

Title: Legislative Reform (Constitution of Veterinary Surgeons Preliminary Investigation and Disciplinary Committees) Order 2013 Amending the Veterinary Surgeons Act 1966	Post Implementation Review
PIR No: Click here to enter text. Original IA/RPC No: Defra 1404 Lead department or agency: Department for Environment, Food and Rural Affairs Other departments or agencies: Royal College of Veterinary Surgeons (RCVS) Contact for enquiries: Gary Eldon – gary.eldon@defra.gov.uk	
	Date: 08/11/2018
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 06/04/2013
	Recommendation: Keep
	RPC Opinion: Not applicable- below De Minimis

1. What were the policy objectives of the measure? (Maximum 5 lines)

The original objectives stated in the Impact Assessment were to amend the constitution of the Royal College of Veterinary Surgeons' (RCVS) Disciplinary Committee (DC) and Preliminary Investigation Committee (PIC), to "ensure proper independence and impartiality when dealing with disciplinary cases, thus making the RCVS compliant with the Human Rights Act 1998 (primarily Article 6 of Schedule 1- right to a fair trial) and maintaining public confidence in the RCVS".

2. What evidence has informed the PIR? (Maximum 5 lines)

The PIR has been informed by RCVS' assessment of the process and changes by the RCVS Registrar / Director of Legal Services, an analysis of the costs of implementing the LRO including the recruitment, training and appraisal of new committee members. It also includes an analysis of the time taken to investigate complaints and the time taken between referral to the Disciplinary Committee and a hearing date. Defra also analysed its correspondence over the last 2 years which indicated some comments received from an anonymous enquirer. However, upon examination the comments provided did not relate directly to the legislation itself. Therefore, while this feedback was raised with the RCVS, it was not included in this review.

3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

The LRO has separated RCVS' powers i.e. a separation of responsibilities between those who set the standards of the profession and those who investigate and adjudicate them. It has brought the RCVS' disciplinary processes into compliance with the Human Rights Act 1998 and increased the size of the committees, which has increased flexibility and helped reduce avoidable delays (evidenced by shorter average wait times). A high volume of applications from lay persons wishing to be part of the disciplinary process, signifies strong ongoing interest for public participation.

Sign-off for Post Implementation Review:

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: **Catherine Harrold**
Deputy Director, Future Animal & Plant Health, Endemics & Traceability (FAPHET)

Date: 18/10/2018

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions? (Maximum 5 lines)

Changing the membership of the RCVS Disciplinary and Preliminary Investigation Committees (DC and PIC) to non-RCVS Council Members would result in a separation of powers i.e. a separation of responsibilities between those who set the standards of the profession and those who investigate and adjudicate them. It also complies with best practice, increases the pool of committee members available and minimises unavoidable delays. There would be no financial impact on the public and increases in cost to the RCVS were proportionate.

5. Were there any unintended consequences? (Maximum 5 lines)

Separating membership of different committees reduced opportunities for feedback and spotting trends in complaints. A new committee meeting three times a year was formed to address this. The RCVS has modified its appraisal system for Disciplinary Committees to give more immediate feedback (See Annex 1). Under current guidance, a review clause would have not been included in this legislation and removal of the review clause may be considered upon the next legislative opportunity.

6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

This regulation has minimal impact on business, well below the de minimis of £5 million that now prompts the inclusion of a review clause.

The RCVS has nevertheless been mindful of the costs associated with the implementation of the LRO and taken measures to ensure these are minimised. Further details on cost savings can be found in the additional background section at paragraph 6.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business? (Maximum 5 lines)

Not applicable. The regulation is UK only legislation.

Annex 1: Royal College of Veterinary Surgeons: Response

Defra shared the 7 post implementation review questions with the RCVS and asked for their contributions against each of them. The RCVS' responses to each of those questions is annotated below.

Introduction

The Veterinary Surgeons Act (VSA) 1966 provides the statutory basis for the regulation of the veterinary profession by the Royal College of Veterinary Surgeons (RCVS) - keeping the register of veterinary surgeons eligible to practise in the UK, setting standards for veterinary education and regulating the professional conduct of veterinary surgeons.

The LRO amended Part I of Schedule 2 of the Veterinary Surgeons Act 1966 (VSA) and required that the RCVS Preliminary Investigation (PIC) and Disciplinary Committees (DC) were made up of veterinary surgeons and lay members who were not Council members, and who were appointed independently. This provided regulation in line with modern practice, ensured that the same group of people were not responsible for setting the rules, investigating complaints and adjudication. The LRO further improved the independence of the RCVS disciplinary processes by formally bringing lay people into the relevant Committees.

The LRO also served to provide the RCVS with greater flexibility by increasing the pool of people available to investigate complaints and sit on disciplinary hearings, thus allowing the case-load to be more efficiently handled and ensuring that complaints could be heard in a timely fashion.

The Order made the following specific reforms:

- Council members were no longer eligible to serve as members of the PIC or DC (ensuring the same group did not set the rules and judge when rules were broken);
- New minimum and maximum sizes were introduced for each committee (nine minimum and 15 maximum for PIC, and 20 minimum and 40 maximum for DC); This was introduced to help minimise avoidable delays with caseload work and to make it easier and possibly quicker to assemble a DC panel.
- Each committee to consist of at least a third of lay persons and at least a third of RCVS registrants;
- The PIC quorum (three) to include at least one lay and one registrant member; the DC quorum (five) to include at least two lay and two registrant members;
- Persons registered in the supplementary register (veterinary practitioners) to be treated in future in the same way as other RCVS registrants in relation to proceedings, and their entitlement to sit on committees (removing an outdated and unnecessary provision);
- Prohibition on being appointed to a committee more than twice;
- RCVS may stipulate conditions about fitness to serve on the committees.

The LRO was based on extensive consultations undertaken by the RCVS. It was also backed by the profession's national representative body, the British Veterinary Association (BVA).

Further information on the objectives and scope for the reforms can be found in the Explanatory Document which accompanied the LRO:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82524/legislative-reform121105.pdf

The Impact Assessment can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/82523/vet-surgeons-impact-assessment.pdf

Additional background

Scope of the Post-Implementation Review (PIR)

The LRO provides for a review to be carried out by the Secretary of State (before 1 July 2018) of the amendments made under the LRO and their impact on the carrying out by the two committees (PIC and DC) of their functions. The review is to cover in particular:

1. The objectives intended to be achieved by the reforms
2. The extent to which those objectives have been achieved
3. Whether those objectives remain appropriate

A similar review is to be carried out every five years.

1. What were the policy objectives of the measure?

The objectives that the reforms were intended to achieve were:

- To introduce reforms to eligibility for membership of the PIC and DC so that the regulatory function of dealing with disciplinary cases would comply with best practice regulation and the Better Regulation Commission's principles of good regulation: transparent, accountable, proportionate and consistent.
- Changing the membership of the Committees to non-RCVS Council Members to further the separation of powers and thus meet these principles.
- To reduce an obstacle to efficiency (as referred to in s.1(3) LRA 2006) by increasing the size of the committees in order to help deal with caseload without avoidable delay, and to make it easier and possibly quicker to assemble a DC panel.
- To secure lay membership of PIC in order to maintain public confidence by ensuring public interest was adequately represented.
- Remove particular outdated restrictive provisions applying to those registered in the supplementary register

2. What evidence has informed your contribution to the PIR?

RCVS' response has been informed by an assessment of the process and changes by the RCVS Registrar / Director of Legal Services, analysis of the costs of implementing the LRO including the recruitment, training and appraisal of new committee members, and an analysis of the time taken to investigate complaints and the time taken between referral to the Disciplinary Committee and a hearing date.

It is important to note, however, that the primary reason for implementing the LRO was to ensure an appropriate separation of power between those who set the rules, those that investigate complaints and those that adjudicate when the rules have been broken, and to formally introduce lay persons

into the PIC. This was necessary to bring the RCVS in line with modern regulatory practice and to ensure the RCVS disciplinary processes were compliant with the Human Rights Act 1998.

Despite having gone to strenuous efforts to ensure that its disciplinary procedures were fair and in accordance with human rights legislation prior to the LRO the RCVS was constrained by the Act and in December 2011, following the consideration of an appeal, the Privy Council had noted its support for 'statutory reform so as to enable members of the disciplinary committees to be chosen from outside the Council'. The LRO has achieved its objectives in this regard and this is evidenced by the composition of the current committees, the separation of powers and the formal inclusion of lay persons throughout the disciplinary process.

In 2019, as part of the commitment to being a first rate regulator, the RCVS will undertake a wider review to understand the perceptions of all its stakeholders and to identify areas for improvement.

3. To what extent have the policy objectives been achieved?

The LRO has achieved the necessary separation of powers – i.e. separating those who set the standards of the profession and those who investigate and adjudicate on them - and ensured the disciplinary process is compliant with the Human Rights Act 1998; the additional inclusion of lay persons throughout the process has ensured the RCVS is in keeping with modern regulatory practice and the increased size of the committees has increased flexibility and helped reduce avoidable delays (as outlined below). Moreover, at each recruitment exercise the RCVS has seen a high volume of applications from lay persons wishing to be part of the disciplinary process, signifying a strong level of ongoing interest for public participation.

Furthermore, the LRO addresses an outdated provision in relation to 'registered veterinary practitioners', of whom there were only eight remaining when the LRO was enacted and of those all were declared as 'non-practising'.

These remain appropriate objectives and it is recommended that the Order remains in place.

Size of committee and increased flexibility

In the year preceding the LRO (2012) there were eight cases referred to Disciplinary Committee, these took an average of 18.6 months (median 20 months) from a complaint being received by the RCVS to the first available date offered for its hearing. Last year (2017) with 17 cases (over double 2012), the average was 15.5 months (and the median was 14.5). For the same two years the time gap between a decision to refer to a Disciplinary and the first available date offered for its hearing was reduced from 5.3 (median four months) in 2012 to 2.2 (median two months) in 2017. This provides further evidence as to how avoidable delays have been reduced by the flexibility arising from the new size of the committees.

In addition, in 2016 in order to address a high volume of complaints and to coincide with the introduction of an Alternative Disputes Resolution system, a decision was taken to constitute two panels of the PIC. This would not have been possible without the changes brought about by the LRO.

4. What were the original assumptions?

- Changing the membership of the RCVS Disciplinary and Preliminary Investigation Committees (DC and PIC) to non-RCVS Council Members so that the same group of people is not responsible for setting the rules, investigating complaints and adjudication would ensure the RCVS disciplinary process was compliant with Human Rights legislation.
- Reforms to eligibility for committee membership would help the RCVS to comply with best practice regulation and the Better Regulation Commission's principles of good regulation: transparent, accountable, proportionate and consistent.
- The LRO would allow the RCVS to increase the pool of people available to investigate complaints and sit on disciplinary hearings, thus reducing avoidable delays.
- Introducing lay membership to PIC would help to maintain public confidence by ensuring public interest was adequately represented.
- Whilst the proposed enlargement of the committees implies some initial and some continuing increase in costs, these costs are modest, and justified. It was deemed that there would be no financial impact on the public.

5. Were there any unintended consequences?

The RCVS had not fully appreciated the impact that separating the PIC and DC membership formally from Standards Committee / RCVS Council would have (a) in reducing opportunities for feedback about trends in complaints and interpretation and understanding of the Code of Professional Conduct / guidance and (b) in providing general oversight of the PIC and DC functions. To address these areas, a high-level Committee (including the Chairs of both PIC and DC / RCVS Treasurer and Vice-President), named the PIC / DC Liaison Committee, was established. This meets three times per year and while additional costs are incurred as a result, these will be largely offset over time by a reduction in costs arising out of changes to the Appraisal system (see below).

The Appraisal system for DC envisaged the Chair of DC conducting year-end appraisals with individual members in addition to 360-degree member feedback. Whilst fulfilling the appraisal function, it was recognised that a more efficient and meaningful appraisal of individual members and review of overall committee performance would be achieved by implementing a system of hearing review meetings to take place immediately following each sitting of the DC when members are already in attendance.

6. Has the evidence identified any opportunities for reducing the burden on business?

The Explanatory Document accompanying the LRO concluded that there was 'no financial impact on the public' and that additional costs incurred by the College were 'modest and justified, in order to ensure that complaints continue to be dealt with promptly'.

The RCVS has nevertheless been mindful of the costs associated with the implementation of the Order and taken measures to ensure these are minimised. In relation to recruiting new committee members, for example, the RCVS recruited reserve members in the second round of recruitment. This alleviated the need for a third round of recruitment and reduced recruitment costs by almost 25% over the first five years.

Whilst not introduced as a cost-saving measure, the RCVS' new approach to the appraisal of DC members has reduced the cost of appraisals by over 90% over five years.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?

Not applicable. The Veterinary Surgeons Act 1966 as amended by the Legislative Reform Order is domestic legislation relating to the regulation of veterinary surgeons working in the United Kingdom.