Regulatory reform – Assuring practice regulation

Wednesday 16 December 2020, 1pm
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
Megan Knowles-Bacon – BVA Policy Officer
Gudrun Ravetz – BVA representative on RCVS Legislation Working Party
Iain Richards – Policy Committee
Peter Robinson – BVA member
Stuart Saunders – Veterinary Management Group
Richard Walters – BVA member
Sarah Wolfensohn – Ethics and Welfare Advisory Panel

Apologies: Georgina Hills (VMG)

Minutes of the last meeting

1. The minutes of the meeting held 11 November were accepted as an accurate record.
2. It was noted that:
   - it might not be correct to state that “…vets acting against the wishes of their employers but in support of animal welfare could not be dismissed for doing so.” (para 19)
   - typo: of reprisal (para 19)

Matters arising

3. 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. It was noted that the consequences of granting powers in principle, without sight of the detail, had become apparent recently with the roll-out of the RCVS Graduate Development Programme and the associated restriction on employment decisions at a practice level.
4. BVA Council had received an update on the activity of all five working groups at their meeting on 9 December. No substantive issues had been raised by Council members for further discussion by the group.

Practice regulation

5. At the last meeting there had been broad support for the principle of assuring practice standards, recognising that this would need to be through a form of practice regulation. It had been agreed that more detail was needed on exactly how this might 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.
6. Further research had been undertaken on the following topics:

Voluntary standards schemes
7. The group noted that voluntary standards schemes for veterinary practices overseas appeared to have significantly lower membership than the RCVS Practice Standards Scheme (PSS).

8. Anecdotally, the group had heard that a significant driver in practices joining the scheme had been VMD inspections becoming compulsory, with many practices opting for the perceived ‘friendlier’ voluntary scheme.

9. The culture of fear associated with the RCVS was noted. It was suggested that a new mandatory scheme could be run by an independent organisation, which could help allay fears. The group felt that those who were already involved in the PSS might be less likely to be afraid of the RCVS. There were also concerns that separation of the functions would mean the profession was no longer fully self-regulating. On balance there was broad support for RCVS retaining the practice inspection function in the event of a mandatory scheme being introduced.

**Veterinary Council Ireland**

10. The Veterinary Council Ireland (VCI) accreditation scheme had started as a voluntary scheme and had become mandatory in 2007. In order to carry out veterinary services from a premises, the premises must be accredited, and the certificate displayed at all times. There were four types of veterinary premises within the scheme:
   - Registered Veterinary Office (RVO)
   - Registered Veterinary Clinic (RVC)
   - Registered Veterinary Hospital (RVH) - Companion Animal (CA) Equine (EQ) Food Animal (FA)
   - Registered Mobile Veterinary Unit (RMVU)

11. VCI inspected and licensed “veterinary premises at and from which veterinary services to the public are provided”. The group noted that defining a practice was complicated as it went beyond a physical building, as shown by the VCI recognition of a RMVU. It was also important to make it clear to whom services were being provided, as the term ‘public’ could allow for loopholes in providing services to professionals, such as farmers, or businesses (eg vets offering consultancy work to other practices).

12. The group agreed that RCVS would need to make sure they had a clear definition of a practice before proceeding with mandatory regulation, in order to ensure fair treatment across veterinary businesses and avoid loopholes which might allow some to operate outside of the framework.

   **Action:** BVA response to highlight definition of ‘practice’ as a key consideration

**Non-medical regulators**

13. It was noted that the Solicitors Regulation Authority (SRA) had Powers of Entry but would only visit a firm in the event of a serious complaint. It was noted that Ofsted was not a well-respected model. It was agreed that comparisons were interesting and informative, but ultimately difficult when the nature of the professions and premises were so different.

14. It was agreed that ultimately any decision to introduce mandatory regulation for veterinary practices could only be taken based on what was right for the veterinary professions, their patients, and their clients.

**Effectiveness of regulation**

15. It was noted that in 2014 RAND Europe had looked at regulatory systems in health care in six different countries, including England. The report had found that the evidence of regulation contributing to better quality of care in different systems was scarce. Evidence on specific interventions such as publishing performance information, accreditation and allowing users to
participate more in the design of services was weak, and the evidence on inspections contributing to better quality of care was inconclusive with some studies noting a negative impact on quality of care. In discussion working group members made the following points:

- Regulation tended to be more effective when the people who would be affected were involved in the development of the standards.
- Forcing standards tended to foster a downward spiral.
- Creating poorly considered KPIs could create unintended consequences. The pursuit of targets could detract from quality of care.

16. It was agreed that the current system was unjust as individuals were held accountable when something went wrong. The objective for practice regulation should be to create a means of recourse when there were failings in the system that did not sit with individuals.

17. The group supported practice regulation, as part of a holistic approach alongside the wider regulatory reforms. There must be a shift in culture, making sure everyone is involved and accountable. The regulations must not be a blunt tool and must make a positive impact on quality of care.

Powers of entry

Powers of entry for mandatory practice assessment

18. At the last meeting powers of entry for RCVS had not been supported. It had been agreed that such power was unnecessary providing there were consequences to non-compliance with any mandatory scheme (eg closure). It had also been agreed that more information regarding the frequency and outcomes of powers of entry in the human healthcare sector could be useful.

19. Of the regulators overseen by the Professional Standards Authority (PSA), only the General Pharmaceutical Council (GPhC) had powers of entry in relation to the regulation of the premises. The GPhC’s powers mean that it could go into a pharmacy unannounced, identify a breach of its standards and take action. Powers of entry also existed in a number of other healthcare settings, for varying reasons from public health to safeguarding.

20. In light of the information, it has been suggested that the safeguards which underpinned powers of entry for the GPhC (ie it could only be sought in limited circumstances and could only be granted by a justice of the peace) could be an appropriate option for the veterinary profession. In discussion the following points were made:

- Powers of entry would still be an unnecessary overreach, even with additional safeguards in place. The ability to close a practice would be more powerful and effective at giving mandatory practice regulation the legal backing it needed.
- For all serious cases, such as health and safety breaches, drug misuse, and serious animal welfare concerns, the powers already existed with other bodies.
- Fertility clinics were a concern, and powers of entry to investigate their activities could be useful.
- When comparing with the human healthcare sector, the main concern was about individuals, which was covered by professional conduct and not practice regulation.
- Powers of entry for the College would perpetuate the culture of fear and undermine their efforts to establish as a compassionate regulator.
- Powers might be useful if a concern was raised about a practice that was not due for a regular inspection. On balance it was agreed that a short-notice interim inspection, which was a condition of regulation and could not be refused without consequence, was a more appropriate and proportionate solution. A systemic issue would be difficult to rectify or cover up at short notice.
• Public perception was a consideration. It was felt that the public already assumed all practices were inspected, and that they might expect the inspector to carry out random inspections and have the powers to make the practice improve or close. However, this would not necessarily equate to having powers of entry.

• For business owners, profitability was important. Having a well-run practice which retained staff and clients should be important, so adhering to the regulations and being able to stay open was important. Impending financial loss was likely to be more influential than an impending inspection.

• Powers of entry represented a solution to an issue that did not exist and would erode confidence in a system that the College wanted practices to engage with.

21. It was agreed that powers of entry was not supported. Mandatory regulation should instead be underpinned by short notice interim inspections, and RCVS should have the ability to close a practice that failed to comply.

Powers of entry for fitness to practice

22. The group briefly discussed whether powers of entry would be appropriate for investigating fitness to practice. There was no support for this idea as it did not fit with the aim of creating a wider ‘compassionate regulator’ ethos.

23. An example was given of when a visit from RCVS had helped a veterinary professional overcome substance abuse and reform their life. The group viewed this as an example of how important the culture of care had been, and how powers of entry would not have helped in this situation.

24. It was agreed that the RCVS should consider and communicate how powers of entry could fit in with their aim to be a compassionate regulator.

25. It was understood that powers of entry were only being proposed for the purposes of enforcing practice regulation. The LWP report acknowledged that the current absence of powers of entry, in most cases, did not pose a problem in terms of investigating allegations of serious professional misconduct.

Improvement notices

26. The group supported the recommendation to introduce a wider range of sanctions which would allow corrective measures to be put in place.

27. If the standards were mandatory, then it followed that practices not reaching that standard must improve. This should be underpinned by clear support and guidance on how to achieve the improvement, within a given timeframe.

28. The VMD ‘3 strikes’ approach was discussed and supported as a sensible way to apply improvement notices.

29. The RCVS must take care to ensure that the system encourage improvement by galvanising activity and a ‘spiral up’. There was evidence in schools that special measures led to a loss of trust and good staff, making it difficult for the school to ever improve. It would be interesting to look at how other regulators approached improvements notices (eg HSE or FSA)

30. It was agreed that the principle of improvement notices should be supported, underpinned by appropriate guidance and curative support, with a defined end point.

Next steps

31. As all key points had been covered, the working group would not be required to meet again. 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

32. The group would be invited to comment on the emerging themes document in early January. This would then be used to complete the BVA response to the RCVS consultation.

Any other business

33. Fertility clinics
   It was unclear whether the proposals would provide a solution to growing concerns around fertility clinics for companion animals. The definition of a practice could mean that these clinics were regulated to ensure they met legal standards, but the regulation could not resolve the ethical questions around their existence.

34. Working group members were thanked for their participation and considered input.
35. S. Macaldowie was thanked for her work as Chair in the working group meetings and additional meetings with other working group Chairs.