surgeons, employed by the Certificate Holder of ASPA Designated Establishments, should be able to delegate to Personal Licensees, those procedures for which the Licensee is already trained and holds a current Home Office Licence.

7. The Home Office sets out the training required for, and regulates the issue of, Personal Licences. In addition, many scientific establishments work to GLP standards and maintain training and competence records for their staff.

8. LAVA has been in discussion since at least 1992 with the RCVS regarding the delegation of procedures in establishments designated under the ASPA.

9. The deregulation of Procedures Designated as Acts of Veterinary Surgery was the subject of an extensive consultation between 1998 and 2000 by the "Schedule 3 Working Party" chaired by Professor A R Michell, then president of the RCVS. LAVA was represented on this Working Party.

10. The resulting RCVS policy was sent to the Rt. Hon Nick Brown MP, then Minister of Agriculture, Fisheries and Food, on 6 July 2000. This document received unanimous support from the RCVS Council and the Council of the British Veterinary Association. It provided a framework for liberalising the freedom of veterinary surgeons to delegate specific tasks to suitably trained paraprofessionals while safeguarding the clinical welfare of patients. In our view it provided an entirely satisfactory alternative to new exemption orders under Schedule 3, and LAVA believes that the recommendations of this Working Party should be included in any new VSA.

11. This matter was raised formally with Mr A Hughes of the Animal Welfare Division of MAFF on 7 August 2000, but has not subsequently been progressed by Defra.

September 2007

Memorandum submitted by Lantra (Vet 24)

EXECUTIVE SUMMARY

Lantra is the Sector Skills Council for the Environmental and Land Based Sector. We are an employer-led organisation licensed by Governments across the UK to determine, promote and ensure that there are appropriate levels of skills and business development support for businesses and individuals in our sector.

Within the industries covered by our footprint there are a number who have a direct interest in the proposed review of the Veterinary Surgeons Act namely:

- Animal Care;
- Animal Technology;

- Equine;
- Equine Barefoot Trimmers;
- Equine Dental Technicians;
- Farriery; and
- Veterinary Nursing.

In principle Lantra supports the review of the Veterinary Surgeons Act 1966 and feel that the provision of care by those other than veterinary surgeons needs consideration in relation to the current practices in training, skills and competency development of all working with animals to be central to ensuring that animal health and welfare is promoted and maintained, and also in encouraging a professional skilled workforce.

Currently the legal or regulatory status of the different industries varies considerably so the implications of the review would require careful consideration, and industry consultation, to ensure that any changes allow the promotion of animal welfare and skill development.

1. Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

We feel that this is the case and would highlight the development of equine dental technicians and barefoot trimmers to demonstrate where roles traditionally undertaken by veterinary surgeons are now being undertaken by others. The lack of legal standing for these roles could potentially lead to customer confusion, a reduction in animal welfare and a threat to the professional and business development of the individuals concerned.

In addition the role of the qualified veterinary nurse in veterinary practice remains unprotected.

2. Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

Clarification as to what is understood by the term veterinary care is required but in principle we agree that the provision of veterinary care by those other than veterinary surgeons should be regulated through the development of training, competencies, qualifications and professional codes of conduct.

3. Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis

Currently our remit only covers the veterinary nursing profession and not that of veterinary surgeons so we are unable to comment at this stage but would wish to discuss how this may reflect the promotion of the role of the qualified veterinary nurse within a mandatory practice standards scheme.

4. Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation

Yes, a requirement for continuing professional development and revalidation would demonstrate the commitment from the various industries to the promotion of animal welfare and professional conduct. However consideration as to what constitutes recognised CPD must be given to those areas where geographical and business restraints may hinder attendance.

5. Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals

In principle yes, but the terms of reference for their recruitment and appointment would need careful consideration to ensure that they were independent.

6. Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings

Further detail required to provide an answer at this stage.

7. Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council

Yes and Lantra would wish to work closely with the RCVS and the professions to ensure that the National Occupational Standards and qualifications developed provide the industries with the most appropriate way to achieve this. Careful consideration would be required to ensure that these people would be subject to suitable levels of control and regulation.

Memorandum submitted by Mervyn Harris (Vet 25)

I write as a veterinary surgeon who has worked continuously in private practice since qualifying in 1966. I have worked as an assistant in mixed practice, as a sole proprietor and as a partner in a six-vet practice until 2005, when the practice was sold and I was employed as a part-time veterinary surgeon. I am a member of the BVA and SPVS and currently sit on the Councils of both organisations.

The issues that face our profession are both similar and different to those that faced me when I qualified. Confidence in the profession by the public then seemed higher, employment law was much less complicated, males dominated the profession, the RCVS Guide to Professional Conduct was stricter and unequivocal, CPD was often free and locally provided, distinction between the roles of veterinary surgeons and “paraprofessionals” was more clear cut, contact with colleagues was frequent and valued, the need to provide an out-of-hours service was accepted and fulfilled.

Whilst it would seem reasonable to assume that any legislation dating from 1966 cannot fulfil the requirements of regulating the profession 40 years later, the 1966 Act has stood the “test of time” remarkably well and I have reservations about repealing it, especially if present regulatory needs can be fulfilled by other means, such as using the “Section 60 Option”. The option of using this and other mechanisms should be fully explored first and only if, after careful examination, the required needs cannot be met should repeal of the 1966 Act be considered.

In relation to the specific bullet points listed in the Press Notice Number 50, I reply as follows:

1. I do not believe that the veterinary profession is constrained in its development or in being able to follow changes/developments in our kindred professions by the 1966 Act. The profession has embraced a lot of change, especially within the past 10 years, and this has taken place without the need for primary legislation.

2. Regulation of veterinary care outside the profession is important, but change to what is in place already is only necessary if the current system is failing to protect the interests of animals and the provision of proper standards of animal welfare. Evidence of this should be the only driver of change.

3. The delivery of veterinary services will be primarily led by market forces. The public are much better informed now than previously and if a practice does not provide the expected standard of care required by a client, someone else will, and the client will follow that service. “Pull factors” work better at driving up standards than “push factors”, such as mandatory practice standards. A greater emphasis on the need to comply with the law in all aspects of running a practice is desirable and should provide the necessary “push factor” in this matter. Mandatory standards would be expensive and complicated to implement, enforce and oversee, and may not achieve the desired result anyway.

4. The RCVS and VNC should encourage, educate and even shame professionals into undertaking continuing cpd. The concept of “lifelong learning” is starting to take hold and I think this is a better way to achieve more cpd and higher standards than having a compulsory system. This should undermine the need for revalidation, a concept which has huge ramifications.

5. Lay person representation on RCVS and VNC should be implemented.

6. The whole process of conduct committees should be reviewed and made more flexible and appropriate to the present day. The current system is creaking and often dispenses rough or inappropriate justice. A transparent, well-defined, even-handed, flexible and fairer system is overdue.

7. I agree with the RCVS having powers to delegate specified procedures to people holding appropriate qualifications.

I hope these comments are helpful.

September 2007

Memorandum submitted by the World Wide Association of Equine Dentistry (Vet 26)

1. The World Wide Association of Equine Dentistry (WWAED) welcomes the opportunity to comment on the proposals from the Royal College of Veterinary Surgeons (RCVS) on reviewing the Veterinary Surgeons Act (VSA). We applaud the EFRA for initiating a broad and open review of the future of regulation of the veterinary team.

2. The veterinary team continues to expand and one area of recent growth is equine dentistry. The WWAED represents professionals dedicated to ethical, practical care for horses and horse teeth. We support the idea that a qualified body of independent, professional equine dentists should be able to provide treatments and services in this area in conjunction with other competent professionals. The WWAED is an international organisation established in the USA 1991, in Canada 1992, in Australia 1995 and in the UK

in 2001. The UK Chapter has a membership of 30 consisting of full and probationary members. The WWAED is recognised by the DEFRA and the RCVS as a course and examination provider for the proposed Exemption Order Examination for Advanced Equine Dental Procedures.

3. We have responded to the proposed changes to the VSA as identified in your email in the order as follows:

Whether the provisions of the 1966 Act are out of step with developments in veterinary surgery and related professions

4. The current regulatory system is failing to protect the public and their animals. There is a significant system in place at the RCVS for Veterinary Surgeons. This includes education, standards, regulation and discipline. Most other aspects of provision of veterinary services have to fit awkwardly into this system. The mechanism has been a system of exemption orders, developed by DEFRA, with advice from the RCVS. The system is awkward because DEFRA has had to understand what could and should be regulated, but is faced with advice from a variety of competing sources.

Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

5. The system for accountability for those, other than veterinary surgeons, is unclear. Equine Dentistry is currently either self-regulating or if the equine dentist is a member of an Association, he/she conforms to their code of conduct and disciplinary procedure. It is not compulsory for an equine dentist to belong to an Association so the welfare of the animal is only protected by the new Animal Welfare Act.

Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis

6. Although not mentioned in this consultation, we are aware that competition issues are having a major impact on Veterinary Surgeons. Good regulation should be proportionate and balance the public interest for best value in service delivery with the protection of the vulnerable. Veterinary Surgeons are now embracing the use of professionals in other areas, be it in equine dentistry, animal manipulation or cattle feet trimming. Experience has shown that resisting competition benefits no one in the long term. However, within equine dentistry there is more than one organisation, the British Equine Veterinary Association (BEVA), the British Association of Equine Dental Technicians (BAEDT) and the WWAED. This may pose problems as to who sets the standards for each group, who judges if standards are met, who decided and administers any disciplinary action? This is an issue for public and animal protection and also fair competition and sanction.

Although we would support the setting up of a council to govern equine dentistry, the WWAED suggests there should be a common framework to ensure fair and even setting of standards and a common approach to discipline for all levels of equine dentistry provided by any practitioners. This could then be governed by one Council, sub groups and a Disciplinary board.

The WWAED whilst offering its full support to the regulation of the equine dental industry, would like to highlight other considerations relating to extra costs which may affect our members. The setting up of a regulatory body will cost money and who will fund this? Any administrative costs linked to providing information to the RCVS will have to be passed onto our members. Assuming our organisation would have representation on any regulatory council, who will incur the cost of attending meetings? Who will hold lists of qualified individuals that are deemed competent to practise—if not our organisation would the RCVS incur extra costs in setting up more database records?

Whether the RCVS and VNC should be given the power to require continual professional development and validation

7. We are currently considering a continual professional development training programme for our members. The WWAED welcomes forging links with the veterinary profession in order that new developments and ideas can be shared. At the present time, the veterinary profession educates individuals with seminars restricted to members of the RCVS. The WWAED suggests that access could be granted to “qualified” equine dental professionals in order that information is shared and professional relationships forged. However, we do believe that handing complete powers of validation over to the veterinary profession would not be appropriate as it could result in them having control over what training they think is appropriate. As our members work alongside the veterinary profession we believe that with co-operation from both parties a comprehensive development programme can be built which will benefit both parties.

Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals

8. The WWAED supports this idea as it would potentially introduce unbiased and broader views to the council. Appropriate representatives on the governing body would ensure that the views of all organisations providing equine dental care be made known. As equine dentistry is a specialised field, it would be essential that representatives are present who are regarded as competent in their field to guide the council on matters of expertise.

Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings

9. The WWAED has its own disciplinary procedure should any of its members be deemed incompetent or unprofessional whilst carrying out their job. Should we receive any customer complaints these are investigated and the equine dentist is dealt with in the appropriate manner. We would consider having an open channel between the RCVS and the WWAED to report/discuss any matters of grave mis-conduct; otherwise we feel that we are best able to discipline our own members if deemed appropriate.

Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council

10. The RCVS and DEFRA together with representatives from the equine dental industry are currently discussing an Exemption Order Certificate for Equine Dentists. There are two approved course and examination providers in the UK, the BEVA and the WWAED. Both organisations have successfully run courses and advanced equine dentistry examinations for the industry. The WWAED whilst supporting the Exemption Order has voiced its concern that legislation and examinations should govern the whole industry and not just those performing advanced procedures. Accountability should be across the board. As there are two organisations the WWAED recommends that there is one comprehensive list held of qualified individuals by the RCVS to limit confusion amongst the horse-owning public.

11. In conclusion, we would like to thank EFRA for inviting us to comment on the proposed changes to the Veterinary Services Act 1966, and the WWAED would like to offer its full support.

September 2007

Memorandum submitted by Patricia Gail Saluja (Vet 27)

SUMMARY

This submission contends that the VSA 1966 should be replaced by a new statute. The current Act has been rendered unsuitable as a result of wide-ranging changes in the nature of veterinary medicine and the manner in which services are delivered, in public attitudes and expectations regarding professional regulation and in the general legal order, particularly the enactment of the Human Rights Act 1998. In summary, the new statute should provide for the following.

The Establishment of five bodies outlined as follows:

Three separate professional regulatory bodies: one body for regulating veterinary surgeons and veterinary practices, including corporately-owned practices (this would be a continuation of the current RCVS Council); one body for veterinary nurses (a Veterinary Nurses Council) and one body for other veterinary care providers (a "Veterinary Care Professions Council"). These three bodies would maintain professional registers and set standards and rules for education, qualifications and professional conduct. They would not, however, deal with professional disciplinary matters.

One single overarching body, a "Veterinary Board": This would monitor the performance of the professional regulatory bodies and would also form a single portal for the receipt and investigation of complaints and queries regarding veterinary practices and all groups of professionals. The Board should have powers to issue warnings and advice and, in certain cases, impose interim suspensions or conditions on continued practice.

One "Fitness to Practice Panel": This would be independent of the regulatory bodies and the Board and would hear disciplinary inquiries for all the groups regulated by the Act. The sanctions available to it should be clearly stated.

In addition to the above, the new act should introduce the following reforms:

- prescribed appointment of lay persons onto the regulatory bodies, the overarching Board and the Fitness to Practice Panel;
- empowerment of veterinary surgeons to delegate specified tasks of veterinary surgery to people holding qualifications recognised by the RCVS Council;
- revision of the grounds for disciplinary action along the lines prevailing in human health care systems; and
- a requirement for practising certificates in addition to membership of the relevant regulatory body, with renewal of the certificate being contingent upon fulfilment of approved CPD.

Finally, it is proposed that the new Act should be entitled “Veterinary Practice Act”, that the term “veterinarian” should replace “veterinary surgeon” and that the definition of “animal” should be revised.

1. *The need to replace the Veterinary Surgeons Act 1966:* Overall, there is a general consensus in the UK that animals and the public are served very well by veterinary surgeons.² However, in the decades following the enactment of the Veterinary Surgeons Act 1966 (“VSA 1966”), major changes and developments have taken place in the following areas: the nature of veterinary medicine itself (eg great expansion in the range and sophistication of treatments); the manner in which services are delivered (eg growing involvement of other occupations; the advent of corporately-owned practices); changes in public attitudes (eg concerns over professional regulation, particularly with regard to matters such as monitoring, transparency, openness, accountability); and developments in the general legal order (eg the Human Rights Act 1998, the Freedom of Information Act 2000 and judicial decisions in cases concerning professional regulation).

2. In the light of these developments, the VSA 1966 is no longer suitable for regulating the practice of veterinary medicine and should be replaced by a new statute. The following submission proposes a variety of reforms for incorporation into future legislation.

I. EXPANSION OF THE RANGE OF PERSONS TO BE REGULATED

3. The VSA 1966 regulates only veterinary surgeons. This was appropriate at the time of the statute’s enactment, when regulation of the vet essentially achieved regulation of the practice. The veterinary surgeon still plays a pivotal role, but, as indicated above, there are now a variety of other occupations involved. These include, for example, nurses, physiotherapists, behaviourists, bovine ultrasound scanner operators and equine dental technicians. Whilst these persons are for the most part required to have recognised training, their work with animals is not subject to full statutory regulation.³

4. It is submitted here that statutory regulation of non-veterinary service providers is desirable in the interests of animal welfare and public protection. Psychologically also, acquiring the status of a regulated profession enhances the motivation of the persons concerned, raises the profile of their work and attracts good candidates into the field.

5. The various occupational groups involved have already indicated a wish to be regulated—not *by* vets—but *alongside* vets.⁴ The crucial task would be to find a form of organisation which would allow for this whilst at the same time presenting a clear and coherent face to the public.

6. There is also a need to regulate practices and other legal persons involved in the provision of veterinary services. This is particularly important in view of the growing trend for practices to be corporately owned, possibly by parties who are not veterinary surgeons and whose policies and practices could conflict with the welfare of animals and/or the protection of the public.

7. If the foregoing reforms were implemented, the title of the new legislation should reflect its broadened scope, eg “Veterinary Practice Act”.

8. It is suggested that the new system could be based on a framework comprising three professional regulatory bodies and two overarching bodies which would be independent of each other and of the professional regulatory bodies.

9. The three professional regulatory bodies would be the RCVS Council plus two new bodies, a Veterinary Nurses Council and a Veterinary Care Professions Council. The two independent overarching bodies would be a Veterinary Board and a Fitness to Practice Panel. In outline, these entities would function as follows.

10. *The Regulatory Bodies:* First, the RCVS Council would continue to govern veterinary surgeons and, accordingly, would maintain the register, set standards for education, qualifications and professional conduct. Crucially, though, it would cease to deal with disciplinary matters. The Veterinary Nurses Council would perform similar functions with regard to veterinary nurses. Finally, the Veterinary Care Professions

² Woodbine, U (2006) *Public Trust Levels High for Veterinary Surgeons*, *Veterinary Times*, 20 February, p 4.

³ Farriers are an exception to this pattern as they are constituted as a profession regulated under the Farriers Registration Act 1975 as amended.

⁴ See for example RCVS “Latest News” (7 March 2005) *Latest Discussions on Veterinary Surgeons Act Review*, www.rcvs.org.uk

Council would regulate the remaining diverse providers of veterinary services, in a way analogous to that exercised by the Health Professions Council in relation to 13 different groups of human healthcare professionals (eg arts therapists, biomedical scientists, podiatrists, dieticians, etc).

11. In addition to the above functions, the RCVS Council would have powers to regulate practices through a system of inspection and issue of certificates of suitability.

12. *The Veterinary Board:* This would monitor the performance of the regulatory bodies and would form a single portal for the receipt and investigation of all complaints and queries regarding veterinary practices and all groups of professionals. This would promote uniform compliance with standards and would facilitate access to the complaints system. The importance of such an integrated system was highlighted by the Kennedy Report on the Bristol heart surgery inquiry.⁵

13. The Veterinary Board should have powers to issue warnings and advice and, in certain cases, to impose interim suspensions pending formal disciplinary hearings. It should also be able to impose conditions on practitioners where, for example, training or medical treatment is required, but where interim suspension or a formal hearing are not deemed to be necessary in the interests of animals or the public.

14. Cases which are too serious or contentious to be disposed of by the Board would be referred to the Fitness to Practice Panel for a disciplinary hearing.

15. *The Fitness to Practice Panel:* This would replace the existing Disciplinary Committee and would be independent of the regulatory bodies and the Veterinary Board. It would hear disciplinary inquiries for veterinary surgeons, nurses and other veterinary care professionals. The independent position of this body would accord with the right to a hearing by an “independent and impartial tribunal established by law” according to Convention Article 6 as scheduled to the Human Rights Act 1998.

II. INVOLVEMENT OF LAY PERSONS

16. Mainly as a result of a series of notorious health care cases in the 1990s and 2000s, the public now expects greater involvement in the regulatory regimes for the professions. Such involvement enhances transparency and public confidence in the professions. Also, for the benefit of the professionals concerned, it provides objective protection against accusations of undue bias or self-serving.

17. Accordingly, it is submitted here that lay persons should be appointed onto the governing bodies for veterinary surgeons, veterinary nurses and other veterinary care professionals. In the Kennedy Report, it was stressed that the need to involve the public in professional regulatory bodies applies as much to discipline as to other activities.⁶ Furthermore, it has been reported, in connection with hearings before the General Medical Council and the General Dental Council, that lay members of disciplinary panels make a valuable contribution, asking astute and intelligent questions and displaying a talent for addressing the pertinent issues.⁷ Therefore it is proposed that there should also be lay appointments onto the Veterinary Board and the Fitness to Practice Panel (or whatever terms are applied to the investigative and adjudicative bodies concerned).

18. It is important that lay membership should be explicitly prescribed in new legislation, rather than being left to policy as is the case at present with regard to RCVS Council appointees. This would not only guarantee its continuance with time but would also provide for a consistent level of lay representation. This would bring veterinary legislation in line with statutory rules governing other professions such as medicine, dentistry and nursing and midwifery in the UK and with recent veterinary legislation in certain other jurisdictions such as Ireland⁸ and New Zealand.⁹

19. Lay appointments should be made through open competition and scrutinised by an independent panel.

III. DELEGATION OF SPECIFIED PROCEDURES

20. As veterinary science develops and new medical and surgical treatments come on stream, veterinary nurses and other members of the team are likely to be required, on a repeated basis, to perform new tasks. Under the present Act, the undertaking of such activities may require the cumbersome and lengthy process of seeking ministerial orders under section 19 (5) to amend the provisions of Schedule 3 or to vary an order previously made under subsections (4) or (5) of section 19.

21. In order to facilitate the delivery of up-to-date veterinary services, whilst assuring the protection of animals and the public, new legislation should give veterinary surgeons power to delegate specific tasks of veterinary surgery to people holding qualifications recognised by the RCVS Council.

⁵ See Synopsis at paras 7 and 19 (www.bristol-inquiry.org.uk)

⁶ Final Report Summary—Recommendations 105 and 158.

⁷ Robertson, M (2007) “The Role and Responsibilities of Tribunal Panel Members”, *Professional Discipline Update Seminar*, Shepherd and Wedderburn Solicitors, Edinburgh (22 May).

⁸ Veterinary Practice Act 2005, s 16.

⁹ Veterinarians Act 2005, s 77.

IV. REVISION OF THE GROUNDS FOR DISCIPLINARY ACTION

22. The VSA 1966, section 16 sets out three grounds on which the Disciplinary Committee (DC) may take action against a person's registration, namely criminal conviction, disgraceful conduct in any professional respect and fraudulent entry in the Register.

23. It is submitted that, for all professionals concerned, these grounds should be revised. As a preliminary point however, it is proposed that the legislative terminology should be changed to reflect the fact that the underlying principle is that of establishing the status of a person with respect to his fitness to practise. Accordingly, the name of the adjudicatory body, as mentioned at paragraph 15 above, should be changed from "Disciplinary Committee" to "Fitness to Practise Panel" (the term "panel" signifying the fact that it is independent of any committee arrangement of the professional regulatory body concerned). Also, the legislation should use the expression "impaired fitness" rather than the current term "unfit". This aligns better with the range of sanctions that are actually imposed. Thus while the Act mentions only removal and suspension from the register, the DC can, and does, exercise its discretion to issue reprimands and warnings and to impose conditions on practice. Clearly none of these options accord with the impression created by the blanket term "unfit". It is hoped that, for accuracy and transparency, any new legislation would explicitly state all the sanctions at the disposal of the adjudicatory body.

24. Turning to the question of statutory grounds of impaired fitness, it is recommended that revisions be made to all the existing grounds, ie convictions; fraudulent entries; disgraceful conduct.

25. First, the ground of criminal conviction should be expanded to cover convictions prior to registration as well as determinations by other regulatory bodies. On a literal interpretation of the present statutory wording, the DC does not have jurisdiction to consider a situation where there has been a conviction before registration. Amending the provision to cover pre- as well as post-registration convictions would accord with the view of Walter LJ in *R v Prosthetists and Orthodontics Board ex p Lewis*,¹⁰ where his Lordship observed that the legislation was ". . . intended to raise the standards of the profession for the protection of the public", and went on to hold as follows: "*It would be absurd if conduct committed the week before registration had to be ignored, whereas conduct during the week after would lead to a striking-off from the register.*"¹¹

26. Furthermore, the legislation should explicitly confer power to consider determinations of other regulatory bodies. This ground is included, for example, in the fitness to practice rules of the General Medical Council,¹² the General Dental Council¹³ and the Nursing and Midwifery Council.¹⁴ The case of *RCVS v Humphrey* (2001)¹⁵ indicates willingness to consider such determinations, and, for the sake of transparency and for guidance to subsequent adjudicators, it is appropriate for the ground to be enshrined in legislation.

27. Next, with regard to fraudulent entry, it is submitted that this measure should be extended to cover entries in the register which have been erroneously made. One such case was referred to at several points during the course of litigation between a Dr Uruakpa and the RCVS.¹⁶ Five years after the registration in question, the error was discovered and the individual was removed from the register. It seems incongruous that this sort of situation is not covered by statutory provisions. Indeed erroneous registration is explicitly dealt with in the legislation for medicine,¹⁷ dentistry¹⁸ and nursing and midwifery.¹⁹

28. Finally, the category of "disgraceful conduct" should be abolished altogether and replaced by three new grounds of impairment, namely, "misconduct", "deficient professional performance" and "adverse physical or mental health". It is recognised that the Disciplinary Committee has actually managed to shoehorn this entire spectrum of cases into the existing ground of "disgraceful conduct". Nevertheless, it is argued that the statute should provide a more explicit list of the categories under which fitness to practise may be called into question. There are several reasons for this recommendation and these are indicated in the following account.

29. "Misconduct" is favoured over the term "disgraceful conduct in any professional respect" which is an archaic expression failing to convey a notion of the role of a modern regulator. Also, it creates the mistaken impression that regulation is only about behaviour and has no bearing on professional performance. Furthermore, it suggests that the culpable conduct must take place within the context of professional activity, and that misdemeanours outside the sphere of work do not count. The decisions of the RCVS Disciplinary Committee clearly show that this picture does not prevail in reality.

¹⁰ [2001] EWCA Civ 837.

¹¹ para 33 of the judgment.

¹² Medical Act 1983, s 35C.

¹³ Dentists Act, s 27(2)(g).

¹⁴ Nursing and Midwifery Order 2002 (SI 2002/253), art 22(1)(v).

¹⁵ www.rcvs.org.uk/

¹⁶ No EAT/1074/98; [2005] EWCA Civ 667.

¹⁷ Medical Act 1983, s 39.

¹⁸ Dentists Act 1984, s 24(2).

¹⁹ Nursing and Midwifery Order 2001 (SI 2002/253), art 22(b).

30. The switch from “disgraceful conduct” to “misconduct” would not lead to vets being unfairly impugned for minor events, as existing case law would continue to provide guidance to adjudicators. It is relevant to note that “misconduct” has replaced “serious professional misconduct” for medics,²⁰ dentists²¹ and nurses/midwives.²²

31. With regard to the issue of performance at work, the expression “deficient professional performance” should be adopted in order to denote work which is of such a standard that it calls into question a person’s registration. The adjective “serious” need not appear, since the standard of the performance will have to be judged in the context of whether it has impaired the practitioner’s fitness to practise.

32. In some performance cases, one would anticipate that there will be scope for remedial intervention, eg imposition of conditions on practice, undertaking prescribed training or study. These options should appear in the statute.

33. The final proposed new ground for impaired fitness is that of “adverse physical or mental health”. Veterinary medicine can be a very stressful profession and veterinary surgeons suffer from certain health problems at significantly higher rates than the general population.²³ This situation should be recognised by the introduction of a specific statutory ground of impairment caused by adverse physical or mental health. At present, the DC must manage health-related problems under the heads of conviction or disgraceful conduct. Where some form of continued practice is deemed suitable (and this is not always the case), the Committee postpones judgment subject to agreement to certain conditions, including undergoing medical treatment. For such cases, however, it is submitted that the establishment of a distinct health ground has the advantage of moving the respondent out from the conviction or conduct grounds and the associated connotations of blameworthiness. This reform is in line with fitness to practice legislation for other professions in the UK²⁴ and with recent veterinary legislation in certain other jurisdictions.²⁵

V. DEFINITIONS

34. There are two points of contention here. These concern the use of the term “Veterinary Surgeon” and the definition of “animal”.

35. The term “Veterinary Surgeon”: Whilst it is clear from the Interpretation section of the 1966 Act that veterinary surgery covers medical as well as surgical functions, this fact may not always be clear in the mind of the public. Therefore it is suggested that the expression “veterinarian” would be more suitable. This proposal is based on my own experience of situations where people have expressed the belief that the title denotes some sort of specialisation on the part of the practitioner in question. In particular, on two occasions I have heard neighbours reporting that they had taken an animal to a particular practice because the vets were all *surgeons* and therefore would be better qualified should the animal need an operation. In each case the person concerned was quite taken aback to hear that all registered vets are designated as “veterinary surgeon”!

36. The RCVS Council has already discussed the case for adopting the designation “veterinarian” and this change was supported on a show of hands by 16 in favour as against only 7 in favour of retaining the present terminology.²⁶

37. The definition of “animal”: In the Interpretation section we find this cryptic expression: “animals” includes birds and reptiles”. What is the significance of this statement? Why would birds and reptiles *not* be included among animals? Does it imply that creatures further down the evolutionary scale such as amphibians and fish are *not* included? Presumably it does not intend to exclude them. For example, amphibians and fish and even octopods used in scientific experiments come under the protection of the Animals (Scientific Procedures) Act 1986 and, accordingly, fall within the remit of a veterinary surgeon.

38. New legislation should define animal in a clearer way, along the lines found in certain other jurisdictions, for example:

“animal” means an animal of the Kingdom Animalia other than a human being” (Ireland: Veterinary Practice Act 2005, s 2(1)); or

“animal” includes an unborn animal, but does not include a human being” (Province of Alberta, Canada: Veterinary Profession Act 2006, s 1(a)).

A mention of the unborn animal is helpful, given the importance of veterinary obstetrics, particularly with regard to farm animals.

²⁰ Medical Act 1983, s 35C(2)(a).

²¹ Dentists Act 1984, s 27(2)9a).

²² Nursing and Midwifery Order 2001, art 22.

²³ See for example Kinlen, LJ (1983) “Mortality among British Veterinary Surgeons”, *British Medical Journal* 287, p 1017 and Mellanby, RJ (2005) “Incidence of Suicide in the Veterinary Profession in England and Wales”, *Veterinary Record*, vol 157, p 415.

²⁴ Eg medicine (Medical Act 1983, s 35C(2)(a)); dentistry (Dentists Act 1984, s 27(2)(c)).

²⁵ Eg Ireland (Veterinary Practice Act, s 76(1)(b)); New Zealand (Veterinarians Act 2005, s 44(5)).

²⁶ RCVS (2004) *Minutes of the Extra-Ordinary Meeting of Council Held on 3 March* (available at www.rcvs.org.uk).

VI. KEEPING UP TO DATE

39. Veterinary surgeons and other service providers should be legally required to keep up their skills by doing a prescribed amount of relevant CPD each year so as to qualify for an annual licence/practice certificate which would be separate from registration with the College. This system, which is in place for lawyers enrolled in the Law Society of Scotland, benefits the practitioner and promotes public confidence in the profession. CPD is already the norm in the veterinary profession and it would be helpful to crystallise it as a statutory requirement for all veterinary service providers.

VII. ENSURING FLEXIBILITY

40. Finally, a new Act should contain a provision equivalent to section 60 of the Health Act 1999. This would facilitate the modification of the regulatory system, including amendment of the primary legislation, by way of making orders in Council where change is needed in order to secure improvements or adaptation to new circumstances.

September 2007

Memorandum submitted by Professor S A May (Vet 28)

1. Whether the provisions of the 1966 Act are out of step with the developments in the veterinary surgeon and related professions

The Veterinary Surgeons Act (1966) is arguably the most important animal welfare legislation of the twentieth century. It defined “the act of veterinary surgery”, and, in the interests of animals, their owners and the general public, reserved the right to undertake acts of veterinary surgery to appropriately qualified persons, namely veterinary surgeons. It recognised and admitted to the supplementary register created under the 1948 Act the last group of veterinary practitioners, those employed in charitable institutions providing free treatment to those who could not otherwise afford veterinary care. This completed the progressive upgrading of the control of those treating animals through the Acts of 1881, 1920 and 1948.

In 1966, the one person qualified to act on behalf of sick animals and their owners, and to advise on preventive medicine aimed at avoiding animal suffering, was the veterinary surgeon. Therefore, it was logical, at that time, to legislate to that effect, and 85 years (1881–1966) of successive pieces of legislation should be seen in that context. The fact that the 1966 Act has remained until today also testifies to its “fitness for purpose”. However, both society and the veterinary profession (like all professions) have moved on, and in two important areas modernisation is required: recognition of the “veterinary team”, and appropriate regulation of all individuals in this team, including veterinary surgeons themselves.

2. Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

One of the main developments in the last 41 years has been the emergence of the “veterinary team”, analogous to the medical team we all encounter when we visit our general practitioners or are referred to hospital consultants. Veterinary surgeons work with veterinary nurses and other paraprofessional groups as a routine, and animal owners can be reassured that those employed by veterinary practices are working legally, under the direction of veterinary surgeons, in the interests of their animals. However, the situation is less clear with those who are self-employed working at the boundary between “acts of veterinary surgery” and procedures which are not controlled under the 1966 Act.

The logical development of all our thinking in the last 125 years is to extend regulation to the whole veterinary team to ensure that this country’s high standards of animal welfare, and the public expectations in this regard, are maintained. No longer is it the case that there are only the qualified and the unqualified. The emergence and maturation of veterinary nursing as a proud profession alongside veterinary surgery demonstrates how those with complementary education and qualifications can not only contribute well in their areas of expertise, but also develop specific expertise which adds value to the veterinary team. However, the developing range of veterinary paraprofessional groups has the potential to add to confusion which already exists over who is qualified, in terms of his or her competence (never mind who is legally qualified!) to safely carry out a procedure on an animal. Therefore, it is essential that scrutiny of education and experience, and regulation of conduct, is extended to all who aspire to be a part of the veterinary team in the same way as it applies to veterinary surgeons.

3. *Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis*

Historically, the regulation of individuals has worked well, although the structures (Preliminary Investigation Committee, and Disciplinary Committee), their composition (drawn from members of RCVS Council), and procedures need review and change in the near future. This would broaden the sanctions available, broaden the membership to include veterinary paraprofessionals, members of other professional groups and lay members, and ensure alignment with modern legislation in areas such as human rights.

It is essential that all members of the veterinary team work with equipment and in premises fit for the services which they provide. However, the emphasis should still be on the quality of the individuals and their responsibility to provide appropriate facilities, rather than the facilities themselves. It is appropriate (and important) for the profession to define threshold standards for facilities so that it can recognise misconduct when an individual has chosen to work in a completely inadequate environment, and the operation of a voluntary scheme will provide the public (and the practitioners themselves) with reassurance that a facility has met the threshold standards.

The situation will be complicated by the regulation of paraprofessional groups. The model for regulation of individuals is clear, and it can be seen how any regulator could work to an outline of equipment and premises necessary for safe practice. However, the replication of mandatory standards schemes for every context in which veterinary services were provided would be completely impractical and once more emphasise facilities over people—who are the most important part of this discussion.

4. *Whether the RCVS and VNC should be given the power to require continuing professional development and revalidation*

The last 40 years have seen a rapid acceleration in the rate of accumulation of knowledge and the development of new technologies. The veterinary curriculum of 2007 is very different from that of 1966, with new approaches to diagnosis, much more sophisticated techniques in surgery (for instance, fracture fixation and colic surgery in horses, arthroscopy and laparoscopy) and a range of modern medicines. Members of the veterinary team must be constantly updating themselves, through lifelong learning, in the same way as members of all other professions.

Attendance at courses would be the bare minimum requirement, but, of course, this does not guarantee competence. A better option is periodic revalidation, based on a judgement of continued ability to practice, which could include peer and client feedback, in addition to attendance of CPD courses.

5. *Whether the governing body of the RCVS and VNS ought to include appointed lay persons as well as veterinary professionals*

The precise composition of the RCVS and VNC should depend on the eventual structure for governance of the veterinary team and the role of each college/council/board.

All colleges/councils/boards will need an appropriate balance of members selected from amongst veterinary surgeons, veterinary nurses, other paraprofessionals and lay persons. An overarching disciplinary board for the veterinary team would require a membership made up of representatives from all four groups. However, a college/council more focused on education and specialisation within a professional group might only require an appropriate ratio of members of that group and lay persons.

6. *Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings*

Policing of professional conduct is the one area where there seems to be unanimous agreement on the need for change! There is concern within the profession about the fairness and consistency in decision-making of the existing structures, and suspicion from members of the public that the conduct committees which some veterinary surgeons see as too harsh are actually too lenient. There is a need, in a separate conduct committee, for a broader membership (not just drawn from RCVS Council), more transparency of the processes (without breaching confidences in individual cases), greater understanding of decisions, and a range of sanctions matched more closely to the level of misconduct.

The question is incomplete in just mentioning the RCVS and VNC. Clearly, this committee will need to deal with all members of the veterinary team, and should, therefore, have a membership which reflects that. This will allow it to deal with problems occurring at the boundaries of responsibilities of different groups, as increasingly cases involve several professional persons. Crucially, to the public, it will also act as a single body dealing with their complaint about the way their animal was handled by the veterinary team.

7. *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

As has already been mentioned, in relation to CPD, the last 40 years has seen a huge increase in the required knowledge and skills of the veterinary surgeon. This means that even with regular attendance at CPD courses, no veterinary surgeon can be up-to-date in every area of practice. While it is essential that veterinary surgeons should have a basic knowledge of public health, first aid and generic diagnostic and therapeutic skills for all species, all will only be at the “cutting edge” in more restricted spheres of surgery or medicine. In addition, paraprofessional groups, such as nurses and physiotherapists, are often more proficient in areas of their practice than veterinary surgeons, who may be less frequently involved in specialised areas of veterinary nursing or rehabilitation of convalescent animals.

There is no doubt that there would be a justifiable public outcry if this generation betrayed previous generations in compromising the internationally-recognised high standards of animal welfare which have been achieved in this country through successive legislation relating to animal care. However, the Veterinary Surgeons Act (1966) neither recognises specialisation within the profession, nor the development of the veterinary team made up of experts in a range of relevant skills whose contribution is greater than the sum of the individual parts. Therefore, the RCVS, or any successor coordinating body for the veterinary team, needs to be able to licence and periodically revalidate all professionals at different levels. This includes specialists within the veterinary profession, as well as nurses, physiotherapists and any other paraprofessional groups under the authority of any new veterinary services legislation. It is unacceptable for inexperienced surgeons to be undertaking laparoscopy in an animal as it was for untrained human surgeons to be undertaking laparoscopy in women. Similarly, it is not acceptable for members of unregulated paraprofessional groups, as a result of deficient knowledge and skills, to inflict unnecessary suffering on animals and their owners.

SUMMARY

1. The Veterinary Surgeons Act is out of step in two main areas:
 - recognition of the whole “veterinary team”;
 - regulation of all individuals, including better and more transparent regulation of veterinary surgeons themselves.
2. To avoid undermining all the progress made in animal welfare over the last 100–200 years, all professions within the veterinary team must be regulated.
3. Regulation should focus on individuals, but all professional bodies should be encouraged to set standards for conduct, expertise and facilities which will determine judgements made on the fitness of individuals to practice. Clearly, professionals whose premises are able to satisfy voluntary practice standards schemes will be reassured that their facilities are considered appropriate.
4. The one guarantee we have in life is that change will take place. Knowledge increases and technical skills improve at sometimes frightening rates. Therefore, mandatory CPD and revalidation of all members of the veterinary team are essential to animal welfare and the interests of their owners.
5. The precise composition of the RCVS and VNC should depend on the eventual governance structure for the veterinary team. Individual colleges/councils/boards will need appropriate and balanced representation of veterinary surgeons, veterinary nurses, other paraprofessional groups and the public, through lay appointees.
6. The professional conduct committee needs to be modernised in terms of its composition, transparency of its processes, and range of sanctions, so the latter are seen as fair and proportionate to the level of misconduct, by members of the veterinary team and the public alike.
7. In the interests of animal welfare and the public, the RCVS or other “umbrella” organisation needs to be able to licence and revalidate all members of the veterinary team at levels appropriate to their education, knowledge, skills and experience. This includes different levels of specialist within the veterinary profession itself, and veterinary nurses and other paraprofessional persons involved in the treatment of animals.

September 2007

Memorandum submitted by John Parker (Vet 30)

I submit that the Veterinary Surgeons Act of 1966 is totally inadequate and out of date in the fields of disciplinary processes and procedures. Recent events and publications have illustrated grave inconsistencies and lack of structured sentencing in the activities of the Preliminary Investigation Committee and Disciplinary Committee of the Royal College of Veterinary Surgeons. Their processes are archaic and way out of step in comparison with the other medical professions. They do not conform with Article 6 of the Human Rights Act. An independent and transparent review is urgently needed.

September 2007

Memorandum submitted by the National Association of Agricultural Contractors (Vet 31)

Founded in 1893, the National Association of Agricultural Contractors (NAAC) represents contractors in the UK who supply all types of land-based services to farmers, government, local authorities, sports and recreational facilities.

It is committed to representing the interests of its members at national and European level; it will offer information and advice; promote the services of its members and assist contractors in providing a professional and competitive service to farmers and the community. I will base our comments around the activities of the NAAC and our member's activities.

1. EXECUTIVE SUMMARY

1.1 The NAAC would support the regulation of lay-persons allowed to carry out paraprofessional operations.

1.2 It would also support the proposal to introduce lay-persons on the RCVS Council to give greater independence and an impartial view.

1.3 It is important that an independent party can have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council. This should not be the RCVS.

2. *Regulation of providers of veterinary care other than veterinary surgeons*

2.1 The NAAC would support the regulation of lay-persons allowed to carry out paraprofessional operations.

2.2 This should apply to "acts of veterinary surgery" that could be safely derogated to fully trained and qualified paraprofessionals. The NAAC believes that procedures which do not require a veterinary diagnosis could be potentially deregulated.

2.3 We would suggest examples such as equine scanning, cattle foot trimming, sheep foot trimming, freeze branding, artificial insemination, blood testing of sheep.

A good example is The Veterinary Surgery (Rectal Ultrasound Scanning of Bovines) Order 2002 (Statutory Instrument Number 2002 No 2584), which permits trained and competent non-veterinarians to carry out rectal ultrasound scanning for the purpose of detecting whether cows are pregnant. This is an area the NAAC has supported Defra in ensuring that the industry is properly trained and professional. We would support the need for professionally qualified laypersons taking on other such procedures.

2.4 There must, however, be caution with the cost of training as some of these specific operations have a limited number of lay operators and small numbers of trainees can mean very expensive training due to economy of scale. We would ask that this be considered when prescribing training.

The NAAC has been very supportive in the development of the certification of cattle scanners in regard to the Exemption Order. However, we are now concerned that new entrants may struggle (or find it virtually impossible) to get qualified as it appears difficult to get booked onto a new entrants course.

2.5 The NAAC is very clear that record keeping requirements of lay operators must be in line with veterinary surgeons to ensure that the para-professionals can operate on a level playing field with the vets—in terms of paperwork, training and costs to ensure fair competition.

2.6 The NAAC would urge that any new changes do not require those para-professionals that have already invested significant finance and time into becoming qualified are not undermined by changes to legislation (eg cattle scanning operators).

It is very important that those who have been trained must be allowed to continue to operate. We would not wish to see a process whereby operators had to be retrained or had additional costs to remain in practice.

2.7 We would support the training of lay persons but would question the need to have these persons on a "register" if additional costs were to be incurred. It is important that a record of qualified persons is available for customer cross-checking but this could be held by a training organisation eg National Proficiency Test Council, or even an organisation such as the NAAC.

The NAAC is in the process of developing an independently audited Assured Land-Based Contractor Scheme which will be a positive way forward to ensure that "Assured contractors" are properly trained and qualified. I would be pleased to supply additional information on this Defra-funded project if requested.

3. *Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals*

3.1 We support the proposal to introduce lay-persons on the RCVS Council to give greater independence and an impartial view, particularly if considering disciplinary issues. The NAAC would welcome involvement, in terms of para-professional representation.

This is important to ensure a balanced view to ensure that lay operators can compete fairly with vets.

4. *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

4.1 The NAAC believes that the Defra delegation of lay-powers has been a success.

We are concerned that if the RCVS need to delegate specific procedures this may result in unfair competition—as effectively the RCVS would be taking work away from their own members which may not be a well-supported vote within RCVS membership!

This should therefore be done by independent group such as Defra.

I hope that our comments will assist you and that you will not hesitate to contact me if you require any further information.

September 2007

Memorandum submitted by Tony Rose and Mark Slingsby (Vet 32)

1. The above Act is considered by many who work with horses as being out of step with the current veterinary workplace. Many related professions have emerged within the last fifteen years, one such profession is Equine Dentistry as practiced by Non-Veterinary Surgeons. The above Act gives little or no direction as to the content of such practice or the qualification required to practice

2. Therefore there is a requirement in a new Act for clarification of the above situation. There are at this time approximately 100 non-veterinarian equine dental personnel (Equine dental technicians) who have sat and passed examinations in equine dentistry. These exams have been set by three dental associations including the joint British Equine Veterinary Association (BEVA) and British Association of Equine Dental Technicians (BAEDT). The exams are voluntary and have yet to be ratified by DEFRA. There are many more non examined personnel offering equine dental services. These non examined individuals are not compelled to undertake apprenticeships or examinations as already stated and may have no training.

3. This situation has built up over the last 15 years and exists because the horse owning public has sought a full time specialised provider of equine dental services. The nearest human parallel example would be the town dentist rather than the town doctor who also occasionally does dentistry if such a situation existed. It is estimated that today 70% of routine equine dental work is provided by examined Edts and also non examined individuals. Edts have to carry out the majority of their dentistry without sedation. Veterinary Surgeons have sought to improve their dentistry skills but are compromised by multi tasking and are therefore only ever part time providers of equine dentistry. Veterinary surgeons are often unable to carry out any dentistry without sedation. The horse owning public is well aware of this situation regarding the lack of skill base in the general equine veterinary profession.

4. Equine dentistry may be defined as the practice of routine dental maintenance, remedial corrections and non surgical intra oral extractions. The majority of routine work is carried out using hand instruments on unsedated horses, however, some horses require intravenous sedation and this is presently administered by a veterinary surgeon. Remedial work often requires the use of power equipment and intravenous sedation is therefore required and is again administered by a veterinary surgeon. Similarly non surgical extractions usually require intravenous sedation again administered by a Veterinary surgeon. Many veterinarians request the assistance of Edts in complex dental cases. Under the present situation the horse owner has to pay for the veterinary surgeon's time, drugs, professional advice and travel in addition to the fee of the Edt.

5. In short Equine dental technicians provide dental care for horses and this is an aspect of veterinary care that should be regulated. The regulation of Edts whilst it may involve veterinary surgeons should not be left to the Equine veterinary profession alone as both compete for the same work. Regulation should mirror that of the Farriers Council and should include horse owning lay persons. Such a Council should work in conjunction with the RVCS to provide examinations, best practice direction and continuing education requirements for Edts. At present the decision making process with regard to the practice of veterinary care on equines is heavily loaded toward the veterinary surgeons interests with little input from the horse owning public. The inclusion of lay people on a Equine dental regulation committee would go some way to rebalance this anomaly.

6. It is important that in these modern times that the veterinary profession falls in line with the medical profession and has lay people in positions capable of influence on policy making committees. This should occur to ensure the public have influence in a multi billion pound industry which at present is regulated internally.

7. With regard to the power of delegation of specified procedures by the RVCS. It is hoped that with regard to equine dentistry that a Equine Dental Regulatory Board is established as proposed above. The RVCS should recognise equine dental qualifications. It should have a position on such a board and be involved with the clarification of procedures relating to equine dentistry.

8. In addition to its role on a Equine Dental Regulatory Board, the RVCS should also be directed to provide a course, examination and regulation of non-veterinarians including Edts and Farriers to administer intravenous sedation to equines. The present monopoly of sedation by the veterinary profession provides an unnecessary and heavy financial burden to the horse owner.

It should be noted that the cost of veterinary supply of sedation often adds £85 to £120 to an owner's bill in addition to the Edts or farriers fee.

The cost price of the drugs used in such circumstances often amounts to no more than £15 to £20 per horse.

The provision of such a course would considerably reduce the cost of treatment and the need for return visits for the purpose of intravenous sedation for treatment. It would improve the level of dental care as sedation is required in probably 20% of cases. It is not uncommon that owners decline additional work requiring sedation because of the additional cost of veterinary supply of sedation. In appropriate cases it would reduce the risks associated with unsedated dentistry and farriery work. It would lead to fewer repetitive strain injuries and allow longer working lives for both Edts and Farriers.

There can be no doubt that such a situation would not occur within the NHS. Primary health care trusts would not wish to pay a Doctor and a nurse if the nurse could go on an appropriate course thus considerably reducing the cost to the public purse. Similarly Paramedics today have appropriate courses to meet the demands of their work.

9. The requirements for such a course could be as follows. The participant should have passed his or hers professional exam ie dental or farrier, should have been in practise for six years and have four letters of good character. The course should be of a practical length with appropriate examinations and costs. Intravenous sedation supplied by Edts should only be allowed in respect of fractious horses and for power instrument work. Both farriers and Edts should liaise with a veterinary surgeon and should only sedate in respect of their work.

10. At this point it should be remembered that a veterinary surgeon does not spend five years in university just to sedate a horse.

SUMMARY

1. Equine Dentistry as practised by non veterinarians is presently without regulation. Equine Dentistry should be regulated as per the Farriery Profession.

2. Equine dental technicians are demanded by the horse owning public and often assist the veterinary profession.

3. An Equine Dental Regulatory Board with members including the RVCS and lay persons should be established together with a clearly defined professional role for the EDT.

4. Sedation for the purpose of dentistry and farriery work is supplied by the Veterinary profession.

5. The RVCS should run a course to train Edts and farriers to intravenously sedate horses for the purpose of dental and farriery work on fractious horses or in the case of dentistry, power tool work.

6. Such a course would considerably reduce cost to the horse owning public and with the appropriate training would not increase risk to the horse.

7. Such a course would reduce repetitive strain injuries and increase safety.

September 2007

Memorandum submitted by the United Kingdom Horse Shoers Union (Vet 33)

1. As an independent, national and democratic farriers association the UKHSU exists primarily to represent the views of farriers.

2. Our view of the RCVS is that it reflects the bias of Veterinary practice towards small animals and is an over bureaucratic body lacking in principle or purpose, however, that is not really our concern.

3. We are particularly concerned with the RCVS proposal "Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons" and how it concerns farriery.

4. We are concerned that elements within the RCVS, the Farriers Registration Council and the Worshipful Company of Farriers, none of which bodies are actually representative of farriers, are keen on a marriage with the RCVS for reasons unconnected with equine welfare or the advancement of the craft of farriery.

5. Farriery is already regulated by the Farriers Registration Act. Farriers are not in general providers of veterinary care and are more a part of the equine industry than the veterinary industry. Nor is farriery a profession in the sense that Veterinary Surgery is a profession, being primarily a skilled craft focused on the nailing on of horseshoes, a method which has changed very little over many decades.

6. While there are faults in the Farriers Registration Act we do not feel that a closer relationship with the RCVS is in any way the answer. We have written to every farrier in the country about this and it is clear from the response that farriers do not want to come under the RCVS umbrella. We have already written to Defra and the RCVS about this, making farriers views clear.

7. We would welcome an assurance that Farriery is not on the agenda as far as any discussion of the RCVS is concerned.

September 2007

Memorandum submitted by Richard Matson (Vet 34)

EXECUTIVE SUMMARY

Since 1966 there have been major innovations and changes, principally for the better in the management of horse welfare. The work carried out by paraprofessionals such as dentistry, artificial insemination and physiotherapy is all new since the act came into force 40 years ago. These new professional groups need to be working alongside veterinary surgeons; their work should be complimentary to the work of the veterinary surgeon and they should be regulated in parallel.

The advent of horse passports opens up opportunities for decreasing fraudulent practises, improving animal welfare and improving the health and safety of those that ride and work with horses. Passports are a new tool available to all horse owners and that tool needs to be made the best use of.

It is vital that existing regulation is used to its optimum before bringing in yet more regulation and the ability to obtain passports at will is a case in point. Tidy up and implement the passport for all equines policy and there will be many benefits for animals and humans too.

Too much regulation brings a lack of respect for all regulation, good or bad, so we must not have new rules for the sake of it; there needs to be a very clear need and benefit from any new regulation.

1. Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

1.1 I believe that the act has not always kept up with the need to ensure that equine welfare and the horse owning public have the optimum advantages that should be available to them with the aid of new techniques and procedures. An example of this is the increasing skills of the veterinary surgeon allowing surgery to be undertaken for the benefit of the horse but to be unseen after a period of time both by a would be purchaser and/or a veterinary surgeon examining the animal on behalf of the purchaser.

1.2 Examples of this are the "Hobday" operation and operations for colic. I was brought up to be able to examine a horse to see if it had been hobdayed and there was a good chance that even after several years that the scar in the throat of the horse could be felt. Nowadays the technique for this operation leaves little or no scar and even the best of examining veterinary surgeons are not going to be able to tell in many cases if a horse has had the operation.

1.3 Similarly with operations for colic when sometimes large lengths of intestine are removed the skills of the surgeon leave such a small scar which after a while cannot be seen; this is especially the case with those animals which grow a thick coat.

1.4 There are other operations, some perhaps only infrequently carried out, which can go undetected. One such operation, "de-nerving" may have serious consequences for the safety of both the horse and rider should they not know that the horse they ride has been de-nerved.

1.5 The advent of compulsory passports for all horses gives the opportunity for all operations on equines to be recorded in the passport. Since horses must be accompanied by their passport when they travel to the veterinary surgery it should be a relatively simple matter to include a "Surgical Operation" page and for the veterinary surgeon to record brief details of the surgery carried out.

1.6 Veterinary surgeons are in general opposed to this record of surgery but principally because they fear that the client may take their horse to a veterinary surgeon that was prepared to operate without recording in the passport. If it was a legal obligation and if it was enforced it would improve the description of a saleable commodity by a very large degree; it would make it much more difficult for the seller to pass on a horse without declaring surgery.

2. *Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons*

2.1 In the 40 years since the Veterinary Surgeons Act 1966 there has been a major increase in the number of people training to be veterinary nurses; there has also been over that period of time a proliferation of “paraprofessionals”. Both these groups of people need some regulation; currently, in practice, a “pass” in many of these fields is a licence for life but many having “passed” are not practicing their new skills and may only start doing so many years hence. Consideration should be given to insisting on filing annual returns of work carried out in order that the use of those skills is either used or given up.

2.2 An example of this is in the Artificial Insemination of Equines Technicians course. I estimate that as many as one third of those who take these course never go on to inseminate mares; this proportion of technicians have taken the course as a means of learning about the techniques involved (and especially semen assessment) so that they can have a discussion on level terms with those that do the work for them; they also feel more confident when discussing reproduction problems in their mares with their veterinary surgeons. But all this proportion of qualified (but totally inexperienced) technicians can currently start to do AI work many years after they received their training.

2.3 I believe consideration should be given to putting all newly qualified AI technicians on an approval system for say three years during which time annual returns of the work done, signed by their employer and/or a supervising veterinary surgeon, are submitted to a central authority. It is possible that this could become self regulated by the professional bodies which support the paraprofessionals.

3. *Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis*

3.1 No, my experience is that the existing system works well as seen from the layman’s side of the fence; it is also significant that there is a tendency for more vets to work as individuals, self employed or as employees of a business as is the case with my business.

4. *Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation*

4.1 Yes and especially if it is applied to the new para-professional groups such as the AI technicians and equine dentists. This comment is complimentary to my comments in paragraph 2.

5. *Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals*

5.1 Yes. It has for many years struck me that it is odd that the RCVS does not have on its council lay people who might be said to represent the views of their clients. I have been fortunate to have had a very good business relationship with the only two veterinary practices that I have used on a regular basis in more than 40 years. However, I have experienced out dated working procedures and attitudes with other practices over that time.

5.2 An example of this is the current attitude by some vets in regard to EVA testing of mares before going to stud; while some vets exhort studs to insist on EVA blood testing before entry to a stud some take a contrary view. One member of the Artificial Insemination of Equines Technicians Trade Association recently wrote as follows:

“... regarding the eva situation I have found myself trying to educate my vet on the seriousness of the virus earlier in the season. Is it somehow possible that the powers that be can educate/inform our vets for us in order to prevent ‘the head in the sand’ approach currently being taken by the majority of vets not just mine? Most of my mare owners have been quite happy to have eva blood tests taken on my advice, but why do the vets not recommend this along with the cem cert at the time? Surely they can advise the mare owners?”

5.3 While Dr Madeleine Campbell has been exhorting members of the Breeders Quality Mark Scheme (BQM) to insist on it the problem arises because such a small proportion of mares are tested before going to stud. It would appear that the problem is greater in the north of England and one person from Scotland said that not one of the mares visiting her stud had been EVA blood tested. Following the Horse Race Betting Levy Board recommendations should be a requirement for BQM members but if it were to be done in the context of EVA testing many studs including my own would lose a great deal of business and more than we could afford to do. (Only 24% of mares visiting our stud had been EVA tested prior to arrival; a risk assessment exercise is carried out on the remainder and 5% of these were immediately tested).

5.4 An issue such as this should surely be discussed by the RCVS governing body with the lay representatives giving their view which should be in line with animal welfare nationally.

6. *Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings*

6.1 I am not in a position to comment on this.

7. *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

7.1 I am not sure what you have in mind. What are the types of procedures that you are considering delegating?

7.2 As far as I am aware veterinary surgeons do already have the power to authorise certain procedures to be carried out by others.

7.3 What such delegating should not do is allow veterinary surgeons to help individuals circumnavigate the current training of technicians for qualifications such as AI, dentistry etc. This would lead to a two tier qualification and confusion.

September 2007

Memorandum submitted by the Animal Health Distributors Association (UK) Ltd (Vet 35)

AHDA is responding to the invitation to make a submission on the need to replace the Veterinary Surgeons Act 1966. AHDA represents businesses registered to sell and supply POM-VPS and NFA-VPS medicines under the current Veterinary Medicines Regulations to farmers and other animal owners. The sale of all these medicines must be specifically authorised by an AMTRA (Animal Medicines Training Regulatory Authority) SQP (Suitably Qualified Person), and no business may be registered to handle POM-VPS and NFA-VPS medicines unless the sale is supervised by an AMTRA qualified SQP. You will undoubtedly hear from AMTRA concerning the massive investment currently in hand to upgrade all SQPs to an elevated training requirement supported by the taking and passing of an exam recognised by the Secretary of State. This investment, costing our businesses an estimated £1 million is to enable an SQP to both prescribe, advise and supervise the sale of POM-VPS and NFA-VPS medicines, whereas, up to 2005 only Veterinary Surgeons could prescribe.

Bearing this in mind, and with the support of the changes to the regulations currently in hand to be fully implemented by VMD in September 2008, and that many medicines are undergoing a re-classification review by VPC into POM-VPS and NFA-VPS, AHDA submits the following representations:

1. Under the definition of “veterinary surgery” it is not the exclusive right of only veterinary surgeons to make a diagnosis on animals, under the existing act farmers are permitted to perform a diagnosis on their animals, this needs to remain in place.

2. Our businesses can only advise and prescribe medicines by using SQPs for POM-VPS and NFA-VPS medicines. Hence any changes to the Act need to retain the right of our staff to advise and prescribe all medicines that are not registered as POM-V.

3. The use of faecal egg counts to determine the appropriate anthelmintics in the VPS category should not be restricted solely to veterinary surgeons. Our SQPs are trained and qualified to advise in the area which is heavily geared to medicines in the POM-VPS and NFA-VPS areas. Interpretation of results from an approved veterinary laboratory is normal practice for SQPs

As regards the proposals from The Royal College of Veterinary Surgeons outlined in the invitation for submissions document, AHDA has nothing to add except to point out that under the new DEFRA Code of Practice for SQPs issued under the Veterinary Medicines Regulations, CPD (Continuous Professional Development) is a legal requirement and that the AMTRA Code of Practice goes further by insisting that SQPs must undertake CPD to remain on the register on an annual basis.

AHDA requests to be kept fully informed of the progress of this review and undertakes a willingness to assist in clarification of any of our submissions.

September 2007

Memorandum submitted by the Worshipful Company of Farriers, the Farriers Registration Council and the National Association of Farriers, Blacksmiths and Agricultural Engineers (Vet 36)

Submissions have been invited on the proposed changes to the 1966 Veterinary Surgeons Act. The responses below represent the views of a Working Group set up by:

- (a) The Worshipful Company of Farriers;
- (b) The Farriers Registration Council; and

(c) The National Association of Farriers, Blacksmiths and Agricultural Engineers.

The Working Group (two representatives) would be happy to provide evidence in person to the Committee if required.

EXECUTIVE SUMMARY

Farriers work closely with veterinary surgeons, and all Registered Farriers were invited to provide input to the consultation.

The Worshipful Company of Farriers, the Farriers Registration Council and the National Association of Farriers, Blacksmiths and Agricultural Engineers support the case for updating the Veterinary Surgeons Act 1966. They feel that there is a need for a proportionate degree of regulation for providers of veterinary care other than veterinary surgeons. Farriery itself is already regulated by the Farriers (Registration) Act 1975, which it is hoped to update in the near future with a Regulatory Reform Order.

The possibility of subsuming farriery within a new Veterinary Services Act has been considered in the RCVS's preliminary consultations, but farriers are deemed professionals in their own right rather than veterinary para-professionals. The three main farriery bodies mentioned above would be willing to consider the possibility of farriers being subject to an over-arching multi-disciplinary committee which carries out the disciplinary function in relation to animal welfare on behalf of all its contributing bodies but would need to see detailed proposals as to how such a body would be constituted and funded before committing themselves.

The possibility of updating the existing farriery legislation with a Regulatory Reform Order has reduced the urgency of farriers being included in any possible forthcoming legislation relating to veterinary surgeons.

SUBMISSION

1. *Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions*

The Farriers (Registration) Act 1975 makes provision for veterinary surgeons as well as farriers to practise farriery. It would be helpful if any new Veterinary Surgeons Act made clear that while it is appropriate for veterinary surgeons to be able to perform acts of farriery in the course of treating equines, the practice of farriery as a regular and gainful activity should be restricted to individuals on the Register of Farriers.

2. *Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons*

A clear definition of what constitutes veterinary care is needed. On the assumption that it is intended to cover work that could result in an adverse effect on animal welfare (eg trimming the hooves of horses that are going barefoot, or trimming the feet of cattle), it is recommended that this should be regulated. The basis of this regulation should be that anyone carrying out this work for gain or reward should have been properly trained, should have passed a recognised test of competence and should be bound by a professional code of conduct. Owners or their agents should be exempt from this restriction in relation to their own animals.

Farriers are already regulated by their own Act.

3. *Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis*

No comment.

4. *Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation*

Yes. Mandatory CPD is both practicable and desirable but may not be practicable if there is no satisfactory method of enforcement. Mandatory revalidation is desirable in theory but may have adverse effects on clients (and therefore animals) if it leads to a reduction in competent practitioners who are unable or unwilling to undertake the necessary CPD. This is particularly true in relation to small businesses and sole operators and/or in areas of the country where there is already a shortage of the relevant practitioners.

The Farriers (Registration) Council would like to be able to make provision for mandatory CPD within the Farriers (Registration) Act but believes that widespread acceptance of a voluntary system is a prerequisite. A voluntary system is currently being strongly promoted by the three main bodies concerned. We would therefore recommend a power to require mandatory CPD and/or revalidation for all practitioners in relation to animal welfare but with discretion as to when the mandatory power should be brought into effect left to the individual professional bodies/agencies concerned.

5. *Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals*

The general principle is endorsed with the added proviso that some of the persons should be independent as well as lay. Thought needs to be given to how these individuals are identified, recruited and appointed.

6. *Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings*

It is assumed that this is intended to refer to a committee that can react to minor complaints more quickly and with less cost than a full Disciplinary Committee. The concept is endorsed, but it may be difficult in practice to introduce streamlining without jeopardising a fair hearing.

7. *Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council*

Yes. For example farriers are frequently the best qualified and most readily available individuals to carry out some procedures (such as removing abscesses in the hoof) that might normally be regarded as veterinary surgery.

The Worshipful Company of Farriers;
The Farriers Registration Council; and
The National Association of Farriers, Blacksmiths and Agricultural Engineers

September 2007

Memorandum submitted by the British Small Animal Veterinary Association (Vet 37)

The BSAVA is the largest specialist division of the veterinary profession and represents some 6,000 members, the majority of whom are in general practice and who have an interest in the treatment of small animals (dogs, cats, rabbits, rodents and other species including pet birds, fish, reptiles and amphibians).

The BSAVA welcomes the opportunity to respond to the specific questions posed by the Environment, Food and Rural Affairs Committee relating to the need to replace the Veterinary Surgeons Act.

Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?

Since 1966 there has been an increase in the range of animal services offered by paraprofessionals. It is appropriate that this development should be considered, and appropriate regulation of such groups put in place to ensure animal welfare. In parallel, it is increasingly important to define the boundaries within which such paraprofessionals may work, recognising the fact that the veterinary surgeon, by virtue of training and examination, is best qualified to ensure the welfare of the animals under their care.

Ought there to be regulation of providers of veterinary care other than veterinary surgeons?

The BSAVA agrees that all disciplines providing veterinary services ought to be regulated, in the interests of animal welfare and for the protection of the public. We also agree that there is an advantage in veterinary surgeons, veterinary nurses and non-veterinarians providing veterinary services being regulated side by side, presenting a single face to users of these services and to the wider public.

With this model all groups will have a collective responsibility in agreeing and maintaining standards. The actions of one group could bring all collectively into disrepute. However, we doubt whether it will be possible to impose such regulation on all groups offering veterinary services, or indeed to force individuals to become members of a regulated group.

The BSAVA further has concerns that the onus for financing the regulation of groups other than veterinary surgeons and veterinary nurses will fall largely on the veterinary profession. It will be important to ensure that the costs of regulation are borne fairly according to membership and workload created by each group.

Should the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?

The BSAVA supports the concept of clinical excellence on both an individual and a practice basis. To this end, the BSAVA encourages all of its members to achieve good basic practice standards, and to aspire to develop these further with time. The BSAVA does not believe, however, that the current practice standards scheme should become mandatory, as this would be extremely demanding in terms of time and resources, yet would not necessarily improve the delivery of veterinary services nor animal welfare.

The BSAVA would instead support a Practice Code of Ethics, which would operate in parallel with the current individual Guide to Professional Conduct. The combination of professional expectation on an individual and a practice should ensure good clinical standards.

Should the RCVS and Veterinary Nurses Council (VNC) be given the power to require continuing professional development and revalidation?

The Association is committed to mandatory continuing veterinary education. We would therefore broadly support a system of self-certification of compliance with requirements for continuing professional development, with periodic revalidation. We remain concerned that the financial and time costs of such a scheme to our members should not be burdensome.

Should the governing body of the RCVS and VNC include appointed lay persons as well as veterinary professionals?

The BSAVA accepts that the RCVS and Veterinary Nurses Council should have appointed lay members representing the viewpoint of users and of the public at large. We feel that these lay members should be appointed by an independent body and not by a Government Department. There may also be an argument for a small number of appointed members of the profession on the Council, and for some cross-representation between Councils. However, we feel strongly that a minimum of 50% of the members of a Council should be elected members of the relevant profession.

Should the RCVS and VNC have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings?

The BSAVA agree that the RCVS and VN Councils should each have a conduct committee which is separate and distinct from the committees involved in laying down standards for professional regulation. Recent debate in the veterinary literature has highlighted the flaws in the current system, whereby the same body both sets and enforces professional standards.

Should the RCVS have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council

The BSAVA would broadly agree that veterinary surgeons should be empowered to delegate appropriate acts of veterinary surgery to a person holding a qualification recognised by the RCVS. The process by which a qualification may become recognised, and whether membership of a regulated group will be a parallel requirement, will need to be carefully defined.

September 2007

Memorandum submitted by the British Horse Society (Vet 39)

1. The British Horse Society (BHS) represents the interests of the 4.3 million people in the UK who ride or who drive horse-drawn vehicles. With the membership of its Affiliated Riding Clubs, the BHS is the largest and most influential equestrian charity in the UK.

2. The membership of The BHS comprises of representatives of every field of equestrianism. It is the provider of the most widely acknowledged and respected equestrian qualifications and operates a riding school and livery yard approval scheme that sets the benchmark for nationally acceptable standards. Through its network of qualified instructors, approved yards and members, The BHS has an input into the lives of a very high proportion of the estimated 1.3 million horses in the UK.

3. The BHS is also heavily involved in equine welfare through a programme of education aimed at preventing welfare breaches and promoting best practice. A nationwide network of volunteers carry out site visits on behalf of The BHS where equine welfare is thought to have been compromised. BHS Welfare offers a helpline service that receives thousands of calls and e-mails annually. This facility is open to members and non-members alike with enquiries covering the full gamut of equine topics. As a consequence, The BHS is in a uniquely privileged position to represent the views and experiences of UK horse owners and users.

SUMMARY

4. The BHS is of the opinion that the Veterinary Surgeons Act is largely in step with the equine veterinary profession. However, the growth of paraprofessions such as Equine Dental Technicians (EDTs) and Equine Artificial Insemination Technicians (EAITs) has led to concerns that the 1966 Act is no longer adequate to regulate all parties involved in the veterinary care of equids.

5. The experiences of The BHS suggest that there are grounds for concern over welfare breaches that have taken place when horses are treated by paraprofessionals. There is also concern that there is a lack of public awareness of the regulatory framework that currently exists.

6. The BHS therefore considers that there is a need for transparent and robust regulation of all those involved in equine veterinary care, including paraprofessionals. Failing to adequately regulate paraprofessionals is likely to result in further welfare breaches, particularly if these professions continue to grow at their current rate.

7. The BHS is in full support of regulation of veterinary nurses adhering to the suggestions made by the RCVS.

8. Where the regulatory framework is contravened, there is a clear need for a transparent and flexible range of disciplinary measures. Disciplinary measures must be seen by the public to be independent and should offer a range of sanctions to include warnings and remedial measures. These procedures should apply to veterinary surgeons, veterinary nurses and those involved in the paraprofessions.

9. The BHS does not support a mandatory practice standards scheme and considers that self-regulation, and the regulation of individuals, is the preferred option to ensure adequate standards of delivery of veterinary services.

10. The BHS supports the notion that the RCVS and VNC should have the power to require compulsory continuing professional development. The BHS is also in favour of revalidation of veterinary surgeons and nurses through satisfactory completion of continuing professional development.

11. In the interests of transparency and public confidence, The BHS is in full support of the presence of appointed lay persons on the governing bodies of both the RCVS and the VNC.

12. The instigation of conduct committees for both the RCVS and VNC is supported by The BHS. However, it is considered that, to ensure public confidence, these committees must be entirely separate from their parent councils. The BHS would strongly support the presence of appropriate lay persons on any such committee.

13. The BHS would be in favour of a good deal more flexibility in the disciplinary process and would like to see a greater range of sanctions available to a conduct committee than currently exist. However, The BHS would not be in favour of a conduct committee having the power to impose interim orders on individuals pending disciplinary proceedings.

14. The BHS does not support the proposal that veterinary surgeons be able to delegate specified procedures to individuals holding qualifications recognised by the RCVS. This proposal is not thought to be a satisfactory means of regulating paraprofessionals and may place veterinary surgeons in the invidious position of being legally responsible for work in which they have played no part.

Question 1. Are the provisions of the 1966 Act out of step with developments in the veterinary surgeon and related professions?

15. The BHS believes that, despite manifold developments, the 1966 Act remains largely in step with the equine veterinary profession.

16. However, the growth of related professions in recent years has highlighted inadequacies in the 1966 Act. A number of recognised paraprofessions, such as Equine Dental Technicians (EDTs), Equine Artificial Insemination Technicians (EAITs) and equine chiropractors, now exist. Such paraprofessions do not require the exponents to be qualified veterinary surgeons and, as such, are not fully regulated by the 1966 Act.

17. The BHS regularly receives complaints and concerns from horse owners about the aforementioned paraprofessional groups. This highlights a lack of public awareness of the regulatory framework that currently exists. Furthermore, The BHS considers the 1966 Act does not provide sufficient regulation of paraprofessional groups and is inadequate to protect public confidence in veterinary and related professions.

18. The BHS believes that there is a need for more transparency in disciplinary procedures for both veterinary surgeons and those involved in paraprofessions. Disciplinary procedures must be seen by the public to be independent and should offer a range of outcomes and sanctions to include warnings and remedial measures.

Question 2. *Should there be regulation of providers of veterinary care other than veterinary surgeons?*

19. The BHS is very strongly of the opinion that there is a need for robust and transparent regulation of all providers of veterinary care whether veterinary surgeons or those in differently qualified, but associated, roles.

20. The 1966 Act is thought to provide an adequate definition of veterinary surgery that should not be changed. The performance of acts of veterinary surgery should be restricted to veterinary surgeons and fully regulated, suitably qualified individuals carrying out specified veterinary procedures.

21. The BHS considers that any regulatory framework must be extended to cover all aspects and providers of veterinary care and should not be restricted to veterinary surgeons and nurses. Failing to provide adequate regulation of paraprofessions such as EDTs and EAITs is likely to result in compromises to equine welfare. The BHS is already aware of significant numbers of welfare breaches relating to paraprofessions highlighting a need for a comprehensive and enforceable regulatory framework applicable to paraprofessionals as well as to veterinary surgeons and nurses. The BHS takes the view that failing to provide suitable regulation is likely to result in more numerous, and potentially serious, breaches of equine welfare.

22. The BHS is in full support of regulation of veterinary nurses adhering to the suggestions made by The RCVS.

Question 3. *Should the delivery of veterinary services be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis?*

23. Many equine veterinary practices are relatively small practices situated in rural areas. The BHS is therefore concerned that the cost of a mandatory practice standards scheme would be difficult for these practices to bear. Should this be the case there are two possible outcomes, neither of which The BHS considers desirable. The costs of a mandatory scheme may result in compromises in the service provided by veterinary practices or may be passed on to clients, resulting in certain procedures being pushed out of their financial reach. Either outcome could be to the detriment of equine welfare.

24. A mandatory practice standards scheme may appear to be desirable but the levels of dedication and commitment displayed by equine veterinary surgeons do not suggest that one is necessary. The BHS therefore, on balance, considers that a combination of a voluntary practice standards scheme and the regulation of individuals is sufficient.

Question 4. *Should the RCVS Council and VN Council be given power to require continuing professional development and revalidation?*

25. The BHS is unequivocally in support of mandatory CPD for all veterinary professionals. Furthermore, The BHS supports revalidation with the proviso that this be based on satisfactory completion of CPD as stipulated by the RCVS and VN Councils.

Question 5. *Should the governing body of the RCVS and VNC include appointed lay persons?*

26. In the interests of transparency and public confidence, The BHS is in full support of the presence of appointed lay persons on the governing bodies of both the RCVS and the VNC. The BHS suggests that the current lay representation on the RCVS Council be extended and that it be introduced to the VN Council.

Question 6. *Should the RCVS and VNC have a separate conduct committee with powers to investigate complaints, give warnings and to make interim orders pending proceedings?*

27. The BHS considers that the instigation of conduct committees for both the RCVS and VNC to be desirable. The establishment of conduct committees is likely to enable effective enforcement of, and increase public confidence in, the regulatory framework.

28. However, for such committees to be truly effective, The BHS believes that they must be entirely separate from their parent councils. It would not be conducive to public confidence were individuals permitted to serve both on the parent council and the conduct committee.

29. The BHS would strongly support the presence of lay persons on any newly established committee. The appointment of all committee members must be a transparent process and the terms of reference robust enough to ensure public confidence.

30. The BHS would be in favour of a good deal more flexibility in the disciplinary process and would like to see a greater range of sanctions available to a conduct committee than currently exist. The aim of a conduct committee must be to maintain public confidence in the veterinary profession and safeguard both the public's interests and animal welfare.

31. The BHS would not support conduct committees having the power to impose interim orders pending proceedings. The infrequency of genuine instances of professional misconduct concerning equine veterinary practitioners suggests that such powers would not achieve a great deal more than having a serious impact on the finances, and public standing, of individuals subsequently found to be innocent of professional misconduct.

Question 7. *Should the RCVS have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council?*

32. The BHS has serious concerns over the regulation of professions that surround and compliment veterinary professionals. Such paraprofessions are perhaps more prevalent within equine veterinary care than that of other species. There is great need for robust and thorough regulation of these paraprofessions; anything other than this is likely to have negative consequences for equine welfare.

33. Whilst it would seem that a team of paraprofessionals led by a veterinary surgeon would provide the best care options for equids, The BHS is concerned that this places too great an onus on the lead surgeon who may find themselves legally responsible for the work of the paraprofessionals.

34. If paraprofessionals are sufficiently regulated this may not be of consequence but it is difficult to see how this level of regulation can be satisfactorily achieved for all paraprofessionals. However, if this were feasible, with adequate protection afforded to veterinary surgeons, The BHS would be in favour of the proposal.

September 2007

Memorandum submitted by the Dogs Trust (Vet 40)

EXECUTIVE SUMMARY

1. Dogs Trust considers that changes in both the veterinary field and external influences such as entry into the EU and devolution make changes in the Veterinary Surgeons Act imperative. In addition the introduction of the Animal Welfare Act has redefined some issues making the 1966 Act out of step with more modern views.

2. We consider that proper regulation of paraprofessionals is long overdue. The lack of any measure of competence of some paraprofessionals, such as behaviourists, causes us considerable concern.

3. Dogs Trust now deals with a number of corporate practices. We consider they should be directly regulated and that could in some measure be achieved by a practice standards scheme. However, we also consider that individual veterinary surgeons must remain responsible for their personal actions as well.

4. CPD is an essential activity as the pace of change in technical matters is considerable. However, we caution whether the concept of revalidation is a practical proposition.

5. Dogs Trust considers that the inclusion of a proportion of lay persons throughout the governance of the veterinary profession engenders confidence in the general public that could not be achieved by any other means.

6. We see no advantage in separating totally the regulation of conduct from the governance of the profession and consider this would increase bureaucracy and costs with no clear benefit.

7. We are content that RCVS can delegate some procedures to persons who have shown to be competent in them. However, we caution against restricting more complex procedures to veterinary surgeons with some form of higher qualification as we do not consider it necessary or cost effective.

INTRODUCTION

8. Dogs Trust is pleased to respond to the Select Committee's inquiry on the Veterinary Surgeons Act. Dogs Trust is the UK's largest canine welfare charity. We care for over 15,000 dogs a year through our network of 17 Re-homing Centres. We also provide subsidised neutering and microchipping in the areas of greatest need, provide veterinary care for the dogs of people in housing crisis (the Hope Project), provide care for the dogs of women fleeing domestic violence (the Freedom Project), and provide financial assistance for owners on state benefits whose dog requires emergency treatment (the Emergency Help Fund).

9. Inevitably a number of dogs brought to our Re-homing Centres are diagnosed with chronic diseases that make them very unattractive to potential adopters. To enable us to re-home such dogs we run a foster dog scheme under which the adopter pays all the routine costs of keeping the dog but Dogs Trust pays for the veterinary care of the specific condition or all veterinary care with very old dogs. This enables the dogs to be re-homed which dramatically improves their quality of life and leaves space in our Re-homing Centres for more dogs that need our help. Consequently we pay vets' bills for over four thousand foster dogs.

10. Because of this high level of activity, Dogs Trust is a significant user of veterinary services. We have contracted veterinary practices working in all our Re-homing Centres, and practices providing subsidised neutering and veterinary care for dogs in the Hope and Freedom Projects. Many other practices use the Emergency Help Fund and care for our foster dogs.

11. Dogs Trust total veterinary spend is in excess of £5 million per annum through practices. We therefore consider that we have a significant interest in the manner in which the profession functions. The comments in this submission will be restricted to those matters that concern dogs as that is our field of interest.

Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

12. There is no question that the world has changed dramatically since 1966. The availability and nature of veterinary services has altered with the advent of improved diagnosis and treatment modalities and a significantly more business-like approach to running practices, including the advent of corporate practices. Inevitably this has affected the manner in which practices are managed on a day to day basis. In addition the entry of the UK into the EU and, in more recent years, devolution have had significant effects on the running of practices.

13. The Animal Welfare Act 2006 defines an animal as “a vertebrate other than man” (Section 1(1) and suffering as “physical and mental” (Section 62). Both definitions are at variance with the Veterinary Surgeons Act but are based on sentience. As the latter aims to protect animal welfare as well as the general public, the definitions at least need to be reviewed.

14. The Act continues to provide effective protection of animal welfare and so we do not consider a review is essential. However, in view of the fairly radical changes in medicine, science and social attitudes, Dogs Trust considers that changes are urgently required in the Veterinary Surgeons Act.

Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

15. A significant proportion of dogs received into the care of Dogs Trust have some sort of issue with their behaviour. Consequently we use the services of a variety of so-called behaviourists, both as employees and as consultants. The quality of behavioural advice we receive and the apparent competence of the behaviourists is very variable and yet there is no formal recognition of the term behaviourist. We have seen a number of examples where advice from such persons has had a significant adverse effect on the welfare of the dogs they have “treated”.

16. Although these are the only paraprofessional services with which Dogs Trust has significant contact, we are aware that other unregulated “treatment” services exist provided by persons other than veterinary surgeons and unauthorised by Schedule 3 of the Act. We are concerned that the absence of any measure of competence or discipline in such services may have significant adverse effects on the welfare of the dogs they claim to “treat”.

Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis

17. Two of the practices providing veterinary care at Dogs Trust Re-homing Centres are corporately owned practices. Both provide a level of service that is acceptable to us and our dealings are, in the main, with the veterinary surgeons at the practice. However, we are aware of the influence of non-veterinary higher management on occasions and it seems to us that some policy decisions are made on business grounds with veterinary and welfare issues as a secondary concern.

18. However, Dogs Trust would be concerned if every veterinary surgeon was not accountable for their personal actions. Even in a well managed corporate veterinary practice it would be possible for an individual veterinary surgeon to act unprofessionally and the consequence of that should not be left to internal disciplinary measures in the practice. We therefore consider that a combination of regulation of the individual veterinary surgeon and the practice in which they work would give the best protection to the animals under their care.

Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation

19. We have already mentioned the issue of the competence of paraprofessionals and it is axiomatic that the competence of those already regulated is as important. Given the pace of change in technical veterinary issues, Dogs Trust cannot conceive that some form of CPD should not be required. However, care should be taken that the implementation of such a requirement is not overly bureaucratic.

20. Having accepted the need for CPD, Dogs Trust is concerned that it should be relevant to the area of veterinary surgery in which the person is active. However, if revalidation were to be introduced we consider the potential consequences for individuals could be significant. For example, if the veterinary surgeon is in

solely companion animal practice, would a revalidation process require them to maintain a level of competence in production animal practice? If so, we have difficulty in seeing how this might be achieved in an already pressurised profession. Equally if revalidation concentrated on a practitioner's primary role, would they be excluded from treating other species? Dogs Trust therefore considers that revalidation of such a broad based discipline as any of the veterinary and allied professions not to be a practical proposition.

Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals

21. To engender public confidence Dogs Trust considers it imperative that lay persons are involved at all levels of the governing of the profession. While we have no specific experience, we receive not infrequent enquiries from members of the public about the actions of individual veterinary surgeons, and the involvement of lay persons in the governance of the profession give us some comfort that matters are dealt with appropriately.

Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings

22. Dogs Trust understands that the current disciplinary procedure is laid down in the Act. We can see no advantage to issues of conduct by individual veterinary surgeons, paraprofessionals, or by practices being dealt with by a separate body as the establishment of such a body would lead to an inevitable increase in costs and bureaucracy.

Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council

23. We are not clear what this question wishes to know. If the aim is to enquire whether some procedures may be delegated to paraprofessionals who are authorised by RCVS or a similar body that monitors competence and has disciplinary procedures, Dogs Trust would support such a proposal. We have already commented on behaviourists as an example. We consider that establishing a structure under which paraprofessionals may work without such a procedure would be illogical.

24. If the question refers to more complex acts of veterinary surgery, such as complex orthopaedic procedures, Dogs Trust has reservations about limiting the ability of any veterinary surgeon to undertake a specific procedure. We find it difficult to see how such a restrictive system could function without some form of validation. We are, of course, aware that veterinary surgeons are able to specialise and gain further qualifications in specific disciplines. However, not all veterinary surgeons choose to follow that career path and yet remain competent to undertake relatively complex procedures. From a purely pecuniary view we also consider any such proposal would be likely to lead to a significant increase in the cost of already expensive complex procedures. Many dog owners would then be unable to afford the procedures and their dog's welfare would be adversely affected.

September 2007

Memorandum submitted by the Equine Podiatry Association (UK) (Vet 41)

EXECUTIVE SUMMARY

The EPA represents the largest group of professional equine hoof trimmers in the UK.

The 1966 Act was written in a previous climate where veterinary surgeons were the only profession actively involved in the diagnosis and treatment of equine conditions. In the 21st century, a significant number of new professions allied to the veterinary sciences have evolved, especially in the area of equine healthcare. As such the 1966 Act is no longer fit for purpose as it does not allow for these allied professions to independently diagnose and treat equine conditions. There is a need for changes to the legislative framework that recognise both the new allied professions and potential further allied professions that may evolve in the future.

At present the regulation of the new professions is somewhat variable with some groups undertaking high quality self-regulation and some doing nothing at all. Self-regulation should certainly be encouraged and this can be done by providing recognition and encouragement for those professions that adopt high quality self-regulation. At present, legal regulation of these professions is not felt to be necessary by the EPA and could, if not handled carefully, prove to be counterproductive.

A solution needs to be found to the problem of how to allow the new professions to diagnose and treat within their competencies. Such practices need to be carefully controlled while still allowing the flexibility for future innovation. The concept of delegating limited subsets of veterinary powers to those professions that are deemed appropriately trained and self-regulated seems to be a good solution to this problem. The EPA would welcome developments in this direction.

BACKGROUND

1. Farriers have traditionally had a monopoly on hoofcare in the UK, although a significant number of horses (especially young stock and brood mares) have always been trimmed by owners. In recent years, horse owners have become interested in the concept of working horses without shoes and a new group of hoofcare professionals has sprung up to meet this demand. There are various schools of hoof trimming of which Equine Podiatry is one.

2. The term Equine Podiatry, as used by the Equine Podiatry Association, is used to describe the study and application of both the science of the equine foot and practices (including, but not limited to, trimming) that promote the health of the equine foot.

3. Equine Podiatrists (EPs) are professionals who provide an holistic hoofcare service to horse owners. The service is mainly aimed at horses that are not shod, but some aspects of the service are also applicable to horses that are shod. As well as trimming hooves, EPs also provide guidance on all aspects of horse welfare that may have an impact on the health of the feet. This may include advising on such areas as: the fitting/use of removable hoofboots; the level of work that a horse is capable of given the current state of the feet; the role of infection in hoof pathologies; approaches to controlling such infections; the role of diet in the health of the feet and approaches to optimising the diet for foot health.

4. The Equine Podiatry Association (EPA) is a professional body representing the largest group of professional equine hoof trimmers in the UK. The EPA was set up, amongst other things: to promote the role of Equine Podiatry in improving equine welfare; to maintain and publish a register of qualified EPs; to promote good practice and to set and maintain standards of professional conduct and competence in Equine Podiatry; to organise and maintain schemes for the regulation and discipline of the EPA's members in matters of professional conduct and to provide a means of redress to those who feel that they have a professional grievance with a member of the EPA.

5. The following sections outline the EPA's response to each of the terms of reference of the inquiry.

Whether the provisions of the 1966 Act are out of step with developments in the veterinary surgeon and related professions

6. There is currently a significant level of innovation in the equine welfare industry. New approaches to equine healthcare are being adopted and this trend has seen the rise of a number of new professions such as equine dentists, equine osteopaths and various schools of hoof trimmers. The 1966 Act was not written with this in mind and so fails to meet the demands of the 21st century.

7. Specifically the 1966 Act reserves the right to diagnose and treat conditions solely to veterinary surgeons. Even before recent developments, this potentially led to grey areas and anomalies. For example, if an owner feels that a horse has poor quality hooves and decides to use a dietary supplement to gain an improvement, this could potentially be seen as diagnosis and treatment and hence be illegal.

8. With the rise of new equine professions, the problem of diagnosis/treatment has become more pronounced. For example, a qualified Equine Podiatrist is fully competent to recognise a hoof infection such as thrush and white line disease and recommend a suitable topical application for treatment. But this again falls foul of the 1966 Act.

9. The new diversity of professionals working in the area of equine health should be welcomed. It allows certain areas of healthcare, traditionally not given sufficient coverage by the veterinary sciences to be covered by professionals who are specialist in their own areas. The new professions bring much benefit in the form of knowledge, skills, experience and new approaches to the veterinary science community. The presence of these new professions encourages innovation.

10. There is a need for a realignment of the law so as to recognise that it is appropriate and indeed often desirable for a limited range of conditions to be diagnosed/treated by other than veterinary surgeons. In some situations, it may be appropriate for an owner to diagnose/treat (eg minor injury). In other situations it may be appropriate for other professions to diagnose/treat (eg a farrier or hoof trimmer diagnosing/treating thrush).

Whether there ought to be regulation of providers of veterinary care other than veterinary surgeons

11. The EPA supports the idea of regulation where this has the effect of raising and ensuring standards.

12. Given the recent emergence of new professions, it is clear that this is an area subject to significant levels of innovation. It is important that any new approach to regulation does not set the current status quo in aspic, but allows for the development of new professions.

13. Self-regulation may well be the best approach to regulating emerging professions allied to the veterinary sciences. Such self-regulation needs to be of a high standard so as to allow service users to have confidence in the quality of the professionals they use.

14. For emerging professions to effectively self-regulate, they need to have an incentive for professionals to subscribe to the appropriate professional bodies. Recognition by the established professions may well prove to be a key such incentive. The EPA would encourage the established professions to work closely with emerging professional bodies and provide some form of formal recognition of those that set high enough standards of professional conduct, etc.

Whether the delivery of veterinary services ought to be regulated through a mandatory practice standards scheme, with a professional code of ethics, rather than the RCVS regulating practitioners on an individual basis

15. This topic does not directly affect the EPA or its membership. The EPA has no opinion in this area.

Whether the RCVS and Veterinary Nurses Council (VNC) should be given the power to require continuing professional development and revalidation

16. This topic does not directly affect the EPA or its membership. The EPA has no opinion in this area.

Whether the governing body of the RCVS and VNC ought to include appointed lay persons as well as veterinary professionals

17. This topic does not directly affect the EPA or its membership. The EPA has no opinion in this area.

Whether the RCVS and VNC ought to have a separate conduct committee with the powers to investigate complaints, give warnings and to make interim orders pending proceedings

18. This topic does not directly affect the EPA or its membership. The EPA has no opinion in this area.

Whether the RCVS ought to have the power to delegate specified procedures to people holding qualifications recognised by the RCVS Council

19. As discussed above, the 1966 Act creates grey areas and anomalies with reference to diagnosis and treatment that particularly affect the emerging equine healthcare professions. This is also already an issue for farriers, particularly those working as remedial farriers. The EPA feels strongly that the diagnosis and treatment of certain conditions relating to the equine foot should be allowed by those specialist professionals who have demonstrated sufficient competence in those areas.

20. The concept of delegation of a limited subset of veterinary procedures to allied professionals who hold appropriate qualifications is one that very neatly addresses this problem.

21. The exact subset of procedures relevant to each qualification would need to be carefully controlled, for example by using National Occupational Standards to capture the level of competence recognised in each profession. This would also allow for a natural evolutionary path as new professions mutate over time.

22. The delegation of procedures should only be allowed to those professions that adopt suitably high standards of self-regulation.

23. The EPA has, from its inception, been set up with the aim of providing a professional framework to the highest standard that would be acceptable to the traditional equine healthcare professions. The EPA is working closely with LANTRA with the aim of developing a National Occupational Standard for equine hoof trimming. The EPA is very keen to work with those developing policy in regard to proposed new legislation so as to help provide a more appropriate legislative framework in the future for professions allied to the veterinary sciences

Memorandum submitted by Patrick J Burke and Janet I Burke (Vet 43)

The *Veterinary Record's* report of the evidence provided to the EFRA Committee by officers of the Royal College of Veterinary Surgeons (RCVS) raises several issues in relation to continuing professional development (CPD):²⁷

1. The RCVS's call for legislation to require its members to complete CPD appears excessive, given that this is already an administrative requirement of the RCVS Guide to Professional Conduct²⁸ (the Guide), to which all veterinary surgeons are professionally obliged to adhere:

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

There is a further requirement in the Guide that "employers should encourage and facilitate participation in CPD programmes".

A series of substantiated failures to adhere to the Guide may lead to a charge of "disgraceful professional conduct", which the RCVS has the authority to deal with under the current Veterinary Surgeons Act 1966.

2. The RCVS currently recommends a minimum of 105 hours CPD over three years (average 35 hours per year) of which up to 10 hours per year may be undocumented private study.

3. The RCVS officer's reported claim that mandatory CPD "would not mean any extra cost for veterinary surgeons" is incorrect. Veterinary surgeons may meet the obligation of the current Guide by undertaking a limited amount of CPD below the minimum recommendation, and may incur significant additional costs if there was a statutory obligation for the current minimum recommendation:

- (i) The demography of the veterinary profession is changing with increasing numbers of female veterinary surgeons. This is creating an increasing demand for more flexible working practices. Whilst the benefits of an appropriate amount of CPD are unquestionable, a statutory obligation for the current minimum recommendation of CPD per year, will place self-employed veterinary surgeons at a significant financial disadvantage, particularly if they are part-time workers. CPD costs are in addition to the £285 annual RCVS membership fee payable by all practicing veterinary surgeons. Additional work-related costs eg childcare will compound the financial burden.
- (ii) A statutory obligation upon veterinary businesses to fund and facilitate (eg providing time-off, locum cover etc.) a minimum duration of CPD for their employees, would incur them additional costs which would be transferred to their clients. These additional costs need to be weighted against the resultant benefits of additional CPD.

4. Finally, the RCVS officers reportedly acknowledged that "people do spend a lot of money already" on CPD. In recent years the cost of CPD courses appears to have increased²⁹ and I believe that a statutory CPD obligation would further accelerate this trend.

Patrick J Burke BVM&S. MRCVS

Janet I Burke BVM&S. MRCVS

February 2008

Supplementary memorandum submitted by the British Veterinary Association (Vet 38a)

Further to my oral evidence to EFRA Committee regarding the Veterinary Surgeons Act, I am writing to you regarding a question which was posed by David Taylor MP. Mr Taylor requested information on the proportion of income which veterinary practices derive from the promotion or sale of pet food.

Unfortunately, it has not been possible to source any meaningful data on this matter.

However, I have been able to obtain information on the pet food market as a whole which may be of interest to you; Pet Food Manufacturers Association figures value the pet food market in the UK at £1.7 billion, of which approximately £110 million is channelled through veterinary practices. As I'm sure you will appreciate, this is a very small proportion of the total market.

²⁷ The Veterinary Record, 23 February 2008, pages 228–229.

²⁸ <http://www.rcvs.org.uk/Templates/Internal.asp?NodeID=89642>

²⁹ Current fees for commercial CPD courses start from about £300 per day (seven hours CPD claimable) including VAT but excluding travel and accommodation. To meet the requirement of 25 hours CPD (less 10 hours private study) per year, the annual course fees alone would exceed £1,000.

As I outlined during my evidence to the Committee, veterinary practices sell pet food and other dietary products because they judge them to be useful to their clients. Commercial pet foods provide well prepared, scientifically based, nutritionally acceptable diets and have made a significant contribution to improving the wellbeing and longevity of companion animals in the UK.

Should you require further information regarding any of the above, please do not hesitate to contact me.

J D Blayney, President
British Veterinary Association

April 2008
