



House of Commons  
Regulatory Reform Committee

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**Draft Legislative  
Reform (Regulator  
of Social Housing)  
(England) Order 2018  
and Draft Legislative  
Reform (Constitution of  
the Council of the Royal  
College of Veterinary  
Surgeons) Order 2018**

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**Second Report of Session 2017–19**

*Report, together with formal minutes  
relating to the report*

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## Regulatory Reform Committee

The Regulatory Reform Committee (previously the Deregulation and Regulatory Reform Committee) is appointed to consider and report to the House on draft Legislative Reform Orders under the Legislative and Regulatory Reform Act 2006. Its full remit is set out in S.O. No. 141, which was approved on 4 July 2007.

### Current membership

[Stephen McPartland MP](#) (*Conservative, Stevenage*) (Chair)

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[Karl Turner MP](#) (*Labour, Kingston upon Hull East*)

### Criteria against which the Committee considers each draft legislative reform order

Paragraph (3) of Standing Order No.141 requires us to consider any draft legislative reform order against the following criteria: ... whether the draft legislative reform order —

- (a) appears to make an inappropriate use of delegated legislation;
- (b) serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);
- (c) serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);
- (d) secures a policy objective which could not be satisfactorily secured by non-legislative means;
- (e) has an effect which is proportionate to the policy objective;
- (f) strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- (g) does not remove any necessary protection;
- (h) does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
- (i) is not of constitutional significance;
- (j) makes the law more accessible or more easily understood (in the case of provisions restating enactments);

(k) has been the subject of, and takes appropriate account of, adequate consultation;

(l) gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)) as are relevant;

(m) appears to be incompatible with any obligation resulting from membership of the European Union.

### **Publications**

Committee reports are published on the publications page of the Committee's website and in print by Order of the House. All publications of the Committee (including press notices) are on the internet at [www.parliament.uk/regrefcom](http://www.parliament.uk/regrefcom).

### **Committee staff**

The current staff of the Committee are Ben Sneddon (Clerk), and Jonathan Olivier-Wright (Senior Committee Assistant).

### **Contacts**

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 5777; the Committee's email address is: [deregcom@parliament.uk](mailto:deregcom@parliament.uk)

# Contents

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<b>1</b>	<b>Introduction</b>	<b>3</b>
<b>2</b>	<b>Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018</b>	<b>4</b>
	Description of the draft Order	4
	Assessment of the draft Order	5
	A: Appears to make an inappropriate use of delegated legislation	5
	B: Serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft order under section 1 of the Act)	5
	C: Serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft order under section 2 of the Act)	5
	D: Secures a policy objective which could not be satisfactorily secured by non-legislative means	6
	E: Has an effect which is proportionate to the policy objective	6
	F: Strikes a fair balance between the public interest and the interests of any person adversely affected by it	6
	G: Does not remove any necessary protection	7
	H: Does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise	7
	I: Is not of constitutional significance	7
	J: Makes the law more accessible or more easily understood (in the case of provisions restating enactments)	7
	K: Has been the subject of, and takes appropriate account of, adequate consultation	7
	L: Gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)) as are relevant	8
	M: Appears to be incompatible with any obligation resulting from membership of the European Union.	8
	Conclusion	8
<b>3</b>	<b>Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018</b>	<b>9</b>
	Description of the Order	9
	Assessment of the Order	11
	A: Appears to make an inappropriate use of delegated legislation	11
	B: Serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft order under section 1 of the Act)	11

C: Serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft order under section 2 of the Act)	11
D: Secures a policy objective which could not be satisfactorily secured by non-legislative means	12
E: Has an effect which is proportionate to the policy objective	12
F: Strikes a fair balance between the public interest and the interests of any person adversely affected by it	12
G: Does not remove any necessary protection	12
H: Does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise	13
I: Is not of constitutional significance	13
J: Makes the law more accessible or more easily understood (in the case of provisions restating enactments)	13
K: Has been the subject of, and takes appropriate account of, adequate consultation	13
L: Gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)) as are relevant	15
M: Appears to be incompatible with any obligation resulting from membership of the European Union.	15
Conclusion	15
<b>Formal minutes</b>	<b>16</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>17</b>

# 1 Introduction

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1. The Regulatory Reform Committee’s role in the making of Legislative Reform Orders is to assess whether the proposals made in such orders meet the statutory conditions required of an order under the Legislative and Regulatory Reform Act 2006<sup>1</sup> (the “2006 Act”), and to examine the proposals against a number of criteria set out in the Standing Orders of the House.<sup>2</sup>
2. The Committee is also required to consider the Minister’s recommendation as to the approval procedure which should apply to it and shall report to the House any recommendation under the Act that a different procedure should apply.
3. This report considers two draft Orders: the Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018;<sup>3</sup> and, the Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018.<sup>4</sup>

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1 [Legislative and Regulatory Reform Act 2006](#)

2 [Standing Orders of the House of Commons—Public Business 2017, SO No. 141](#) and [SO No. 151 \(1\)](#)

3 [Draft Legislative Reform \(Regulator of Social Housing\) \(England\) Order 2018](#)

4 [Draft Legislative Reform \(Constitution of the Council of the Royal College of Veterinary Surgeons\) Order 2018](#)

## 2 Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018

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4. The Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018<sup>5</sup> was laid before the House on 28 February 2018 by the Ministry of Housing, Communities and Local Government ('the Department'). It was accompanied by an explanatory document.<sup>6</sup> The Department has also provided the Committee with a copy of responses to the 2016 consultation on using a Legislative Reform Order to establish the Regulator as a stand-alone body.<sup>7</sup>

5. The Order is intended to be made under section 2 of the Legislative and Regulatory Reform Act 2006 ('the 2006 Act'), which allows a Minister to make provision by order to promote principles of better regulation.<sup>8</sup>

6. The Minister has recommended that the draft Order be subject to the affirmative procedure. The House of Lords Delegated Powers and Regulatory Reform Committee has concluded that this proposal is appropriate.<sup>9</sup>

### Description of the draft Order

7. The purpose of the draft Order is to separate social housing regulation from the work of the Homes and Communities Agency ('HCA', now operating as Homes England), amending the Housing and Regeneration Act 2008 ('the 2008 Act') to implement a conclusion of the 2016 Tailored Review of the Homes and Communities Agency.<sup>10</sup>

8. The 2008 Act established a regulator of registered providers of social housing in England. It was amended by the Localism Act 2011, which moved the regulator into the HCA and established a Regulation Committee to exercise the regulatory functions. In its current incarnation, the regulator is required to maintain a register of social housing providers, including housing associations and local authority landlords providing low cost rental accommodation, and to regulate proactively and intervene on private registered providers' compliance with economic standards, including governance, financial viability, rents and value for money.<sup>11</sup>

9. The 2016 Tailored Review of the HCA found that the creation of an investment function within the agency in 2014, including secured lending in some cases to housing associations and others who are on the regulator's register, created the potential for conflicts of interest with its regulatory function.<sup>12</sup> The Review noted that "[w]hile there

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5 [Draft Legislative Reform \(Regulator of Social Housing\) \(England\) Order 2018](#)

6 [Explanatory document for the Draft Legislative Reform \(Regulator of Social Housing\) \(England\) Order 2018](#)

7 Department for Communities and Local Government, [Social housing regulation: using a Legislative Reform Order to establish the Regulator as a stand-alone body](#), November 2016

8 Legislative and Regulatory Reform Act 2006, [Section 2](#)

9 House of Lords, Unpaid Work Experience (Prohibition) Bill [HL], Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018, Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018, 18th Report of the Delegated Powers and Regulatory Reform Committee, Session 2017–19, [HL110](#), Para 11

10 Department for Communities and Local Government, [Tailored Review of the Homes and Communities Agency](#), November 2016

11 [Explanatory document](#), p4

12 [Explanatory document](#), p2

was no suggestion that any conflict has materialised, there has also been no significant test” and that “the complexities of the HCA’s investment role and the regulated sector itself are also likely to increase over time.”<sup>13</sup>

10. If approved, the draft Order will transfer the regulatory functions of the HCA to a new non-departmental public body, the Regulator of Social Housing. The draft Order would not change the powers and responsibilities of the regulator or change the level of independence at which the regulator operates. The Department does not expect this transfer to increase costs to the taxpayer, and the draft Order would enable the regulator to share administrative functions with the HCA without interfering with accountability.<sup>14</sup>

### **Assessment of the draft Order**

11. In this section, we assess the draft Order against the criteria set out in the Standing Orders of the House. We make no assessment of the policy within the draft Order.

#### ***A: Appears to make an inappropriate use of delegated legislation***

12. There is nothing highly controversial in the proposals and therefore **we agree that the draft Order does not make an inappropriate use of delegated legislation and therefore does not raise any issues in respect of this test.**

#### ***B: Serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft order under section 1 of the Act)***

13. The draft Order is made under section 2 of the Act and is therefore not required to be deregulatory. **The draft Order does not raise any issues in respect of this test.**

#### ***C: Serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft order under section 2 of the Act)***

14. Under Section 2 of the 2006 Act, Ministers may seek to make changes where the activity is transparent, accountable and proportionate and targeted only at cases in which action is needed.<sup>15</sup> In the explanatory document accompanying the draft Order, the Department has set out its application of these criteria:

By transferring the HCA’s regulatory function to a standalone NDPB, this measure will create a body with exclusive focus on a single set of regulatory statutory objectives to ensure that social housing regulation governance is more transparent, accountable, proportionate and consistent, and better able to adapt to any changes that result from policy or legislative changes.<sup>16</sup>

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13 Department for Communities and Local Government, [Tailored Review of the Homes and Communities Agency](#), November 2016, p26

14 [Explanatory document](#), p10

15 Legislative and Regulatory Reform Act 2006, [Section 2](#)

16 [Explanatory document](#), p6



15. The Department's consultation on the proposal for the LRO asked respondents whether there was empirical evidence for the proposed change. Of the 35 people who responded to this question, 27 (77 per cent) were unaware of any evidence or did not respond.<sup>17</sup> However, no evidence against the change was provided and we note that the Tailored Review identified and explained the potential risk of conflict of interest between the HCA and the Regulation Committee, and demonstrated that action is required to prevent this.<sup>18</sup> **We agree that the regulatory principles set out in the 2006 Act are being complied with.**

***D: Secures a policy objective which could not be satisfactorily secured by non-legislative means***

16. The Department has stated that

The Regulation Committee of the HCA was created by the Localism Act 2011 amending the Housing and Regeneration Act 2008. Those amendments transferred the regulatory functions to the HCA, and it is not possible to transfer them from the HCA without further legislation. It is also not possible within the framework of the 2008 Act to delegate HCA's regulatory function to a separate entity.<sup>19</sup>

**We are satisfied that this test has been met.**

***E: Has an effect which is proportionate to the policy objective***

17. The Secretary of State for Housing, Communities and Local Government has stated that

It is solely an administrative change—because the statutory powers and functions of regulation are being transferred, there will no change to regulatory operations as a result of the LRO.<sup>20</sup>

**We agree that the effect of this Order is proportionate to the policy objective.**

***F: Strikes a fair balance between the public interest and the interests of any person adversely affected by it***

18. In considering the balance between public interests and persons adversely affected the Department has stated:

The draft Order will have no negative impact on the public interest as there is no person adversely affected by it. The regulation of registered providers will not be changed as a result of the draft Order.<sup>21</sup>

We agree with the Department that removing potential conflicts and providing more transparent governance are in the public interest. **We conclude that this test has been met.**

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17 [Explanatory document](#), p10

18 Department for Communities and Local Government, [Tailored Review of the Homes and Communities Agency](#), November 2016, p26

19 [Explanatory document](#), p6

20 As above.

21 As above.

***G: Does not remove any necessary protection***

19. The draft Order does not seek to amend the regulatory functions and powers of the regulator. **We are content that no necessary protections would be removed.**

***H: Does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise***

20. The draft Order does not seek to make any changes to rights and freedoms currently being exercised. **We are satisfied that this test has been met.**

***I: Is not of constitutional significance***

21. The draft Order makes no proposals to change the level of independence or the ways in which the regulator will function, other than administratively. **We agree that this draft Order is not of constitutional significance.**

***J: Makes the law more accessible or more easily understood (in the case of provisions restating enactments)***

22. **The draft Order does not raise any issues in respect of this test.**

***K: Has been the subject of, and takes appropriate account of, adequate consultation***

23. The then Department for Communities and Local Government carried out a formal consultation on the changes proposed in the draft Order between 30 November 2016 and 27 January 2017, including on the appropriateness of using the LRO process to achieve this change.

24. A total of 41 consultation responses were received, with registered providers (who are subject to the regulator) providing 19 of the responses. Lenders, representative bodies, local authorities, individuals and others contributed the remaining 22 responses.<sup>22</sup> 38 of the respondents (93 per cent) supported the proposal to establish the social housing regulator as an independent body and to maintain the current regulatory framework. Respondents who disagreed or did not express an opinion were concerned about the potential cost of a new regulator.<sup>23</sup> The Department has confirmed that

In establishing the Regulator as a standalone body, there would be a need to recruit some additional posts to provide for legal and corporate services resource. However, this would not increase existing Government budgets or increase commensurate costs for the taxpayer. Value for money has been a key principle in shaping the proposal and the Regulator will seek to maximise efficiencies.<sup>24</sup>

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22 [Explanatory document](#), p9

23 [Explanatory document](#), p10

24 [Explanatory document](#), p10

25. 35 out of 40 respondents (88 per cent) agreed that that the proposal was compliant with better regulation principles, and the one respondent who actively disagreed provided no evidence to support their view.<sup>25</sup>

26. Respondents to the Department’s consultation largely supported the use of an LRO to make the proposed change (30 out of 34 respondents or 73 per cent).<sup>26</sup> No respondents actively opposed the approach. Respondents also used the consultation to make suggestions to Department on the remit and accountability of the Regulator.<sup>27</sup> We agree with the Department that these measures are out of scope of the consultation and the proposed Order.

**27. We conclude that the draft Order has been subject to an appropriate level of consultation, and the decision by the Department to proceed with the draft Order has taken account of the responses received.**

***L: Gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)) as are relevant***

28. The criteria for consideration of statutory instruments includes Standing Order No. 151 (1)(viii) “that its drafting appears to be defective”.<sup>28</sup>

29. In the final paragraph of the preamble to the draft Order, a reference to section 17(2) of the Legislative and Regulatory Reform Act 2006 has been incorrectly included as a reference to section 14(1) of the Act.

**30. Subject to the Department amending this minor typographical error, we are content that this test has been met.**

***M: Appears to be incompatible with any obligation resulting from membership of the European Union.***

31. The Secretary of State has stated he is satisfied that the proposals are compatible with the legal obligations arising from membership of the European Union.<sup>29</sup> **We agree.**

## **Conclusion**

**32. We conclude that, subject to a minor typographical correction to the preamble, the draft Order meets the required preconditions and tests.**

**33. We conclude that a satisfactory case has been made in favour of the proposal and recommend that the draft Order be approved using the affirmative resolution procedure.**

34. Notwithstanding our agreement, we note that the 2016 Tailored Review stated that “the capabilities of the regulatory function will need to be kept under review.”<sup>30</sup> We encourage the Ministry for Housing, Communities and Local Government to ensure that the Regulator of Social Housing is reviewed regularly and any findings are reported to the House.

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25 [Explanatory document](#) p12

26 As above.

27 [Explanatory document](#), p13

28 Standing Orders of the House of Commons—Public Business 2017, [SO No. 151 \(1\)](#)

29 [Explanatory document](#), p7

30 Department for Communities and Local Government, [Tailored Review of the Homes and Communities Agency](#), November 2016, p14

### 3 Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018

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35. The Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018<sup>31</sup> was laid before the House of Commons on 1 March 2017 by the Department for Environment, Food and Rural Affairs ('the Department'). It was accompanied by an explanatory document.<sup>32</sup> The Department has also provided the Committee with a copy of responses to the 2015 formal consultation<sup>33</sup> and a subsequent 2016 informal consultation<sup>34</sup> on proposals to amend the governance structure of the Royal College of Veterinary Surgeons, and amend the Veterinary Surgeons Act 1966 using a Legislative Reform Order.

36. The Order is intended to be made under sections 1 and 2 of the Legislative and Regulatory Reform Act 2006 ('the 2006 Act'), which allows a Minister to make provision by order for removing or reducing any burden resulting directly or indirectly from legislation and to promote principles of better regulation.<sup>35</sup>

37. The Minister has recommended that the draft Order be subject to the affirmative procedure. The House of Lords Delegated Powers and Regulatory Reform Committee has concluded that this proposal is appropriate.<sup>36</sup>

#### Description of the Order

38. The Royal College of Veterinary Surgeons ('RCVS') is the competent authority for and governing body for the veterinary profession in the UK. The purpose of the draft Order is to reduce the size of the Council of the Royal College of Veterinary Surgeons ('the Council'), to make changes to the process of appointments for certain classes of member, to introduce a limit to terms of office and provide a mechanism for removal for poor conduct or behaviour. The draft Order seeks to amend the Veterinary Surgeons Act 1966 ('the 1966 Act').<sup>37</sup>

39. The responsibilities of the Council and its Members are set out in statute, including: to advise on the recognition of UK veterinary degrees and supervise pre-registration veterinary activity; to consider recognition of foreign and Commonwealth degrees; to

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31 [Draft Legislative Reform \(Constitution of the Council of the Royal College of Veterinary Surgeons\) Order 2018](#)

32 [Explanatory document for the Draft Legislative Reform \(Constitution of the Council of the Royal College of Veterinary Surgeons\) Order 2018](#)

33 Department for Environment, Food and Rural Affairs, [Proposals to amend the governance structure of the Royal College of Veterinary Surgeons, and amend the Veterinary Surgeons Act 1966 using a Legislative Reform Order](#), October 2015

34 Department for Environment, Food and Rural Affairs, [Changing the constitution of the Council of the Royal College of Veterinary Surgeons \(RCVS\)](#), March 2016

35 Legislative and Regulatory Reform Act 2006, [Section 1](#) and [Section 2](#)

36 House of Lords, Unpaid Work Experience (Prohibition) Bill [HL], Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018, Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018, 18th Report of the Delegated Powers and Regulatory Reform Committee, Session 2017–19, [HL110](#), Para 5

37 [Veterinary Surgeons Act 1966](#)

make regulations regarding the registration of veterinary surgeons and the practice of veterinary students; and, to undertake certain responsibilities relating to conduct and discipline.<sup>38</sup>

40. The Council currently consists of 42 members. The Department’s explanatory document sets out the challenge of such a large council, noting:

A consequence of having a Council of 42 is that it is usually able to meet only three times a year. It is expensive for Council to meet more often, as each Council meeting costs circa £24k through reimbursement of expenses and loss of earnings.<sup>39</sup>

As the Council cannot meet often enough to take time-pressured decisions it has, since 2013, delegated certain matters to an ‘Operational Board’.<sup>40</sup> This has led to concerns about accountability and delays to decisions.<sup>41</sup>

41. The draft Order would, between 1 July 2018 and 1 July 2021, gradually reduce the number of vets on the Council, replace Privy Council appointees with lay persons appointed by an independent committee subject to the Nolan principles, and add 2 places for veterinary nurses appointed from the Veterinary Nurses Council (who are themselves directly elected). Appointees from UK university veterinary schools would be reduced from current 2 per school to a total of 3 appointed collectively by UK veterinary schools.<sup>42</sup> The current totals and the final totals to be achieved by 1 July 2021 are set out in Table 1 below.

**Table 1: Proposed Changes to Membership of the Council**

Members	Current Total	Proposed Total
Vets	24	13
Privy Council Appointees	4	0
Independently Appointed Lay Persons	0	6
UK University Appointees	14	3
Veterinary Nurses	0	2
<b>Total</b>	<b>42</b>	<b>24</b>

Source: [Explanatory document for the Draft Legislative Reform \(Constitution of the Council of the Royal College of Veterinary Surgeons\) Order 2018](#)

42. The draft Order would also limit the number of four-year terms to which an individual may be elected or appointed to a maximum of three, and require a two-year break before an individual may then stand again.<sup>43</sup> In line with many other professional bodies and non-statutory RCVS committees, the draft Order also proposes a mechanism by which Council members may be removed for issues relating to poor conduct or behaviour.<sup>44</sup>

38 Royal College of Veterinary Surgeons, [Role of Council Members](#), accessed 28 March 2018

39 [Explanatory document](#), p12

40 Royal College of Veterinary Surgeons, [Operational Board](#), accessed 28 March 2018

41 [Explanatory document](#), p12

42 [Explanatory document](#), p15

43 [Explanatory document](#), p16

44 As above.

## Assessment of the Order

43. In this section, we assess the draft Order against the criteria set out in the Standing Orders of the House. We make no assessment of the policy within the draft Order.

### ***A: Appears to make an inappropriate use of delegated legislation***

44. Issues of animal welfare and regulation are of significant public interest; however, we are content that, based on the information provided by the Department and the responses to two public consultations, there is nothing highly controversial in the proposals. **We agree that the draft Order does not make an inappropriate use of delegated legislation and therefore does not raise any issues in respect of this test.**

### ***B: Serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft order under section 1 of the Act)***

45. Under Section 1 of the 2006 Act, Ministers may seek to make changes to remove or reduce a burden resulting from legislation.<sup>45</sup> The Secretary of State has set out the view that the size of the Council at present is an “obstacle to efficiency” with high costs and an impact on the timeliness by which decisions are taken.<sup>46</sup> If the draft Order is made and the size of the Council reduced, it is intended that “the Council could meet more frequently without increasing costs, reaching and communicating decisions more effectively.”<sup>47</sup> **We agree that the proposed draft Order would remove a burden resulting from legislation.**

### ***C: Serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft order under section 2 of the Act)***

46. Under section 2 of the 2006 Act, Ministers may seek to make changes where the activity is transparent, accountable and proportionate and targeted only at cases in which action is needed.<sup>48</sup> In the explanatory document accompanying the draft Order, the Department has set out its application of these criteria. They note that lay members are not currently a statutory requirement, nor is representation for veterinary nurses despite their regulation by the RVCS, limiting the accountability of the organisation. Additionally, new appointment and disciplinary terms are intended to improve both the accountability and transparency of the organisation. The draft Order makes gradual, proportionate change to the make-up of the Council, and enables the removal of the need for an Operational Board, currently required to fulfil some of the Council’s responsibilities without a basis in statute. **We agree that the regulatory principles set out in the 2006 Act are being complied with.**

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45 Legislative and Regulatory Reform Act 2006, [Section 1](#)

46 [Explanatory document](#), p2

47 As above.

48 Legislative and Regulatory Reform Act 2006, [Section 2](#)



***D: Secures a policy objective which could not be satisfactorily secured by non-legislative means***

47. The Department has stated that

The constitution and governance arrangements for the Council are laid down by statute—section 1 of, and Schedule 1 to, the [1966 Act]. The RCVS has no discretion to deviate from these arrangements and a change in the legislation is the only means available.<sup>49</sup>

**We are satisfied that this test has been met.**

***E: Has an effect which is proportionate to the policy objective***

The Department's proposed change to the operation of the Council is intended to ensure it can effectively carry out its statutory functions. The draft Order proposes to make the change incrementally, with initial changes beginning in July 2018 and the 24-member Council being in place by July 2021.<sup>50</sup> The draft Order is not intended to alter the regulation of the veterinary profession itself, only the means by which the regulation is administered.

**We agree that the effect of this Order is proportionate to the policy objective.**

***F: Strikes a fair balance between the public interest and the interests of any person adversely affected by it***

48. The Department has set out its opinion that

The Secretary of State is satisfied that the provision in the draft Order strikes a fair balance between the public interest and the interests of any person adversely affected by it.

The proposed changes will reduce the representation of certain groups, most significantly reducing the number of UK university places from 14 to 3.<sup>51</sup> We note that the Department expects the Veterinary Schools Council to be responsible for ensuring effective representation for veterinary schools on the RCVS Council.<sup>52</sup> As all groups retain representation on the Council, and the proposed changes are overwhelmingly supported by the Council<sup>53</sup> and consultees,<sup>54</sup> **we conclude that this test has been met.**

***G: Does not remove any necessary protection***

49. The Department has set out that

The proposed order will not remove any necessary protections and should bring governance of the RCVS closer in line with recognised, regulatory best practice. The reduction in the size of the Council will address issues

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49 [Explanatory document](#), p4

50 [Explanatory document](#), p14

51 [Explanatory document](#), p15

52 As above.

53 [Explanatory document](#), p5

54 [Explanatory document](#), p20

surrounding the efficiency and accountability of decision-making but will also maintain sufficient members to provide the diversity and capacity it needs to achieve its objectives.<sup>55</sup>

We accept the Department's view and recognise that the aim of making the Council a more effective regulator may improve the protections provided to individuals covered by it. **We are content that no necessary protections would be removed.**

***H: Does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise***

50. The draft Order does not seek to make any changes to rights and freedoms currently being exercised. The staggered approach to reducing the size of the council should ensure no current members are seriously impacted.<sup>56</sup> **We are satisfied that this test has been met.**

***I: Is not of constitutional significance***

51. The proposed changes made by the draft Order are intended to bring governance of the RCVS closer in line with recognised, best practice.<sup>57</sup> **We agree that this draft Order is not of constitutional significance.**

***J: Makes the law more accessible or more easily understood (in the case of provisions restating enactments)***

52. **The draft Order does not raise any issues in respect of this test.**

***K: Has been the subject of, and takes appropriate account of, adequate consultation***

53. The Department carried out a formal consultation on the changes proposed in the draft Order between 29 October 2015 and 24 December 2015, including on the appropriateness of using the LRO process to achieve this change. A subsequent informal consultation on the final proposal was held between 21 March 2016 and 11 April 2016. The informal consultation was targeted at the 87 groups who were proactively consulted on the formal consultation,<sup>58</sup> and others who chose to respond.

54. The formal consultation had 52 respondents, categorised by the Department as: 12 organisations and 40 individuals (32 veterinary surgeons and 8 other interested persons).<sup>59</sup> The Department's explanatory document concludes that:

There was overwhelming support for the change to the membership of the Council and very strong support to have a mix of both lay and veterinary membership and to include veterinary nurses on Council.<sup>60</sup>

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55 [Explanatory document](#), p5

56 As above.

57 As above.

58 [Explanatory document](#), pp23–26

59 [Explanatory document](#), p19

60 [Explanatory document](#), p20



The majority of respondents supported the proposals set out in the consultation, with some dissent on the methods of appointment and election of members of the Council. Proposals that triggered the most dissatisfaction were veterinary surgeons and nurses being able to vote for both categories of council members rather than their own category (31 per cent in favour and 56 per cent against)<sup>61</sup> and creation of an additional body of veterinary surgeons and nurses and appointed lay persons to appoint members of the Council (38 per cent in favour, 31 per cent against).<sup>62</sup> The Department did not subsequently pursue these proposals.

55. The informal consultation had 13 respondents, categorised by the Department as: 7 organisations and 6 individuals (5 veterinary surgeons and 1 other interested person).<sup>63</sup> Due to the size of the consultation and its informal status, no qualitative analysis has been published by the Department; however, the summary of responses indicated that respondents remained supportive of the proposals.<sup>64</sup> As a result of this stage of consultation, the Department removed from its final proposal a requirement that six elected members of the Council who had served for the longest time without re-election should retire each year and removed the proposed vacant place created in case a veterinary associate role overseen by the RCVS was created.<sup>65</sup>

56. Both consultations heard from respondents who were concerned about lay members of a regulatory body being in the minority.<sup>66</sup> In the formal consultation 15 per cent of respondents opposed veterinary surgeons continuing to form a majority on the Council.<sup>67</sup> In its explanatory document, the Department responded

Our view is that the proposed introduction of six independently appointed lay persons as part of a smaller overall Council should satisfy conditions of transparency, accountability and consistency and be sufficient to protect the public interest.<sup>68</sup>

We accept the Department's response and note that the veterinary profession has been self-regulating;<sup>69</sup> however, in seeking effective regulation we suggest that the Council and the Department keep this balance under review.

**57. We conclude that the draft Order has been subject to an appropriate level of consultation, and the decision by the Department to proceed with the draft Order has taken account of the responses received.**

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61 [Explanatory document](#), p35

62 [Explanatory document](#), p39

63 Department for Environment, Food and Rural Affairs, [Changing the constitution of the Council of the Royal College of Veterinary Surgeons \(RCVS\): Analysis and response to consultation](#), June 2016, p1

64 As above.

65 [Explanatory document](#), p20–21

66 Department for Environment, Food and Rural Affairs, [Changing the constitution of the Council of the Royal College of Veterinary Surgeons \(RCVS\): Analysis and response to consultation](#), June 2016, p3, and [Explanatory document](#), pp29–30

67 [Explanatory document](#), p29

68 [Explanatory document](#), p21

69 [Explanatory document](#), p29

***L: Gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)) as are relevant***

58. The draft Order does not raise any issues in respect of this test.

***M: Appears to be incompatible with any obligation resulting from membership of the European Union.***

59. The Secretary of State has stated he is satisfied that the proposals are compatible with the legal obligations arising from membership of the European Union.<sup>70</sup> **We agree.**

## **Conclusion**

60. ***We conclude that the draft Order meets the required preconditions and tests.***

61. ***We conclude that a satisfactory case has been made in favour of the proposal and recommend that the draft Order be approved using the affirmative resolution procedure.***

## Formal minutes

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**Wednesday 18 April 2018**

Members present:

Stephen McPartland, in the Chair

Bim Afolami  
Mr Kevan Jones

Jeremy Quin

***1. Draft Report (Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018 and Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018)***

Draft Report (*Draft Legislative Reform (Regulator of Social Housing) (England) Order 2018 and Draft Legislative Reform (Constitution of the Council of the Royal College of Veterinary Surgeons) Order 2018*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 61 read and agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chair 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.

[Adjourned to a date and time to be fixed by the Chair]

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2017–19

First Report	Draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018	HC 869
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