Response to the RCVS review of RCVS Guidance on prescribing POM-Vs (aka 'Under care'), Limited-Service Providers and Advice and Information only services

1. The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom. With 19,000 members, our mission is to represent, support and champion the whole UK veterinary profession. We are a professional body and our members are individual veterinary surgeons. We take a keen interest in all issues affecting the profession, including animal health and welfare, public health, regulatory issues, and employment matters.

2. We welcome the opportunity to respond to the RCVS survey, launched in order to better understand how the College's 'under care' guidance is working in clinical practice.

Background

3. We are mindful that this latest review represents the next step in a protracted debate, which began with the RCVS consultation on the use of telemedicine in veterinary clinical practice aimed at identifying potential risks and benefits. At the time we called for any discussion on the way forward for telemedicine to hold animal welfare at its heart and for this to remain the primary consideration when developing any potential changes to the Code or supporting guidance. The RCVS review of Under Care formally launched in 2019. Shortly thereafter RCVS announced that remote prescribing was being permitted as a temporary measure in response to the COVID-19 pandemic. This temporary measure continued beyond the lifting of government restrictions, and we repeatedly asked for sight of the evidence base on which RCVS was continuing to allow remote prescribing.

4. In 2020, we convened our Under Care Working Group to develop our position on under care the remote provision of veterinary services[1], which was published in January 2021. Our position is clear that:

    - the RCVS interpretation of 'under care' should more accurately capture the relationship between vets, clients, and their animals. The concept of the vet-client-patient relationship (VCPR) should be adopted and defined in a way that is fit for purpose now and in the future.
    - a VCPR cannot be established solely by remote means.
    - POM-Vs should only be prescribed remotely in the presence of an established VCPR and where, in the professional judgement of the vet, animal health and welfare will benefit.
    - the remote provision of veterinary services has and can be a valuable adjunct to veterinary practice.

5. RCVS subsequently published a consultation on the proposed guidance. In our response, we expressed disappointment with the scope of the consultation and proposals which represented a missed opportunity to develop guidance which was fit for purpose. The proposals appeared to be underpinned by a single legal interpretation, instead of going back to first principles by considering what might be an appropriate definition of under care. We were clear that the proposal to leave the need for physical assessment to the judgement of the vet failed to recognise different and emerging business models, failed to adequately protect employee vets, and would inevitably lead

[1] https://www.bva.co.uk/take-action/our-policies/under-care-and-the-remote-provision-of-veterinary-services/

to confusion, complaints, and animal welfare harms, which could exacerbate existing recruitment and retention issues.

6. In response to our feedback, and similar submissions from across the profession, RCVS Standards Committee reconvened to review the proposed guidance and make some changes aimed at addressing some of the concerns raised. The revised guidance expanded on the requirement for a written agreement with a 'bricks and mortar' practice for follow up care, ahead of prescribing remotely. Although the additional clarity went some way to addressing our concerns, we wrote to RCVS President at the time, Melissa Donald, ahead of the RCVS Council meeting, expressing our disappointment that RCVS continued to choose not to recognise the VCPR. We also called for the decision to be delayed pending the expected review of the Veterinary Medicines Regulations (VMRs), as well as asking for clarity on enforcement, and a commitment to a post-implementation review.

7. The proposed guidance was subsequently supported at RCVS Council. We responded by reiterating our disappointment regarding the College's decision not to embrace the internationally recognised concept of the VCPR and calling for a timeframe for a review to be quickly put in place, so any negative impacts on animal welfare or the sustainability of veterinary services could be dealt with swiftly. To coincide with the RCVS guidance coming into effect in September 2023 (with the guidance on parasiticides delayed until January 2024), we produced our own summary[2] to help members navigate the changes and continued to press RCVS on scenarios where we felt animal health and welfare could be put at risk or where clarity in the RCVS guidance fell short.

8. RCVS subsequently invited us to comment on the approach to the proposed review of the RCVS guidance. We were clear that:

    - As the changes were still bedding in, and the true impacts were unlikely to be evident for quite some time, the review process should be on a rolling basis, with the initial 12-month review representing the beginning of a longitudinal study into the impacts.
    - The review should have a particular focus on animal welfare, access to veterinary care and the viability of veterinary practice, as well as whether the new guidance had helped veterinary professionals understand their professional responsibilities.
    - The review must also be clear on what the identified 'problem' or issues were which the new guidance sought to address, as without clearly articulated policy or regulatory objectives it would not be possible to assess the effectiveness of the solutions put in place.
    - As well as internal data available to the RCVS from sources such as enquiries to the RCVS advice line and the number and type of concerns raised about registrants, consultation with stakeholders would be key to the robustness of the review.
    - Reflecting on the development, delivery, and implementation of a project should be integral to a post-implementation review for any professional regulator.

9. For the past 18 months, at the regular meetings between BVA and RCVS and more informally, we have repeatedly sought assurances that the post-implementation review would be open and transparent, with adequate opportunity to feed in. RCVS commissioned independent research from Vet Compass with the aim of evaluating prescribing behaviour before and after the updated guidance was implemented. We understand that this research project has examined clinical records relating to nearly 8 million animals across the two study periods, including around 1.5 million cats, 2.8 million dogs and 75,000 horses in the pre-guidance period alone, but that the findings of this research will not be published in detail until the Standards Committee's final report on the review. Given the potential significance of the research, and the likelihood that the findings, or selected findings, will inform the way forward, we consider that RCVS should publish the detail of the research in advance of any further discussion by RCVS Standards Committee to enable scrutiny of the evidence by BVA and other stakeholders. This is particularly important given that

[2] https://www.bva.co.uk/resources-support/medicines/under-care-resources-for-veterinary-practices/

updates on RCVS Standards Committee discussions and any associated decisions, are largely held in closed session at RCVS Council.

10. Notwithstanding the above, we welcome the opportunity to comment at this juncture. Our views are set out below, broadly aligned with the questions in the survey, but limited by outstanding underlying fundamental concerns regarding the original process and outcomes.

Sections A and B – Definitions of 'under care' and 'clinical assessment'

11. We continue to hold the view that the original review represented a missed opportunity to consider an appropriate definition of under care, and to develop guidance which is fit for purpose, safeguards and benefits animal health and welfare and public health. At the time of the review, we raised concerns that legal advice obtained by RCVS and summarised by Fenella Morris QC, stated that the words "clinical assessment" should be interpreted so as to include both in-person and remote clinical assessment, and that this seemed to underpin the proposed changes to the guidance.

12. Our position states that the RCVS interpretation of 'under care' should go beyond the act of prescribing, such that it more accurately captures the relationship between vets, clients, and their animals, and the shared responsibilities within this relationship for safeguarding welfare. We continue to hold the view that the RCVS should formally adopt the concept of VCPR and define it in a way that is fit for purpose now and in the future. We consider that a VCPR cannot be established solely by remote means but once established a VCPR should enable access to remote veterinary service provision, subject to veterinary professional judgement. We are also clear that POM-Vs should only be prescribed remotely in the presence of an established VCPR and where, in the professional judgement of the vet, animal health and welfare would otherwise be compromised. This position underpins our further comments on the guidance below.

Section C - Requirement for 24/7 in-person follow-up care

13. We support the requirement for 24/7 in-person follow up care, where remote prescribing has occurred within the context of a VCPR. As we do not support remote prescribing when a VCPR has not yet been established, we do not consider that this requirement adequately guards against negative impacts on both animal welfare and the sustainable provision of veterinary services.

Section D – Mutual clients

14. We support the principle that where an animal is under the care of more than one veterinary surgeon, those veterinary surgeons should keep each other informed of any relevant clinical information. However, this relies on clients being open and honest about their use of multiple providers for veterinary services, which unlikely to always be the case. We consider that the client has a responsibility to enable effective communication by informing the vet or practice of services procured elsewhere, and vets should discuss this with clients. Understanding of shared responsibility by all stakeholders supports the vet to work effectively, provide oversight of care, and optimise animal health and welfare outcomes.

Section E – Physical examination

15. We consider that the guidance (*ie "Whether a physical examination is necessary for the prescription of POM-Vs or veterinary medicinal products under the cascade is a matter for the veterinary surgeon's judgement depending on the circumstances of each individual case. When deciding whether a physical examination is required, the following factors are relevant, however veterinary surgeons should note this list is not exhaustive"*) fails to recognise the existing and emerging range of veterinary business models and current absence of mandatory practice regulation and has created risk of employee vets being placed under pressure from employers, and potentially clients, to prescribe without physical examination. The scope for misunderstanding, miscommunication and therefore client confusion and complaint grow exponentially when remote prescribing is conducted outside a VCPR, particularly where clinical

notes are not shared between prescribing vets. Leaving the decision on physical examination to the judgement of individual vets is unlikely to be sufficiently strong and has created risk of fundamental shift in the landscape of the veterinary profession in a way that is a threat to animal health and welfare, and the ability of veterinary professionals to safeguard their work.

16. As factors a-k of the guidance assume acceptance of the opinion that the absence of a physical examination would not preclude remote prescribing, and there is no clear recognition of the role of the VCPR, it remains difficult to comment definitively on their appropriateness. In line with our position, we would strongly support all of the factors as wholly appropriate considerations prior to remote prescribing under an established VCPR, but in the absence of an established VCPR specific concerns include:

    - a) In many consultations the health conditions or potential health conditions are often not known until physical examination is completed.
    - b) Again, in many cases it will not be known what medicines should be prescribed
    - f) It is never possible to be entirely sure about the understanding and knowledge of an owner, but it is far more likely to be achieved in-person than through a remote clinical assessment. This is one of the arguments for considering that a VCPR cannot be established solely by remote means.

Section F - Physical examinations and notifiable diseases

17. We support the requirement for a physical examination where a notifiable disease is suspected or part of a differential diagnosis and consider it essential for protecting animal health and welfare and public health. In this context, a physical assessment could include veterinary inspection of epidemiological units (eg herds or flocks) sometimes after one or more individuals are examined, or in individual animals when it is not possible to carry out a physical examination for safety reasons (eg an aggressive dog or zoo animal). However, in these circumstances the vet is present with the animal or animals, is able to observe them, and an assessment is made in the context of their environment and husbandry.

Section G - Prescribing antibiotics and antiparasitics to companion animals, equines, and other non-production animals

18. We agree that physical examination should always be required where a veterinary surgeon prescribes antimicrobials, with limited exceptions permitted only in the context of an established VCPR. We agree that exceptions (under a VCPR) should be recorded and justified in the clinical notes. We do not consider that lack of support from the employer, or unwillingness from the client to attend the practice, would qualify as exceptional circumstances.

Section H - Prescribing antibiotics and antiparasitics to production animals

19. We support the guidance to the extent that it states that when prescribing antibiotics, antifungals, antiparasitics, or antivirals for production animals, farmed aquatic animals and game, veterinary surgeons should ensure they have an in-depth knowledge of the premises, including its production systems, the environment, disease challenges and the general health status of the herd, flock or group. We agree that this can only have been achieved by a veterinary surgeon attending and inspecting the premises and physically examining at least one representative animal prior to prescribing, or recently enough to ensure they have adequate current information and knowledge to prescribe responsibly and effectively, taking into account any available production data and diagnostic laboratory results. We consider that exceptions within sectors such as large-scale commercial poultry and fish enterprises, should only occur within the context of an established VCPR.

Section I - Taking samples and prescribing antibiotics and antiparasitics

20. We agree that, where samples are obtained for the purpose of testing following a physical examination (or, in the case of production animals, farmed aquatic animals and game, following

a physical examination which was carried out 'recently enough'), it is acceptable for a veterinary surgeon to prescribe antibiotics, antifungals, antiparasitics and antivirals based on the results of those contemporaneous tests without the need for a further physical examination.

Section J - Prescribing Controlled Drugs

21. We do not support the allowance of exceptions to the requirement for physical examination when prescribing controlled drugs. Some categories of POM-Vs should never be prescribed remotely even in the presence of a VCPR, including some Schedule 2 and 3 controlled drugs, because of the potentially significant risk of harm to public health.

Section K - Clinical records

22. It is unclear why the consultation asks respondents to indicate how comfortable they feel recording prescribing activity in the clinical records. It would be inconceivable that a veterinary professional would be uncomfortable with taking contemporaneous notes as part of their day-to-day duties, and on that basis, and in this context, the question appears leading or potentially designed to evidence a predetermined finding or outcome.

Section L - Limited-service providers

23. This element of the guidance is clear and appropriate. We consider that LSPs who offer specific healthcare services, however limited, have a duty of care to the client and patient, effectively entering a VCPR within the context of the specific provision. There is a professional responsibility, and a reasonable expectation from clients, that in the context of an established VCPR there will be some degree of veterinary care available overnight and on other out-of-hours occasions. Limited-service providers, and those offering peripatetic veterinary services, are not considered exempt from this responsibility and should take steps to provide an appropriate degree of continuity of care relevant to the services rendered. As with other veterinary businesses, there is no obligation to provide that care themselves, and the provision can reasonably be outsourced. However, such outsourcing must be appropriate, contractual, sufficiently clear to all stakeholders, and regularly reviewed.

Section M - Information and advice only services

24. This element of the guidance is clear and appropriate. Advice services should be limited to generic information only, should not diagnose or prescribe, and should make an onward referral to physical veterinary services as required.

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