Regulatory reform – Assuring practice regulation

Wednesday 11 November 2020, 10am
Zoom meeting

Attendees
Susan Macaldowie – Chair
Andrew Curwen – XL Vets
Ryan Davis – Society of Practising Veterinary Surgeons
Daniella Dos Santos – BVA Senior Vice President
Amelia Findon – BVA Head of Policy & Governance
Georgina Hills – Veterinary Management Group
Megan Knowles-Bacon – BVA Policy Officer
Gudrun Ravetz – BVA representative on RCVS Legislation Working Party
Iain Richards – Policy Committee
Peter Robinson – BVA member
Richard Walters – BVA member
Sarah Wolfensohn – Ethics and Welfare Advisory Panel

Apologies: John Dinsdale (IVC)

Welcome and ways of working

1. The Chair welcomed attendees to the meeting and introductions were made. The Chair declared her involvement as a vet member on the RCVS RVN Preliminary Investigation Committee.

2. It was noted that the chairs of all five BVA working groups contributing to the development of the BVA position on the recommendations from the RCVS Legislation Working Party had met 15 October to discuss ways of working. It had been agreed that transparency and open lines of communication with the wider membership would be important throughout the process, particularly given some of the concerns circulating around some of the recommendations. It had been proposed that details of working group activity, including membership, minutes, and emerging themes would be published on the BVA website, and promoted via BVA’s weekly roundup and social media channels. There would also be a dedicated email address for members to get in touch with views. The proposed approach was supported and, subject to agreement across all five of the working groups, would be progressed in house.

Scope and objectives

3. The RCVS Legislation Working Party (LWP) had been established in 2017, tasked with examining the Veterinary Surgeons Act 1966 (VSA) and making proposals for reform with a view to enabling RCVS as a modern and efficient regulator. LWP had been asked to establish principles on which any reform would be based, and to ensure that any recommendations were considered in the round to produce a coherent vision.

4. Over the course of three years and twelve meetings the group had explored over 56 reform proposals, from fundamental questions to relatively minor changes, with BVA represented by Gudrun Ravetz. It was noted that LWP had developed five overarching principles for legislative reform. BVA had been able to influence these principles, including by lessening the original over focus on mirroring other healthcare professions. LWP had aimed to develop a set of recommendations which were fit for purpose now and in the future, with a view to modernising the regulation of the profession and demonstrating a commitment to best practice in self-regulation such that any future external challenge could be answered.
5. In discussion, working group members made the following points:
   - The working group’s role was to advise Policy Committee on the position BVA should take on the recommendations relating to assuring practice regulation.
   - The working group should be prepared to challenge the proposals but must do so in an evidence-based way.
   - Most of the LWP proposals were for RCVS to have powers ‘in principle’ with the details to be agreed by RCVS Council. This meant that the profession was being asked to grant extensive powers to the College without the detail on what future changes might look like.
   - Although the issues associated with non-vet ownership of veterinary practice under the current regulatory framework were recognised, LWP had not clearly articulated this as the issue the proposals were being put forward to solve.

Practice regulation

6. It was noted that there was currently no body responsible for regulating veterinary practices in the UK. Traditionally practices were owned and run by veterinary surgeons, so were effectively under RCVS regulation. However, following a rule change in 1999 there had been an increasing number of veterinary practices owned by non-vets and thus not under RCVS regulation. Veterinary surgeons were only allowed to supply veterinary medicines from premises that were registered as veterinary practice premises with RCVS. RCVS held the register on behalf of the Veterinary Medicines Directorate (VMD). VMD conducted risk-based inspections of premises and the VMRs provided for enforcement activities.

7. It was noted that Clause 4.3 of the RCVS Code of Professional Conduct required vets to maintain minimum practice standards equivalent to the Core Standards of the RCVS Practice Standards Scheme. However, at a practice level, individuals would have varying degrees of control over practice decisions and policies.

Practice standards scheme

8. The RCVS voluntary Practice Standards Scheme had been launched in 2005 and reviewed and relaunched in November 2015 with greater focus on how practices used their resources to create a positive outcome for patients and clients. Membership of the Scheme was recognised by the VMD, meaning RCVS accredited practices were not subject to VMD inspection. Approximately 68% of all practices in the UK were part of the Practice Standards Scheme, a growth driven by corporate groups which required new practices to join the scheme.

9. Practices were very rarely removed from the scheme, with the PSS team always trying to work with struggling practices to achieve necessary improvements. The areas where practices were most frequently required to make improvements related to medicines, and health & safety (especially paperwork).

10. The RCVS survey of the veterinary profession 2019 had asked some questions relating to awareness of PSS accreditation. The survey had found that there was agreement overall that RCVS PSS should be mandatory, with only 9% of respondents disagreeing or strongly disagreeing; however, around a third (32.4%) of respondents were unsure, in that they neither agreed nor disagreed.

11. In discussion the following points were made:
   - PSS assessments were now a much more collaborative and positive process, and the voluntary nature helped with perception. There was a concern that this would be lost if the scheme became mandatory, as the perception could be that it was more adversarial than collaborative.
   - The scheme could bring the team together and provide a sense of achievement, helping to create a positive workplace culture. New vets joining a practice found it reassuring that the practice had been assessed.
• The group discussed disadvantages of the scheme. It was likely that clients assumed there was already some kind of practice regulation or inspection in place, so there was little marketing value for practices joining the scheme, despite concerted communications campaigns from the College. Not all practice types were able to join (eg specialists), and some preferred VMD assessments as they required less work and were cheaper. A fear of the RCVS could also prevent practices from signing up.

• Corporate groups used the scheme for benchmarking. All new IVC practices were required to join the scheme, though some did not wish to do so, and it was especially useful for identifying areas of health and safety policy that were failing. New CVS practices also joined the scheme as soon as possible, and it was seen as offering staff a chance to feedback on how the practice was run. CVS teams were starting to live the scheme rather than only focus on it when the assessment was due, which helped to raise their standards.

• The scheme did not always directly address issues of animal welfare, and poor practise did continue in some accredited practices, but it was generally felt that it did help to raise standards. The group also recognised the improvements made to the scheme in recent years.

• The relationship with a PSS Assessor should be akin to that of a business partner. Rather than focus on inspection every three years practices should 'live' the scheme to realise maximum benefits.

Other regulators

12. It was noted that LWP had considered approaches to the human healthcare sector as part of their deliberations. The Care Quality Commission (CQC) carried out a regulatory role for GPs, hospitals, and care homes to ensure they met fundamental standards of quality and safety. Findings were published, including performance ratings to help customers choose care. The CQC fundamental standards were a prerequisite before a care provider could register or carry out any regulated activities. Inspections could be ‘comprehensive’ or ‘focussed’, decided on a risk basis.

13. The General Pharmaceutical Council (GPhC) regulated pharmacists, pharmacy technicians and pharmacies in Great Britain. Inspections could be routine, intelligence-led, or themed. All pharmacies which did not meet one or more of the standards during an inspection would be required to complete and implement an improvement action plan. The overall approach was to support and encourage pharmacy owners to meet the standards, but the GPhC could use statutory enforcement powers in situations when a pharmacy owner did not complete an improvement action plan, or in situations when there was a serious risk to patient safety.

14. In discussion working group members made the following points:

• Although interesting and useful to look at approaches to regulation of premises in the human healthcare sector, business models were not comparable, with the veterinary sector privately owned. The cost associated with setting up a CQC equivalent for the veterinary profession would be prohibitive. It was noted that BVA had raised concerns during LWP discussion regarding mirroring approaches in the human healthcare sector.

• It could be helpful to look at regulators outside the medical professions. There could be useful parallels with other professions, such as solicitors, who offered professional opinion to a paying client. It could also be useful to look at Ofsted.

Action: Secretariat to research premises regulation in other comparable sectors.

15. LWP had also considered approaches to veterinary practice regulation overseas as part of their deliberations. Most examples available appeared to be voluntary schemes although it was understood that the Veterinary Council of Ireland regulated veterinary practices under the
Practices Act. It was agreed this would be followed up. It was agreed it could also be useful to better understand the sign-up rate for voluntary schemes overseas.

**Action:** Secretariat to follow up with VCI and voluntary schemes overseas.

### Mandatory regulation and powers of entry

16. The working group was reminded that in 2008 RCVS had proposed that there should be a mandatory practice scheme, because the College had no jurisdiction over the actions or omissions of managers or practice owners who were not veterinary surgeons. It had been proposed that under a mandatory scheme 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 could not be addressed. The BVA submission to the Efra Committee at the time had expressed concerns over the proposal, and the Efra Committee report had concluded that the case for a mandatory scheme had not been proven.

17. More recently LWP had taken the view that the absence of RCVS powers to regulate veterinary practices was increasingly at odds with a world in which practices may not be owned by vets or RVNs. LWP took the view that it was reasonable for the public to expect that all practices were assessed to ensure that they met at least the basic minimum requirements. LWP therefore recommended that RCVS be given the power to implement mandatory practice regulation, including powers of entry, should RCVS Council decide to progress a universally applied scheme.

18. In discussion the following points were made:

- It was right for RCVS to look at how they could be a modern, fit for practice regulator.
- The decision of the group would need to be clearly communicated as members would not otherwise appreciate the depth of consideration and discussion which had taken place.
- The veterinary profession, as a self-regulating profession, must be modern and future looking. The potential for external challenge must be recognised and it was important that the profession had considered the issues and was able to defend its position.
- There was a culture shift needed -from punitive/blame to supportive/improvement of care, and any change needed to be communicated using appropriate language.
- It was important to avoid protectionism and ensure that any decisions were supported by evidence and coherent rationale.
- Support for the principle of mandatory regulation was an acceptable outcome from the group, and caveats on detail could be incorporated.

19. The working group reviewed the LWP recommendations in turn, making the following points:

**Recommendation 3.1: Mandatory practice regulation**

- It was unclear how “practice” would be defined for the purposes of assessment. A clear definition was important and must take into account the range of business models that could be offering veterinary clinical services.
- It could be necessary to consider how practice regulation interlinked with the disciplinary process.
- It was important to remember why the proposal was being considered and who would benefit. Fostering a culture of care was the desired outcome, and the approach should be designed with that aim in mind. It could be useful to look at approaches in the laboratory animal setting where the principle of a culture of care was well established.
Practice regulation must not be a tick box exercise, costing money without supporting and improving animal health and welfare.

The relationship between the veterinary team and practice assessors would affect how successful mandatory regulation was in achieving its desired outcomes. There were parallels with Ofsted where a collaborative focus had shifted over time and a culture of fear had bedded in.

In principle vets should be empowered to challenge their employers where standards fell short, but it was recognised this was an unrealistic expectation in practice.

There should be a whistle-blowing process available to support a mandatory standards approach such that employees could raise concerns anonymously without fear or reprisal.

Professional responsibility took precedence over employment law and it was understood that vets acting against the wishes of their employers but in support of animal welfare could not be dismissed for doing so.

The key question to consider was whether practices should be regulated, and if so, how and by who.

20. There was broad support for the principle of assuring practice standards, recognising that this would need to be through a form of practice regulation. However, there was more detail needed on exactly how this could be implemented in a way that fostered a culture shift, supported a culture of care, and did not jeopardise the good work of the existing Practice Standards Scheme. Effective communication with the profession and the wider team would be critical to success.

Recommendation 3.2: Powers of entry for the RCVS

- Many members of the profession would be uncomfortable with further powers being granted to RCVS.
- It was noted that powers of entry had been proposed alongside the mandatory practice regulations to support enforcement. There were some concerns that powers of entry could also stray into individual disciplinary cases, although it was recognised this was not included in the recommendations.
- The recommendation stated powers of entry would be “in order to remedy this omission in the veterinary sector, and to ensure that mandatory regulation of practices can be underpinned and enforced”. This seemed too broad a scope for such powers and could heighten the culture of fear around RCVS cases and visits.
- A clear definition of practice was needed to ensure powers of entry could only apply to the business operations’ side of a private home. There also needs to be clarity over the scope of the powers and the consequences if an inspector identified an issue.
- Powers of entry did not fit well with the image of a modern, compassionate regulator.
- There were already powers of entry for the police, VMD, and other bodies concerned with the most serious of offences. On that basis it was unclear what powers of entry for RCVS would add.
- It was recognised that powers of entry gave teeth to the principle of mandatory standards. However, as non-compliance with mandatory standards would lead to the closure of the practice anyway, it was felt that powers of entry was overreach.
- Although the CQC had powers of entry this was in relation to the prevention of suffering rather than compliance with mandatory standards, so was not directly comparable.
- The fear factor was significant, and communication would be critical if powers of entry was progressed.
- It needed to be clear that powers of entry was not about clinical standards.
• In the Republic of Ireland it was an offence to work at a premises which did not have a certificate. It could be useful to explore this approach.

21. Powers of entry for RCVS was not supported. It was agreed that such power was unnecessary providing there were consequences to non-compliance with any mandatory scheme (eg closure).

Action: Secretariat to research frequency and outcomes of powers of entry in the human healthcare sector.

Action: Secretariat to circulate PSA Right Touch regulation report.

Next steps

22. At the next meeting the working group would be invited to consider the LWP recommendation 3.3: Ability to issue improvement notices. It was suggested that evidence of other mandatory schemes and their impact on quality of care would be useful during this discussion.

Action: Secretariat to review other regulators, including those with powers of entry and powers to issue improvement notices.

Action: Members to notify the secretariat of any evidence or additional information to help inform the discussion, that could usefully be collated ahead of the next meeting.

23. In the meantime, the BVA secretariat would:
   • Circulate the minutes of the meeting
   • Circulate an emerging themes document summarising the advice to date from the working group, including any areas of difficulty for further consideration
   • Share the advice to date with Policy Committee and Ethics and Welfare Advisory Panel for input
   • Find a date for a third meeting of the working group in early January.

24. It was noted that BVA Council would be invited to review the activity of all five working groups at the meeting on 9 December. A webinar, in partnership with The Webinar Vet, would take place 1 December, providing an opportunity for the wider membership to engage with the discussions.

25. Working group members were thanked for their participation and considered input.

Date of the next meeting

26. The next meeting would be held Wednesday 16 December 1-4pm (by Zoom)