

Guidance to Case Examiner Groups in making decisions at Stage 1 of our concerns investigation process

Aim: To guide the decision making process of the Case Examiner Group as they decide whether to conclude an investigation into a veterinary surgeon or to refer a case to Stage 2 – the Preliminary Investigation Committee.

- 1) The Case Examiner Group is made up of a Case Manager (who may be legally qualified), a veterinary surgeon Case Examiner and non-veterinary Case Examiner who are generally both members of the Preliminary Investigation Committee (PIC). Investigations will be conducted by the Case Manager.
- 2) The Case Examiner Group will make decisions when sufficient information about the concerns raised has been obtained.
- 3) The Case Examiner Group may direct that the Case Manager:
 - a) obtain information:
 - i) from the person raising the concerns;
 - ii) from the veterinary surgeon about whom concerns have been raised;
 - iii) from others at the veterinary practice, such as the veterinary surgeon's employers or other veterinary colleagues, or members of staff where the veterinary surgeon works.
 - iv) from anyone who may have witnessed or have knowledge about any of the concerns raised; and/or,
 - v) from any other veterinary surgeon that may have treated the animal involved.
 - b) obtain clinical records relating to any treatment carried out;
 - c) instruct the College's Veterinary Investigators to visit the veterinary surgeon(s) involved; visit the person raising the concerns or anyone else who may have knowledge about the incidents, and to report back to them;
 - d) obtain formal witness statements; and/or,
 - e) obtain expert reports.
- 4) The Case Examiner Group will balance:
 - a) protection of the public from the risk of practice by veterinary surgeons who for any reason (whether competence, integrity or health) are unfit to practise; and the maintenance of standards;

- b) maintaining the reputation of the profession and public confidence in the profession; and the legitimate expectation of the public that concerns of a serious nature will be fully and fairly investigated;
 - c) the need for legitimate safeguards for the veterinary surgeon, who as a professional person may be considered particularly vulnerable to, and damaged by, unwarranted charges against him/her.
- 5) The Case Examiner Group must consider if there is an **arguable case** for establishing that what the veterinary surgeon has done, or not done, has fallen far short of that expected of a veterinary surgeon and could affect his/her fitness to practise, ie serious professional misconduct.
- 6) Members of the Case Examiner Group are obliged to consider the merits and facts of each individual case and to exercise their own judgement in making decisions. However, this should be exercised within the framework of the statutory legislation and the *RCVS Code of Professional Conduct*.
- 7) Areas of particular concern might include:

Breaches of the *RCVS Code of Professional Conduct (Code)*

- a) dishonesty, for example, in the context of certification or about radiographs/clinical records of an animal;
- b) misleading a client, colleague or the wider public (about, for example, a swab left in an animal after a surgical procedure);
- c) recklessness in his/her conduct;
- d) failure to obtain informed consent to treatment or to discuss treatment options and possible complications;
- e) inappropriate or unwarranted physical force against an animal;
- f) aggression or violence towards a client;
- g) inappropriate storage, use or supply of veterinary medicinal products;
- h) failure to take adequate steps to provide 24-hour emergency cover;
- i) unreasonable refusal to provide immediate first-aid and pain relief;
- j) failure to maintain adequate clinical records; and/or
- k) failure to maintain the equivalent of Core Standards (the RCVS Practice Standards Scheme).

Not all breaches of the *Code* will give rise to an arguable case that the conduct is far short of that which is expected.

Clinical Matters

- a) Treatment that falls far short of that expected might include:
- b) discharging an animal too soon post-operatively;

- c) reckless administration of a medicine;
- d) failure to keep appropriate clinical records;
- e) negligence which may be gross;
- f) other very poor clinical care and skill short of the standard expected; and/or
- g) repeated errors.

Other Issues

- a) failure to adhere to previous advice from the RCVS;
- b) concerns relating to criminal cautions or convictions of a serious nature identified by the Case Examiner Group may, on the authorisation of the PIC Chairman and/or Head of Professional Conduct be referred directly to the PIC; and/or
- c) concerns relating to serious Health issues identified by the Case Examiner Group may on the authorisation of the PIC Chairman and/or Head of Professional Conduct be referred directly to the PIC.

The following issues, for example, are **not likely** to result in a finding of an arguable case that the conduct falls far short of that which is expected:

- a) fee disputes where the charges levied by the veterinary surgeon are reasonable, or, even if the charges are high, they are not so extreme as to bring the profession into disrepute;
- b) service concerns such as failure to provide appointments at an agreed time;
- c) civil matters such as boundary and planning disputes, or alleged minor disturbances between the practice and neighbours;
- d) general insurance matters unless there are allegations of dishonest appropriation of payments or unnecessary treatment and/or claims; and/or
- e) employment matters such as poor time keeping, non-payment of locum fees or breach of contract unless there is a clear issue regarding dishonesty or the welfare of animals may be affected.

The examples above are not exhaustive. They are intended to form guidance only and to provide a benchmark in identifying types of cases likely to meet the required threshold.

- 8) The test for treatment that falls far short is higher than the test for negligence. In addition, the test for treatment that falls far short relates primarily to the work carried out, not the outcome. (For negligence, the outcome – the loss or damage – is of primary importance.)
- 9) The following may be taken into account in appropriate cases because they reduce the risk of similar problems occurring:
 - a) the veterinary surgeon has accepted his/her mistake and is likely to learn from the incident;
 - b) the veterinary surgeon is likely to adhere to advice from the RCVS;

- c) the veterinary surgeon has taken steps or has agreed to take steps to prevent similar situations arising; and/or
 - d) the veterinary surgeon has undertaken or is willing to undertake further professional development to improve his/her skills in specific areas including communication skills courses.
- 10) The Case Examiner Group may at any time seek direction from the PIC Chairman or the Head of Professional Conduct.
 - 11) If in doubt, the Case Examiner Group will refer a case to Stage 2 for consideration. A case will be referred to Stage 2 unless all Group members decide the investigation should be concluded.
 - 12) The Case Examiner Group may refer a case to Stage 2 as considered appropriate, for example, if the case is of wider significance to the profession.
 - 13) The Case Examiner Group should give a brief, written explanation for its decision.
 - 14) The Case Examiner Group may give advice to a veterinary surgeon when concluding an investigation.