



House of Commons
Environment, Food and Rural
Affairs Committee

**Veterinary Surgeons
Act 1966: Government
Response to the
Committee's Sixth
Report of Session
2007–08**

**Second Special Report of Session
2007–08**

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Environment, Food and Rural Affairs Committee

The Environment, Food and Rural Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Environment, Food and Rural Affairs and its associated bodies.

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The following members were also members of the Committee during this inquiry

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Committee staff

The current staff of the Committee are Chris Stanton (Clerk), Nerys Welfoot (Second Clerk), Sarah Coe (Committee Specialist—Environment), Marek Kubala and Joanna Dodd (Inquiry Managers), Andy Boyd and Briony Potts (Committee Assistants) and Mandy Sullivan (Secretary).

Contacts

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Second Special Report

The Environment, Food and Rural Affairs Committee reported to the House on *Veterinary Surgeons Act 1966* in its Sixth Report of Session 2007–08, published on 14 May 2008 as HC 348. The Government's response to the Report was received on 14 July 2008.

Government Response

Introduction

We welcome the Committee's inquiry into the need to replace the Veterinary Surgeons Act 1966 (VSA). We broadly agree with most of the Committee's recommendations and in particular, with the need for the veterinary profession to work together to establish a greater consensus on the way forward.

In his oral evidence to the Committee, Lord Rooker explained that within the current spending round, Defra can not spare the additional resource that would be needed to take forward a wider review of the VSA and the preparation of a White Paper. Unfortunately, this remains the case.

The Committee has recommended that Defra work with the veterinary profession as part of a joint working party to develop a draft Bill by the end of 2008. There is a fair degree of agreement between Defra and the RCVS on the broad aims of their proposals. The Committee's inquiry has clearly identified where greater consensus within the veterinary profession is needed. It would be helpful if the RCVS could facilitate further discussion and develop its ideas. The BVA too, has an important role in ensuring that any proposals for regulatory change are workable and proportionate and that the impact on small business is fully understood and costed.

The RCVS already have a VSA Working Party and the onus lies with the College to decide how it wants that group's remit and membership to evolve. Defra has limited resource available to devote to the VSA and this is largely committed to maintaining the current Act. However, we wish to remain engaged in the on-going discussion with the veterinary profession. The extent to which we can do so depends very much on the resource needed for other VSA related work. For example, the implementation of the Services Directive in the UK in respect of wider veterinary services.

There are areas where the veterinary profession could develop its ideas with limited Defra involvement (i.e. the structure of Council, the case for mandatory CPD and practice standards). There are other areas, in particular, defining a risk based approach to regulation and the regulation of other veterinary service providers, where Defra's full involvement would be essential. These questions may therefore need to be deferred until we are able to allocate sufficient resource to take this work forward.

We therefore propose that once the RCVS and BVA have had time to reflect on the outcome of the Committee's findings, that their respective Presidents meet with the Chief Veterinary Officer to discuss their plans and decide to what extent Defra can help.

The Committee has also identified the need to press ahead changes to the disciplinary arrangements, in advance of broader regulatory reform. As indicated in our detailed comments, we are not convinced that piecemeal reform of the VSA is the best way forward. The issue here is more than simply removing the disciplinary arrangements from the RCVS Council and placing them with another body. The whole process needs to be reviewed and possibly linked to a new Council responsibility of monitoring and assessing veterinary surgeons fitness to practice.

Recommendation 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 to persuade Defra of its need for action towards new legislation in this area.

The Committee's inquiry has demonstrated that there is much to be done before a Bill could be presented to Parliament. The Committee's inquiry into the Veterinary Surgeons Act (VSA) has been helpful in that it has taken the debate beyond first principles and highlighted the potential impact of any new regulatory burdens on small businesses.

When considering the Committee's recommendations, it is important to recognise that Defra envisages that any successor to the VSA would need to encompass providers of wider veterinary services. Whilst the RCVS will be a key partner in helping to design a framework for the regulation of veterinary service providers, there is a very diverse group of stakeholders to be consulted with a broad range of opinion on the best way forward. The RCVS may therefore wish to prioritise those areas where it can develop its ideas on behalf of the veterinary profession.

A new regulatory framework which includes veterinary service providers would impact on the role of the RCVS. The relationship between the RCVS and possible new regulatory bodies would need to be established.

Recommendation 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.

In our written evidence, we said that lay membership of Council should be significantly higher than it is now but that there should remain a veterinary professional majority. We agree that it would be helpful for RCVS to develop detailed proposals for a reconstituted Council for veterinary surgeons, based on these views and those of the Committee.

It is essential that any detailed proposals that are produced by the RCVS include a robust assessment of the costs and benefits. Defra may be able to provide some assistance on how an Impact Assessment might be developed.

Recommendation 3

The resources for work on a White Paper for the 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 this 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 the 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.

Defra's decision not to progress with the proposed White Paper was made at a very late stage, as the Lord Rooker considered his oral evidence to the Committee. The RCVS were informed immediately the decision was taken. We worked closely with the RCVS as we considered the Committee's detailed questions that it posed last year. We appreciate that the Department's subsequent decision not to proceed with a White Paper will have come as a disappointment and a surprise to the RCVS.

However, we believe that the Department continues to enjoy a good working relationship with the RCVS. Lord Rooker visited the RCVS on 6 May and discussed the VSA in some depth. Defra will continue to engage with the RCVS on a wide range of issues. Nigel Gibbens (Chief Veterinary Officer) will continue the regular and on-going dialogue enjoyed by previous CVO's and the RCVS Presidential team.

Recommendation 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.

Defra agrees with this recommendation. However, when considering how we might replace the current disciplinary system, there are some fundamental questions to be addressed.

- What type of complaints should be investigated?

- Who considers the complaints, what proportion should be vets and how should they be appointed?
- What powers and sanctions might be applied?
- What system of appeal should be made available?
- How should the disciplinary process link to any new Council function of monitoring a veterinary surgeon's on-going fitness to practice?
- Should there be a veterinary ombudsman with oversight of the system?
- How much will the new system cost to administer and how will it be funded?

We recognise that the RCVS is uncomfortable with widening the scope of the current disciplinary system as this goes beyond the traditional scope of a regulator. But public expectations have changed dramatically and this change must be taken into account when developing a new complaints system.

There needs to be a period of reflection by the veterinary profession on these questions. Defra will contribute to the debate, however, as mentioned in our response to recommendation 6, we are not convinced that piecemeal change to the VSA is necessarily the best way forward. Not least, because we believe Council's responsibilities for monitoring veterinary surgeons fitness to practice would need to be clarified before designing a new disciplinary procedure.

Recommendation 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 procedure.

We agree with this recommendation. It would be helpful if the RCVS and British Veterinary Association could jointly develop an initial approach to extending the range of sanctions. However, complaints are currently taken forward only when a veterinary surgeons conduct is considered to be disgraceful in a professional respect. As indicated in our response to the preceding recommendation, agreement needs to be reached on extending the basis on which complaints can be investigated. Once this is agreed, consideration can then be given to widening the range of sanctions.

Recommendation 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 the 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 the 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.

Defra is willing to consider any detailed proposal that might come forward from the veterinary profession and also to explore legislative options for updating the disciplinary process. However, availability of resource remains a constraining factor for Defra and detailed work would need to come from the veterinary profession.

There is general agreement on the separation of the standard setting and adjudication responsibilities of Council. However, any proposal to replace the current disciplinary arrangements for veterinary surgeons is likely to be the subject of keen debate with a key factor for some being whether the veterinary profession should retain responsibility for adjudicating complaints against its own members. Our view is that the profession should retain this responsibility but that safeguards should be included to ensure any new system has the confidence of the animal owning public.

Whilst we recognise the importance that the Committee place on this issue, our preference would be to develop a new disciplinary process that is part of a new regulatory framework for veterinary services. We may ultimately need to decide between a less than perfect system built into the existing Act, or wait until resource is available to replace the existing Act and develop a more complete and robust disciplinary system.

Recommendation 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.

We agree with this recommendation. The main driver behind the RCVS proposal for a mandatory practice standards scheme has been to draw corporate practice within its sphere of influence. We do not believe that a satisfactory case has been put forward that demonstrates that the growth of corporate practice will lead to a conflict of interest for veterinary surgeons. Even if this risk exists, we would want to see other options developed that are less burdensome on business.

Throughout the debate on the need for a mandatory scheme, very little has been said about the standards actually delivered by veterinary practices. In any service sector, there is bound to be a wide range of quality of the services provided. We need an honest debate about the standards of service delivered to customers by veterinary practices, backed up with firm evidence. This debate would need to decide whether we need to impose minimum standards on small businesses or whether we can rely on a voluntary system of practice standards and market forces?

Recommendation 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 profession, 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.

We agree with this recommendation. This is an area where the veterinary profession should concentrate its deliberations. Most practices will recognise that they need to invest in the professional skills and knowledge of their most important resource – their staff. The key question appears to be to what extent a regulator can pro-actively ensure that practicing veterinary surgeons keep up a minimum level of CPD. How do we ensure that any system of re-validation would be truly effective and not simply a paper exercise?

Recommendation 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.

We agree that RCVS and Nurses Council should develop proposals for the regulation of veterinary nurses.

The regulation of para-professionals is a central issue when considering replacement of the Veterinary Surgeons Act. We would want to take into account the extent to which the current restrictions on veterinary practice inhibits the development of veterinary care services and ensure we put in place a risk based but more flexible regulatory framework.

A fundamental requirement for the regulation of para-professionals must be that they are suitably trained and that their competence is assured.

However, the scale of regulation for para-professionals has to be proportionate to risks involved and the size of the sector concerned. The extent to which para-professionals should work under veterinary direction or supervision or whether they may work independently and perhaps in competition with veterinary surgeons would also need to be clarified.

This is a complex area and the current pressure on Defra resource means we do not envisage being able to progress these issues in the current spending round period.

Recommendation 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 the 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.

Defra regrets the delay that will be caused by its decision not to devote additional resource to enable a review of the Veterinary Surgeons Act to take place. However, the Department is faced with many pressing issues, our resources are finite and increasingly, we have to make difficult decisions about our priorities. We believe the decision we have taken regarding the Veterinary Surgeons Act, though regrettable, is correct.

Recommendation 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.

The development of a new Bill represents a significant project, and Defra cannot commit to a major review of these issues during the current spending round. If the RCVS and BVA wish to develop proposals jointly, the Department will do its best to provide advice and guidance where it can. However, we see little prospect of a draft Bill being prepared within the timescale envisaged by the Committee. It is debatable whether the development of a draft Bill, without the full involvement of Defra, is the best way of defining the professions proposals for reform.

Department for Environment, Food and Rural Affairs

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