

Abstract

The Disciplinary Processes of the
Royal College of Veterinary Surgeons 1881 to 2008

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The efforts made by the Council and Committees of the Royal College of Veterinary Surgeons (RCVS) to ensure proper regulation of the veterinary profession were explored in several ways. The records searched included the Minutes of RCVS Council and its appropriate sub-committees; the Guide to Professional Conduct; the journal *Veterinary Record*; the archives of the *Times* and *Guardian* newspapers; a suite of RCVS Disciplinary Committee (DC) case reports prepared by the Registrar of the time; a small file of letters dating from the mid 1960s, the *Veterinary Surgeons Acts* from 1881 to 1966, and several on-line sources of relevant information.

Some 1,100 cases were identified. Each was allocated to a specific category of offence and, where possible, to the category of sanction applied. A table of these cases is given in an appendix. Whilst the categories of offence did not change over time, the proportion in each category changed considerably. Action against RCVS Members advertising was extremely common in the early decades, but none were heard after 1965. With the growth of international trade in livestock the need for accurate, detailed and honest certification grew, and increasingly action was taken against certification error, and, particularly, fraud. Towards the end of the study period the number of cases in which clinical error or misjudgement were brought before the Disciplinary Committee rose significantly. The term ‘fitness to practice’ entered the vocabulary of the RCVS Professional Conduct Department.

Changes in social attitudes inevitably affected the profession and its regulation. Investigations by the Monopolies and Mergers Commission led to changes in the rules on advertising. The introduction of the Human Rights Act led the then Registrar to discontinue the practice by which the RCVS Registrar would sit with the Disciplinary Committee throughout a hearing, and the proportion of lay members on the DC was deliberately increased. Two major reports relating to problems in the medical profession (the Inquiry into the acts of Dr. Harold Shipman, and the Kennedy Report on the deaths of babies at the Bristol Royal Infirmary) also led to changes in the RCVS Professional Conduct procedures.

Relatively few disciplinary cases heard were appealed to the High Court or Privy Council Judicial Committee, totalling twelve between 1965 and 2008, together with a few earlier cases. Such appeal hearings were usually reluctant to interfere with the judgment of a DC, but on a few occasions reduced the sanction which had been applied.

The conclusion is drawn that the RCVS disciplinary processes have largely been fair and just, although there have been instances in which the judgment of an RCVS disciplinary committee has been considered harsh. Moreover, the processes have evolved appropriately as public attitudes have changed.

Dedication

To Mary, my wife, and to my family,
in gratitude for their patience and support.

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Chapter I

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Principal Sources

The Minutes of RCVS Council and its committees, from 1884 to 1957, were hand-searched. For the early years they give little detail of the actions taken, other than some indication of the number and types of cases addressed. From the mid 1890s the Minutes provide an increasing number of names of Members, both those investigated as well of those penalised or admonished. However, some fifteen years later, by 1907, much more detail is listed.¹ Where reference is made to a particular case, the year is given, and unless otherwise noted, the reference is to the Minutes of a meeting of RCVS Council in that year.

Reports of the meetings of the Disciplinary Committee (DC) (initially established by the 1948 Veterinary Surgeons Act) were published in the *Members Supplement* to the *Veterinary Record*.² This covered the proceedings from 1950 to 1958 in considerable detail. After this the *Veterinary Record* continued to publish briefer reports of DC meetings, providing information for the years 1959 to 1966. An important resource is the records of disciplinary hearings held between 1967 and 1991, written by the then Registrar, Dr. Alastair Porter. From 1991 to 1995 such recording was done by the Assistant Registrar, Mrs. Diane Sinclair. From about 2000, increasing amounts of detail have been presented on the RCVS web site, and were downloaded as appropriate. The author has himself been a member of the RCVS Disciplinary Committee since 1996, and remains so at the time of writing.

Much of the typescript material from these sources relating to the detail of cases was scanned into optical character recognition software. This facilitated

¹ The journal *The Veterinarian* for many years published full Minutes of every Council meeting. So useful was this that the official records themselves often consist solely of pasted-in cuttings from the journal.

production of an almost complete compilation of every case from 1884 to 2008. However, the details available vary from minimal to, in recent years, complete verbatim transcripts.

Any comments upon disciplinary matters in the Minutes or Reports were also recorded and taken into account. On-line sources were used extensively, and references to these are given in the text.

A small but valuable resource was recently discovered among College papers, probably kept by the then secretary to the Secretary to the Preliminary Investigation and Disciplinary Committees, Miss M I A Ashe. This consists largely of carbon copies of correspondence between the Registrar and various members of disciplinary committees in the mid 1960s. Referred to here as the Ashe papers, they will be lodged in the RCVS Trust Library. Finally, the offices of the Finance Department hold several hard-back volumes which contain, in a rather disorganised manner, some records of past Bye-Laws of the RCVS.

Sociological aspects

Another perspective on the activities of the Disciplinary Committee also can be found in the pages of the *Veterinary Record*. Some comments are editorial, but often its correspondence columns are used to express opinions upon actions taken by the College, including decisions and actions of the Disciplinary Committee. The volumes covering 1884 to 2005 were each hand searched for such insights using the search terms given in Table 1.

Table 1: Search terms used

Search term	Search term
Act	Legal
Advertising	Leading article
Comments	Professional Conduct
Council	Register
Court(s)	Royal College ...
Disciplinary	Self regulation
Disgraceful	Veterinary Surgeons Act
Editorials(s)	

² This journal has been published weekly by the British Veterinary Association since 1888

For information as to what the wider world thought of the disciplinary actions of the College, use was made of the availability of complete copies of both *The Times* and *The Manchester Guardian* (later *the Guardian*). For both, records are available on microfiche and indexed, more or less efficiently, to facilitate searching. More recently the records have been put on-line and are machine-searchable. Both publications were searched over the whole period from the late 1890s to 2008. Some newspaper libraries were also visited, including the National Newspaper Library at Colindale, London, and the offices of the *Bridgewater Mercury*, Bridgewater, Somerset.

Categorising the data

This history of the disciplinary processes of the RCVS can be divided into four distinct periods which can be categorised thus:

- Following passage of the 1881 Veterinary Surgeons Act to 1947.
- Advent of the 1948 Veterinary Surgeons Act, and the years to 1965.
- The first twenty-one years after passage of the 1966 Veterinary Surgeons Act to 1987.
- The ‘Modern’ period from 1988 to 2008.

The first Act in 1881 protected use of the titles ‘veterinary surgeon’ and ‘veterinary practitioner’, whilst the Act of 1948 made unqualified practice illegal, with certain exceptions, and the 1966 Act established the separate Preliminary Investigation and Disciplinary Committees. Another significant date is 1920, for the *Veterinary Surgeons Act (1881) Amendment Act* of that year was notable for allowing, for the first time, the College to charge an annual membership retention fee. This provided funds for disciplinary actions, whereas until that time only the fee payable upon first registration could be levied; the change is apparent as an increase in actions taken by the College after 1920.

The data on each case identifiable between 1881 and 2008 were entered into a spreadsheet (see Appendix). Each case was categorised in two ways, firstly by its nature:

- Advertising
- Conviction in a Court of law
- Mis-certification

- Other conduct or impropriety thought to be disgraceful
- Clinical incompetence
- Covering - employing an unqualified person to perform acts of veterinary surgery
- Touting or canvassing for business

The term “covering” has fallen into disuse, although the practice still occurs occasionally and the term is used in this thesis as a convenient shorthand. The category pertaining to matters of conduct or impropriety is something of a catch-all, and includes cases not readily categorised elsewhere. Table 2 lists the codes used to identify the category of case.

Table 2: Category of case and allotted code

Category of case	Code allotted
Advertising	AD
Mis-certification	CE
Conviction in a Court	CV
Other ‘disgraceful conduct’ or impropriety	IM
Clinical incompetence	CL
Covering, illegal employment of the unqualified	CO
Canvassing or touting for practice	CT

Secondly, each case was categorised as to the nature of the sanction applied or decision made:

- Removal of name from the Register
- Suspension of name from the Register
- Warning as to future conduct, or a reprimand
- Undertaking given to cease behaviour seen as unbecoming
- Apology for the behaviour accepted
- Explanation of the occurrence or behaviour accepted
- No action to be taken
- Case found not to be disgraceful
- Case found not proven
- Nature of the charge or of the sanction could not be determined from information available

There is an inevitable degree of arbitrariness in categorising descriptive data; there are, for example, occasions when more than one charge was made and the category which appeared more important was chosen. None the less, the classification process facilitated subsequent broad grouping of the charges and decisions, and thus the production of figures illustrative of trends over time, given in Chapter II.

From the beginning of the 20th century until about 1950 the Registration Committee numbered the cases seen, although not always consistently. Where possible these numbers have been used to help identify cases, particularly in the spreadsheet listing (see Appendix). Subsequently numbers were allocated in the order in which cases were identified. The system used was, with cases heard under the 1948 Act, to allot the format '48*nnn*', and after passage of the 1966 Act, the format '66*nnn*'. References to specific cases are identified in this way.

Chapter II

Case numbers and categories identified

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This chapter presents in some detail the numbers and types of cases dealt with under the registration and disciplinary procedures of the Royal College of Veterinary Surgeons, as identified from the College records, together with the categories of sanction applied. The charts show data for the whole period from 1881, the date of the first Veterinary Surgeons Act, to 2008, the end point of the study. The dates of the Veterinary Surgeons Acts of 1920, 1948, and 1966 also are shown on the charts. Not until 1948 was there a distinct RCVS Disciplinary Committee (see Chapter IV), and the records before this time include all complaints received, some of a quite trivial nature, whereas after 1948 only more serious cases were referred by a Preliminary Investigation Committee to a Disciplinary Committee. The annual numbers of these therefore cannot be directly compared with earlier years. The greatest emphasis throughout this thesis is upon cases recorded since 1966, for the Act of that year remains in force, and the charts illustrate the cases more recently considered to be serious, with the sanctions actually applied. In the tables below cases identified before and after 1966 are given in separate columns.

Cases overall

The records provide varying amounts of detail. Particularly in the 19th century the Council minutes often refer simply to ‘many’ or ‘numerous’ cases. Prior to 1967 many of these were effectively preliminary investigation cases, or related to action against the unqualified. (Figure 1) In about 150 cases under the 1881 Act, no action was taken against the Member. This group has been excluded from analysis, save that the few such cases occurring after 1966 are included.

Figure 1: Comparison of actions against Members and the unqualified

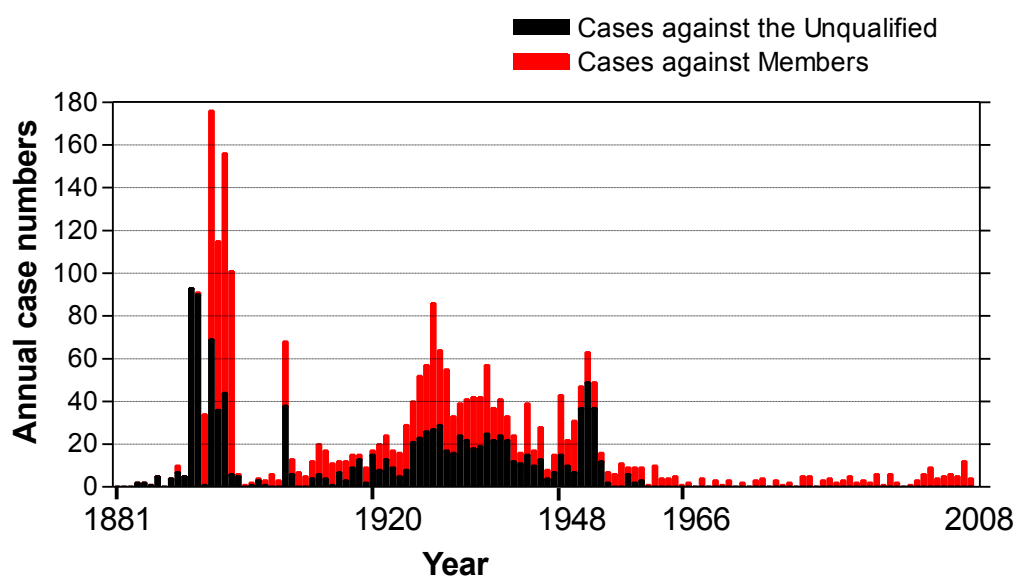


Figure 1 illustrates the great variation in the number of cases recorded each year; some of the reasons for this variation are explored in later chapters, but as explained above, the data post-1966 represent only the cases heard by the Disciplinary Committee.

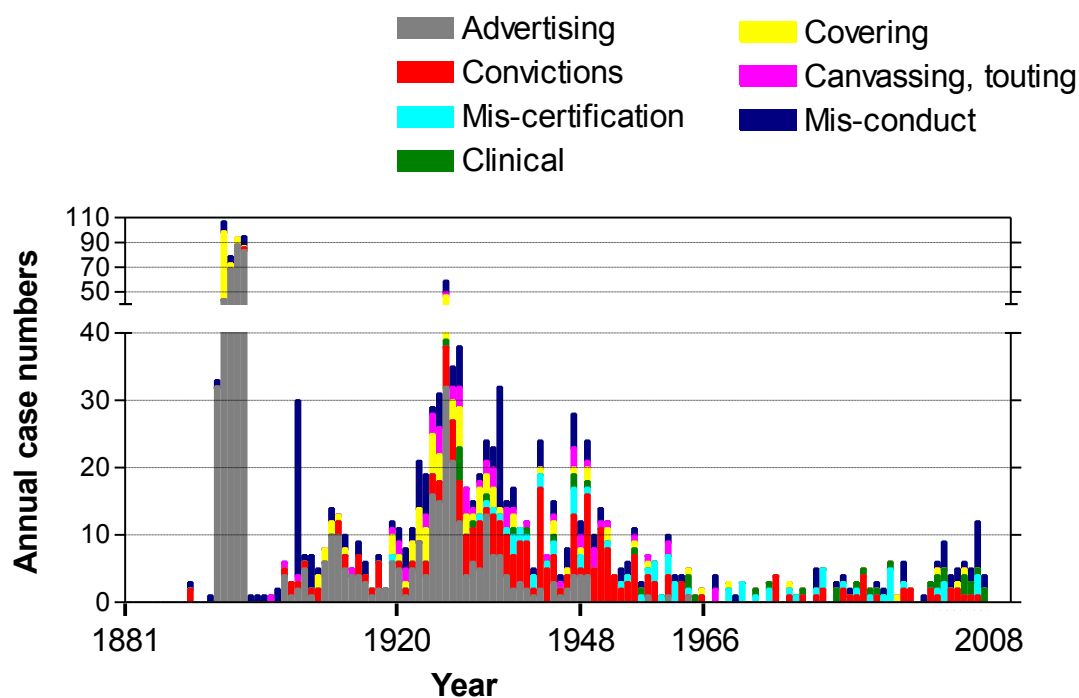
About 2,840 cases were identified, but 1,111 were actions taken by the Registration Committee against unqualified persons acting as veterinary surgeons, or implying that they had a veterinary qualification. Another 100 cases provided very little or no detail as to their nature. Neither of these groups is considered further. The overall numbers in each category of charge against Members alone are given in Table 3 and Figure 2 - the preponderance of advertising cases is striking. For the years 1966 to 2008, in the first half of that period, 1967 to 1987, there were forty disciplinary cases, whilst in the second half, 1988 to 2008, there were ninety, an increase of some 125%. This disparity was not due merely to increased numbers on the RCVS General Register, which averaged about 9,500 in the first half, and about 14,400 in the

second, an increase of only 53%.³

Table 3: Categories and numbers of cases against Members

Category of case	Code allotted	All Cases 1881-1966	DC Cases 1967-2008	
			Case Numbers	Percentage
Against persons advertising	AD	580	0	0
Mis-certification	CE	42	31	23.8
Conviction in a Court	CV	211	32	24.6
Other 'disgraceful conduct' or impropriety	IM	199	36	27.7
Clinical incompetence	CL	19	23	17.7
Covering	CO	150	6	4.6
Canvassing or touting for practice	CT	60	2	1.5
TOTAL		1261	130	100

Figure 2: Categories of cases



³ The membership figures are taken from the *Statistics* section of the RCVS Register of Members (2009), and represent those on the General Register, i.e. those registered as being active in the United Kingdom.

The sanctions applied

Table 4 and Figures 3 and 4 show the sanctions applied during the period covered. Prior to 1966, frequently an apology or explanation was found acceptable, because of the less serious nature of the offence which would now be confined to a preliminary investigation only.

Table 4: Sanctions applied

Sanction applied	All Cases 1881-1966	DC Cases 1967-2008	
		Case numbers	Percentage
Name removed	69	36	28.1
Name suspended	9	42	32.8
Warning as to conduct	229	23	18.0
Undertaking given	190	0	0
Apology accepted	35	0	0
Explanation accepted	109	0	0
Judgment postponed	17	5	3.9
No action taken	71	0	0
Case not disgraceful	4	10	7.8
Case not proven	14	7	5.5
No case to answer	64	5	3.9
TOTAL	811	128	100
<i>Sanction indeterminate</i>	<i>452</i>	<i>2</i>	

Figure 3: Sanctions applied (1)

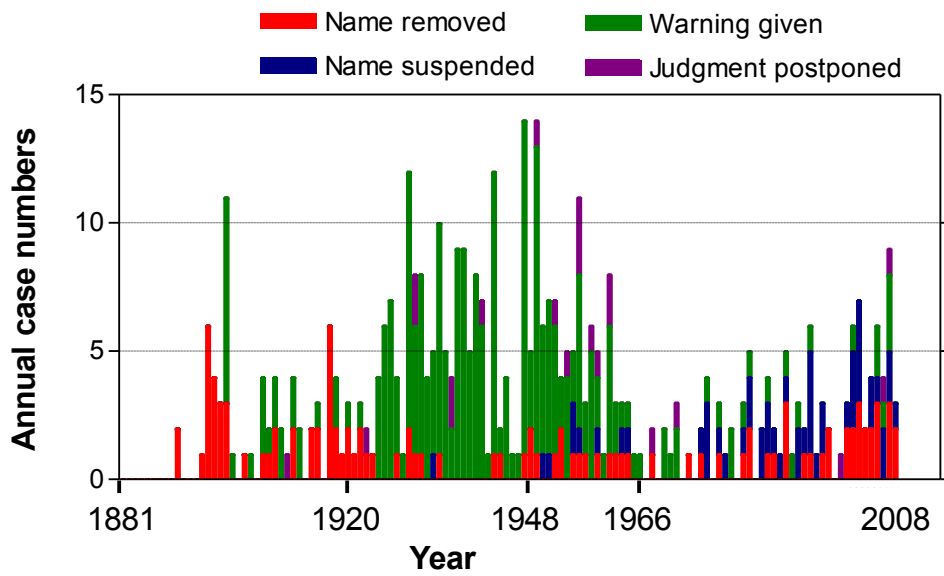
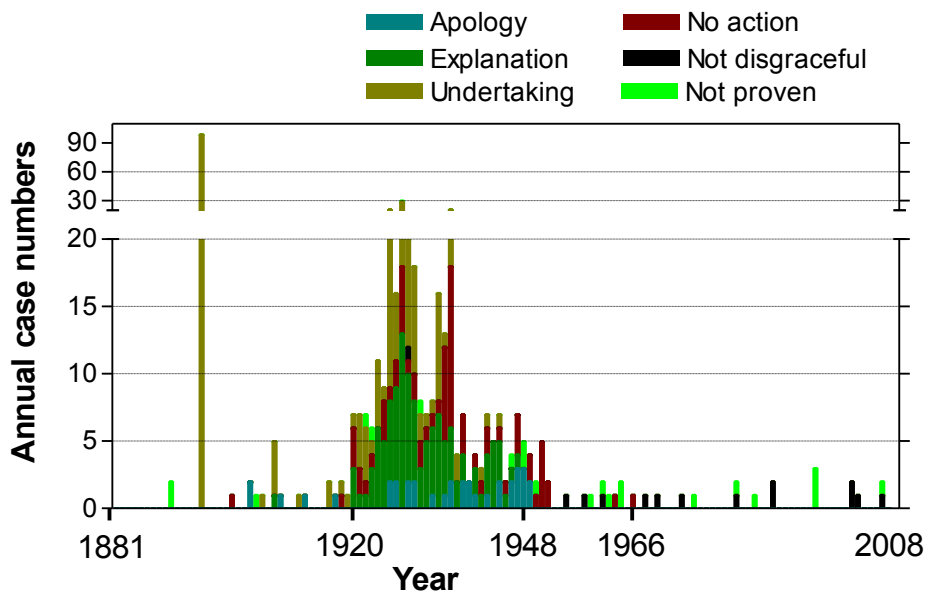


Figure 4: Sanctions applied (2)



Categories of cases and sanctions applied

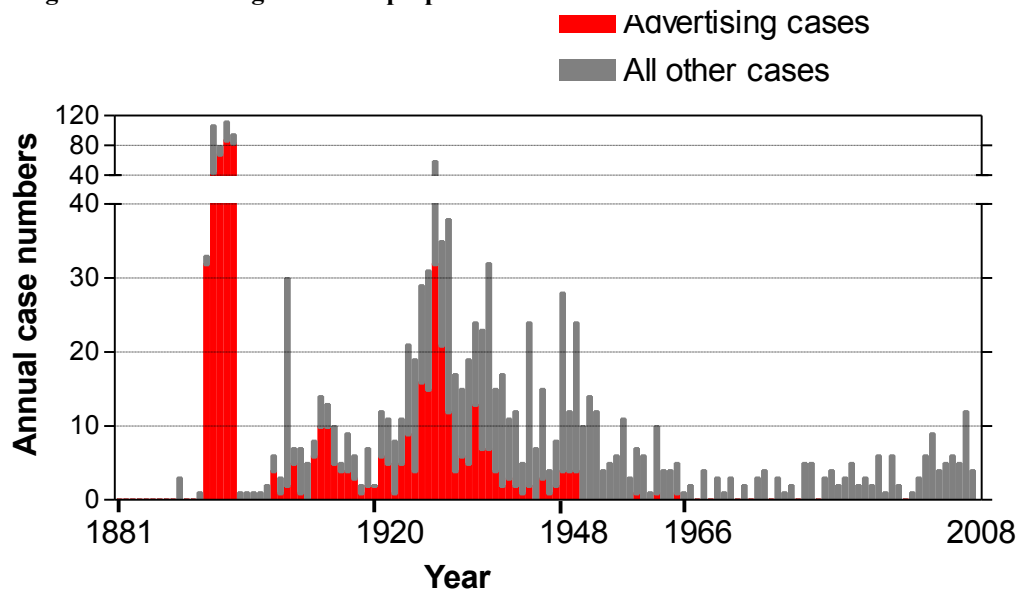
Advertising

Table 5 and Figure 5 show the huge effort made by the Registration committee, for fifty years after the 1881 Act, to control advertising by Members, an activity seen as unbecoming to the new profession. However, the matter came to be seen as less serious, and no cases appeared before the DC after 1965.

Table 5: Categories of advertisement

Category of advertisement	All Cases	Percentage of total
Undefined 'advertising'	477	82.1
Writing articles for the Press	10	1.7
Unprofessional practice signs	23	4.0
Allowing indirect advertisement by another	11	1.9
Newspaper advertisements	26	4.5
Issuing circulars	13	2.2
Directory advertising	9	1.6
Unprofessional practice stationery	9	1.6
Unprofessional labels on medicines	3	0.5
TOTAL	581	100

Figure 5: Advertising cases as a proportion of all cases



The whole range of available sanctions was applied to advertising cases, including striking an offender’s name from the Register (Table 6).

Table 6: Sanctions applied in advertising cases

Sanction	All Cases 1881-1966	Percentage of total
Name removed from Register	6	2.3
Name suspended from Register	2	0.8
Warning as to conduct	42	16.2
Undertaking given	108	41.5
Apology accepted	15	5.8
Explanation accepted	60	23.1
No action taken	25	9.6
Not disgraceful	2	0.8
TOTAL	260	100
<i>Sanction indeterminate</i>	<i>321</i>	<i>0</i>

Figures 6 and 7 show the sanctions applied to advertising cases.

Figure 6: Sanctions against advertising (1)

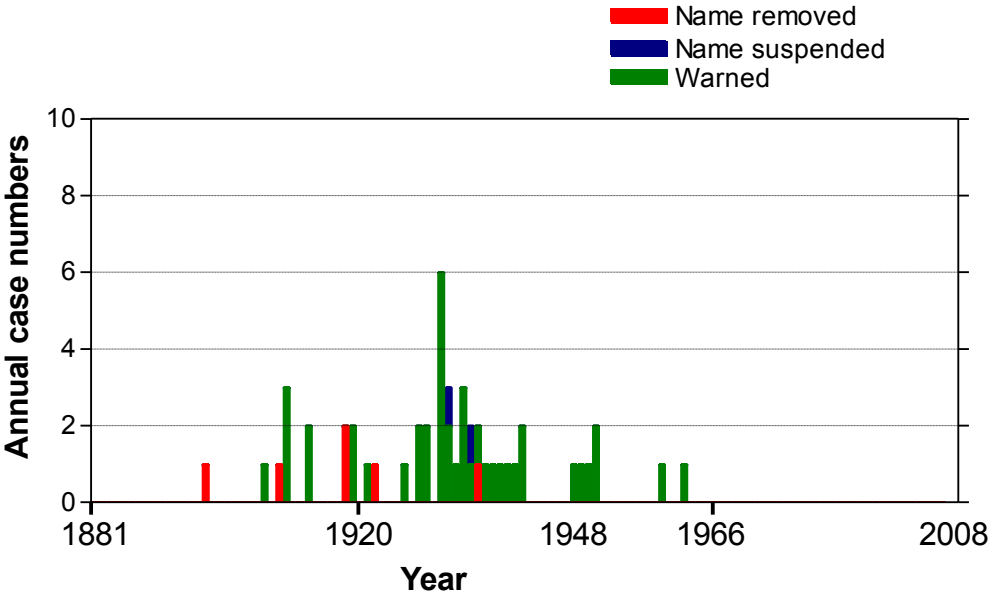
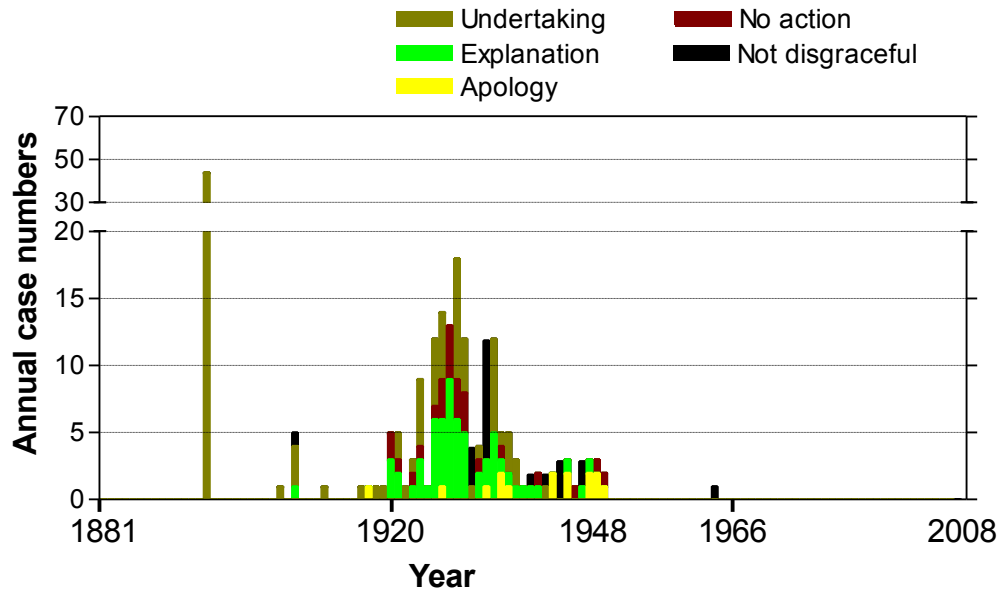


Figure 7: Sanctions against advertising (2)



Mis-certification

Mis-certification cases appear quite late in the records (Figure 8). This reflects changing views on the nature and importance of certification, discussed fully in Chapter VI. Frequently the Member's name was removed or suspended from the Register (Table 7) and Figures 8 and 9 also show that there has been a trend to apply sterner sanctions to Members in cases of wrongful certification.

Table 7: Sanctions applied in certification cases

Sanction applied	All Cases 1881-1966	DC Cases 1967-2008	
		Case	Percentage
Name removed from Register	5	13	29.5
Name suspended from Register	2	15	34.1
Warning as to conduct	22	11	25.0
Judgement postponed	0	1	2.3
Explanation accepted	2	0	0
No action	5	1	2.3
Not disgraceful	1	3	6.8
TOTAL	68	44	100
<i>Indeterminate sanction</i>	5	1	

Figure 8: Certification cases as a proportion of all cases

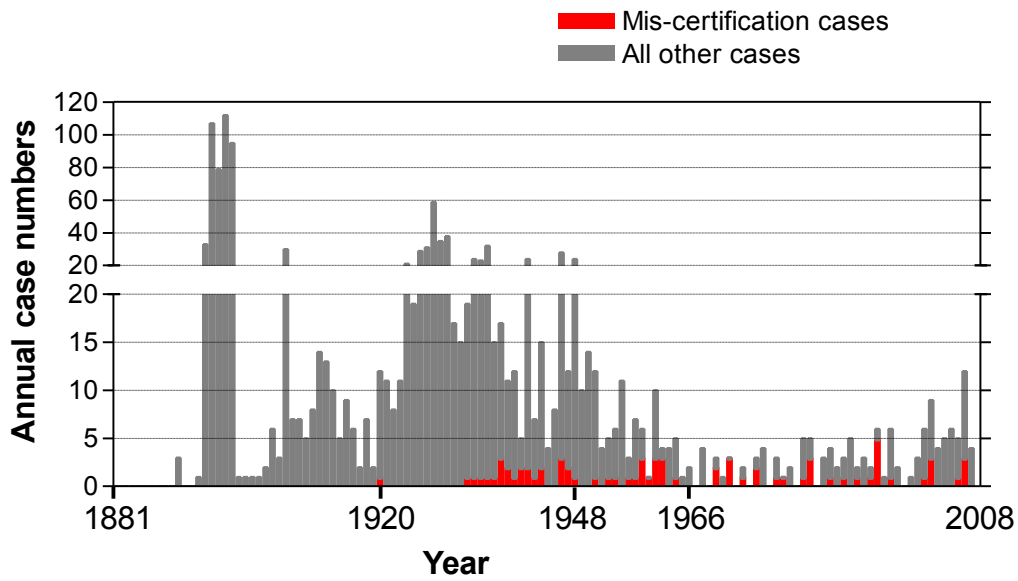


Figure 9: Sanctions applied in certification cases (1)

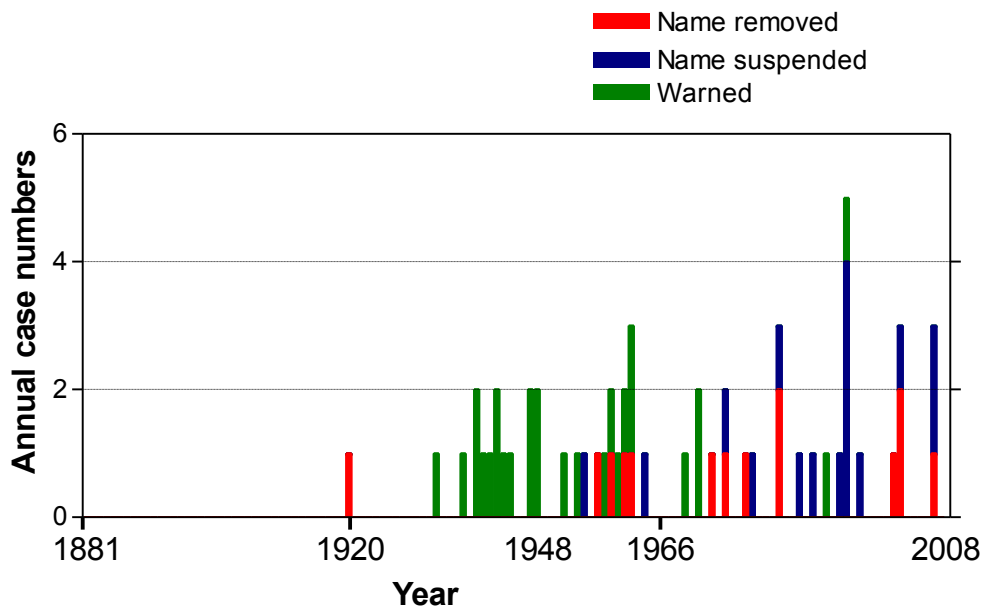
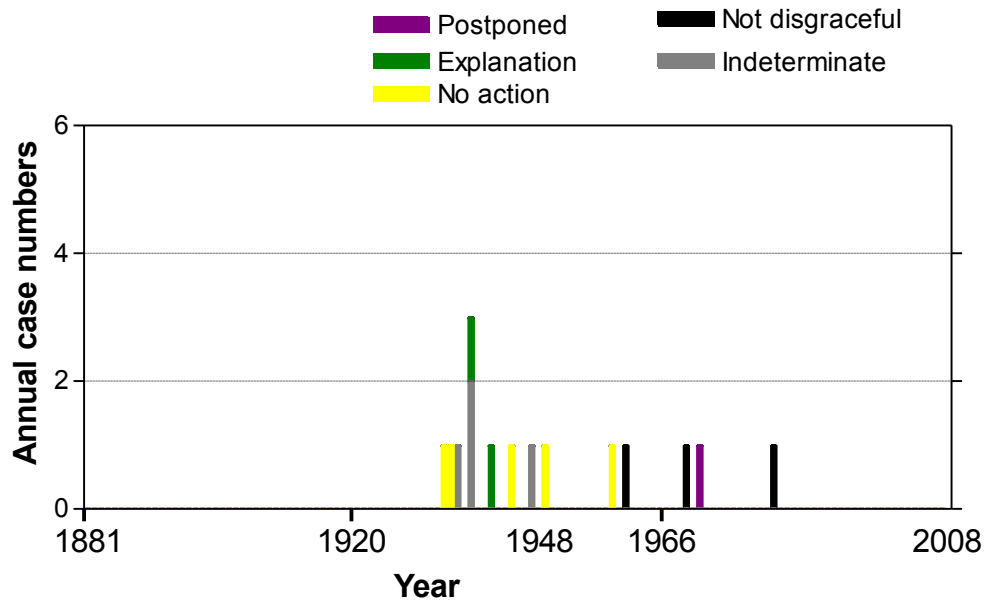


Figure 10: Sanctions applied in certification cases (2)



Conviction in a Court

The categories and numbers of conviction cases are given in Table 8 and Figures 11,12 and 13. Fraud cases occurred throughout the period of study, although cases of theft are unusual. In a small number of cases, convictions for sexual offences and cruelty to animals are recorded. There has also been a steady flow of instances in which veterinary surgeons have failed to follow correct procedures in the handling of drugs, or misused their privilege of holding and dispensing licensed medicines. Cases arising from abuse of alcohol or drugs occurred throughout the period.

Table 8: Distribution of conviction cases by offence

Category of case	All Cases 1881-1966	DC Cases 1967-2008	
		Case numbers	Percentage
Alcohol abuse	99	4	12.9
Drug abuse	8	3	9.7
Driving offences	16	0	0
Fraud	29	8	25.8
Sexual misdemeanours	5	1	3.2
Cruelty to animal(s)	8	3	9.7
Minor infringements	39	3	9.7
Theft	2	2	6.5
Misuse of veterinary drugs	2	7	22.6
Other infringements	5	0	0
TOTAL	213	31	100

Figure 11: Conviction cases as a proportion of all cases

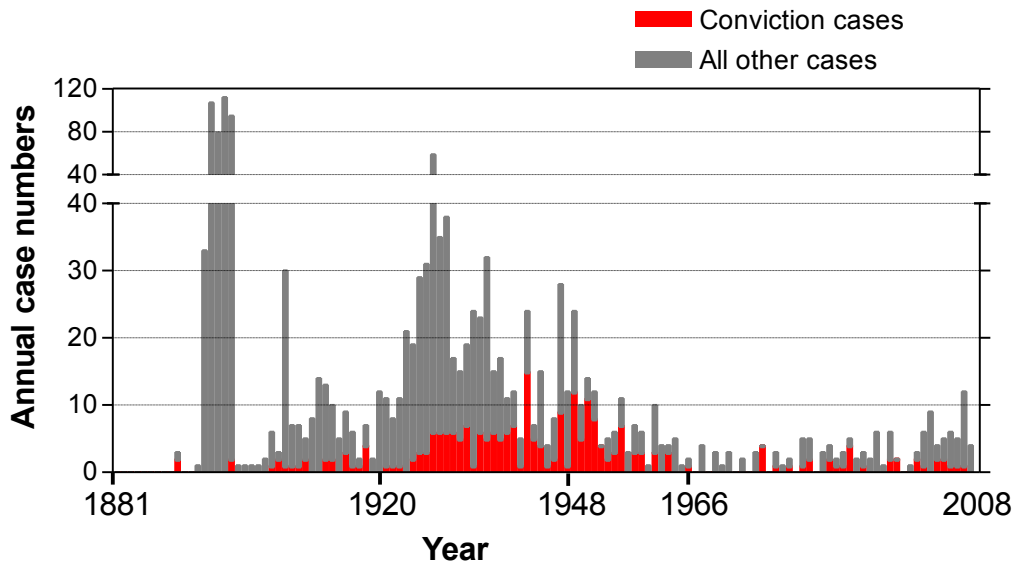


Figure 12: Categories of conviction cases (1)

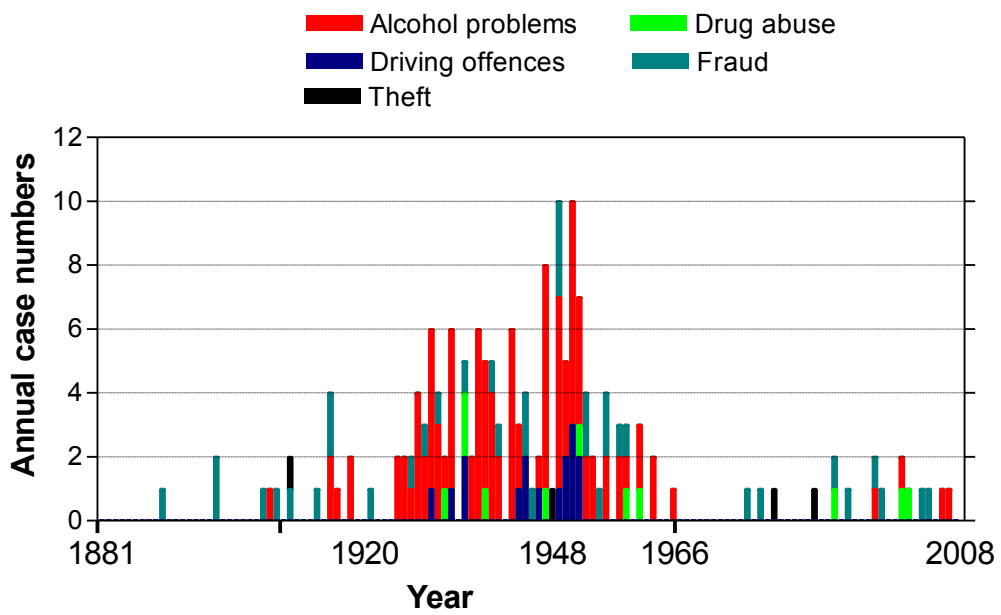
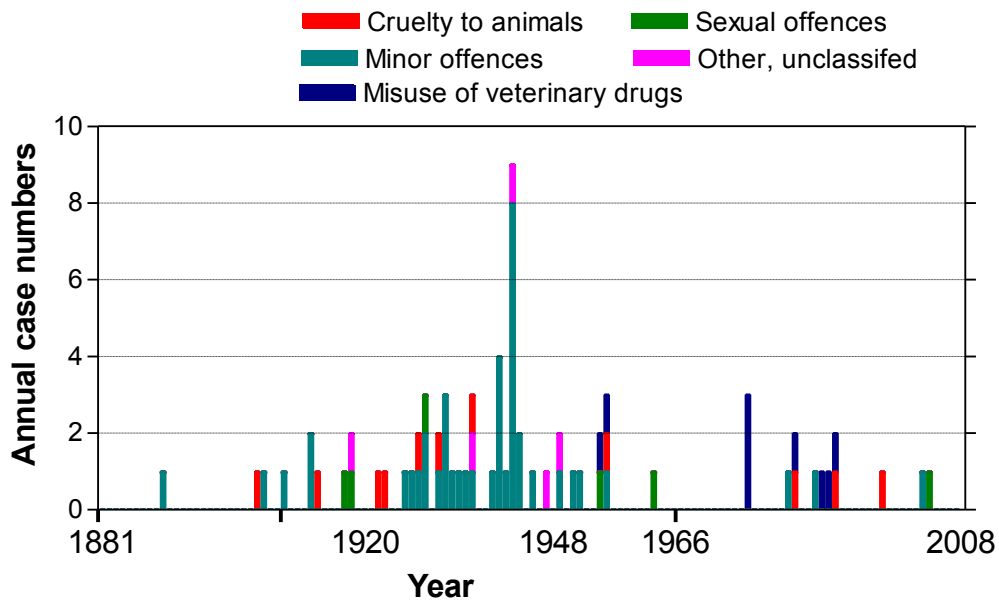


Figure 13: Categories of conviction cases (2)



The severest penalty has been frequently applied in conviction cases, (Table 9) and there is a trend to apply this sanction in a greater proportion of them. This reflects the changing nature of the conviction which might bring a Member before the Disciplinary Committee, rather than being dealt with at preliminary investigation level. Cases of drunkenness were usually dealt with by a warning; of ninety-nine cases recorded before 1952, seventy-five were so sanctioned. In eleven cases the Member's name was removed from the Register. From as early as 1908 use was made of postponement of judgment to allow a respondent time to address a problem, and thus avoid a severe sanction. The sanctions applied to conviction cases are given in Figures 14 and 15.

Table 9: Distribution of conviction cases by sanction applied

Sanction	All Cases 1881-1996	DC Cases 1967-2008	
		Case numbers	Percentage
Name removed from Register	33	14	45.2
Name suspended from Register	2	6	19.4
Warning as to conduct	106	6	19.4
Judgment postponed	12	2	6.5
Apology accepted	5	0	0
Explanation accepted	8	0	0
No action taken	37	3	9.7
TOTAL	203	31	100
<i>Sanction indeterminate</i>	<i>10</i>	<i>0</i>	

Figure 14: Sanctions applied in conviction cases (1)

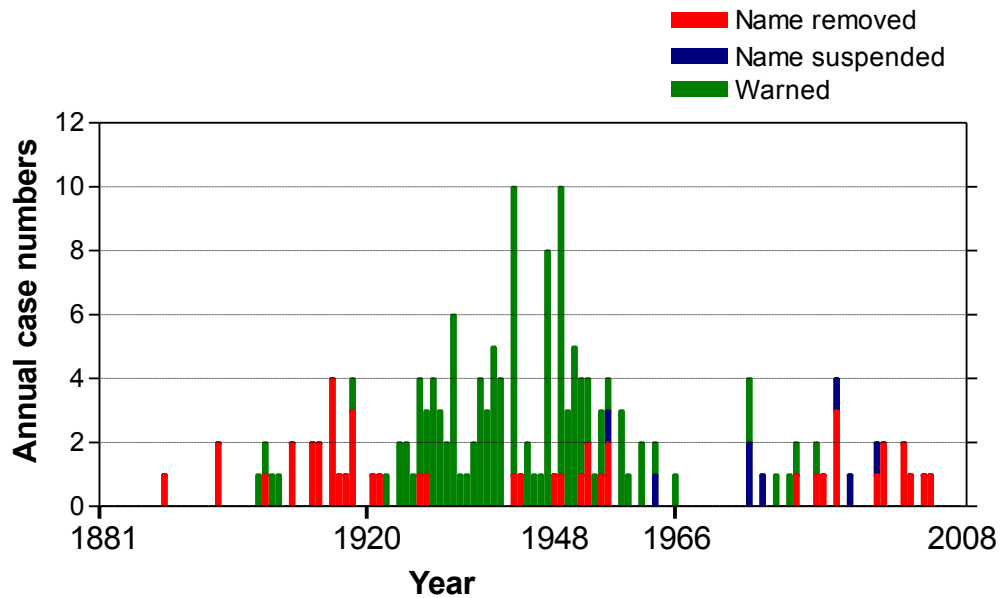
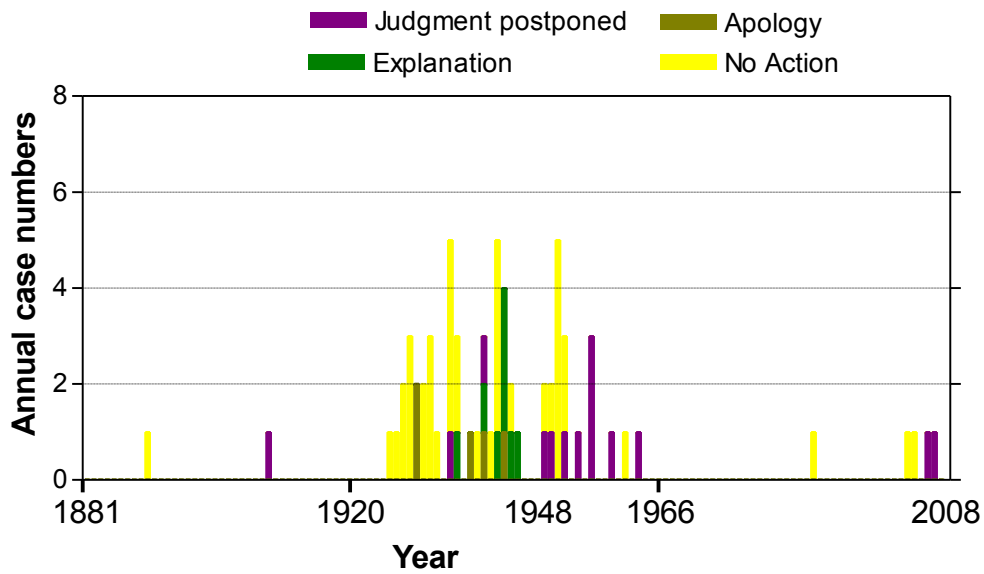


Figure 15: Sanctions applied in conviction cases (2)



Improper or disgraceful conduct

These cases include a variety of forms of improper or unprofessional conduct, and occur steadily (Figure 16). The categories of offence are given in Table 10 and Figure 16. In recent years charges have been made against veterinarians based directly upon their contravention of guidance provided by the RCVS *Guide to Professional Conduct* (the *Guide*), and these have been separately coded.

Figure 16: Misconduct cases as a proportion of all cases

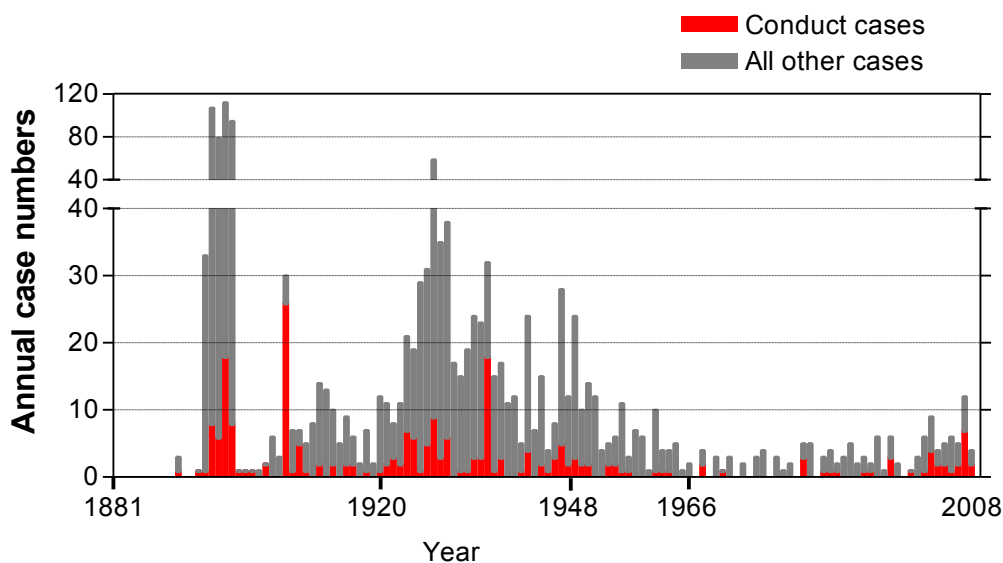
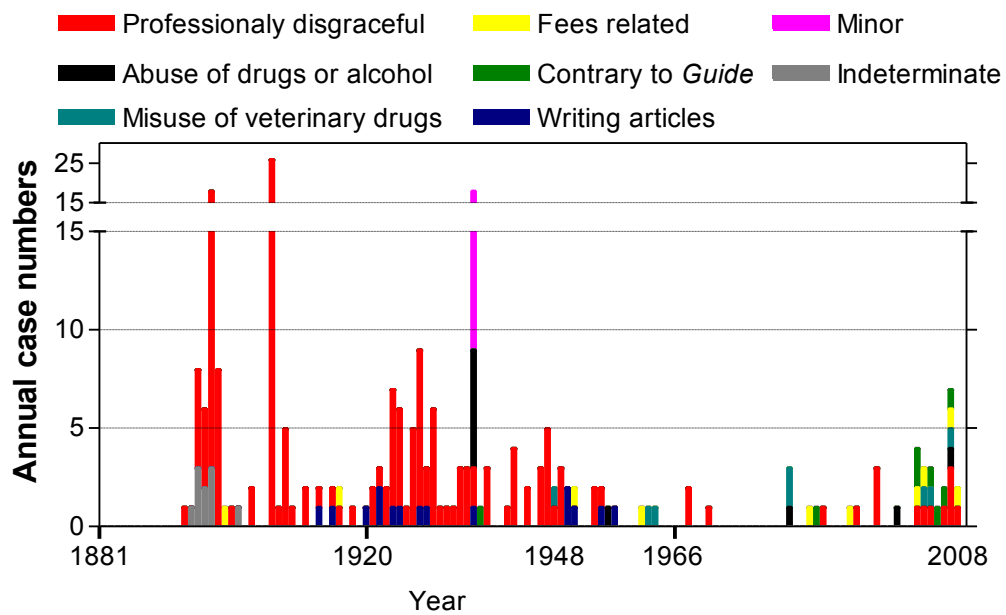


Table 10: Categories of misconduct cases

Category	All Cases 1881-1966	DC Cases 1967-2008	
		Case numbers	Percentage
Professionally disgraceful conduct	149	16	43.2
Conduct contrary to the <i>Guide</i>	1	7	18.9
Misuse of alcohol or drugs	7	3	8.1
Misuse of veterinary drugs	3	5	13.5
Related to fees	4	6	16.2
Writing of Press articles	15	0	0.0
Minor offences	9	0	0.0
TOTAL	188	37	100
Indeterminate	<i>10</i>		

Figure 17: Category of misconduct cases



As is to be expected in a group which includes a wide variety of misdemeanour of varying seriousness, the range of sanctions applied covers the whole gamut employed by the various committees. (Table 11, Figures 18 and 19).

Table 11: Sanctions applied to misconduct case

Sanction	All Cases 1881-1966	DC Cases 1967-2008	
		Case numbers	Percentage
Name removed from Register	19	10	27.0
Name suspended from Register	3	10	27.0
Warning as to conduct	35	6	16.2
Undertaking given	6	0	0
Explanation accepted	21	0	0
No action	36	1	2.7
Not disgraceful	0	4	10.8
Not proven	3	6	16.2
TOTALS	123	37	100
<i>Indeterminate sanction</i>	<i>75</i>	<i>0</i>	

Figure 18: Sanctions applied to conduct cases (1)

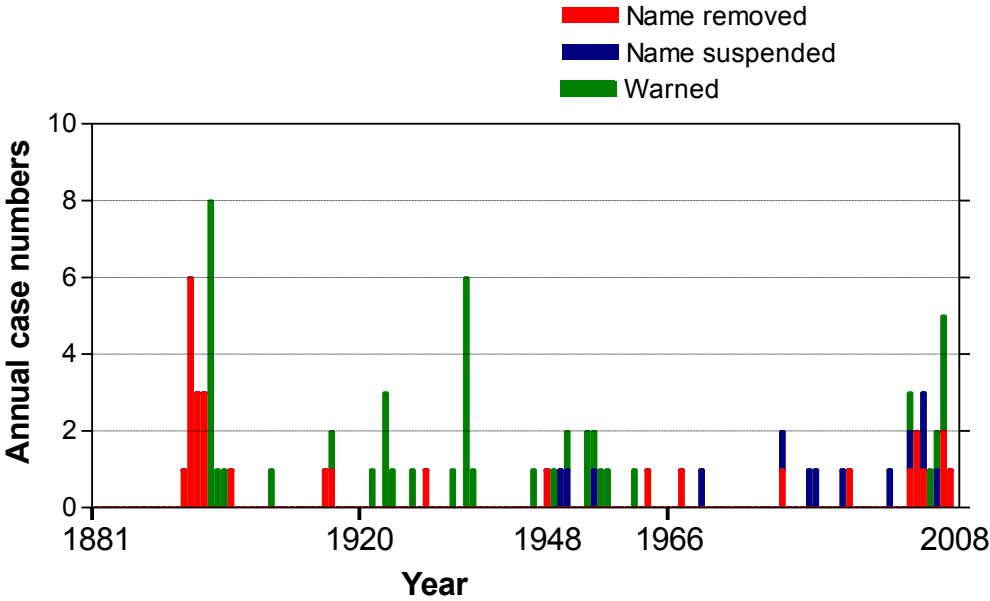
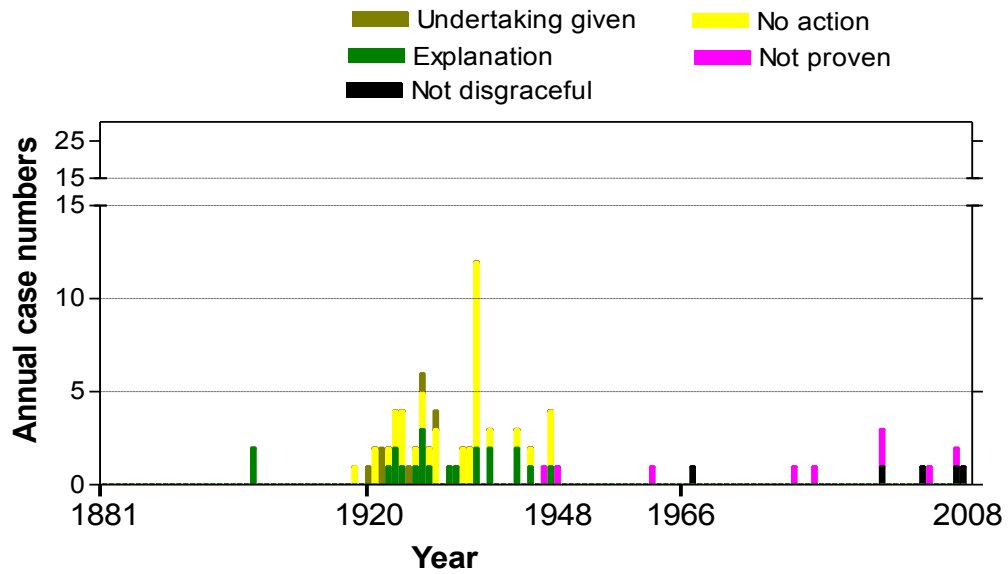


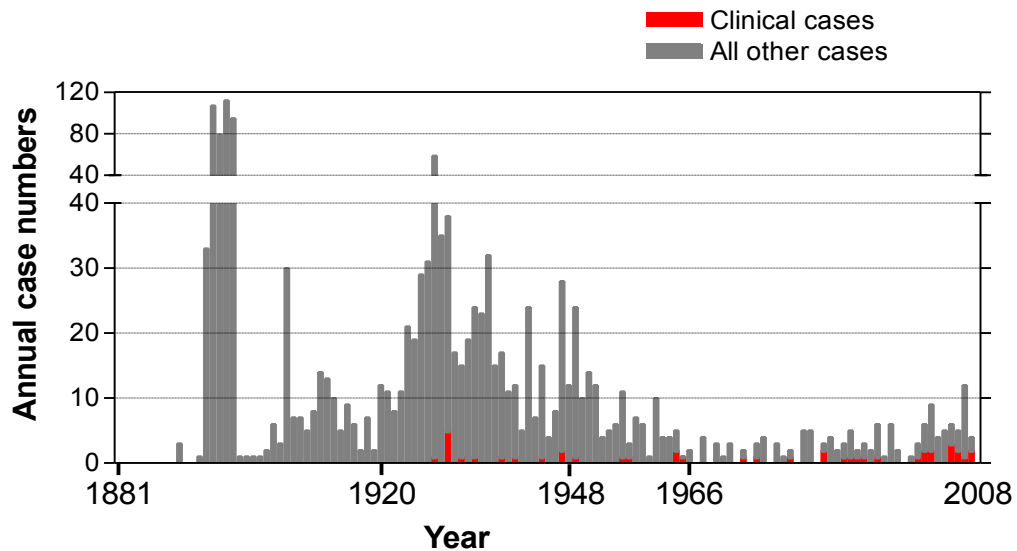
Figure 19: Sanctions applied to conduct cases (2)



Clinical incompetence

Disciplinary cases which reflect clinical incompetence have featured very little, totalling 37 cases identified in all (Figures 20 and 21). However, there is a trend over the last fifteen years to bring such cases much more readily, and many complaints continue to be made to the Professional Conduct Department of the RCVS.⁴

Figure 20: Clinical incompetence cases as a proportion of all cases



In this class too, a range of sanctions has been applied (Table 12), but, as shown in

⁴ Annual Reports: *passim*

Figure 22, committees have latterly taken a harder line in the sanctions applied. Table 12: Clinical error cases, sanctions applied

Sanction	All Cases 1881-1966	DC Cases 1967-2008	
		Cases	Percentage
Name removed from Register	1	4	18.2
Name suspended from Register	0	7	31.8
Warning as to conduct	4	5	22.7
Not disgraceful	3	5	22.7
No action taken	9	0	0
No case to answer	0	1	4.5
TOTALS	17	22	100
<i>Indeterminate sanction</i>	2	1	

Figure 21: Sanctions applied in cases of clinical incompetence (1)

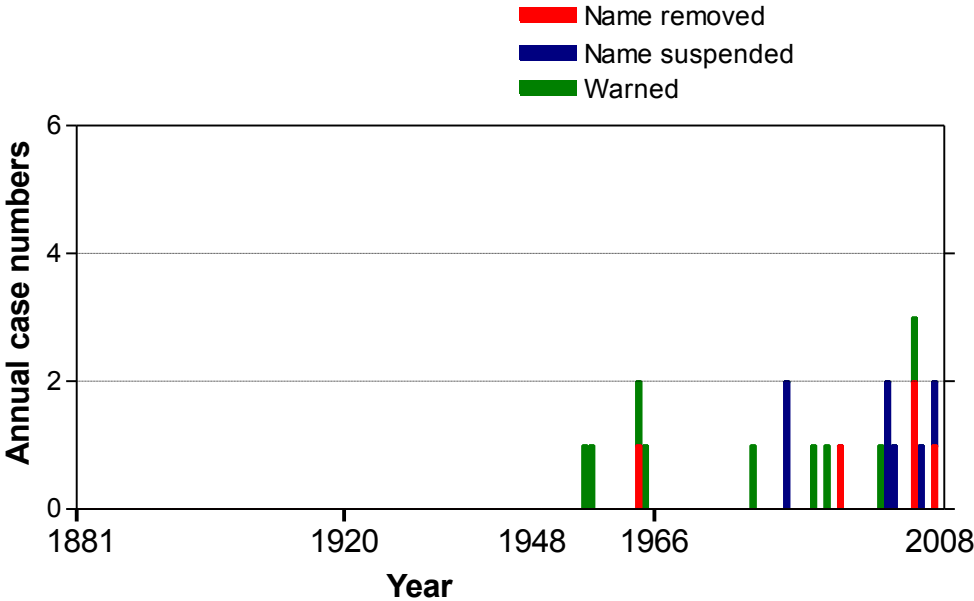
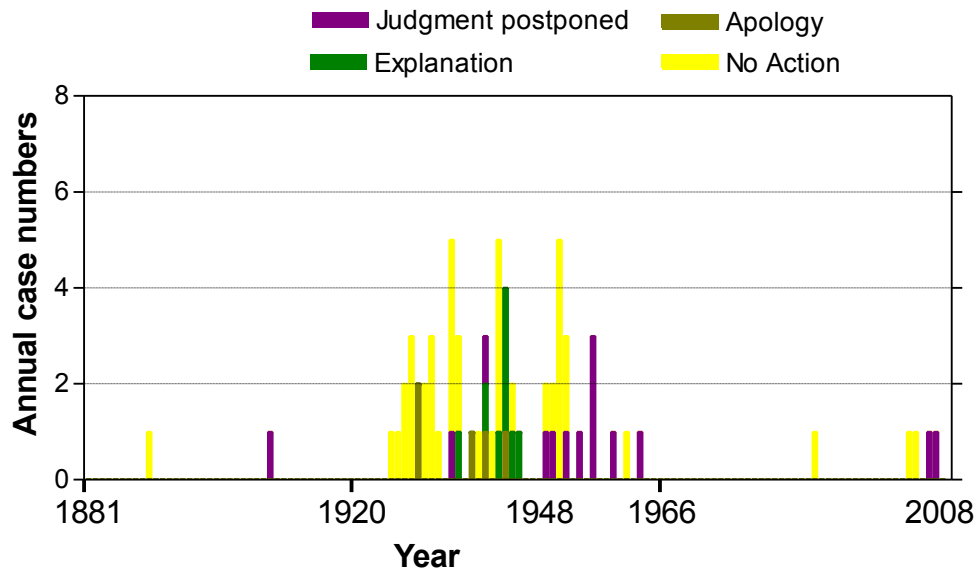


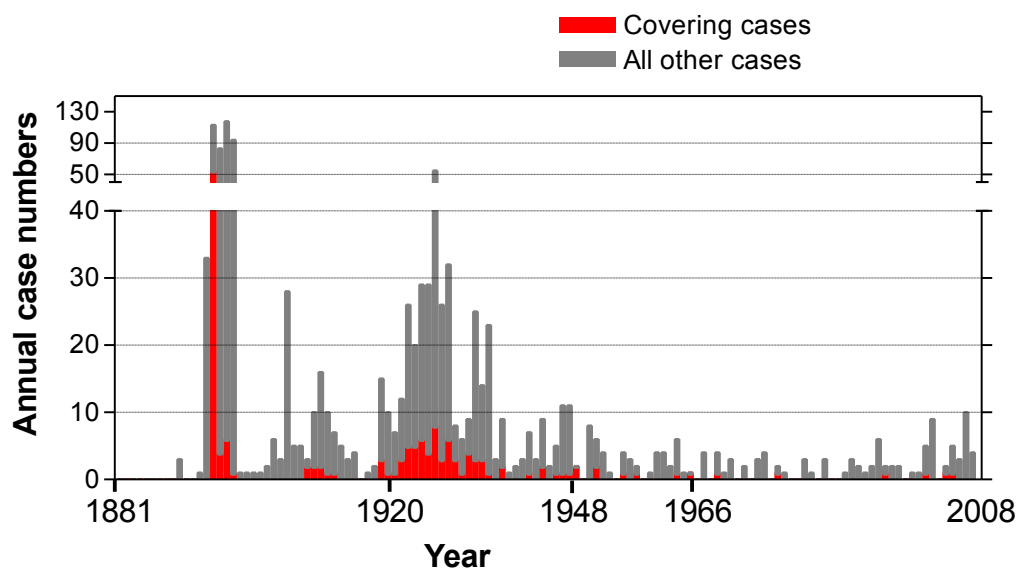
Figure 22: Sanctions applied in cases of clinical incompetence (2)



Covering: illegal employment of the unqualified

‘Covering’, allowing an unqualified person to practise veterinary surgery or medicine, was a not uncommon charge in the early years after 1881, and two or three are recorded for most years until 1952. Since passage of the 1966 Act, it continues to be a serious offence but only six cases have been heard by the DC. (Figure 24)

Figure 24: Covering cases as a proportion of all other cases



A range of sanctions was applied to those found guilty of covering. These chiefly took the form of warnings, but the extreme sanction of removal could be used, and in the last decade either removal or suspension has been imposed (Table 1, Figures 24, 25).

Table 13: Sanctions applied to covering cases

Sanction applied	All Cases 1881-1966	DC Cases 1967-2008
Name removed from Register	3	
Name suspended fro Register	3	
Warning as to conduct	29	6
Judgement postponed	2	
Undertaking given	59	
Explanation accepted	21	
Apology accepted	3	
No action taken	15	
TOTALS	129	6
<i>Indeterminate sanction</i>	23	

Figure 24: Sanctions applied to covering cases: (1)

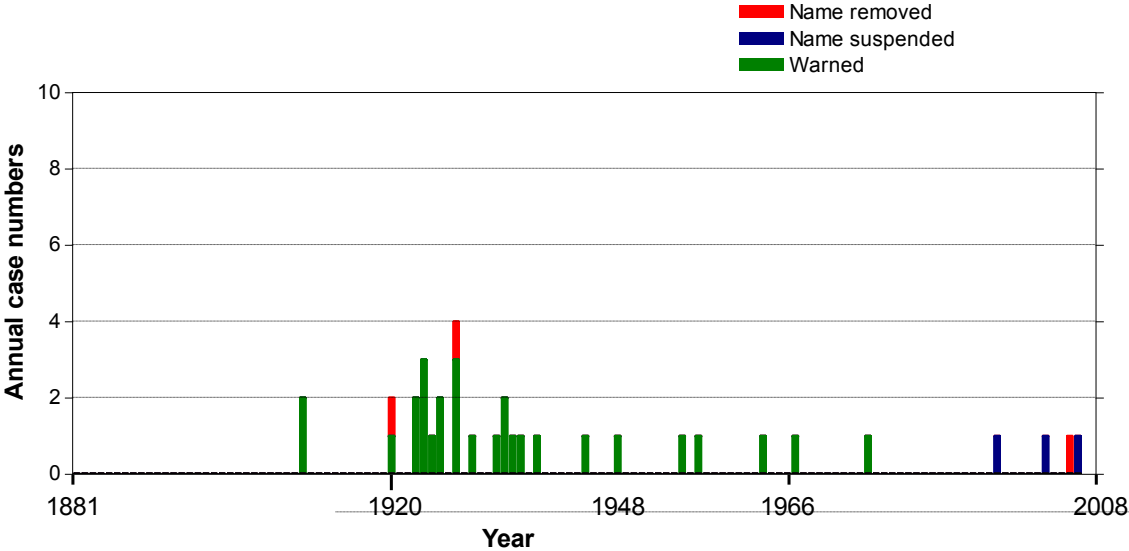
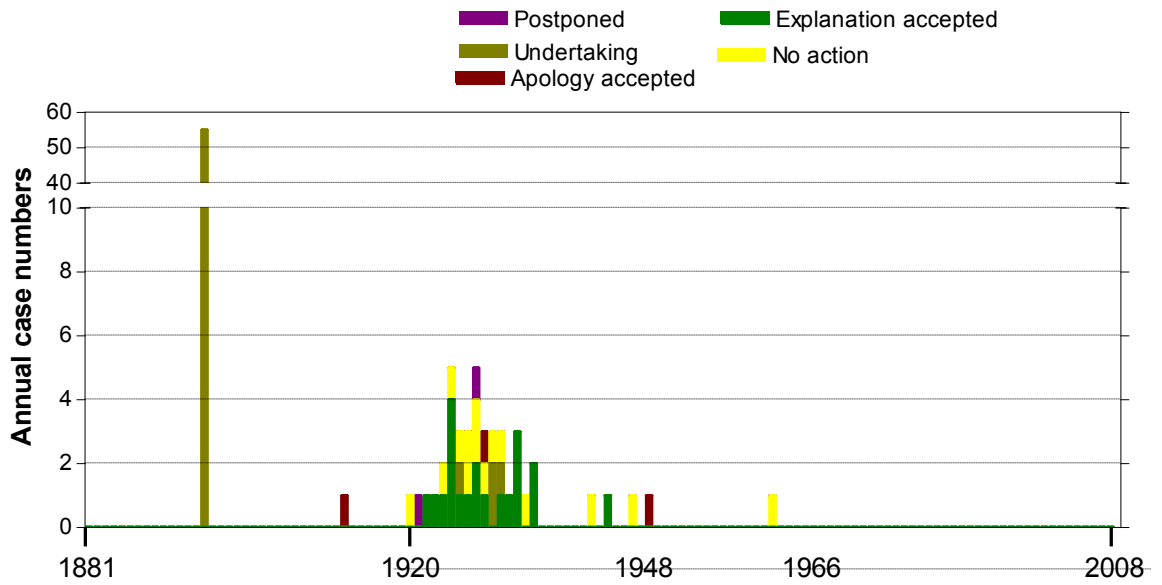


Figure 25: Sanctions applied to covering cases: (2)



Canvassing and touting

A variation upon advertising as a means of gaining clients for a veterinary practice is to canvass animal owners, or to tout for their business (Figure 26). The sanctions applied are shown in Table 14 and Figures 27 and 28. Two such cases occurred in 1968.

Figure 26: Canvassing and touting cases

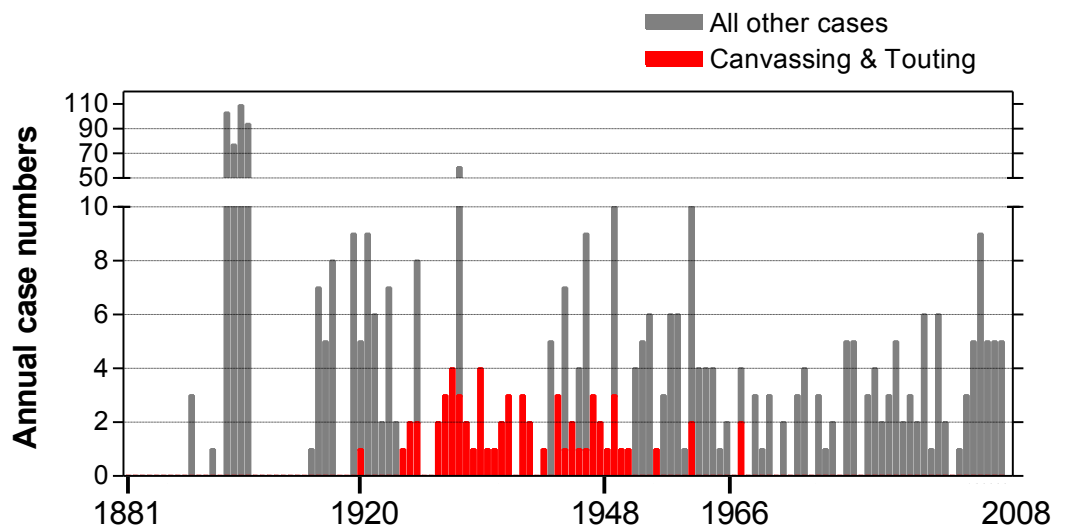


Table 14: Sanctions applied in canvassing/ touting cases

Sanction	All Cases 1881-1966	DC Cases 1967-2008
Name removed from Register	1	
Name suspended from Register	0	
Warning as to conduct	14	1
Undertaking accepted	5	
Explanation accepted	13	
Postponed judgment	1	1
No action taken	1	
Not disgraceful	17	
TOTALS	52	2
<i>Sanction indeterminate</i>	<i>11</i>	

Figure 27 Sanctions applied in canvassing or touting cases (1)

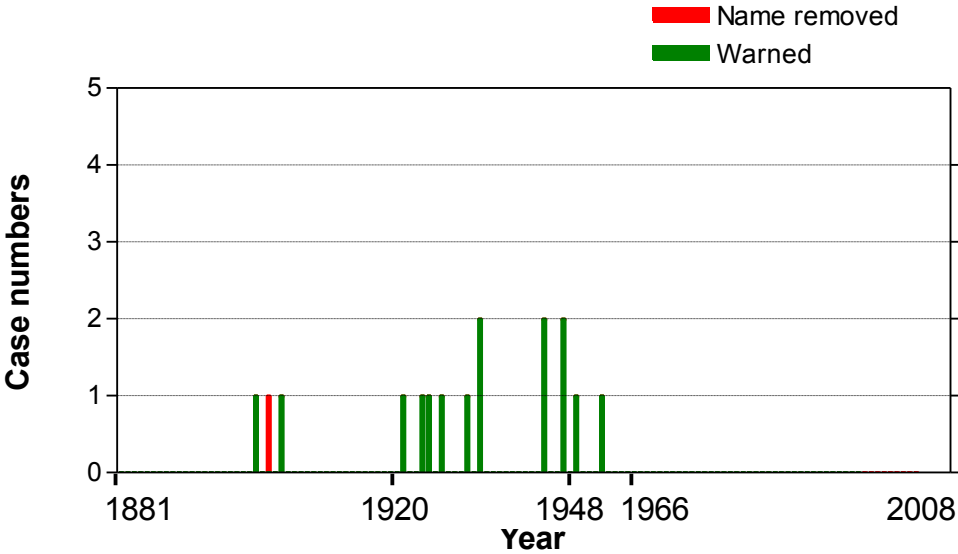
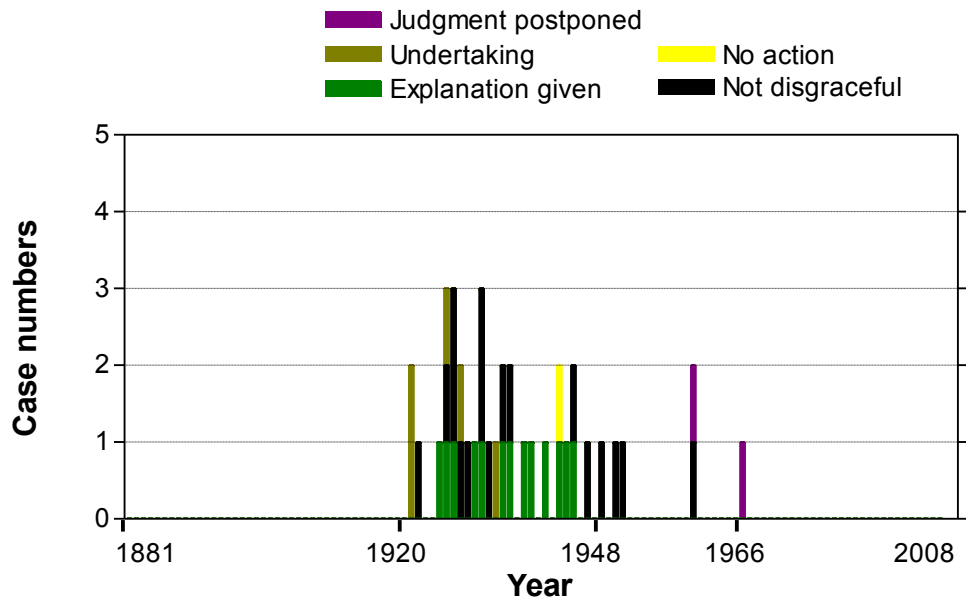


Figure 28: Sanctions applied in canvassing or touting cases (2)



Chapter III

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Introduction

This chapter gives a short analysis of the development of the disciplinary processes of the Royal College of Veterinary Surgeons from 1881 to 1948. These were years when anyone - qualified or not - was allowed to treat animals; a time for the veterinary profession to stand upon professional dignity and take steps to exclude lesser folk. Although there is much to be written of these sixty-seven years during which the world changed irrevocably, this chapter briefly outlines the development of ethical principles governing the veterinary profession, and provides some disciplinary cases illustrative of the period.

Recognition as a profession

By grant of the Charter of 1844 Queen Victoria recognised that those who had undergone a proper course of training at the Royal Veterinary College (London) or who held the Veterinary Certificate of the Highland and Agricultural Society of Scotland⁵ should be accepted as members of a profession, and thus allowed their

⁵ This certificate was awarded, after a course of study at one of several Scottish veterinary colleges, a story outside the bounds of this thesis.

proper ‘rights, powers, privileges, franchises and immunities’.⁶ The College had power to admit such persons as it thought fit, but there was no provision to remove anyone from membership. Although not a provision of the Act, fitness for membership did not, for many years, include women, who were excluded by established usage until 1922,⁷ but even after this date, the names of women appear only rarely in the records.

In 1876 a Supplemental Charter permitted the establishment and maintenance of a Register of Members.⁸ The charter allowed that ‘it shall be lawful ... to remove the name of any member from the Register of Members’ at any meeting of Council ‘at which not less than two thirds of the Members shall be present, and with the consent of three fourths of those present, but not otherwise’. The circumstances under which a name might be removed were not specified. The Charters of 1844 and 1876 also empowered the RCVS Council to regulate its procedures and member’s conduct by means of bye-laws.

In 1881 the first Veterinary Surgeons Act gave protection to the title of ‘veterinary surgeon’, although, so as not to deprive people of their livelihood, Sec. 15 of the Act allowed anyone who had, for not less than five years, practised veterinary surgery in the United Kingdom but was not on the RCVS Register, to be entered onto a register of ‘Existing Practitioners’. Clarity as to when a Member’s name might be removed was given, and Section 6 of the Act gave the grounds for removal;

- At the request or consent of the Member
- Incorrect or fraudulent registration
- Conviction in the Dominions or elsewhere of what in England would be a misdemeanour or higher offence
- Conduct disgraceful in a professional respect

There was also (Sec. 5) provision for removal of the names of the deceased and, with their consent, those retired from practice. Existing Practitioners, however, would not be deemed Members of the College, nor subject to its discipline.

⁶ *The Royal Charter of Incorporation* 8th March 1844.

⁷ The first woman Member was Miss Aileen Cust, (sometimes known as Aileen) who, although having completed her studies in 1897 at the Royal (Dick) School of Veterinary Medicine Edinburgh, was not admitted to the College until 1922, after passage of the Sex Disqualification (Removal Act) in 1919. See Ford Connie M (1990) *Aileen Isobel Cust Veterinary Surgeon – Britain’s First Woman Vet* Biopress Ltd. ISBN 0948737115.

⁸ This Charter also established the category of Fellows, and required that a Register of Fellows be kept.

Where removal of a name from the Register was mooted, Section 8 of the Act specified that Council should ‘ascertain the facts of the case’. This power of removal could be exercised by a committee of not fewer than three members of Council, which would report to the full Council. This report would be ‘conclusive as to the facts’ and would be drawn up after hearing the person concerned ‘if he so desires’. However, it was up to the Council to form its own judgment independently. The Act also specified that a decision to remove a name could, within twenty-eight days of the order for removal, be appealed to the Privy Council. This committee became known as the Registration Committee, occupied for many years mainly with the task of reducing the number of the many people still using the now-protected title ‘veterinary’. In 1892 a further Supplemental Charter recognised the great volume of work undertaken by this committee, and the problem of having to refer every decision to the full Council. This Charter therefore empowered the committee itself to investigate ‘all offences under the said Act’, again at that time chiefly against the unqualified undertaking acts of veterinary surgery.⁹ In 1920 an Amending Act enabled the College to charge an annual fee for continued registration, and extended the jurisdiction of the College over Existing Practitioners.¹⁰

Action was taken early on the question of advertising. In 1895 bye-law 113 stated;

That advertising by veterinary surgeons in the public press or distributing circulars books or cards relating to their professional attainments or attributes or charges or in respect of medicines or appliances prepared or sold by them, amounts to disgraceful conduct in a professional respect within the meaning of the Section 6 of the Veterinary Surgeons Act 1881.

Development of the bye-laws continued steadily and by 1931 the relevant advice on conduct generally was contained in a single bye-law, Bye-law 53 (Box 1 below).

⁹ The research for this thesis found mention of over 1,100 cases of action against the unqualified between 1884 and 1959.

¹⁰ *Veterinary Surgeons Act (1881) Amendment Act, 1920*, Sections (2) and (3), respectively.

Box 1: Byelaw 53

Conduct disgraceful in a professional respect

- Advertising or causing or permitting other persons to advertise for him whether by paid advertisement or editorial or other notice in the public press, or distributing or causing or permitting to be distributed circulars, books or cards relating to his professional attainments or abilities or charges, or in respect of medicines or appliances prepared or sold by him;
- Touting or canvassing for practice, whether by himself or others;
- The permission by a veterinary surgeon for his name to be used by an unqualified or unregistered person or the doing or permitting any other whereby an unqualified or unregistered person may pass himself off as or practise as a veterinary surgeon [i.e. covering];
- Meeting an unqualified person in consultation;
- Giving testimonials in favour of proprietary or patent preparations, medicines or appliances.

Every level of case, from trivial to a striking-off offence was addressed by the Registration Committee, the conduct of which was covered by very detailed standing orders, from which it is clear that, at least by 1913, a preliminary screening process was applied. The Registrar was to prepare a summary of any complaint and any accompanying documents. If the Registration Committee were not of the opinion that a *prima facie* case of disgraceful conduct had been made out the case would not proceed further. If the decision was to proceed, the standing orders precisely specified the procedure to be followed.¹¹

¹¹ Contained in the unnumbered books of Bye-Laws noted in Ch. I p. 2.

Registrar Bullock



Figure 29: Registrar Dr. Fred Bullock

No account of the history of the Royal College of Veterinary Surgeons can be complete without reference to Registrar, Fred (for such he was widely known) Bullock, LL.B. He was appointed in 1907, at an annual salary of £250,¹² to bring order to an almost completely neglected Register of Veterinary Surgeons. In his first year over 700 corrections of address were made from a total of 3,400 names of Members, and the number of unqualified Existing Practitioners was also reduced.¹³

In 1927, Bullock on his own initiative wrote and published a *Handbook for Veterinary Surgeons*, a cross between a guide to conduct, an explanation of the administration of the profession, and career advice. In a preface, Professor Sir John M'Fadyean wrote that 'although the book will be specially valuable to the younger members, it is highly desirable that every member of the profession should be in possession of it'.¹⁴ ^{below} Despite this endorsement, the book did not have the authority of Council behind it.

Bullock remained Registrar until his death in 1946, his handbook not superseded. His portrait hangs in the Fourth Floor Dining Room at Belgravia House, 62 Horseferry Road, London SW1P 2AF (Figure 29).

¹² This equates, in 2006, to about £18,000, using the retail price index as a measure, or in 'status worth' about £95,000. (Lawrence H. Officer, 'Five Ways to Compute the Relative Value of a UK Pound Amount, 1830 - 2006' MeasuringWorth.Com, 2007). Accessed February 2008. Dr. Bullock was the second RCVS Registrar, being preceded by Arthur Wm. Hill 1880-1906.

¹³ Pattison I. (1984) *The British Veterinary Profession; 1791 to 1948* pp. 133-134.

¹⁴ Bullock F. (1927) *Handbook for Veterinary Surgeons*. Taylor & Francis, London.

Cases 1881 to 1948

Advertising

The modern reader may be surprised at the efforts made in these years to suppress activities now regarded as normal, such as advertising, or rare, such as permitting the unqualified to practise veterinary surgery (covering), but the Charter of 1844 recognised that the establishment of the Royal Veterinary College of London had improved the practice of veterinary medicine compared with that practised by 'ignorant and incompetent persons', and that graduates from that school should be regarded as members of a profession¹⁵. There was, from the early days, a belief that those professionally qualified should not need to advertise in any way, whether directly or indirectly; their skill and prowess should be recognised and promulgated by word of mouth alone. To advertise was to act disgracefully.

In 1894 two members of RCVS Council, Professors M'Fadyean and Penberthy were keen to define the term 'disgraceful' in relation to the conduct of Members.¹⁶ The College solicitor, Mr. Thatcher, advised that until Council had formally *resolved* that advertising was unprofessional, the matter would not come under Sec. 6 of the 1881 Act. His advice was that Council should pass a resolution stating that advertising was 'derogatory to the dignity of the profession'.¹⁷

The Annual Report of 1895 records that 'The subjects of advertising and covering have occasioned the [Registration] Committee much anxious consideration, and the Council has passed a Resolution to the effect that advertising is unprofessional within the meaning of Section 6 of the Veterinary Surgeons Act 1881'. This became bye-law 113. A leading advocate of the motion was Professor Penberthy, who spoke of the examples before them as 'very gross and very unprofessional'.¹⁸ Mr. Trigger thought that 'advertising *per se* is deplorable'. He went on to suggest that a sub-committee should develop 'a code of ethics'.¹⁷

A light touch upon certain types of advertising was often taken, and in many cases the men concerned gave either satisfactory explanations or undertakings to stop the

¹⁵ *Royal Charter of Incorporation, Royal College of Veterinary Surgeons*. 1844, Preamble and Recognition as a Profession.

¹⁶ Minute Book III p. 43.

¹⁷ Minute Book III pp. 69-70.

¹⁸ Minute Book III pp. 72-3. Details of the advertisements were not given.

practice, no further action being taken. This approach to advertising hardened when, in 1899 with very little discussion, Council approved a further motion once again declaring advertising to be disgraceful conduct, and extending the prohibition to prevent persons other than the Member from advertising on their behalf.

By 1907 the Registration Committee's thinking extended beyond the specific to more general principles. A Mr Blakeway was found to be advertising in an insurance company circular. His conduct was condemned, but the ruling went on to claim that it was unprofessional to state that one had special skill in certain areas, even when the advertisement appeared in a professional journal. (This was held despite the view that a veterinary surgeon should rely upon word of mouth to spread knowledge of his expertise. Of course, then as now, the RCVS had no power to establish a statutory register of those formally recognised as specialists, a means which should ensure animal welfare, and false claims were to be resisted.) However, the Committee went further, declaring that it was unprofessional for a veterinary surgeon even to give a testimonial to a colleague's skill – as the latter 'would use it as an advertisement'.¹⁹

From the early years of the twentieth century a recurring concern expressed in the Minutes was advertising by means of writing articles for the public press, addressed to animal owners. In 1907 Council considered a letter drawing attention to 'Veterinary Advice' given in the *Farmer and Stockbreeder* journal. Here the Registration Committee was 'of the opinion that the College cannot interfere'.²⁰ This may have been because the articles were unsigned. Signed articles certainly were condemned, and three such cases are recorded in 1928.²¹

Mis-certification

The Royal College was slow in taking action in cases where mis-certification was alleged. The first case appears in 1920, when Harry Potts was found guilty of falsely certifying that a particular horse was 'free from any contagious parasitic skin infection'.²² This was at a time when parasitic mange (sarcoptic and chorioptic) was

¹⁹ Minute Book III p. 478.

²⁰ Minute Book III p. 456.

²¹ Cases, 2321, 2336, 2338, (1928). Each Member either gave a satisfactory explanation or an undertaking to desist; no sanction was applied.

²² Case No. 2014, H Potts, (1920). Later Potts presented a petition praying for his restoration, signed by thirty Members and 'several magistrates, medical practitioners, legal practitioners, farmers and

highly prevalent, and movement orders could be imposed to control spread of the disease. Potts' action put at risk both animal welfare and public health; accordingly his conduct was found to be disgraceful and his name struck from the Register. He appealed the decision, but without success. The reason for this is not given, but in 1923 he successfully sought restoration to the Register.

Conviction in a Court

A conviction in the Courts has always been considered to be a matter which may bring not only a member, but the profession also into disrepute, even if unrelated to veterinary activity. In 1890 an unnamed Member, having been convicted of embezzlement, was removed from the Register.²³ In 1898 the names of two others were removed for separate convictions of insurance fraud.²⁴ In 1917 G. H. Pickwell had been convicted of 'being a male person [having] committed an act of gross indecency with another male person.' He did not appear at the hearing, and, having heard the Solicitor read out the conviction, the Committee immediately ruled that his name be removed from the Register.²⁵ In 1918 Joseph Randolph Welsby, having been imprisoned for bigamy, suffered the severe sentence of twelve months imprisonment with hard labour. To add to his woes, a case against him for disgraceful conduct was heard by the Registration Committee *in absentia*, and his name was removed from the Register.²⁶

As shown in Chapter II, the great majority of disciplinary reports are dated between about 1920 and 1950, mainly because during those years the police were statutorily required to inform the College of even minor convictions in the Courts. A great number of the cases thus heard involved abuse of alcohol. Of the ninety-nine such cases, sixty-three involved Members being drunk in charge of a car, although only in four was the problem of drunkenness associated with being 'on duty'. In 1933, after hearing details of yet another minor road-traffic offence, it was decided that the College Solicitor need no longer bring such trivial cases to the Committee.²⁷

others'. His name was restored in July 1923.

²³ Case No. a1, name not given, (1890).

²⁴ Case a3 W Pettigrew and another, unnamed, (1898).

²⁵ Case No 1929, G H Pickwell, (1917).

²⁶ Case No. 1950, J R Welsby, (1918).

²⁷ Case 2516 B Tay 1933. However, in 1951, this system brought the name of H W Steele-Bodger before the RCVS Council. He was a member of Council, and later its President, and had been

Improper conduct

Under this heading are included all those cases which do not fall readily into the categories defined for this thesis. They may arise either from human frailty or waywardness or from actions, such as writing articles for a lay audience, which, initially considered unprofessional, come to be regarded as innocuous, even beneficial, to the public.

Several cases are recorded of overcharging or charging for work not done.²⁸ The earliest case of such cupidity also appears to be the only case in which the practice of ‘fee-splitting’ is recorded. In 1899 F. W. Pinkett was charged that, when vetting horses for soundness, as well as charging a fee to the client, he would take an additional sum from the vendor. The Committee thought this ‘a very grave indiscretion’, and duly declared the conduct to be unprofessional.²⁹ In 1905 the conduct of a Mr Spruce was found to be unprofessional for a quite dastardly scam. He obtained money from cabmen by telling them that he was employed by the local authority and thus empowered to send horses home as being unfit, causing the cabman loss of money. He took money from them as ‘a *solatium*’ (a consolation or compensation) for not doing so. His name too was removed from the Register³⁰.

The second pattern among cases of improper conduct demonstrates the evolving interpretation of what constitutes ‘disgraceful conduct’, and is well illustrated by changing attitudes to writing signed or attributed articles in the public press. In 1929 Alexander Levie appeared before the Committee, he having written several articles on diseases of cattle.³¹ This conduct was unacceptable, because it was ‘contrary to the interests not only of the animals but of the animal owners’, and an apology was demanded (by letter). The apology was, after protest, eventually given, but some forty years later official opinion changed completely (see Ch. V).

convicted of speeding in a built-up area, fined £5 and had his licence endorsed. The offence was ‘noted’ by Council. (Council Minutes 1951).

²⁸ See for example case No. 1914, E J Sewell, (1917).

²⁹ Case No. unallocated, Minute Book III pp. 256, 263, (1899). Name removed.

³⁰ Case No. unallocated, Minute Book III p. 403 (1905). Pinkett had also concealed a case of glanders and signed a blank certificate of soundness. He appealed to the Privy Council, but the appeal was disallowed.

³¹ Case No. 2402, A Levie, (1929). It has not been possible to locate the articles, but this may be the same Alexander Levie, FRSE, veterinary surgeon, 1865-1955, listed at web site http://www.royalsoced.org.uk/fellowship/all_fellows.pdf.

Clinical incompetence

The number of cases in which RCVS Members have been called to account for alleged errors or incompetence in clinical matters is small, amounting only to thirty-seven. Of these half occurred after 1966. A significant reason for this limited number of cases is that the College is not empowered to take action over a Member's negligence unless it is so gross as to amount to being disgraceful; otherwise it is a matter for action in the civil courts between the aggrieved owner and the veterinary surgeon. Since the most significant examples occurred after 1966, the earlier cases are not further discussed.

Covering: illegal employment of the unqualified

The charge of allowing an unqualified person to practise veterinary surgery was commonly brought following the 1881 Act, and two or three cases are recorded for most years until about 1950. (Ch. II p. 27). Given that the very preamble to the Act said that its aim was to enable an animal owner to 'distinguish qualified from unqualified practitioners', covering was a both a potential danger to animals and to their owners, and it brought the profession into disrepute. In 1895 alone fifty-five names were removed for covering, and between 1881 and 1947 the relevant committees considered over 240 cases.³²

Canvassing, touting, tendering and supersession

To canvass for custom from persons not one's clients, for example by delivering leaflets through letterboxes, or to tout one's services more brazenly, as by handing out business cards in an inn, were offences chiefly recorded between the two World Wars (see Ch. II p.29). Supersession, another means of gaining business from fellow veterinarians, or to tender for business and perhaps undercut a colleague, were both unacceptable. Many cases are recorded.³²

This brief sketch of early RCVS history shows that most of the 'disciplinary' activities for the first one-third of the College's existence to date were designed to maintain the status of what Queen Victoria herself had designated 'a profession'. Members then were expected to be 'gentlemen' – which included keeping women

³² See Appendix.

well out of the club until forced to do otherwise. By 1948, after a second World War, many attitudes had changed, the emphasis of the veterinarian had moved from care of the horse to an important role in feeding the nation through the care of farm animals, and to the treatment of pet animals. The profession gained a monopoly in the treatment of animals, accurate certification became even more important, and the disciplinary function of the College was extended and more clearly defined.

Chapter IV

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This chapter reviews the disciplinary provisions of the 1948 Veterinary Surgeons Act, introduced amid social and political attitudes very different from those prevailing in 1881. A brief review of cases during this period is also given.

The 1948 Act

The 1948 Act significantly amended the Act of 1881; the practice of veterinary medicine was henceforth to be almost completely restricted to those qualified to be included on the Register of RCVS Members and those on a new Supplementary Veterinary Register (SVR).³³ Inclusion of the latter group, as under the 1881 Act, softened the effect of the near monopoly, since it allowed men and women who had properly earned a living from the treatment of animals to be

³³ A Schedule to the Act permitted certain treatments and operations to be performed by unqualified persons, such as castration of young animals, docking the tails of puppies or lambs, or providing emergency first aid.

registered, and not immediately deprived of their livelihood.³⁴ In contrast to the 1881 Act, this cohort of ‘veterinary practitioners’ as they were to be called, would be subject to the same discipline as those on the Veterinary Register. Section 7 of the Act granted a few other persons licence to perform certain minor procedures.³⁵

The powers granted to the old Registration Committee by the 1892 Charter were now invested in a Disciplinary Committee (DC) which would act with all the powers of a court of law. There was to be a chairman elected from Council, and eight members, four of whom were to be elected members of Council, plus at least one Privy Council appointee. This appointment meant that usually the DC had some lay, non-veterinary members, but did not specify this as a requirement. Neither the President nor any other Council officer was accorded a place on the DC by virtue of office, but they were not necessarily excluded (Section 14). The quorum for a hearing was to be five.

The 1948 Act did not repeal the Act of 1881 in total, but in Section 13 repealed Sections 7 and 8 of its predecessor, noting that they related to the removal and restoration of names from the Register of Veterinary Surgeons. It substituted five further sections prescribing new powers, detailing the composition of the new DC, and outlining the disciplinary procedures to be followed. The Act allowed the Royal College considerable freedom of action in disciplinary matters, for, subject to the provisions of the Act and any rules made by RCVS Council, the Disciplinary Committee ‘shall have power to regulate their own procedure’ (Box 2).³⁶

³⁴ Applicants for inclusion on the Supplementary Register had to be of good character and to have been engaged in the United Kingdom in diagnosing diseases of animals and giving medical or surgical treatment, for not less than seven years in the ten years immediately preceding the application. Given that the Act followed closely upon the end of World War II, an applicant could apply having done less than seven years in the role if this time had been reduced by service in the armed forces or on work of national importance.

³⁵ These were the employees of charitable institutions which were wholly supported by voluntary contributions or endowments, and which provided free medical or surgical treatment for animals. Conditions on qualifying experience were imposed, similar to those on eligibility for the SVR. This concession was the result of long battles between the RCVS and, in particular, the People’s Dispensary for Sick Animals - a matter which lies outside the scope of this thesis.

³⁶ VS Act, 1948, s.15 (6).

Box 2: Summary of the procedure of the Disciplinary Committee, 1948 VS Act (S.14)

Conduct of the Committee

- An inquiry to be held, the respondent to be given the opportunity to be heard, in person or represented.
- Quorum to be five.
- In the absence of the chairman, committee to elect one of their members to the role.
- Voting on the Committee decision allowed.
- If votes equally divided, chairman to have a casting vote.

The Act formally introduced the sanction of suspension of a Member's name from the Register and allowed its restoration after a removal. The sanction of warning was not mentioned in the Act, and the conduct which might result in proceedings were not specified further than being carried forwards from Section 6 of the 1881 Act (See Ch. III p.32). Appeal against a decision of the DC was allowed to the High Court in England and to the corresponding courts of Scotland or Northern Ireland.

Proceedings of the DC which involved those on the SVR were prescribed by Section 19 of the Act. They were to follow the same procedures as for those on the Members' Register, save that four persons from the SVR would be added to the Committee, and would have equal voting rights.³⁷ The quorum for such a disciplinary hearing was to be seven, but it was not necessary to include five members of the DC.

The 1948 Act provided nothing equivalent to the later Preliminary Investigation Committee, but in 1949, at its first meeting after passage of the new Act, Council itself appointed a committee instructed to conduct such preliminary investigations, since the old Registration Committee, with its screening function, no longer existed.³⁸ Neither the President nor other Council officers were to be appointed to this committee.

³⁷ The four were to be appointed by the Minister of Agriculture, Fisheries and Food, the Secretary of State and the Minister of Agriculture for Northern Ireland, acting jointly.

³⁸ Council Minutes, September 1949.

Procedure of the Disciplinary Committee

The earliest information on the procedures to be followed by the new DC appears to be a typed memorandum dated 1961.³⁹ This is unsigned, but was presumably written by the then Registrar, W. G. R. Oates (Registrar 1945-1965). Noting that the new Act gave the DC power to regulate its own procedure, the memorandum goes on to say that, since no such rules had been made, the Committee was ‘free to have its own procedure’. The guidance was clearly, and sensibly, aimed at people who had no legal training and only limited legal knowledge, observing that:

It is of paramount importance that members of the Disciplinary Committee shall discharge their duties with efficiency, impartiality, courtesy, patience and a real desire to do justice. The Committee is, in essence, a court of law and must observe the genuine principles of British justice.

The advice was expanded to state that the evidence against a person brought before the Committee should be heard in his presence; that he be presumed innocent until proved guilty; that any previous convictions should not be disclosed unless and until the charge was proven; that hearsay evidence was inadmissible. Questioning of the witnesses was allowed through the Chairman ‘provided [the questions] are relevant to the issue and arise from the evidence’. A charge could be found proven, but not to amount to disgraceful conduct.

In this memorandum its author exploited the Disciplinary Committee’s freedom to make its own rules in a most interesting way, stating that judgment might be suspended until a given time in the future. Suspension, it suggested, could be used in offences connected with drunkenness or drugs, or ‘some course of conduct which it is hoped may be cured’. The person involved was to be told to attend at the expiration of a stated period, and to give the Committee ‘such proof of good conduct as the Committee may indicate’³⁹.

At a full disciplinary hearing the sanction on conduct found disgraceful was indeed sometimes postponed and conditions applied, such as the need to provide

³⁹ Anon. (1961), *The Ashe papers: The Procedure of the Disciplinary Committee*. Such a course was taken in 1949 with WTS Atkinson (Case No. 2590), who seems to have had a drink problem, the first example identified (see Appendix).

medical or other evidence as to the respondent's satisfactory behaviour during the period of grace.⁴⁰

Neither the Veterinary Surgeons Act 1948 nor any College rules made reference to the presence of a Legal Assessor at a disciplinary hearing, a post which became a requirement in later years. The first reference found to such a person in the Council Minutes is in the report of a hearing in 1957.⁴¹ The Assessor is recorded as inviting the College's solicitor to define the evidence relied upon in supporting the charge of conduct disgraceful in a professional respect.

Social milieu and the evolution of professional ethics

Passage of the 1948 Veterinary Surgeons Act, which entrusted the Members of the Royal College and those on the SVR with a near monopoly of the treatment of animals, echoed that feeling of worth felt by the men who had rejoiced in passage of the 1844 Charter and its recognition of veterinary surgeons as constituting a profession.

Great Britain still possessed an Empire and gave great reverence to its monarch. There was a general formality of manners and an ingrained deference. Schoolboys called each other by their surnames, and when King George the Sixth died, the BBC played solemn music, schools closed and pupils were sent home.⁴² The President of a Royal College was expected to be of outstanding morals, and close involvement in disciplinary proceedings was not seen as inappropriate. Of course such a person might also be expected to be imbued not only with the mores of the College but with a sound knowledge of its workings and the standards expected of its Members.

Social class distinctions were reflected in the profession because, to have qualified through a veterinary school before 1950 frequently necessitated a sufficiently large private income to fund a private education, thus ensuring that almost all came from a small social class. The circumstances paralleled that of the doctors; they too were

⁴⁰ Case No. 4836, FN Andrewes, (1959). He had been convicted on five occasions of nine charges of fraud in relation to National Insurance matters.

⁴¹ Council Minutes (1957) *in re* Case No. 4816, H S Dunn. Neither the assessor's name nor qualification are given.

⁴² Author's personal experience, William Hulme's Grammar School, Manchester, 1952.

drawn from a small coterie and were ‘blinkered by prep and public school’.⁴³ The author himself entered the Royal Veterinary College London in the autumn of 1958, and a certain decorum was ingrained in most of that intake, even in those without the privilege of a private education. (Box 3)

Box 3: A personal note by C J Chesney

When in 1958 I entered the Royal Veterinary College, London, one of an intake of forty, only six were women. Of the males, about half had done two years of National Service in the armed forces, being thus grown men, not callow boys. Perhaps it was this ex-service mentality in some, and grammar school in others, which ensured that on our first day at RVC, as the Dean and senior staff entered, we all stood, if not quite ‘to attention’ then certainly until bidden to sit. That may have been the last time such happened. Much of life was quite formal. The dress code for men consisted of either blazer and grey slacks, or for those with a farming background, sports jacket and brown brogues; the views of the latter tended to the conservative.

Until 1948 every veterinary surgeon had to compete with a plethora of unqualified persons who were allowed to treat any species of animal. As a result, veterinarians sought as much as the doctors a mystique of exclusivism and secrecy. These reactionary attitudes still guided the RCVS Council when in 1946, shortly before passage of the 1948 Act, it set up an Ethics Committee with the remit to ‘consider the whole matter of unethical conduct’. RCVS Members had had to accommodate the Existing Practitioners recognised by the Act of 1881, but the second group of unqualified practitioners who were about to be put on the new SVR were clearly a matter of concern, for ‘some of these men were in the habit of using wide self-advertisement of themselves and of their services’.⁴⁴ Further, self-assumed titles were widely used by ‘some of such persons to *deceive* the public into thinking that they possessed some form of professional status or qualification’ (emphasis added).

The Ethics Committee reported to Council in January 1948. It appears that discussions were robust; a firm and clear lead must be given both to Members of the RCVS and to those on the new Supplementary Register, allowing ‘no exceptions’ to

⁴³ Hopkin H (1964) *The New Look: a social history of the Forties and Fifties in Britain*. Secker & Warburg, London. p. 134.

⁴⁴ Ethics Committee Report to RCVS Council 1948.

the guidance now provided in a new document, the *Guide to Professional Conduct* (the *Guide*).⁴⁵

The Guide to Professional Conduct

The RCVS Annual Report of 1949 refers to the new *Guide*, and points out that it superseded Fred Bullock's handbook, (Ch. III p. 35), but the RCVS Trust library appears not to have a copy of this edition, the oldest found being a version published in 1951. Its full title is *Guide as to the Professional Conduct of Persons Registered in the Register of Veterinary Surgeons and the Supplementary Veterinary Register*. In commending the *Guide* to Members, the authors wrote that 'Every practitioner of veterinary surgery [thus including both those on the Register and those on the SVR] is required by the Council... to maintain and promote the honour, the dignity, and the interests of the veterinary profession'.⁴⁶ The approach adopted can be seen as being very paternalistic, chiefly setting out activities which were to be avoided, and the first and longest section of this *Guide* was headed *The Status and Dignity of the Veterinary Profession*. Canvassing or touting for business were activities 'discreditable' to professional status and dignity. No practitioner was permitted to advertise in any way, either directly or indirectly. 'Advertising' was deemed to include any title such as 'consultant' or 'specialist'. However, it was now recognised that a man might 'attain esteem among his fellow practitioners', and indeed that he might, by invitation only, advise or attend upon a colleague's case - an advance upon the pronouncements of 1907 (Ch. III p. 37).

The *Guide* also made the point - frequently to be repeated - that it provided merely a guide to conduct, and 'must not be considered as being completely inclusive'.

Correct conduct was taken to include proper relationships between practitioners, the real aim of which was to protect the interests of an established practice against 'opposition' practices which had been set up in a manner considered to be unfair; neither former assistants, those who had been a *locum tenens*, nor erstwhile partners,

⁴⁵ *Annual Report* 1949.

⁴⁶ *Guide to Professional Conduct* (1951) p. 8. One notes wryly, on the first of many occasions, an observation in the Annual Report of 1949 that some Members had not read the new guide 'with the

should set up a practice locally without the written assent of the former employer or partner. Such action would be ‘dishonourable’ and those taking it ‘may be deemed [to be] guilty of conduct disgraceful in a professional respect’.⁴⁷

This *Guide* of 1951 contains no reference at all to the clients of a practice. The section entitled *Relationship between the Practitioner and Lay Persons* reflects only the long battle against unqualified practice, only recently outlawed. Employing a non-registered person to practice veterinary surgery, covering, was regarded with high disfavour, and it was a disciplinary offence even to ‘meet an unqualified person in consultation’. Protection of the profession emphasised a deeply felt dignity. However, the subsequent edition of the *Guide*, ten years later in 1961, included advice on the ‘obligations of a practitioner in service to the public’ and noted that ‘A practitioner, in the exercise of his veterinary profession, has undertaken a public calling...[and] is under an obligation to make careful use of his knowledge and skill’.⁴⁸

The 1951 edition of the *Guide* devoted only about 100 words to certification, noting that it was ‘unprofessional, and may often be also a legal offence’ to sign a misleading, untrue, or improper certificate. The next edition, in 1961, added little more. However, revision of guidance in this and an increasing variety of other activities followed, and latterly an edition has appeared every three years, with an annual Supplement.

The Preliminary Investigation and Advisory Committee

In 1949 RCVS Council established a Preliminary Investigation and Advisory Committee (PIAC), to distinguish complaints and allegations against practitioners which were *prima facie* disgraceful in a professional respect, from those not of sufficient seriousness to warrant a full hearing by the DC. The PIAC gave advice to veterinarians and those on the SVR, and answered complaints made by the general public.⁴⁹ This advice was disseminated to Members through the College's *Annual Reports*.

care and attention that is necessary’.

⁴⁷ *Guide to Professional Conduct* (1951) p. 16.

⁴⁸ *Guide to Professional Conduct* (1961) pp. 10-11.

⁴⁹ *Annual Report* (1950).

The RCVS *Annual Report* of 1955 included lengthy advice from the PIAC, expanding that provided in the Guide of 1951. Unqualified practice was still a concern, but greater emphasis was given to ‘an increasing volume of work in the sphere of professional ethics’. The function of the committee, and its method of working were specified in considerable detail.⁵⁰ The essence of the committee’s role is given in Box 4.

Box 4: Role of Preliminary Investigation and Advisory Committee

Report of the PIAC, adopted by RCVS Council April 15th 1955

The Council of the Royal College of Veterinary Surgeons has the duty and must accept the responsibility

- a) Of receiving and answering complaints against veterinary surgeons and persons registered on the Supplementary Veterinary Register whether such complaints be made by veterinary surgeons, persons on the Supplementary Veterinary Register, official bodies, non-official bodies, or members of the general public.
- b) Of giving guidance and advice to veterinary surgeons and persons registered on the Supplementary Veterinary Register.

This PIAC report gave broad guidance on the standard expected of professional premises, noting that many retained more or less the layout of shoeing forge, yard, loose boxes and dispensary-cum-office. Whilst still hemmed into back-streets, their purpose had changed from ‘serving the horse to serving the dog and cat’.⁵¹ The report pointed out that no firm rules could be stated, but that a ‘slovenly appearance of a member or his premises’ would do harm both to himself and to the profession. An indication of what sometimes happened was the observation that ‘it is scarcely reasonable to expect members of the public to wait in dingy, uncomfortable, ill-lighted and unheated premises’.⁵²

The PIAC advice acknowledged that justice could not be done without observing certain fundamental principles concerning the conduct of those serving on the PIAC or DC - although, in another nod to well-bred conduct - it was also thought that ‘it should not be necessary to mention nor make rules concerning these principles’. Nevertheless, a few such rules were stated in the report (Box 5 below).⁵⁰

⁵⁰ *Annual Report* (1955) pp. 20-29.

⁵¹ *Annual Report* (1955) p. 27.

Box 5: Conduct of a Preliminary or Disciplinary Committee meeting

Rules of Conduct

No member of either the Preliminary or Disciplinary Committees, or of Council should

- Speak, vote or take part in any proceedings in which he is personally affected, or is linked with any person concerned by near relationship, or any other reason which might make it difficult for him to exercise strict impartiality;
- Canvass any other member, or allow himself to be so canvassed, in any proceedings requiring strict impartiality;
- Use or mention any personal knowledge of a person or matter being considered which is not set out in the evidence being considered.

The PIAC continued the informal deterrent of warning Members whose conduct was considered to verge upon 'disgraceful' (although this warning had no force in law, unlike sanctions imposed by the DC). The warnings covered such matters as advertising, and treating an animal already under the care of a colleague (supersession), but the majority were issued following conviction in the Courts. In all, 244 cases were recorded between 1948 and 1965 and seventy-five of these followed conviction. The majority of them related to drink-driving offences, which in practice were often dealt with simply by an admonitory letter from the Registrar, and sixty-six of the cases resulted in a warning only. The grounds for referring conviction cases onward from the PIAC to the DC were that the latter could hear cases of conviction of a minor misdemeanour as well of a higher offence. Some cases were indeed trivial, such as that in which a Member had been convicted of 'driving a car without reasonable consideration', and fined thirty shillings.⁵³

⁵² *Annual Report* (1955) p. 28.

⁵³ Case No. 4881 RJ Dixon, (1950). This equates today to about £115 on an 'average earnings' basis. Given at <http://www.measuringworth.com/ukcompare>. Accessed March 2010

Cases 1948 to 1966

Following passage of the new Act, there were no significant cases of canvassing, touting for business, or “covering” by Members. However, the concern for status and exclusivity continued; in particular, advertising of any sort was for many years deemed reprehensible.

Advertising

Official attitudes to advertising indeed changed only slowly and under external pressure, but by the late 1950s there was some recognition that the old hostility must bend. Mr. Clement Fennel was charged that ‘by sending a brochure to his clients he advertised his services in an improper manner’.⁵⁴ The Chairman stated that the Committee had ‘decided to be lenient’ and warned him as to his future conduct. The Chairman went on to say that ‘the problems raised in this case as to what information is legitimate to convey to clients is a matter of such importance to the profession that Committee propose to deliver a written judgment in this case at its next sitting’. The judgment is lengthy, and whilst it allowed that certain material could be published, it remained highly prescriptive.⁵⁵

The last case of a Member being accused of advertising occurred in 1964. DAP Grattan, a poultry practitioner, had written a signed article for *Poultry Farmer*. The case was declared ‘not disgraceful’.⁵⁶ However, neither the 1967 nor 1971 editions of the *Guide to Professional Conduct* gave any recognition of this case, and not until the *Guide* of 1975 was there some relaxation of the prohibition on advertising (see Ch. V p. 70).

Mis-certification

Despite the absence of advice in the *Guide*, the DC reports of this time make frequent reference to the importance of accurate and honest certification. In 1957 T. E. Johnston was accused of falsely certifying that he had inoculated fifty-four heifers against foot and mouth disease; he had instead injected them with an antibacterial drug which would confer no protection against the disease. Johnston was

⁵⁴ Case No. 4831 C Fennell, (1958).

⁵⁵ *Ibid.* Addendum to report of the case.

unrepresented, and his case was heard *in absentia*. At the end of the hearing the chairman said:

There is probably no charge which comes before this Committee which the Committee views more seriously, in that the issue of a false certificate by members of the profession jeopardises the standing of every individual in the profession. It not only lets down the profession but it lets down the general public who put faith and trust in the members of the profession.⁵⁷

Johnstone's name was removed. Occasionally the youth and inexperience of the respondent could be taken into account,⁵⁸ and a negligent rather than dishonest approach also attracted no more than a severe reprimand.⁵⁹

Conviction in a court

Some drink-driving cases did result in the removal of the Member's name from the Register. In 1949 J B Cox had been convicted of two such charges. He had also had three earlier warnings from the PIAC for similar problems, and this accumulated misconduct was found to warrant removal.⁶⁰

The power given by the 1948 Act, under Section 15 (6), for the DC to regulate its own procedure, was exploited to develop significantly some of the sanctions applied, still statutorily restricted to removal or suspension. In 1956 Paul Thompson appeared before the Committee following conviction for driving a car whilst under the influence of drink. He asked for two similar previous convictions to be taken into account. The Committee 'took the gravest view' of his conduct, but postponed final judgment for two years, warning him that if any other conviction or complaint were proved against him during that time, the Committee would 'immediately proceed to judgment'.⁶¹ In another instance, where the respondent had been convicted of assault causing actual bodily harm, judgment was postponed for a three-year term.⁶²

⁵⁶ Case No. 4865 DAP Grattan, (1964).

⁵⁷ Case No. 4828, TE Johnston, (1957).

⁵⁸ Case No. 4806, TW Edwards, (1954). Falsely signed and dated a certificate, pleading that he thought the person presenting it could be trusted. The DC noted that he had been 'not long qualified', and warned him on his future conduct.

⁵⁹ Case No. 4830 FG Greer, (1958). Described as 'serious negligence', and not an 'attempt to deceive' over certification on two tuberculosis certificates.

⁶⁰ Case No. 2614b JB Cox, (1949).

⁶¹ Case No. 4818, PGM Thompson, (1956).

⁶² Case No. 4824, RS Townson, (1956).

In 1956 occurred one of the rare disciplinary cases in which a Member on the Supplementary Register was involved, and in which some slight acknowledgement of the presence of women in the profession was made. The respondent, Sackville Thompson, had been convicted of ‘wilfully ... openly and lewdly’ exposing his person in front of two very young girls, and fined. It seems that this involvement of young women was thought to necessitate the inclusion of a woman to hear the case. In accordance with the Act four SVR members were appointed, including Miss Rosa Florence Parker - the only recorded instance of a woman being so included until recent times. Despite the support of his wife, Thompson’s name was removed from the Register.⁶³

Improper conduct

For many years after 1948 respondents in disciplinary cases displayed considerable deference to authority. In 1950 Frank Colebrook appeared before the DC accused of having advertised his new practice and of having set it up ‘in opposition’ in the town of his former employer. The DC found both actions to be disgraceful conduct, but decided that his name would not be removed if he closed the practice, did not sell it, and did not practice within 15 miles radius of his employer for five years; an early example of the use of undertakings to observe certain conditions.⁶⁴

Clinical incompetence

Clinical cases appear rarely in the records of these years, and they might be dealt with in a peremptory manner still concerned more with perceived status than with client care. In September 1950 the PIAC had received a complaint that a veterinary surgeon, after having performed a Caesarean section on a dog, had removed sutures ‘at a time and in a manner which led to a complete collapse of the intestines’. It was resolved ‘that the complainant be informed that the Council had considered his complaint’. One doubts that the complainant was reassured. In contrast, at the same session, a veterinary surgeon had enquired whether he might

⁶³ Case No. 4810, SH Thompson, (1956). The young women were in fact both children of such an age that at the initial court hearing the question was raised as whether one of them was competent to testify. Their names appear in the DC report but were excluded from the Annual Report of that year, and are thus not given here.

⁶⁴ Case No. 4878, F Colebrook, (1950). Curiously, the complainant had to bear the cost of solicitor and barrister - Viscount Hailsham in this case.

hang a sign perpendicularly to his premises, rather than flat against the wall, to be more easily seen down a narrow side street. It was resolved ‘That permission be not granted’.⁶⁵

Appeals to the High Court

There appear to have been three appeals to the High Court under the 1948 Act. Two are still of great relevance, those of Hans and Marten. Arthur Joseph Hans was clearly a troubled man, for his name appears five times in the records (see Appendix), and he was described by a psychiatrist as having drink and drugs problems because of his ‘basic personality’.⁶⁶ On three occasions he had been convicted of being drunk in charge of a motor car.⁶⁷ In 1952 he appeared before the Committee, having been convicted of failing to register particulars of morphine he had obtained. Interestingly, although not provided for in the Act, judgment was postponed for two years, on condition that he would not order, prescribe or stock narcotics.⁶⁸ At the due time he failed to appear, and his name was removed from the Register in 1954. The following March he did appear before the Committee, when his name was restored. He appeared yet again in 1959, charged that he had driven not only whilst drunk, but when also under the influence of paraldehyde.⁶⁹

An order to remove his name was made, but Hans appealed to the High Court, and the decision in the case carries weight today, being quoted until very recently in *Halsbury’s Laws of England*,⁷⁰ stating that:

Conduct disgraceful in a professional respect is not limited either to conduct involving moral turpitude or to a veterinary surgeon’s conduct in pursuit of his profession, but may extend to conduct which, although reprehensible in anyone, is, in the case of a professional man, so much more reprehensible as to be disgraceful, in the sense that it tends to bring disgrace to the profession which he practises.⁷¹

What is perhaps surprising, however, is that Hans’ name was *not* removed from the

⁶⁵ *Council Minutes* (1950).

⁶⁶ *Annual Report* (1960) p.49.

⁶⁷ Case Nos. 2677a, (1946), 2677, (1946), 4841, (1959). All *re* AJ Hans.

⁶⁸ Case No. 48101, AJ Hans, (1952).

⁶⁹ Case No. 4841 AJ Hans, (1959). Paraldehyde is an injectable sedative drug, once used in aggressive dementia cases, (author’s personal observation Oldchurch Hospital, Romford, 1958) and a drug misused by some.

⁷⁰ Anon. (2000) *Halsbury’s Laws of England*, Section 9, para. 571 (3).

⁷¹ See: *Re Hans* (1960) *The Times*, 12 October. Ashworth J and Elwes J agreed. Costs were also

register, for the Court ordered that the sanction be changed to suspension for two years from the date of the original DC hearing. The Lord Chief Justice, Lord Waddington, observed that in his view, ‘it was not a case for the extreme penalty’. This view was not universally held, and in the following year a magistrate and social scientist, Baroness Wootton of Abinger, referred to the Hans case, commenting unfavourably upon the then prevailing attitude that ‘hardly any guilt today attaches to motoring offences, even those of a quite deliberate nature’.⁷² This remains a paradigm case with respect to certain aspects of disgraceful conduct.

K. R. Malgarin SVR appeared before the DC in 1963, charged with several offences of supplying drugs to the clients of other practices for animals not under his care,⁷³ (although that phraseology, later to become very important, was not used⁷⁴). He said that he was supplying drugs (including penicillin) at lower prices than were his competitors, because they were charging more than farmers thought fair. The Committee ruled that his conduct was such that it was not merely unprofessional but disgraceful, and ordered removal of his name, but Malgarin appealed the order to the High Court. The judgment is lengthy but in essence ruled that it was ‘a bad case’ and that ‘the cases in which this court will interfere with a sentence imposed by the professional disciplinary committee must be rare’.⁷⁵ The appeal was dismissed.

In one of the last cases to be heard under the 1948 Act, D. W. Marten appeared, having been convicted of several counts of failing to provide proper care and treatment for animals in his charge.⁷⁵ below The animals were Marten’s own on his own farm, and the incidents occurred in the bitter winter of 1962 / 63. The Committee found him guilty of the charges and of allowing ‘conditions to exist on his farm which were likely to bring disgrace on the veterinary profession’. Marten appealed, and his Counsel argued, in a nod to the Hans case, that conduct could only be disgraceful in a professional respect if it was unethical and involved ‘moral

allowed.

⁷² Wootton B, (1963) *Crime and the Criminal Law; reflections of a magistrate and social scientist*, (1st Edn.) (The Hamlyn Lectures, 15th Series) Steven and Sons, London. Her comment was repeated in the second edition of 1981.

⁷³ Case No. 4857, KR Malgarin, (1963). His name had been removed from the Supplementary Register in 1956 after conviction of stealing a motor car, for which he had served six months in prison. The 1963 appeal was heard in the Divisional Court of the Queen’s Bench Division, by Lord Chief Justice Parker.

⁷⁴ See Chapter V p. 78.

⁷⁵ Case. No. 4863, DW Marten, (1964).

turpitude'. He also argued that the conduct, however disgraceful, could not be disgraceful in a professional respect unless at the time the respondent was actively engaged in pursuit of his profession. Lord Parker, hearing the appeal, referred to the case of *Allinson v. General Medical Council*, 1894,⁷⁶ and he adopted their definition, in essence that 'some acts which although they may not be infamous in any other person, yet if they are done by a medical man in relation to his profession, that is, with regard either to his patients or his professional brethren, may be fairly considered 'infamous conduct in a professional respect'. Lord Parker also noted, concerning Marten, that 'this court...is loath to interfere with the findings of a disciplinary committee on such a matter as this'. On the same grounds, he refused to interfere with the order and dismissed the appeal, awarding costs to the College.⁷⁷ His judgment was considered of sufficient importance to be printed in full in the 1967 *Guide* and its successors up to and including the edition of 1990.

A new Act

By the mid-1960s Britain as a nation had changed almost beyond recognition, even compared with 1948. Over eighty years had elapsed since passage of the Veterinary Surgeons Act of 1881, but this remained largely in force, despite some changes under the 1948 Act. Some institutions, such as the PDSA, were still allowed to licence unqualified persons to perform minor operations. Clearly, the time had come to make fresh provision for regulation of the veterinary profession, and to establish formally the roles of both the Legal Assessor and the new Preliminary Investigation Committee.

⁷⁶ 1 Queen's Bench 750. Heard by Lords Justice Lopes and Davey.

⁷⁷ Quoted in the *Guide to Professional Conduct*, 1967 pp. 31-35. In a sad coda, Marten appeared again before a DC hearing in 1990, accused of selling horse wormer to strangers in a horse market, and of having out of-date-drugs and unrefrigerated vaccines in his car. His name was again removed from the Register. Case No. 6660 DW Marten, (1990).

Chapter V

Veterinary Surgeons Act 1966 and the social milieu

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Introduction

An Act to make fresh provision for the management of the veterinary profession, for the registration of veterinary surgeons and veterinary practitioners, for regulating their professional education and professional conduct and for cancelling or suspending registration in cases of misconduct; and for connected purposes.

Such was the preamble to the new Act ratified on November 17th 1966, which further defined the privileges and powers of the Royal College of Veterinary Surgeons. This chapter reviews those parts of the Act which relate to disciplinary matters. Social aspects of the years 1966 to 1987 are discussed, and the effects on the profession of changing attitudes and external pressures. Cases heard during this time are addressed in the following chapter.

The Act

The Veterinary Surgeons Act 1966 (Section 19) made the prohibition against both unqualified practice and unmerited use of any title suggesting veterinary qualification even more explicit than under the 1881 Act. The Supplementary Veterinary Register (SVR) was to be continued (Section 8 (1)), and Section 6

specified that the provisions concerning registration and removal would apply equally to those listed on the Veterinary Register and to those on the SVR. In a move very controversial at the time Section 8 (2) allowed a further cohort of those lacking formal veterinary qualification entry to the SVR.⁷⁸

In the context of the history of the RCVS disciplinary processes, one of the most important changes in the 1966 Act was to establish a statutory Preliminary Investigation Committee (PIC), in place of the earlier Preliminary Investigation and Advisory Committee (PIAC); the Disciplinary Committee was retained. The PIC would investigate every ‘disciplinary case’, that is, a case in which a person was liable to have his name removed or suspended from the Register, and would decide whether the case should be referred to the Disciplinary Committee (S.15. (1)). The constitutions of these committees were to be regulated under a schedule to the Act (Schedule 2, Parts I and II), the new rules coming into force on 15th March 1967. In the case of a hearing against someone on the SVR, four others on that Register would be added to the committee (Schedule 2, I (4)).

The power to remove or suspend a Member’s name from the Register was confirmed. The reasons for removal or suspension included conviction of a criminal offence considered by the DC to render a respondent ‘unfit to practise veterinary surgery’, or those judged to be ‘guilty of disgraceful conduct in any professional respect’ (S. 16 (1a to 1c)). Additional powers to remove a name entered either fraudulently or incorrectly were also introduced (S. 14). The latter could be removed by motion of Council, but a case of alleged fraudulent entry had to be referred directly to the Disciplinary Committee (S.14).

There was a significant difference in the wording regarding convictions between the Acts of 1881 and 1948, and the new Act. The first Act empowered the Council to act

⁷⁸ These were employees of animal charities who had held a ‘licence’ to perform certain acts of veterinary surgery under S. 7 of the 1948 Act. Under the new Act they were allowed only to practise as employees of the charity or society, and Council could apply restrictions to their activities (S 8 (3)). If these restrictions were not complied with, Council could of its own motion remove the offender’s name from the SVR (S. 8 (4)). This exception was surprisingly contrary to the advice of the Parliamentary Committee on Licences, which, in 1952, had advised that ‘the practice of veterinary surgery by unregistered persons should cease as soon as practicable’, since ‘the supply of veterinary surgeons has substantially improved and would further improve’. (Reported in *The Times*, August 23rd 1952).

on a conviction of any misdemeanour or higher offence, where a misdemeanour could be a quite minor matter. The wording of the 1966 Act narrowed the definition to cases of a criminal offence which, in the opinion of the Committee, rendered the respondent unfit to practise veterinary surgery.⁷⁹

Where a Member's name had been removed or suspended from the Register, an appeal was allowed within twenty-eight days from the date of service of the direction. That appeal was once again to be to Her Majesty in Council, effectively the Judicial Committee of the Privy Council (S. 17 (1)). In any case where a name had been removed, an application for restoration could be made to the Disciplinary Committee after ten months. Where restoration was denied, further application could not be made in less than ten months from that hearing.

In addition, Schedule 2 of the Act formally established the post of Legal Assessor to the DC, to advise the committee on questions of law. The assessor was to possess at least certain minimum qualifications, and would normally be appointed by Council, although the DC might appoint its own if no Council appointee were available. The Lord Chancellor was also to make rules for the assessor to follow, to include provision that where an assessor advised the DC on any question of law, all parties to the hearing should hear that advice. If the advice had been given *in camera*, it was to be repeated in open session. The Committee could refuse to accept the advice of the assessor, but again, every party was to be informed of its refusal.⁸⁰

⁷⁹ Porter ARW (1967) *Advice can be an Investment*. J. Small Anim. Pract. **8**, pp. 429-435.

⁸⁰ *Veterinary Surgeons Act 1966*, Schedule 2, Part 2 S.6.

Registrar Porter

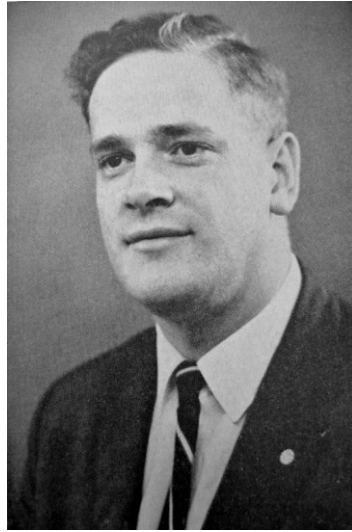


Figure 30: Dr. A.R.W. Porter, RCVS Registrar 1966-1991

For any student of the history of disciplinary processes within the Royal College of Veterinary Surgeons, the arrival of Registrar A. R. W. Porter in 1966 is a significant moment (Figure 30). He reported every disciplinary case throughout his twenty-five years as Registrar, and as a result of his being a barrister-at-law, and his judicial experience in what was then Northern Rhodesia, those reports are accepted *prima facie* as a correct record. Dr. Porter also notes that, not having the luxury of a court reporter at that time, of necessity he had himself to write down the evidence as near verbatim as possible as a record to be made available to the Northern Rhodesia High Court in the event of an appeal (Box 6).⁸¹

⁸¹ ARW Porter (2004) *Pers. Comm.*. Dr. ARW Porter, MA (Oxon) CBE, was called to the Bar by Gray's Inn in 1952. Appointed a Resident Magistrate in Northern Rhodesia in 1954, he became successively Registrar of the High Court, a Senior Resident Magistrate and eventually Permanent Secretary to the Ministry of Justice in that country.

Box 6: A personal note by Registrar Porter

Registrar Porter's work with the Disciplinary Committee

In the production of a record of the hearing I wrote as near as possible a verbatim record so ... that question and answer would tend to be combined in the entry on the record, unless it was apparent that the precise wording of both was vital. Thus normally a question, put in such form as – “What was your first day in the surgery that week?”, with an answer of “Monday”, would probably have appeared in the record as “My first day in the surgery that week was Monday”, as though the witness' evidence appeared in narrative form.

I personally sat through every Disciplinary Committee hearing in my 25 years as Registrar, and sat through the full hearing in each case. Once I had put my quasi-verbatim record on paper, I did not in any way or at any time amend it. I did not rely on anyone else's notes – not even that of the Legal Assessor.

I did retire with the Committee, taking my record with me, so that if the Committee wished to check what the witness had said, I would consult my record.

I did not, of course, deliberate along with members of the Committee when they had retired. (I was effectively Clerk of the Court). My role was confined to reading extracts from the record when asked to do some reminding the Committee if necessary of their powers under the Act, and responding to requests to be reminded of orders made in cases of a similar nature. When the Committee had indicated the nature of their findings ... I would listen and produce a draft of what I thought the Committee was saying, in a form suitable for pronouncement by the Chairman in open court. However, it was a draft. It would be shaped and amended by the Committee, with the help, if appropriate, of the Legal Assessor, until the definitive statement was agreed. It was that definitive statement which went into the record, and, of course, it was not only never changed afterwards, but always repeated verbatim in the “law report” of the case as prepared by me.

Informed by his experience, his reports of RCVS disciplinary proceedings provide detailed information on some fifty-five cases between 1966 and 1991, together with hearings for restoration to the Register. Upon Dr. Porter's departure, Mrs. Diane Sinclair, RCVS Assistant Registrar, took on the recording role. After her retirement in 1999, neither her successor nor the then Registrar, Miss Jane Hern, continued the practice of quasi-verbatim case-recording. Miss Hern continued for a short time to sit with the DC, reading out the charges to the respondent and, later, helping to draft the decisions, but she later withdrew even from this, thus ensuring some degree of separation of the DC from senior staff of the College. After 1995 a stenographer was appointed to each hearing, and thus truly verbatim records became available.

Dr. Porter's purpose in case recording began with the intention of building up a body

of case law. He discussed this with the Chairman of the DC, who suggested that copies should be given to newly-appointed members of the Committee.⁸² Either the Chairman or the Legal Assessor, or both, would check them for accuracy.⁸³

In 1969 Dr. Porter expressed the view that his presence with the Disciplinary Committee *in camera* might be misinterpreted.⁸⁴ A part of his concern was an earlier case in which a decision by the disciplinary committee of the Pharmaceutical Society had been appealed on the grounds of perceived bias, since the Society's secretary had retired with that committee *in camera*.⁸⁵ That submission had been rejected, the Lord Chief Justice observing that the Secretary was merely 'a conduit pipe for the conveyance of information', and that he saw nothing in the action from which the Secretary might be suspected of bias. However, Humphries J. added 'entirely of [his] own personal view', that the Statutory Committee might think it better that the Secretary should not go into the private room with the committee.⁸⁶

In response to the Registrar's concerns, Mr. Peter Baylis, the solicitor who acted frequently for the College, wrote that the Pharmaceutical Society case 'gave authority' for his presence with the DC *in camera*,⁸⁷ and Dr. Porter continued to retire with the DC. He later wrote that at the conclusion of a hearing the Chairman of the RCVS DC did not analyse the whole evidence of a case and give a judgment 'in the sense in which a judge in court would do'. Rather, what he had to say 'can usually be contained in a few paragraphs'.⁸⁸

In 1968, Dr. Porter revised the information on DC procedure in the light of the 1966 Act, and, in a version which survives only as a copy of the 1968 memorandum with hand-written emendations, there were some important changes, chiefly that the factors relating to the charges should be proved 'beyond all reasonable doubt', that is

⁸² Letters between GN Gould and ARW Porter, 25th and 27th May 1966. It is not clear if this happened, and it was certainly not the case in 1996, when the author joined the Committee.

⁸³ Letters, M Young, DC Chairman (7th August 1972) to P Cox, QC, Legal Assessor (22nd October 1976).

⁸⁴ Letter, ARW Porter to P. Baylis, solicitor acting for the College, 21st January 1969.

⁸⁵ *Lawson v. Statutory Committee of the Pharmaceutical Society* *The Times Law Reports*, 1941, p. 57, TLR 315. The Lord Chief Justice (Thomas Inskip, 1st Viscount Caldecote) and Mr. Justice Humphries.

⁸⁶ Anon. (1941) *Name Removed from the Register*, *The Pharmaceutical Journal*, 4th Series, 92 60-61.

⁸⁷ Letter, P. Baylis to ARW Porter (23rd January 1969).

⁸⁸ Letter ARW Porter to TM Lyons (4th April 1973).

to a criminal standard of proof, rather than ‘to [the Committee’s] satisfaction’.⁸⁹

Some training for DC members was introduced. At one such session the Committee were addressed by the Legal Assessor (Philip Cox QC) on the correct approach to a case, and discussed some hypothetical examples.⁹⁰ In 1978 Mr Cox outlined several types of conviction case which would, in law, amount to disgraceful conduct (Box 7).⁹¹ It is in these training notes that the first use of the formulation that a committee must be ‘sure’ in its findings occurs, though this is still equivalent to the criminal standard of proof. As further steps in ensuring careful justice, newly appointed members of the DC were invited to sit, as observers only, at the first hearing after their appointment,⁹² and Council ruled that, once appointed, a member would serve on the DC until the end of his term - a measure designed to avoid pressure or coercion.⁹³

Box 7: Consideration of conviction cases (Philip Cox QC) 1978

Conviction Cases

- (a) Conviction for speeding – would not render a veterinarian unfit to practise.
- (b) Assault on a farmer during a visit might be disgraceful, depending on circumstances because of ‘a flaw in his character’.
- (c) Conviction in relation to a conspiracy re doping of greyhounds, ‘would almost certainly mean the man was unfit to practise’.
- (d) If a veterinarian were convicted of pocketing a partner’s cash, or corrupt in dealing with a land owner, or even murder; would these, however, be convictions rendering him unfit to practise? [The note phrases it thus, as a question.]

Disciplinary Committee (Procedure and Evidence) Rules 1967

Schedule 2 (Part I) of the Act laid down the constitution of the PIC and DC, as related above. In Part II Section 5 of this Schedule, Council was to make rules on procedure (Box 8).⁹⁴ Such rules had to be approved by the Privy Council, as did any

⁸⁹ ARW Porter (November 1968) *The Procedure of the Disciplinary Committee*.

⁹⁰ Described in a letter, ARW Porter to Philip Cox (23rd November 1977). The cases studied related to Mr X S Scotch (drink problem); Mr. N E Time (supply of drugs for turkeys not under his care); Mr. I C Spots (mis-certification of meat); Mr. U R Square (advertising association with Dubious Dog Farms Ltd.).

⁹¹ Notes on comments made by Legal Assessor at a meeting of the DC (3rd February 1978).

⁹² See for example, letter IM Ashe (Secretary to the DC) to D Haxby, MRCVS (12th June 1973).

⁹³ Council Minutes 10 (a), (February 1967).

⁹⁴ Statutory Instrument No. 659 (1967) *The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 1967*. The procedure in cases of alleged fraudulent registration was separately specified but broadly similar to those in conduct cases.

other regulation or rule under the Act (S. 25).

Box 8: Principal Procedure and Evidence Rules 1967

Disciplinary Procedure Rules

- a) Notice to be given to the person alleged to be liable to have his name removed or suspended.
- b) Ensure that any party to the proceedings be entitled to be heard.
- c) Enable any party to be represented by counsel or solicitor or other person.
- d) Proceedings to be heard in public, (with exceptions allowed 'in the interests of justice').
- e) Specifying that where the DC found the allegation unproven, to record a finding that the person against whom the allegation is made was not guilty of the alleged conduct.

The new rules implicitly acknowledged the evolution of the College's disciplinary processes under the 1948 Act, and Part 2,10 (2) of the Rules explicitly allowed that sanction which had been informally applied, the use of postponement of judgment. The period was specified as not to exceed two years. The heads of each Rule on procedure to be applied to cases involving alleged conviction or misconduct are given in Box 9.

Box 9: Heads of rules applied in conviction or misconduct cases

Heads of Rules

- Notice of Enquiry (to the respondent).
- Procedure upon postponement or cancellation of an inquiry.
- Access to documents.
- Reading of the charge.
- Proof of facts alleged in relation to conviction or misconduct.
- Procedure upon proof of the facts alleged.
- Procedure in cases in which both conviction and misconduct are alleged.
- Procedure upon postponement of judgment.

However, Part V of the Rules also allowed the Committee considerable leeway to adjust their procedures in certain circumstances. The rules on evidence were generally to be to the standard applied in criminal proceedings, but in some circumstances allowed significant relaxation.

All committee determinations were to be made by a majority of the members present, and voting by motion on a show of hands was prescribed. The Chairman could vote as he thought fit, but where the votes were equal - and unlike the provisions of the

1948 Act - the chairman would have no casting vote, and the motion would be resolved in favour of the respondent or appellant.

These Procedure and Evidence Rules were robustly written, and remained in force for almost forty years, being revised in 2004 (Ch. VII p. 100).

Social and political milieu: 1966 to 1987

For the following paragraphs I am indebted to Mr. John Tandy MRCVS.⁹⁵ below

For more than a decade after the Second World War veterinary practice continued to provide the same Herriot-type service that had sufficed during the 30s. Indigestion powders and drenches were still mixed in the back rooms of un-adapted Victorian houses as they had been over thirty years previously. There had been little change in pharmaceuticals, equipment, surgical or management techniques during that time. Consultations for small animals took place on house calls and at open surgeries. Most practices provided mixed farm, equine and small animal services.

During the 60s things began to change. Antibiotics and corticosteroids increasingly became part of the therapeutic armoury. New anaesthetics and improved surgical techniques were introduced. Society became more affluent. More people were purchasing expensive pets and were prepared to spend more money on them. This stimulated demand for more sophisticated veterinary services.

In the late 60s and 70s more practices were beginning to up-grade their premises. The Royal College of Veterinary Surgeons (RCVS) introduced standards and an inspection system for designated Veterinary Hospitals. Practices were reducing house calls and introducing appointment systems.

Some members of the profession were suspicious and resentful of change. Some of those with political influence attempted to resist it.

Change continued swiftly in the Britain of the late sixties and seventies, a time of transformation in the ordinary Briton's prosperity. After years of austerity people had money to spend on more than essentials, for real average weekly earnings increased

⁹⁵ At my request John Tandy has provided some personal notes of the times in which he lived and worked. He was deeply involved in changing attitudes to advertising and marketing. Mr. Tandy qualified in 1957.

by over 25% between 1960 and 1970.⁹⁶ At the same time there were veterinary surgeons who felt it appropriate to move from passively waiting for the public to find them, to at least helping the public to do so. Although, as noted above (Ch. IV p. 53), the last advertising case before a disciplinary hearing was prior to the 1966 Act, the matter occupied Council for over two decades more, and there was considerable debate on the topic amongst Members in the letters pages of the *Veterinary Record*. However, the clearest account of those with a pro-advertising view has been given by the already-quoted John Tandy, one of those who engineered change within the profession (Box 10).⁹⁷

⁹⁶ Lawrence H. Officer, 2007 *What were the UK Earnings and Prices Then?* At MeasuringWorth.com Accessed March 2009.

⁹⁷ John Tandy, *MRCVS Pers. Comm.* 2005.

Box 10: A personal note on marketing by John Tandy, MRCVS

Mr. Tandy found himself in conflict with professional colleagues at the RCVS and the British Veterinary Association (BVA), and recalls the following.

In the process of up-grading his practice premises and management systems he [Mr. Tandy] made several trips to the USA to visit leading practices. He found all round standards in these practices to be considerably in advance of those in the UK.

To keep their clients informed of their services US practices had available well-designed brochures, which included photographs of facilities in parts of the premises not normally visited by the clients.

Having up-graded his own premises and services to Veterinary Hospital standards, he designed a brochure like those in US practices to provide details of services available and added assurance for his clients. Since he was aware that there might be some resistance to the concept from the RCVS he sent a copy of the brochure to the Registrar of the College. There was an immediate rejection of the idea on the grounds that if the brochure fell into the hands of clients of another practice this would be deemed as advertising and would contravene advice laid out in the Guide to Professional Conduct.

As a member of the BVA the writer made contact with the Association for their support on the matter. The Secretary of the BVA responded as quickly and un-waveringly as the Registrar had done. It was the Association's view that the RCVS were correct in the stance that they were taking.

Following some political lobbying of friends in the BVA the writer was asked to chair a working party on marketing veterinary practice. The working party agreed a list of recommendations including the use of brochures. The report was accepted by BVA Council and ultimately by the RCVS. Thus in the early '70s brochures were introduced into veterinary practice with full agreement of the profession.

'Advertising' becomes 'Marketing'

Slowly, advertising gained some acceptance in the profession, and Government attitudes were changing too. In January 1967 the Monopolies Commission was asked to report 'on the general effect on the public interest of certain restrictive practices so far as they prevail in relation to the supply of professional services'. The practices included those which 'by long-standing convention specify fees, the terms and conditions upon which services were to be supplied, restrictions upon advertising and other matters'. The Report, published in 1970, noted that a restriction on advertising was the most common form of all professional restrictions apart from those on entry, but was generally intended to avoid the risk of compromising professional and ethical standards. However, it noted that it was a 'material restriction', inhibiting competition, and 'likely to be against the public interest'.⁹⁸ The conclusion was that the Department of Employment and

⁹⁸ The Monopolies Commission: 1970, *A report on the general effect on the public interest of certain*

Productivity should, jointly with the Monopolies and Mergers Commission, inquire into those practices of relevant professions which might be found to be ‘contrary to the public interest’.⁹⁹

Two years later, in 1972 the Small Animals Committee of the British Veterinary Association (BVA) recommended that advertising by a local *group* of veterinary surgeons should be considered ethical. The Royal College agreed and a set of guidelines was published. However, the apron strings were but slightly loosened. (Box 11)

Box 11: New rules on advertising 1972

<p><i>Joint Advertising: Methods allowed</i></p> <ol style="list-style-type: none">1) Lists of all local practices in<ul style="list-style-type: none">• Police stations• Post offices• Public libraries• A.A. boxes• R.A.C. boxes• Town notice boards• Local telephone directories• Local trade directories• Notice boards outside animal welfare clinics2) Lists of all local practices ... in local newspapers3) Information sheets [with] details of all local services delivered by hand in certain areas
--

Thereafter, the RCVS Council decided that a veterinarian might allow a little light to shine from under the professional bushel – almost literally. After consultations with ‘experts in the field of illuminated signs’, permission was granted for Members to advertise their premises to the extent of placing a light outside. It thus became ‘permissible for *one* illuminated sign to be displayed... during the hours of darkness’ (emphasis added).¹⁰⁰ The rules, seen from the perspective of the 21st century, seem quaint (Box12).

restrictive practices so far as they prevail in relation to the supply of professional services. Cmnd. 4463.

⁹⁹ *Ibid.* pp. 84 - 88.

¹⁰⁰ RCVS Statement (1972) *Veterinary Record* p. 682.

Box 12: Provisions for an illuminated sign

Veterinary illuminated sign

- Must be of a properly professional appearance employing black and white colours only;
- may be sited on the practice premises themselves or at the entrance to such premises where the premises are set back from the road;
- shall be of an overall illuminated surface area not exceeding 60 square inches (*or* 390 square cms.), provided that where the sign is set at right-angles to the premises or to the roadway it shall be permissible for an overall surface area of such dimensions to be illuminated on both sides of the sign by the same bulb;
- shall be lit by an ordinary bulb of not more than 25 watts and giving a white light;
- shall display only the words “Veterinary Hospital”, “Veterinary Surgeon” or “Veterinary Practitioner” as appropriate to the circumstances.

Thus slowly RCVS Council altered its rulings on the permissibility of advertising, and the 1975 edition of the Guide to Professional Conduct recognised that the provision of information could be legitimate and differentiated from advertising.¹⁰¹

The Monopolies Commission went on to a wider examination of the practices of several professions, including veterinary surgery, an exercise in which RCVS officers participated, and a chapter of the final report records their comments.¹⁰² The officers said that 'a profession exists to meet a public need, whereas a great deal of commercial advertising is designed to create a feeling of need and only then to fill it'. They argued that to allow practices to advertise that they limited work to a particular species would have many disadvantages and no advantages. Advertising could imply that the practice was a 'specialist' in such species, when (as indeed now) the College

¹⁰¹ *Guide to Professional Conduct* (1975) p. 10.

¹⁰² THE MONOPOLIES AND MERGERS COMMISSION (1976) *A Report on the Supply of Veterinary Services in Relation to Restrictions on Advertising*, Cmnd. 6572, Ch. 4, pp. 29-33.

had no power to establish a register of properly qualified specialists.¹⁰³ On the matter of professional stationery, officers reasoned that such would normally be sent only to existing clients who would already be aware of the services provided. It was also claimed that it would not be of assistance for practices to display 'price lists' as though they were 'competing emporia offering the same brand of tinned goods for sale'.¹⁰⁴

In August 1976 the Commission report was published, reaffirming its earlier view that advertising should be allowed. The College reacted conservatively, warning that 'for the time being the College's advice to the profession on these matters remains unchanged'.¹⁰⁵ Reaction from the profession was mixed, and often supportive of the College's view, as expressed in letters to the *Veterinary Record*.¹⁰⁶

The next meeting of RCVS Council in 1976 contradicted the Commission and concluded that there was no evidence to justify a finding that the current restrictions on advertising might operate against the public interest. Councillors agreed 'unanimously'.¹⁰⁷ Council member Mr. Brian Singleton noted a potential interference by the Commission with the Disciplinary Committee, since the recommendations of the Commission were made 'in the expectation that the Council and relevant committees, including the Disciplinary Committee, will accept that advertising subject to the conditions we propose, will not henceforth be regarded as in any way improper for veterinarians in the United Kingdom'. The next edition of the *Guide to Professional Conduct* (1978) carried only minor changes in the wording of advice on advertising, compared with its predecessor of 1975.

Government pressure continued, however and, also in 1976, the Office of Fair Trading (OFT) was established. Opticians lost their monopoly in the supply of

¹⁰³ The College has sought to overcome this, at least in part, by establishing a 'List' of RCVS 'Recognised Specialists'. This has no statutory basis and anyone may call themselves a specialist 'if they can substantiate the claim' (*Guide to Professional Conduct* 2010 p. 26).

¹⁰⁴ THE MONOPOLIES AND MERGERS COMMISSION (1976) *A Report on the Supply of Veterinary Services in Relation to Restrictions on Advertising*, Cmnd. 6572, Ch. 4 p. 33.

¹⁰⁵ RCVS President, Miss O. Uvarov (1976) *Veterinary Record*, p. 133.

¹⁰⁶ See, for example, O Graham-Jones, (1976) *Veterinary Record*, p. 260.

spectacles, solicitors their monopoly in conveyancing houses. In 1983 the Director General of the OFT once again declared that the RCVS restrictions on advertising were against the public interest ‘because they restrict competition amongst veterinary surgeons and they cause the public to pay more for veterinary services than if advertising was permitted’.¹⁰⁸ In 1978 the Guide began to recognise this changing world and stated that ‘ethical rules must always be formulated with the interests of animals and their owners clearly in mind. It is not simply that a concern for the animals entrusted to his care is always the primary concern of the veterinary surgeon’ (emphasis added).¹⁰⁹

In June 1984, Council, with an almost audible grinding of teeth, accepted that veterinary surgeons should be allowed to advertise, although ‘not a single voice was raised in favour’.¹¹⁰ One Member recalled that ‘Advertising? It used to be called “touting for practice!”’.¹¹¹ The Guide was altered accordingly, and advertising intended ‘to inform’ permitted. No more cases concerning advertising came before the Disciplinary Committee.

The PIC and Guide to Professional Conduct

Throughout this period the Preliminary Investigation Committee continued to provide advice based upon its work, publishing this in the *Annual Reports*. Its workload increased steadily, both from an increased propensity for clients to complain,¹¹² and from growth of the profession.¹¹³ By 1982 the annual number of complaints exceeded 1,000, an increase from 600 some years previously. The proscription of advertising was frequently reinforced in the early years of this period,¹¹⁴ and there were many exhortations to Members to be accurate and precise when writing certificates. Despite these urgings the PIC found it wearily necessary to remind Members frequently of the advice on certification given in the *Guide*. The *Annual Reports* of this period also carried, in almost every year, comment and advice on the need for good relationships between veterinary surgeons.

¹⁰⁷ Report of meeting of RCVS Council (1976) *Veterinary Record*, p. 429.

¹⁰⁸ Sir Gordon Borrie (1983) Hamptons Lecture, reported in *Veterinary Record*, p. 480.

¹⁰⁹ *Guide to Professional Conduct* (1978) p.1.

¹¹⁰ Report of RCVS Council meeting (1984) *Veterinary Record*, p.1.

¹¹¹ D Brockis, (1984) *Veterinary Record* p. 607.

¹¹² *Annual Report* (1977).

¹¹³ *Annual Report* (1980).

¹¹⁴ (*Annual Reports* passim).

Another means of keeping Members informed was Newsletters, and in 1973 one of these set out ‘something of [Council’s] philosophy in matters of professional ethics’. This was reprinted in the *Guide* of 1975 and is given in Box 13 below.

Box 13: RCVS Philosophy of Professional Ethics, 1975

Upon ethics

Some people would say that ethical guidance and rulings as to professional conduct are set out solely for the purpose of controlling the non-conformists to be found in any profession. But that is rather a negative view to take. In every civilised society people have put their heads together to prepare a code of law or to record recognised customs which they are prepared to follow in order to ensure the stability of the state and thus ensure their own freedom to go about their business without always having to look over their shoulders to see what their neighbours are up to. In agreeing to this, men do, of course, surrender a measure of their individual liberty in return for the assurance that it will no longer be open to those neighbours to do entirely as they please, regardless of the effect of such conduct upon others. Experience has shown that in societies where no rules are laid down or observed and the popular sentiment has been that the devil may take the hindmost, the devil hasn't stopped at the hindmost. He has devoured them all.

The Introduction to this edition went on to say that the College appreciated fully ‘that opinions on matters of professional ethics do change with the years, since ethics and professional conduct must be appropriate to the situations and times in which we live’.

Certification

Perhaps the clearest example of the manner in which the veterinary profession has evolved is the changing emphasis upon the importance of accurate certification, and it is noteworthy that the first recorded case of mis-certification was brought before the RCVS Council as late as 1920¹¹⁵. Council increasingly took the view that honesty in certification was of central importance, and in 1927 issued a grave warning that a Member who improperly signed a certificate would be liable ‘to show cause why his name should not be removed from the Register for unprofessional conduct’.¹¹⁶ ^{below} Despite this injunction, by 1949 only twenty-three such cases had been heard.

Curiously, the 1961 edition of the *Guide to Professional Conduct* devoted only about 100 words on certification, noting that it was ‘unprofessional, and may often be also

¹¹⁵ Case No. 2014, Potts H (1920). See Chapter III p.37).

¹¹⁶ Bullock F (1927) *Handbook for Veterinary Surgeons*, Appendix I p.88. Taylor and Francis, London.

a legal offence' to sign a misleading, untrue or improper certificate.¹¹⁷ In a later edition, Members were instructed to ensure that any certificate should bear 'the name and address of the veterinarian issuing them and the date of the examination'¹¹⁸. The advice expanded and evolved, in response to the changing nature of veterinary practice. The *Guide* of 1975 recognised the need for veterinarians to be aware of everything to which they attached their name, and observed that, when a third party tendered a certificate, veterinarians should attest only to those matters which were within their own knowledge.

The importance of accurate and detailed certification increased steadily because of several factors, significantly through the rise of international trade, itself greatly affected by changes in British farming methods. Initially the aim was to feed Britain itself, but by the early 1970s things had changed in two ways. Not only had home production of meat increased to the level of there being a surplus to export, but six western European countries had formed a free trade area, the European Economic Community (EEC). British farmers were able to exploit this market, and meat exports rose, between 1971 and 1974, by 150%, chiefly to the EEC countries¹¹⁹.

In 1973 The United Kingdom itself joined the EEC and, in 1975 the *Guide* observed that a misleading certificate could result not only in 'the spread of disease, [and] financial loss to clients and exporters', but also to 'embarrassment to Government departments'. Embarrassment might arise, for example, if animals were incorrectly or insufficiently identified. The 1978 edition of the *Guide* included a lengthy appendix on certification, with special reference to the export of animals, noting that a veterinarian might be presented with a certificate which presented linguistic difficulties, was ambiguous, related to matters to which it was impossible to testify or asked for certification of future events. Lengthy advice was given on dealing with such as these¹²⁰.

As exports were by then being made between many countries, the number and variety of certificates increased, and the Federation of Veterinarians in Europe (FVE)

¹¹⁷ *Guide to Professional Conduct* (1961) p. 33.

¹¹⁸ *Guide to Professional Conduct* (1967) p. 28

¹¹⁹ Anon. (1975) Government white paper *Food from our own resources* Cmnd 6020. Ch. 4 p.32.

developed what became known as the “Nine principles of certification”. The principles were incorporated into the RCVS Guide in 1987,¹²¹ and subsequent editions. In 1994 the RCVS Advisory Committee reported that a Certification Working Party had, in consultation with the British Veterinary Association and the Ministry of Agriculture Fisheries and Food, redrafted the nine principles into twelve¹²². These had also been presented to the General Assembly of the FVE, which body had adopted them. On the 17th December 1996 eight of these twelve principles were also adopted by the Council of the European Union, becoming established in European Union law by EU Directive 96/93/EC, which remains in force at the time of writing.¹²³

In a further clarification of RCVS advice, the *Guide* of 1996, whilst listing the twelve principles, recognised that a veterinary surgeon could well be presented with a certificate which did not conform to those principles. Here, the veterinarian should apply ‘caution’, and ensure their own ‘clarity’ in fully understanding the document which they were asked to sign. They should also be ‘certain’ that they attested only to what ‘to the best of their knowledge and belief’ was true, that they did not attest to future events, nor ‘recklessly attest to what others have declared or asserted’¹²⁴. Finally, they should be prepared to face ‘challenge’ if they had gone further in what they had attested, and be able to support any such assertion. This particular guidance remains unchanged in the *Guide to Professional Conduct* of 2010,¹²⁵ although the Twelve Principles are not included in that edition of the *Guide*. They are available on the RCVS web site,¹²⁶ and are given in Box 14.

¹²⁰ *Guide to Professional Conduct* (1978) pp. 49 -52.

¹²¹ *Guide to Professional Conduct* (1987) p. 60.

¹²² *Annual Report* (1994) p. 15.

¹²³ *Official Journal L13*, 16 Jan. 1997, pp. 28-30. At <http://faolex.fao.org/>, accessed 30 Sept. 2010.

¹²⁴ *Guide to Professional Conduct* (1996) p. 23.

¹²⁵ *Guide to Professional Conduct* (2010) pp. 44- 45.

¹²⁶ At

<http://www.rcvs.org.uk/Templates/PreviousNext.asp?NodeID=897684&int2ndParentNode=ID89738&int1stParentNodeID=89642>. Accessed 26 Oct 2010

Box 14: The Twelve Principles of Certification

1. A veterinarian should be asked to certify only those matters which are within his own knowledge, can be ascertained by him personally or are the subject of a supporting certificate from another veterinarian who does have personal knowledge of the matters in question and is authorised to provide such a supporting document. Matters not within the knowledge of a veterinarian and not the subject of such a supporting certificate but known to other persons, e.g. the farmer, the breeder or the truck driver, should be the subject of a declaration by those persons only.
2. Neither a veterinarian nor any person described above should be requested or required to sign anything relating to matters which cannot be verified by the signatory.
3. Veterinarians should not issue a certificate which might raise questions of a possible conflict of interest e.g. in relation to their own animals.
4. All certificates should be written in terms which are as simple and easy to understand as possible.
5. Certificates should not use words or phrases which are capable of more than one interpretation.
6. Certificates should be produced on one sheet of paper or, where more than one page is required, in such a form that any two or more pages are part of an integrated whole and indivisible; given a unique number, with records being retained by the issuing authority of the persons to whom certificates bearing particular numbers were supplied.
7. Certificates should be written in the language of the veterinarian signing them, and accompanied by an official translation of the certificate into a language of the country of ultimate destination.
8. Certificates should identify animals individually except in cases where this is impractical e.g. day old chicks.
9. Certificates should not require a veterinarian to certify that there has been compliance with the law of the European Union or a third country unless the provisions of the law are set out clearly on the certificate or have been provided to him by the issuing authority.
10. Where appropriate, notes for guidance should be provided to the certifying veterinarian by the issuing authority indicating the extent of the enquiries he is expected to make, the examinations he is required to carry out, or to clarify any details of the certificate which may require further interpretation.
11. Certificates should always be issued and presented in the original. Photocopies are not acceptable, provided that a copy of the certificate (clearly marked 'COPY') should always be provided to the authority by whom the certificates were issued; and where, for any good and sufficient reason (such as damage in transit) a duplicate certificate is authorised and supplied by the issuing authority, this must be clearly marked 'duplicate' before issue.
12. When signing a certificate, a veterinarian should ensure that he signs, stamps and completes any manuscript portions in a colour of ink which does not readily photocopy i.e. a colour other than black; that the certificate contains no deletions or alterations, other than those which are indicated on the face of the certificate to be permissible, and subject to such changes being initialled and stamped by the certifying veterinarian; the certificate bears not only his signature but also, in clear lettering, his name, qualifications and address and (where appropriate) his official or practice stamps; the certificate bears the date on which the certificate was signed and issued and (where appropriate) the time for which the certificate will remain valid; no portion of the certificate is left blank, so that it could subsequently be

Defining 'Animals under his care'

Appendix 5 of the 1971 edition of the *Guide* attempted a definition of the term 'animals under his care'. This phrase had been introduced by the Medicines Act 1968.¹²⁷ At this time there was considerable concern over the use of antibiotics in farm animals and their possible harmful effects upon human and animal health. The Government established a committee to enquire into the problem, which reported in 1969.¹²⁸ The phrase 'Animals under his care' appears again in this report.¹²⁹

The aim of the Medicines Act was to exert control over the administration of medicines, but in the veterinary field certain persons, such as veterinary nurses, stockmen or others in charge of animals, are permitted to administer drugs to animals other than their own, at the 'direction' of a veterinarian. However, responsibility remains with the veterinary surgeon and the animal must remain 'under his care'. An early interpretation of the word 'direction', had been given in 1923, by Lord Chief Justice Hewart in relation to medicines given 'under the direction of a medical practitioner'.¹³⁰ (Box 15)

¹²⁷ Medicines Act 1968 c.67. S. 33(2)(a). This clause allowed exemption from the general regulations of the Act, enabling a veterinary surgeon to supply or administer medicines to 'animals under his care'.

¹²⁸ Swann, M. J. 1969. *Joint committee on the use of antibiotics in animal husbandry and veterinary medicine. Report, Cmnd. 4190.*

¹²⁹ *Ibid.* p. 49.

¹³⁰ *Davies v. Morriss* (1923) 2KB 508. Lord Chief Justice Hewart in a case brought under the Midwives Act 1902.

Box 15: Judgment of Hewart LCJ, 1902

Direction

The [Midwives] Act no doubt abstains from defining the term 'direction'. In my view, however, the term at any rate involves this, that before a person in the position of the respondent can with success put forward the defence that she acted under the direction of a medical man, there must be material from which the Court can properly draw the inference that the direction was a real and not a nominal direction. Whatever particular ingredients the exercise of direction may involve in a given case—and undoubtedly these may vary much in different cases—it seems at least to involve this fundamental requirement, that the medical practitioner shall not only know of the case and undertake a formal liability for it, but that he shall be acquainted with the actual features of the case. The object of the Act is not merely to ensure that a medical practitioner shall make himself responsible for the case so that in the event of mischief occurring in respect of the health of the patient or otherwise he may be called to account, but to prevent mischief of that sort from occurring at all or at least in circumstances in which it cannot be satisfactorily dealt with. It is not enough therefore that there should be a qualified medical figurehead in the background who has undertaken some nominal contingent responsibility in respect of the case.

In June 1970 RCVS Council passed a resolution to capture the essence of the Hewart ruling, adapted for guidance of the veterinarian in the field. Later, the Council issued a statement jointly with the British Veterinary Association (BVA), adopting the RCVS resolution, which was subsequently published in full in the 1971 edition of the *Guide* (Box 16).

Box 16: Resolution of RCVS Council 1970; Animals under his care

Council Resolution

The objects of both the Medicines Act and the Swann Report is surely, to adapt Lord Hewart's words to our situation, 'not merely to ensure that a veterinary surgeon shall make himself responsible for the animal or herd so that in the event of mischief occurring in respect of the health of the animal or herd he may be called to account, but to prevent mischief of that sort (or mischief to the human consumer of foods of animal origin) occurring at all or at least in circumstances in which it cannot be satisfactorily dealt with.'

The ethical responsibility of the veterinarian for ensuring that these objects are met so far as possible would seem to require that.

- a) The veterinary surgeon is given responsibility for the health of the animal or herd in question by the agent or owners;
- b) the care of the animal or herd by the veterinary surgeon should be real and not merely nominal; and
- c) in amplification of (b) above, although circumstances will vary enormously, the veterinary surgeon must at least—
- d) either have seen the animal or herd for the purposes of diagnosis or prescription and immediately prior thereto; or
- e) have visited the farm or other premises on which the animal or herd is kept sufficiently often and recently enough to have acquired from personal knowledge and inspection an accurate picture of the current health state on that farm sufficient to enable him to diagnose or prescribe

During 1982 RCVS officers discussed this problem of defining 'animals under his care' with the Ministry of Agriculture, Fisheries and Food. The Minister accepted the working definition devised by the RCVS, and said that 'The agricultural departments are prepared to be guided by [the RCVS] interpretation and to so advise any other interested party seeking guidance as to how to interpret this phrase'.¹³¹ The interpretation was also rapidly accepted by certain Courts, being used in two prosecutions in Scotland which considered the term "animals under his care", and in neither case did the prosecuting Sheriff dissent from the RCVS view.¹³²

Providing veterinary services 'out of hours'

In 1927 Registrar Bullock used what might in the 21st century be considered a high moral tone, when advising Members on their conduct, in a section of his handbook headed 'Professional Responsibilities'. He wrote that 'When a man

¹³¹ *Guide to Professional Conduct* (1984) p. 43.

¹³² Quoted, with limited detail, in the *Guide to Professional Conduct* (1984) p. 43

becomes a member of a profession, he undertakes an honourable calling'. He expanded upon this, saying that a Member 'is not compelled by law to attend to any case to which he may have been called, but he must remember that, having accepted *a public calling*, he must, as a rule, have good reasons for his refusal' (emphasis added).¹³³ This belief was echoed in the second edition of the *Guide*, which stated that a veterinarian is 'a representative of a profession devoted to the public service'.¹³⁴ This guide also stated that one who is 'a representative of a profession devoted to the relief of pain and suffering' in animals should 'make proper provision at all times for service [to be given] to the public'.¹³⁵

By 1986 The *Annual Report* records that the failure to provide a 24 hour service was 'one of the complaints most commonly received', and, further, that some practices now had a policy of 'no house visits, even in an emergency'. The PIC, with the approval of Council, made spot checks on whether practices were meeting their obligations sufficiently. Some 200 practices were contacted, although not 'during the small hours of the morning', and in the great majority of cases the enquiries were 'courteously received' uncovering only minor problems; Council was reassured.¹³⁶

¹³³ Bullock F. (1927) *Handbook for Veterinary Surgeons* pp. 13-14. Taylor & Francis, London.

¹³⁴ *Guide to Professional Conduct* (1961) p. 9.

¹³⁵ *Ibid.* p. 10.

¹³⁶ The problems included such matters as a garbled message on an answering machine, rapidly corrected by the practice concerned.

Chapter VI

1966-1987: Disciplinary cases

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Disciplinary cases 1966 to 1987

This chapter reviews cases heard in the twenty-two years after passage of the Veterinary Surgeons Act 1966. Important legal advice which was developed in these years is also considered. The last two cases of touting for business occurred in 1968,¹³⁷ but these will not be discussed further.

Mis-certification

Thirteen allegations of improper certification came before the Disciplinary Committee during this period. The sanction applied varied from a warning to removal of the Member’s name from the Register.

In two cases the conduct was found not to be disgraceful. In one of these the respondent did not complete all the details required on certain certificates, arguing that certificates of vaccination for puppies in pet shops were a ‘record’ not a ‘certificate’. He had devised a method of vaccinating some 2,000 puppies annually for a particular pet shop, but in the single instance brought before the Committee his system had failed. The Legal Assessor, Philip Cox, advised that this charge did not, in law, amount to serious professional misconduct. The respondent was also charged with failing to comply with an earlier Royal College ruling that he should complete

¹³⁷ Case No. 6610, DA Norris (1968). Norris’s name was on the Supplementary Veterinary Register; he was warned on his future conduct. Case No.6611 GE Greenwell (1968). Judgment was postponed 12 months, with no further action being taken.

his certificates in full. This charge was proved but his actions found not to be disgraceful.¹³⁸ Following this case the 1984 edition of the *Guide to Professional Conduct* included an insert expressly reminding Members of the need to complete certificates in the manner prescribed in the *Annual Report* of 1981. It concluded by stating that ‘Any such certificate which is drawn to the College’s attention, in future, will automatically be referred to the Preliminary Investigation Committee’.

In the second case, one of three charges alleged that the respondent, P. G. Francis, had examined beef quarters and horse quarters at an approved slaughterhouse, and certified that both were derived from meat inspected at that slaughterhouse. This was true only of the horse meat, the beef having been inspected elsewhere, at a non-approved slaughterhouse. The Legal Assessor, noting that this was an isolated error, advised that the action would not amount to disgraceful conduct; the Committee agreed.¹³⁹

In each of the three cases in which the respondent was warned, it may be thought that disciplinary committees of the 21st century might not have been so lenient. Two of these respondents had each taken blood samples and submitted them to be examined for evidence of infection with brucellosis, a serious disease causing abortion and infertility in cattle, and transmissible to humans. Without seeing the relevant laboratory reports, both men had signed certificates stating that the test result was negative, whereas each test had been positive. Both respondents claimed their actions to be errors ascribable to overwork or family worries. In each case the Committee said that such actions brought ‘disgrace upon the profession’, but the respondents were merely warned as to their future conduct.¹⁴⁰

The more severe sanction of suspension was applied in three cases during the period. In one, a Member had signed and stamped with an official stamp a number of certificates relating to meat inspection, but left the details blank. The certificates had not in fact been used, and, finding the respondent’s actions arose from ‘stupidity and

¹³⁸ Case No. 6641a, AA Hanson, (1983).

¹³⁹ Case No. 6612, PG Francis, (1970).

¹⁴⁰ Case Nos. 6618, E Argo, and 6619, JB Wilson, (both 1972).

poor administration’, the DC suspended his name for three months.¹⁴¹ In a second case the respondent had signed certificates relating to large numbers of sheep prior to export. There was evidence that originally the total number of sheep involved was about 200, but the spaces left blank in the certificates had later been altered to cover the export of over 900 animals. The DC expressed ‘the gravest view’, but taking into account the respondent’s health problems (not described) and previous good record, his name was merely suspended from the Register for six months.¹⁴²

Gross misconduct certainly attracted the sanction of removal. A respondent responsible for the care of cats and dogs in quarantine kennels was found guilty of having signed between 225 and 300 certificates purporting to show that he had administered rabies vaccine to each animal, when he had given each of them only the first of two necessary doses. The DC’s response could be in no doubt, and his name was removed from the Register.¹⁴³ In two cases in which the respondent faced several charges of false certification, and all or some of these were proved to the Committee, then again, this sanction was applied.¹⁴⁴

In a further case a Member had supplied a client with signed but otherwise blank forms for the export of parrots to Belgium, these being later completed by the client and used to export the birds, but to Holland instead. His name was removed, but he appealed the decision to the Privy Council. Their Lordships noted that ‘all certification should be undertaken with the utmost care and accuracy’ and quoted the relevant passage in the *Guide*. They concluded that the respondent’s conduct indicated a ‘reckless disregard of the need for care in certification’, and thus did amount to disgraceful conduct in a professional respect, warranting the sanction of removal from the register.¹⁴⁵

Removal of a Member’s name from the Veterinary Register for mis-certification was applied on only five occasions during this two-decade span, but one of these caused

¹⁴¹ Case No. 6643, CJ Kenyon, (1984).

¹⁴² Case No. 6624, J Mackay, (1976).

¹⁴³ Case No. 6621 JSJ Lauder, (1974). Mr. Lauder was re-admitted to the register a year later.

¹⁴⁴ Case Nos. 6638 JW Paterson, and 6644, EJ Macnamara, (both 1984).

¹⁴⁵ Case No. 6631, GA Smith, and *Privy Council Appeal No. 27 of 1979*. Judgment delivered by Lord

outrage in the veterinary correspondence columns against perceived injustice.

In 1976 Mr. Pierre André appeared before the Committee charged with several offences relating to the export of pig heads. The certificates stated that the heads had been cut up in an approved cutting room and delivered from an approved site, neither of which was true. Mr. André admitted all the charges and conceded that they amounted to disgraceful conduct. There were, however, several mitigating circumstances; André had been told by a veterinary surgeon at the point of origin that he had personally supervised inspections of the meat, and that a certificate to that effect would accompany the consignment; André had telephoned the Ministry of Agriculture and been informed that it would be in order for him to supervise the loading. However, his name was removed from the Register, a great contrast with the fate of Francis in 1970 (above p. 82).¹⁴⁶ Mr. André was a young married man with children, and his sentence aroused a storm of protest in the letters columns of the *Veterinary Record*, it being called ‘harsh’ and ‘draconian’. It was pointed out that the effect on a young member of being struck off could be ‘catastrophic’. One letter noted that it left the College ‘no way of dealing with a “lying inveterate reprobate”’ and gave ‘no inducement to a Member to behave properly’. There was an almost unanimous revulsion that ‘a maximum sentence was given for a first and probably last offence, to a repentant man who pleaded guilty’.¹⁴⁷

Conviction in a Court

During these years the DC heard nine cases relating to conviction by a court of a criminal offence. J. B. Stevenson had fraudulently claimed Supplementary Benefit (for the unemployed) whilst still doing some work as a veterinary surgeon, and had been sentenced to several terms of imprisonment to run concurrently, suspended for twelve months. He declined to appear before the Committee and his case was heard *in absentia*.¹⁴⁸ The Solicitor for the College, Mr. Peter Baylis, submitted that any conviction under Section 16(1)(a) of the 1966 Act would enable a finding of disgraceful conduct to be made if it resulted from certain conditions. These are

Diplock.

¹⁴⁶ Case No. 6623, PG André, (1976).

¹⁴⁷ Various correspondents (1977) *Veterinary Record*, pp. 18, 35, 57, 118, 143, 186, 187, 225. André’s name, supported by excellent references, was restored in 1978.

¹⁴⁸ Case No. 6632, JB Stevenson, (1979).

recorded in Box 17, and here called the ‘Baylis rules’. He submitted that the case fell under categories (d) and (e), a view understandably supported by the Legal Assessor, Philip Cox. The Committee agreed, ordering Stevenson’s name to be suspended for twelve months. He appealed to the Privy Council on the grounds, firstly that the offences did not amount to disgraceful conduct, or alternatively, that the sentence was, in all the circumstances, too severe. In the hearing, the appellant’s own Counsel (Lord Hooson QC) accepted that he could not pursue the first contention, and their Lordships agreed. A plea of mitigating circumstances was made in relation to the sentence, but their Lordships could not agree with this either, and the appeal was dismissed.¹⁴⁹

Box 27: The Baylis rules 1979

Convictions which could attract a finding of disgraceful conduct

- a) Actually committed in the performance of the Respondent’s work as a veterinary surgeon.
- b) Committed in the course of the Respondent’s pursuing his occupation in a way which was unconnected with the actual performance of his professional duties, e.g. if a veterinary surgeon were convicted of obtaining a fee by deception.
- c) The circumstances of which requires protection, e.g. where the offence involves the use of alcohol or drugs to an extent limiting the ability of the Respondent to carry out his professional duties.
- d) Of such a nature as to call into question the Respondent’s suitability to remain a member of the profession in view of the obligation on all veterinary surgeons to be seen to be honest and trustworthy persons, e.g. in relation to certification.
- e) Of such a nature as is likely to bring the profession into disrepute and thus call into question the Respondent’s suitability to remain a member of the profession.

Three cases of criminal conviction related to the same incident, and reflect the varied level of sanction that might be applied, given the differing culpability of

¹⁴⁹ *Privy Council Appeal No. 23 of 1979* Judgment delivered by Lord Russell of Killowen. Mr. Stevenson had earlier been given considerable help in his troubles by Mr Eddie Straiton, and their Lordships refused to make an order for costs ‘lest the burden should fall on the kindly shoulders of Mr. Straiton’ (Mr. Straiton also figures in this history, see Case Nos. 2674 (1945 and 1947), 4834 (1958), 6636 (1981)). Mr. Stevenson was later re-admitted to the Register, but in 1984 he again appeared before the Committee, having been convicted of seven charges of cruelty to his own puppies. His name was once more removed (Case No. 66545).

each respondent. In December 1996 A. J. Barber-Lomax had been found illegally in possession of a vaccine for chickens for control of Gumboro disease, an infection with serious implications for poultry health. He had requested its manufacture and supply from J. Dalton, the chairman and managing director of Salisbury Laboratory Ltd., who had instructed an employee, R. R. Henry, to manufacture the vaccine. All three were veterinary surgeons, and all had already been convicted of offences in relation to this manufacture and supply, for the Ministry of Agriculture had not licensed the vaccine. Henry was regarded as having been in a subordinate position, and was only warned. Barber-Lomax's name was suspended from the Register for six months. Dalton, however, when first investigated by officers of the Department of Customs and Excise, had compounded the offence by lying about the matter for a prolonged period. The Committee ruled that Dalton's actions were 'far more serious'; he had 'set [himself] above the law', and had involved a junior colleague in breach of statute. His name was suspended for twelve months.¹⁵⁰

In 1983 D. H. Armstrong appeared before the DC, having been convicted of six offences of supplying drugs to animals not under his care (he was retired). Not only was this the first occasion upon which this phrase was used in a RCVS disciplinary charge, but also the Court had acted in complete accordance with the guidance of the RCVS in such matters. The Legal Assessor to the DC hearing (Philip Cox QC) advised that such convictions could, in law, also amount to disgraceful conduct, partly because a member of the profession had a professional responsibility 'to make himself aware of the rules of professional conduct'. The Committee went further, finding that such charges were 'of the utmost gravity and [strike] at the root of professional responsibility'. Armstrong's name was removed from the Register.¹⁵¹

The final conviction cases to be considered in this chapter relate to Mr. Maurice John Kirk, a man whom it would not be inaccurate to describe as having been of concern to the RCVS Professional Conduct Department for some thirty years. In 1983 he appeared upon seventeen charges of having been convicted in the Courts, and it was alleged that each of these convictions separately and individually rendered him 'unfit

¹⁵⁰ Case Nos. 6626, 6627, 6628, AJ Barber Lomax, RR Henry, PJ Dalton, (1976).

¹⁵¹ Case No. 6639, D H Armstrong, (1983). Mr Armstrong made an unsuccessful application for restoration, but his name was restored only in 1987, the day before his 70th Birthday.

to practise veterinary surgery'. The convictions included assault causing actual bodily harm; entering an aircraft whilst drunk (he was a qualified private pilot); and being drunk on the highway. He had received several suspended sentences of imprisonment, to run concurrently. The Solicitor for the College, Mr. James Watt, adopting the criteria enunciated by Baylis, submitted that his categories (c), (d) and (e) (Box 27 above) would apply to the charges. The Legal Assessor (Philip Cox QC) broadly agreed, but advised that three of the convictions could not, in law, amount to disgraceful conduct. He also stated that certain charges did not of themselves establish that the respondent had behaved dishonestly; his actions might rather have been reckless.

The Committee decided that, in relation to certain convictions, dishonesty had not been proved 'beyond reasonable doubt', and these were therefore dismissed; they also concluded that the section of the 1966 Act relating to criminal convictions did not apply to several of the charges. The incident for which the suspended prison sentence was imposed - an assault occasioning actual bodily harm - had occurred eight years earlier, and, in the light of all the findings, the Committee took 'a step in faith' that Mr. Kirk would not continue his conflict with authority, and he was merely warned as to his future conduct.¹⁵²

Improper Conduct: 'Animals under his care'

Mr. Cox was Legal Assessor in two more cases of the supply of drugs by a veterinarian for 'animals not under his care'.¹⁵³ He also advised the Committee that a disciplinary committee was not allowed to go behind the fact of convictions, and that

The purpose of disciplinary proceedings against a veterinary surgeon who had been convicted of a criminal offence by a court of law, was not to punish him for a second time for the same offence, but to protect the public who may come to him as clients, and to maintain the high standards and good reputation of an honourable profession.¹⁵³

¹⁵² Case No. 6643, MJ Kirk, (1983).

¹⁵³ Case No. 6640, RW Morris, (1983). Called 'an isolated incident'; name suspended 3 months, and Case No.6642 NA Jones, (1984), name removed.

Clinical incompetence

Five cases in which clinical incompetence was alleged occurred in these years.¹⁵⁴ The most significant case was that in which R. W. Morris was accused of having pared a horse's feet to such an extent as to cause it unnecessary suffering, thus necessitating euthanasia of the animal.¹⁵⁵ Expert witnesses appeared for both the College and the Respondent, each of them with an established reputation in equine surgery. It was acknowledged that the case broke new ground, so far as DC hearings were concerned, and the Committee readily accepted the advice of the Legal Assessor (Mr. Michael Wright Q C). This is lengthy, but its essence is that:

It is ... not sufficient for the members of the Committee to be satisfied that the Respondent treated his patient in a manner of which they would not approve. Nor is it sufficient for them to be satisfied that the standard of competence displayed by the Respondent was one which does not measure up to that required by competent members of the profession as a whole.

Such definitions are relevant only to questions of professional negligence, which go to the issues of compensation between the professional man and his client, and which are justiciable by the courts of civil jurisdiction, and not the Disciplinary Committee. The facts alleged against the Respondent, even if proved, will only be capable of supporting a finding that they amount to conduct disgraceful in a professional respect if the members of the Committee are satisfied, so as to be sure, that those facts disclose that the Respondent treated his patient in a manner that involved an element of reckless disregard for the welfare of that animal. 'Reckless' in this context means that, given that the treatment administered involved an obvious and serious risk of unnecessarily causing suffering to the animal, or requiring its subsequent destruction on humanitarian grounds, the Respondent either proceeded without having given any thought to the possibility of such risk or, in the knowledge that there was such a risk, had gone on to take it.

The Committee found that the charge of causing unnecessary suffering was proven, but could not be 'sure' that this had led to the need for euthanasia of the horse. The Chairman said that:

¹⁵⁴ See *Appendix*.

¹⁵⁵ Case No. 6648 RW Morris, (1986).

[It] was not that the procedure which you elected to use is wrong in principle, but that the lengths to which you took it on this occasion were excessive. This caused unnecessary suffering to an animal under your care, by excessively paring its feet. That is a finding for which an appropriate order might be considered to be that your name be removed from the Register. However, in order that there may be certainty as to the duration of our order, the Committee orders that your registration in the Register of Veterinary Surgeons shall be suspended for a period of twelve months.

A changing world

Some twenty years after implementation of the 1966 Act, much had changed in British society. External pressures had informed, and occasionally forced, changes on the profession, and in the next decades more were to come. The Human Rights Act became law; the RCVS placed more emphasis upon the role of laypersons on the DC; disasters among certain doctors led to a profound reconsideration of the regulation of every profession.

Chapter VII

1988-2008: Social and political aspects

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This chapter reviews some of the social and political changes of the last twenty years which have affected the veterinary profession and its disciplinary processes. The following chapter describes cases illustrative of the period.

Social and Political Aspects

Rapid change continued to occur in Britain throughout the last decades of the twentieth century. The deference to one's so-called 'elders and betters' seen in the Royal Veterinary College in 1958 was considerably lessened; youth came to the fore; most manifestly the dress assumed by both male and the increasing numbers of female students was no longer guided by what their parents wore, loosening into jeans, tee shirt and trainers.¹⁵⁶ There is justification for thinking that selfishness was more prevalent, with a comedy television character being famous for his roaring derisory catch-phrase 'I got LOADSAMONEY!'¹⁵⁷ below Such attitudes could not but affect veterinary students too.

In step with this cultural change the waiting rooms of veterinary practices moved beyond the airy welcoming environment introduced in the 1970s. They became 'reception areas', and 'sales points' Business advice to practices flourished, and reception areas were stocked with goods from dog food to toothbrushes to cat collars. It was thus something of a rearguard action when in 1990 the opinion was voiced that

¹⁵⁶ Author, Personal observation, Society of Practising Veterinary Surgeons' final year student seminar, 2000. The student's consumption of wine also appeared very different from his own student days.

¹⁵⁷ Character invented by television comedian Harry Enfield in 1987. 'Loadsamoney', was an obnoxious character who constantly boasted about how much money he earned. Quoted at

the veterinary profession was deteriorating 'to the level of a rag and bone man' by indulging in the dubious activities of having advertising jingles on the radio or leaflet drops through letterboxes.¹⁵⁸

Another factor which greatly influenced the commercial side of veterinary practice was the development of insurance for animals, especially for pets; by 2007 premium income across all companies involved had reached £440 million.¹⁵⁹ There were of course clear benefits if animals were insured, but undoubtedly it put temptation in the way of some veterinarians. At this time of enthusiasm for market forces, one could read articles in veterinary free-sheets on 'Creative drug pricing', intended to maximise the profit to be obtained from selling prescription drugs.¹⁶⁰ Veterinary surgeons have no intrinsic right to dispense drugs; it is a privilege afforded by Section 9 of the Medicines Act 1968. Many veterinarians seemed to forget this fact, and exploited the privilege in various ways.

In 2003 the matter of veterinary prescription-only medicine sales (POMs) was referred by the Director General of Fair Trading to the Competition Commission to investigate 'the existence or possible existence of a monopoly situation in relation to the supply within the United Kingdom of prescription-only veterinary medicines'.¹⁶¹ The enquiry did identify monopolies both of scale and of 'complex monopoly' (Box 18), and in what was widely seen by the profession as a punishment, veterinarians were legally obliged, when asked for a prescription, to provide one free of charge for a three year period. They were also to display a list of the ten drugs they used most commonly, and the retail price charged - a complete contrast with the 1976 notion that a practice should not look like 'an emporium offering the same brands of tinned goods' (Ch. V p. 72). The effects of a greedy attitude by some in relation to insured animals also were later to be reflected in charges levelled against respondents in RCVS disciplinary cases.

http://en.wikipedia.org/wiki/Harry_Enfield. Accessed July 2009.

¹⁵⁸ JB Sutton (1990) correspondence *Veterinary Record*. Mr. Sutton qualified in 1955.

¹⁵⁹ Datamonitor report on pet insurance (2008) Information from the press office of Pet Plan/ Allianz Retail, July 2009.

¹⁶⁰ (Date uncertain, c.1990) *Veterinary Times*. Author's personal observation.

¹⁶¹ Competition Commission (2003) *Veterinary Medicines: A report on the supply within the United Kingdom of prescription-only veterinary medicines*. At http://www.competitioncommission.org.uk/rep_pub/reports/2003/478vetmeds.html#full. Accessed February 2009.

Outline of Competition Commission Report

The complex monopoly situation involves veterinary surgeons engaged in one or more of the following conducts:

- (a) failure to inform animal owners that they can ask for prescriptions, or discouraging requests for prescriptions, or declining to provide prescriptions on request;
- (b) failure to inform clients of the price of POMs prior to dispensing them, or to provide itemized bills; and
- (c) pricing of POMs which does not reflect their cost of supply, including:
 - (i) mark-ups on manufacturers' list prices that take no account of the discounts and rebates they receive from wholesalers and manufacturers, or do not reflect variations in those discounts and rebates; and
 - (ii) pricing POMs to subsidize, to a greater or lesser extent, professional fees.

European Union Legislation

In 1998 Parliament passed the Human Rights Act (HRA), one of the most significant pieces of legislation since the Second World War. In 1950 the Council of Europe States had created a 'Convention for the Protection of Human Rights and Fundamental Freedoms'. Cases contravening the Convention were to be presided over by the European Court of Human Rights in Strasbourg, but domestic courts in the UK could not hear cases because, under the UK's dualistic system of law, the Convention remained an international treaty with no domestic effect until eventually, in 1998, the Human Rights Act became law in the United Kingdom.¹⁶²

The Disciplinary Committee and the Human Rights Act 1998

The HRA is divided into a number of Articles, of which the most relevant to this discussion is Article 6, which governs the right to a fair trial. The Article states that 'In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.' In addition to these principles of fairness, independence, and impartiality in a tribunal, there is also a long-recognised principle put into words in 1924 by Lord Chief Justice Hewart, who

¹⁶² <http://www.guardian.co.uk/commentisfree/libertycentral/2009/jan/14/human-rights-act>. Accessed

observed that ‘It is not merely of some importance but is of fundamental importance, that justice should not only be done, but should manifestly and undoubtedly be seen to be done.’¹⁶³

One of the first results of the introduction of the HRA upon the RCVS DC was to alter the role of the College Registrar. Hitherto each Registrar had played a highly visible part in the formal proceedings of the Committee, reading out the charges to the respondent, and, usually, sitting throughout not only the public parts of the hearing but also during the Committee discussions *in camera*. However, in 1998 the then Registrar, Ms. Jane Hern (Figure 31), distanced herself as far as possible from the workings of both the DC and the PIC. She has said that:

The reason for disengaging from having any formal part in the disciplinary proceedings is because of the Human Rights Act. Under the current legislation neither the College nor the Registrar can disassociate from the Disciplinary Committee totally but each should do as much as possible to allow the Committee to be as independent as possible. Inevitably the Registrar has an interest in what both PIC and DC do, and particularly the impact their activities have on the College finances. It is therefore best that the Registrar is not in any way party to the proceedings and the easiest thing is for the Registrar not to be present at the meetings of either committee, except for general discussions about procedure.¹⁶⁴



**Figure 31: Miss Jane Hern
Registrar 1997-present**

July 2009.

¹⁶³ Rex v Sussex Justices; Ex parte McCarthy: Quoted at http://www.lawlink.nsw.gov.au/lawlink/supreme_court/ll_sc.nsf/vwPrint1/SCO_speech_spigelman_09_1099. Accessed July 2009.

¹⁶⁴ J Hern (2007) *Pers. Comm.*.

As has been noted in earlier chapters, the RCVS remains, in the 21st century, bound by an Act drafted over forty years ago, which specifies that members of the DC and the PIC must be members of RCVS Council. Those involved have worked as best they can within this constraint to achieve a ‘Chinese wall’ between the two committees, and contact between the DC and the Professional Conduct Department is limited to administrative matters and discussions on procedure.¹⁶⁵

It has been argued that because the RCVS Council itself issues a guide to professional conduct, and because its own committees both investigate alleged disgraceful conduct and adjudicate upon such matters, then the RCVS disciplinary processes contravene the HRA. However, the European Court of Human Rights has propounded an important principle, stating that:

The Convention calls for one of the following two systems: either the jurisdictional organs themselves comply with the requirements of Article 6(1) or they do not so comply but are subject to control by a judicial body that has full jurisdiction and does provide the guarantees of Article 6(1).¹⁶⁶

This principle has been upheld by their Lordships of the Privy Council, and perhaps the clearest statements on this are found in the case of *Preiss v. General Dental Council (GDC)*.¹⁶⁷ Preiss had been found guilty of serious professional misconduct in his grossly negligent treatment of a patient. He appealed to the Judicial Committee of the Privy Council, citing several factors in his defence. The President of the GDC had both acted as Preliminary Screener in the case, and presided over the hearing. The hearing, through an oversight, failed to hear mitigation before issuing a judgment that Preiss’s name should be suspended from the Register for twelve months. Their Lordships took ‘full jurisdiction’ over the case, saying that:

The provision of the sections 29(1)(a) and (3) of the Dentists Act 1984 appear

¹⁶⁵ There is also a house rule that no-one who has served on the PIC shall be appointed to the DC before at least three years have elapsed. (Author’s personal observation).

¹⁶⁶ *Albert and Le Compte v Belgium* (1983) 5 EHRR 533. Quoted by Lord Bingham in *R (on the application of Hammond) (FC) (Respondent) v. Secretary of State for the Home Department (Appellant) (Criminal Appeal from Her Majesty’s High Court of Justice)* [2005] UKHL 69. At <http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd051201/hammnd-1.htm>. Accessed July 2009.

manifestly designed to give a full right of appeal to Her Majesty in Council, extending to questions of fact as well as law, and not limited even as to matters of degree or discretion, though as with most such general appeals the Judicial Committee will have to be satisfied before allowing an appeal that the decision of the [Professional Conduct Committee (PCC)] has been shown to have been wrong. It would be unusual for the Board to hear oral evidence, and allowance must be made for any advantages that the PCC has derived from seeing and hearing the witnesses, but this does not mean that for the purposes of article 6.1 [of the HRA] the Board lacks full jurisdiction over the case.

Their Lordships went further, saying that ‘any tendency to read down right of appeal in disciplinary cases is to be resisted’. They also observed that the reluctance in earlier years for the Judicial Committee to interfere with the findings of a disciplinary committee is now less rigid, and ‘the appropriate degree of deference will depend on the circumstances’.

Thus, by close analogy, the right of appeal to the Privy Council, by a respondent found guilty by the RCVS DC of disgraceful conduct and who suffers the sanction of removal or suspension from the Register, is sufficient to satisfy justice.

It has in the past been noted, and adversely commented upon, that if a respondent is found guilty of disgraceful conduct, but only warned, then that finding cannot be appealed.¹⁶⁸ However, such a warning could now be subjected to judicial review.¹⁶⁹

Lay representation in the disciplinary processes

The Veterinary Surgeons Act 1966 makes no specific mention of lay membership of RCVS Council, although the idea is sanctioned by certain of its provisions. Four persons are to be appointed by the Privy Council, and each University with a recognised veterinary school shall appoint two, ‘of whom at least one shall be a member of the College’.¹⁷⁰ In 1999, however, the Council appointed three lay observers to oversee the activities of the PIC. They attend meetings of the

¹⁶⁷ Preiss (David) v. General Dental Council (GDC) [2001] APP. L.R. 07/17.

¹⁶⁸ Case No. 6636 Straiton EC (1981). Mr. Straiton’s Counsel asked, ‘That it be noted that this order did not entitle the respondent to lodge an appeal against the finding, which he would normally have done’.

¹⁶⁹ G Hockey, LLB, Assistant Registrar, RCVS (2010), *Pers. Comm.*.

¹⁷⁰ *Veterinary Surgeons Act 1966*, S. 1 (1) (b) and S. 1 (1) (c).

PIC and have oversight of the activities of the Professional Conduct Department.¹⁷¹ The observers report annually to RCVS Council and, whilst they have found no serious cause for complaint, they do comment on ways in which the disciplinary procedures could, in their view, be improved.

In further attempts to ensure visible compliance with the HRA, Council introduced greater lay involvement in the DC, and in 2003 one of the Privy Council appointees to Council, Mr. Brian Jennings, was appointed its first lay chairman. With a background in farming and the commercial world he brought an earthy good sense to the Committee, chairing both hearings and the discussions *in camera* with firmness and good humour.¹⁷² In the College year 2008-2009 four of the twelve members were lay, but any DC member may sit on any hearing, if there is no conflict of interest with the respondent or witnesses.

Modern working of the Advisory, Preliminary Investigation and Disciplinary Committees

In recent years, the Advisory Committee of the RCVS has been (and remains) responsible for keeping Members on a professional path by publication of the *Guide to Professional Conduct*, and providing guidance in the College's *Annual Reports*. The advice reflects the changing world, but often relates to old problems in a new guise. In 1988, advertising, although allowed, was getting out of hand, with new or refurbished practices taking out an advertisement in the local newspaper 'surrounded by "congratulatory" messages from tradesmen involved in the provision of fittings... and any other local business which cares to join in'; this was deprecated.¹⁷³ The 1993 *Annual Report* pointed out that rudeness by a veterinarian accounted for 13% of complaints to the College; in 2006 Members were advised that their practice should have an explicit, written, complaints procedure.

As the number of complaints grew, so the Professional Conduct Department refined

¹⁷¹ The department is headed by the Assistant Registrar and is responsible for administration of both the PIC and the DC. A secretary is appointed to the latter, concerned solely with administration such as timetabling and acting as usher to the hearing. The secretary plays no other part in a hearing.

¹⁷² Author's observation as a member of the DC. Another lay member, Mrs. Alison Bruce, succeeded Mr. Jennings. She was first in another sense, having been appointed to RCVS Council as one of the two representatives of the Royal (Dick) School of Veterinary Medicine, Edinburgh, although not a member of the College.

¹⁷³ *Annual Report* (1988).

its procedures, developing a formal complaints procedure. By 1994 the department had expanded, adopted a standardised approach to complaints, and computerised its systems to improve their management.¹⁷⁴ Complaints were to be filtered through preliminary screeners, to the PIC if warranted, and thence to the DC if the PIC considered there to be *prima facie* evidence of disgraceful conduct in a professional respect. The veterinarian against whom a complaint is made is asked to comment on any allegation, and, under the revised procedures, many cases are resolved at this stage.

The RCVS, however, is not immune to events in the wider world, and at the turn of the century the regulation of every profession came under intense scrutiny for several reasons.

The Kennedy and Shipman Inquiries

A major stimulus for change arose from two reports on the medical profession, the Kennedy¹⁷⁵ and Shipman Inquiries.¹⁷⁶

The Kennedy Inquiry was described at the time as 'once in a lifetime drama',¹⁷⁷ in which surgeons in Bristol, skilled in one field - cardiac surgery in adults - caused some thirty to thirty-five 'excess deaths' in children under one year old undergoing heart surgery between 1991 and 1995.¹⁷⁸ The Inquiry Report included some 200 recommendations to improve the quality of care in the National Health Service. Harold Fredrick Shipman was convicted in January 2000 of the murder of fifteen of his patients while he was a General Practitioner in Manchester, and of one count of forging a will. He was sentenced to life imprisonment. When, at the end of his trial, it came to light that Shipman had previously been convicted in 1976 of offences of forgery, of unlawful possession of pethidine, and of obtaining pethidine by deception, many people began to ask how it was that he had been able to return to unsupervised general practice in 1977, just over a year later. This Inquiry's Fifth Report addressed the handling of complaints against medical general practitioners, the raising of

¹⁷⁴ *Annual Report* (1994).

¹⁷⁵ *Learning from Bristol: the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary 1984 -1995*. Command Paper: CM 5207 (2001).

¹⁷⁶ *The Shipman Inquiry*, Reports 1 to 6, (2002-2005). The hearings, under Dame Janet Smith, OBE, lasted for almost five years. See <http://www.the-shipman-inquiry.org.uk>. Accessed July 2009.

¹⁷⁷ Anon. (1988) *British Medical Journal*, **316**, pp. 1917-1918.

¹⁷⁸ The term 'excess deaths' is the number of deaths observed above those expected in a surgical unit.

concerns about GPs, General Medical Council procedures, and proposals for regular revalidation of doctors' competence. This report too made many recommendations for change.¹⁷⁹

Although the practice of veterinary medicine formed no part of either Inquiry remit, the RCVS Professional Conduct Department decided that it should take account of their findings. A further judgment also influenced the Department's thinking; this revolved around the standard of proof required before preliminary screeners referred a matter to the relevant PIC, in this case, that of the General Medical Council (GMC).¹⁸⁰ Mr. Justice Lightman ruled that:

The general principles... are that (a) the general public have an interest in the maintenance of standards and the investigation of complaints of serious professional misconduct against practitioners; (b) public confidence in the GMC and the medical profession requires... that such complaints will be publicly investigated by the [Professional Conduct Committee] and; (c) justice should in such cases be seen to be done.¹⁸¹

As a result, the emphasis of the RCVS complaints procedure changed so that, any decision *not* to refer a case to the PIC must be justified.

Changes were made to the personnel who made investigative visits to veterinary surgeons against whom allegations had been made. Previously, PIC members had made occasional visits to elucidate the details of a complaint, but it was decided that they should become less involved, and that any such visits should be undertaken by specially trained veterinary surgeons, not members of RCVS Council, accompanied by a legally qualified member of the Professional Conduct Department. The change was intended to provide a greater degree of separation between the investigation and prosecution functions of the Committee. The Professional Conduct department has also now provided guidance, both to Members and to the public, on the 'standards, criteria and thresholds' to be applied as a complaint against a veterinarian passes through the stages from initial screening to, where justified, referral to the DC; at any stage the complaint will be closed if the relevant threshold has not been reached.

¹⁷⁹ See <http://www.the-shipman-inquiry.org.uk/reports.asp>. Accessed July 2009.

¹⁸⁰ *R. v GMC ex parte Toth*. Law report: TLR, 29 June 2000 (judgment: 23 June 2000) QBD.

¹⁸¹ General Medical Council (2000) *Review of Fitness to Practise: The Standards of Proof in Fitness to Practise Committees*. @ <http://www.gmc->

At this time the phrase ‘fitness to practise’ also entered the vocabulary of the RCVS disciplinary processes. Now, when considering whether an individual veterinarian is a proper person to be a member of the profession, his, or her, mental state, or problem with drugs legal or illegal, or other matters which could affect the safety of animals under their care, also enters the calculation of ‘fitness’.

To accommodate these changed attitudes new rules for the DC were introduced in 2004, detailing the procedures to be followed, and the nature of evidence to be laid before a disciplinary tribunal.¹⁸² The proceedings were, for example, to be conducted with much greater transparency. There must be clear disclosure to the respondent of all relevant documents relied upon by the College; the DC might, with agreement of both sides, read bundles of evidence and skeleton arguments prior to a hearing. The new rules specified that RCVS disciplinary proceedings are ‘in the nature of civil proceedings’. They therefore require that any charge which may result in the respondent being removed from the Register must be proved to the extent that the Committee ‘is satisfied to the highest civil standard of proof; so that it is sure’; thus the criminal standard of proof was maintained. At the conclusion of a hearing, written notice of every decision, direction, finding, and judgement must be sent to the respondent.

The procedure at the inquiry itself has changed little, but the informally developed questioning by members of the Committee was recognised by the new Rules, which specifically provide that ‘Members of the Committee or the Legal Assessor may put questions to the Solicitor, any party in the case or any witness’.¹⁸³ Under the 1967 Rules, the Chairman would announce the informal action of seeking undertakings from the respondent, where judgment was to be postponed, ‘in such terms as the Committee approve’. The new rules specifically allow postponement ‘subject to undertakings from the respondent’.¹⁸⁴

uk.org/9c_FPD_Standards_of_Proof.pdf_25397801.pdf, accessed March 2010.

¹⁸² *The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence Rules) Order of Council. Statutory Instrument 2004, No. 1680.*

¹⁸³ *Ibid.* Rule 14.2.

¹⁸⁴ *Ibid.* Rule 18.3.

It has been argued that, under the British jury system, any case in which a *reasoned* judgment following a hearing is absent, fails to comply with Article 6 of the HRA.¹⁸⁵ Partly from an awareness of Article 6, and partly following cases in which DC decisions have been appealed, the Committee's written reasons for the findings in a case, and its ruling on sanction, have become longer and supported by argument. This refinement provides justice to both respondent and Committee, for the reasons given facilitate, where necessary, a full appellate review.

¹⁸⁵ Louis Blom-Cooper QC (22nd February 2010) Letter to *The Guardian*.

Chapter VIII

1988-2008: Disciplinary Cases

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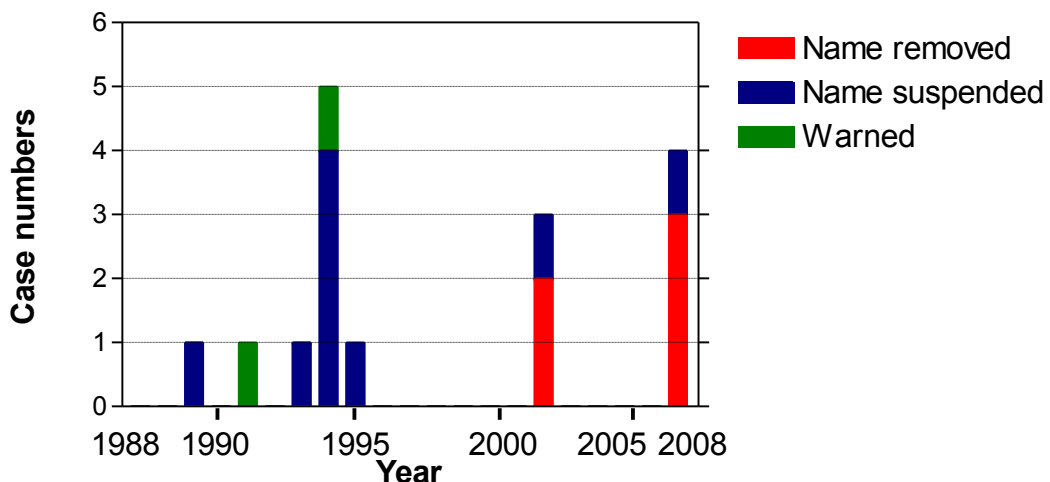
Disciplinary cases 1966 to 1987

This chapter discusses several categories of case, and some found to be either unproven or not disgraceful. A table of appeals to the Privy Council is included.

Mis-certification

During this period sixteen cases of mis-certification came before the Disciplinary Committee. It is noteworthy that, despite frequent advice from the RCVS on the importance of careful certification, only in the minority of cases (five, or 31%) was the ultimate sanction of removal from the Register applied (Figure 32).

Figure 32: Sanction in certification cases 1988 to 2008



There has been a tendency for more severe sanctions to be applied in later years, a trend which probably reflects a changing attitude to the importance of accurate certification, and to both the perceived culpability and the significance of any misrepresentation committed. This attitude is exemplified in the case of J. A. Walker, an equine veterinary surgeon of considerable experience, and, at the time, Chairman of the Racecourse Veterinary Association.¹⁸⁶ He had ante-dated vaccination certificates for two racehorses, by eleven and fourteen days respectively, to enable them to continue racing under Jockey Club Rules. The Rules are very specific and insist that, after a primary course, a booster dose must be given within a certain time, otherwise the whole course must be repeated. Walker admitted his error, but said he thought that the animal's welfare had not been compromised by the very short delay, and that he might have compromised their welfare by subjecting them to additional courses of vaccine. His actions were, however, found disgraceful and the removal of his name was ordered. Walker appealed.

At the Privy Council hearing the RCVS had provided their Lordships with considerable detail of the certification cases heard by the Disciplinary Committee from 1966 to 2007. Their Lordships considered these closely in their judgment, providing a detailed analysis of them.¹⁸⁷ It would be presumptuous to attempt to better this analysis, and, such is its importance, the relevant section of the judgment is given in full. The footnotes inserted refer to the case numbering adopted in this thesis as described in Ch. I, p.3, and applied in the Appendix.

The Board¹⁸⁸ accepts that in some of the earlier cases (e.g. Morgan in 1981, Griffiths in 1989)¹⁸⁹ both cases where false certification was with an insurance purpose and suspension for 3 months was ordered, and Kelso in 1991,¹⁹⁰ a case of false certification of two daily inspections that had in fact been missed, where there was no more than a warning for an 'isolated lapse', the RCVS Disciplinary Committee may have taken a more lenient line than subsequent cases suggest would now be appropriate.

¹⁸⁶ Case No. 66121, JA Walker (2007).

¹⁸⁷ *Privy Council Appeal No. 16 of 2007*. Delivered by Lord Mance. The information upon which their Lordships relied was, in great part, contained in the case records compiled by Registrar Porter; justification for his hope, in 1966, that they might come to constitute a body of case law (Ch. V p. 64).

¹⁸⁸ The Board is composed of the Lords of Appeal hearing a case.

¹⁸⁹ Case Nos. 6634 (1980), 6655 (1989).

¹⁹⁰ Case No. 6663 (1991).

A more relevant case is Lindsay in 2001.¹⁹¹ A vet was prevailed upon by a farmer to provide a certificate that a cow had been examined ante-mortem and found to satisfy the requirements at that stage of fitness for human consumption. The certificate stated that the cow had been found to be suffering from a 'terminal fit' and had been shot or stunned in his presence, whereas in fact, when the vet was called and visited the farm, he had found the cow already slaughtered (skilfully, although a post-mortem showed that it had not been fully bled out). The Committee would have removed the vet from the register, had there not been mitigating circumstances. These consisted, as it appears, in the vet's concern, frankness and regret about what had happened and the many letters of support he had received. Instead of removal, the Committee therefore suspended him for 6 months.

In Baier also in 2001,¹⁹² an animal had entered an abattoir four days before, but was only slaughtered one day after the expiry of the 30-month period within which it could under the relevant regulations be certified as fit to enter the human food chain. The vet, acting as official veterinary surgeon for the Meat Hygiene Service, nonetheless certified it as fit and compounded this offence by additional offences of altering and/or instructing others to alter various abattoir records as well as the animal's passport to disguise the fact that it had been over 30 months when slaughtered. The Committee found a good deal of mitigation, and said that it 'would be unfair not to be sensitive to this and to be unconcerned when sending out a message to the public'. The vet was 'working in a small plant, and was subjected to suggestions and pressures about how he should handle the situation', and he 'came over as an extremely frank and open individual who is remorseful and recognises the gravity of what he did. There is no similar incident in his past. He gained no financial benefit and he lost his job as a result'. Balancing these considerations, the Committee decided to suspend him for 12 months.

For the RCVS [counsel] drew the Board's attention to a number of cases where removal has been directed, while pointing out that in two of them the vet had, on subsequent application after the minimum period of 10 months, been restored to the register. In Carr in 2002 removal was ordered when a vet was, after a contested hearing, proved to have twice (in 1995/96 and 1997) falsely certified the parentage of different foals (once as owner and once as owner and veterinary surgeon) and further

¹⁹¹ Case No. 6676 (1996).

in 1998 to have sought to resolve a dispute with a third party by frightening and intimidating conduct involving a degree of force.¹⁹³ In Smith two charges were found proved of issuing clean health certificates for the export of two animals before the actual test results justifying them were known and, so, at a time where there was still a possibility that each animal was infected with a notifiable disease.¹⁹⁴ Three further charges were proved of issuing clean export certificates one day before the actual test results were known, pursuant to an agreement with the exporter's agent to keep the certificates in a sealed envelope until clean test results were received. In respect of the latter three charges, the circumstances highlighted a number of deficiencies in the communication between Defra,¹⁹⁵ the Veterinary Laboratories Agency and the Official Veterinarian, and these in the Committee's view justified a conclusion that the vet had been 'placed in an extremely difficult position' and made 10 months suspension the appropriate order. In respect of the first two charges, the Committee ordered removal from the register, although the Board was told that, subsequent to the expiry of the 10-month period, Mr Smith has made a successful application for restoration.

In Archbold in 2003 a vet had certified that he had attended and verified the identity of two animals and administered lethal injections, when he had done none of this, and had merely passed barbiturates and needles to the farmer.¹⁹⁶ His conduct could have led to undue animal suffering, put public health at risk and provided a vehicle for fraud. The Board upheld the order for his removal from the register: (2004) UKPC 1. In Sanyal in 2005 the vet was found to have been guilty of failure to provide adequate professional care to three animals, in each case on more than one occasion, as well as of misrepresentations about the medical position to owners, and of a string of some five offers to clients that if they took out insurance on one animal he would certify that fees incurred on another or others were incurred in respect of the insured animal.¹⁹⁷ Not surprisingly, the vet was removed from the register, though the Board was told that, evidently after undertaking retraining, the vet was restored to the register in 2007, some two years later. Finally, in Morris in 2007 the Committee had found proved a charge of giving a false certificate for the purposes of a sale which was subject to a satisfactory veterinary examination.¹⁹⁸ The certificate made no mention of any disease

¹⁹² Case No. 6695 (2002).

¹⁹³ Case No. 66100 (2002).

¹⁹⁴ Case No. 6697 (2002).

¹⁹⁵ Defra – the Department for the environment, farming and rural affairs.

¹⁹⁶ Case No. 66104 (2004).

¹⁹⁷ Case No. 66111(2005).

¹⁹⁸ Case No. 66125 (2007).

or abnormality, although the vet was made fully aware that the horse was suffering from a respiratory problem.

In the Board's view, the nature and circumstances of Dr Walker's offending place it in a significantly lower category of seriousness than any of these cases where removal from the Register was directed. Although Dr Walker issued false certificates calculated to mislead the Jockey Club, he did so misguidedly, in order to be helpful and to avoid restarting a primary course of injections which had no medical purpose and would have entailed some degree of extra risk. The circumstances are quite distinct from those of cases where there was a deliberate misleading of insurers, purchasers or export agencies about the physical status or condition of an animal, or where there was a risk to animal or human health.

A comparison with the approach taken by RCVS disciplinary committees in the cases of Lindsay and Baier is also of interest. The offences there were committed in a context (certification of fitness for the human food chain) and were both in general character inherently more serious than the present. Baier (multiple associated offences by an abattoir vet on one occasion), was itself more serious in character, and so understandably yielded a longer period of suspension, than Lindsay. It is true that in both Lindsay and Baier the Disciplinary Committee was only dissuaded from removing the vet from the Register by mitigating circumstances, and in sanctioning Dr Walker the Disciplinary Committee was also correct to observe that (in contrast with the position in Lindsay and Baier) his offending took place on two quite separate occasions. But (apart from the absence of any suggestion of any such external pressure as existed in Baier) mitigating circumstances echoing those mentioned in Lindsay and Baier feature very substantially and obviously in Dr Walker's case. In principle, mitigation has less effect in a disciplinary jurisdiction than in ordinary sentencing, but the reasoning of the Disciplinary Committee in Lindsay and Baier shows RCVS disciplinary committees giving significant weight to mitigation in situations comparable with the present. Dr Walker is in the Board's opinion entitled to ask why his offending should attract so different and severe an attitude.

Dr Walker's explanation of his conduct was or is of course no justification for false certification, and the [RCVS DC] was bound to take a serious view of what Dr Walker did on two occasions. Removal from the register is however the ultimate penalty available to the Committee. In *Bolton v. Law Society* (1994) 1 WLR 512 at p. 519H

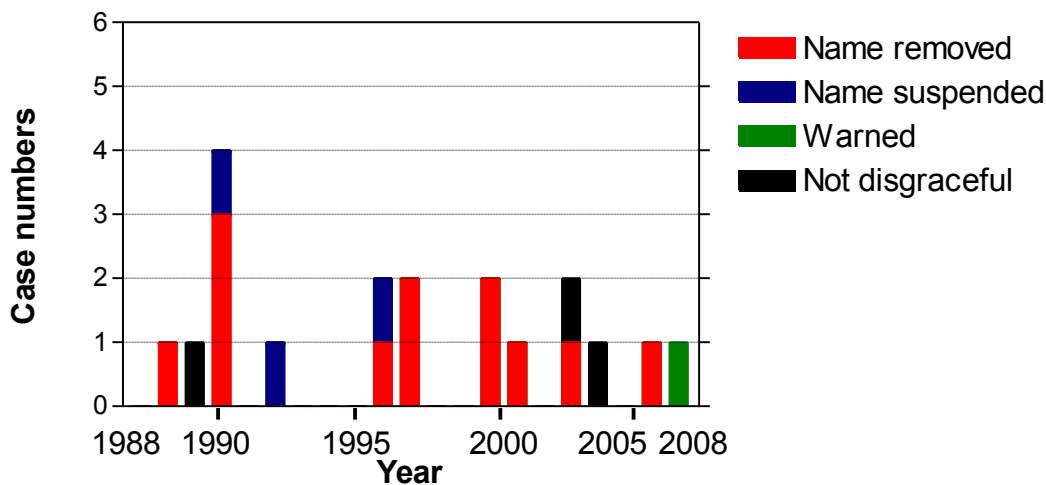
Sir Thomas Bingham MR drew attention to the ‘substantial difference’ between suspension, giving a right to resume practice after the period of suspension, and removal, leaving the practitioner unable to practise unless and until he can gain readmission... The Board considers that a clear distinction should be recognized between removal and suspension.

Their Lordships ‘advised Her Majesty’ that the sanction of removal should be reduced to suspension from the Register for six months. The Walker case attracted much criticism from members of the profession who agreed with what their Lordships later ruled. The affair has influenced subsequent cases and the DC’s Findings, Judgment and Sanction are spelt out in considerable detail. Often an extra day is allotted solely to ensure sufficient time for this task.¹⁹⁹

Conviction in a Court

The Disciplinary Committee heard nineteen conviction cases over this period. In the majority, (twelve, or 63%), the sanction imposed was removal. (Figure 33)

Figure 33: Sanctions in conviction cases 1988-2008



Fraud, forgery and deception have usually attracted the severest sanction. In 1996 A. V. Griffiths was convicted of conspiracy to defraud HM Customs and Excise, a matter of such gravity that he was sentenced to eight months imprisonment.²⁰⁰ In a later case, influenced by the Irish troubles, S. M. Fegan was convicted on thirty-one counts of falsely claiming compensation (over £14,000) for

¹⁹⁹ Author’s personal experience.

²⁰⁰ Case No. 6681 AV Griffiths, (1997).

sheep allegedly killed by low-flying Army helicopters.²⁰¹ Despite hearing evidence of alleged threats from the IRA, the Committee noted that Fegan's particular position as a veterinary surgeon enabled him to be a part of a conspiracy to defraud, and his name was removed.

The 'Baylis Rules' (Ch. VI p. 85) which include the 'obligation upon all veterinary surgeons to be, and to be seen to be, honest and trustworthy' were applied in the case of P. Culpin.²⁰² He had fraudulently obtained a mortgage to rescue himself from financial difficulties by writing, under a pseudonym, a reference for himself in which he greatly inflated his income. He fell into arrears and the Building Society discovered the fraud, whereupon Culpin was charged and convicted. The property was sold in such a way that, as was stated in the hearing, 'no-one had lost a penny in the process'. Culpin also freely admitted the charge. However, the DC stressed the obligation to be trustworthy, and his name was removed.

The Respondent's actions when faced with a charge of fraud might persuade a Disciplinary Committee to impose a lighter sanction. B. J. G Elliot too had been convicted of conspiracy to defraud HM Customs and Excise, of over £230,000 in his case, and imprisoned. However, giving judgment, the Chairman stated that 'note has been taken of the Respondent's guilty pleas and the way in which he has assisted the Customs & Excise in their enquiries. It has also taken into account the custodial sentence already imposed by the Court'.²⁰³ His name was suspended for twelve months. Other mitigating factors could also lessen the sanction applied, as in the case of S. T. Jones.²⁰⁴ Convicted of four charges of falsely claiming money from the PDSA, he had been fined. His conduct was found disgraceful, but in the light of his youth and his 'need to plan for the future', his name was merely suspended from the Register for twelve months.

Convictions for the misuse of drugs, including alcohol and those of the so-called 'recreational' class have also usually resulted in removal of the offender's name. H. T. Pressman managed to combine both problems when he was found to be driving a car

²⁰¹ Case No. 66105 SM Fegan, (2003).

²⁰² Case No. 6651 PA Culpin, (1987).

²⁰³ Case No. 6679 BJG Elliott, (1996).

whilst having over the legal limit of blood alcohol and being in possession of cannabis. The driving offence was his third such conviction and he was imprisoned for three months. The hearing recognised that Pressman had medical problems, but that he was nevertheless reckless and irresponsible. Further, he had shown a ‘flagrant disregard’ of the law, and a doctor had given evidence that he was currently unfit to practise. His name was removed from the Register.²⁰⁵

A number of cases included in this category are those in which a Member was accused of several allegedly disgraceful acts. The paradigm case is that of Maurice Kirk, for the ‘step in faith’ taken by the disciplinary hearing of 1983 was sadly misplaced (see Ch. VI p. 87). In 1988 Kirk again appeared before a DC hearing, having been convicted in 1984 of contempt of court by approaching, in a threatening manner, the magistrate hearing his case, and he was sentenced to eight months imprisonment. In 1986 he had been convicted again of disorderly behaviour in a court of law, and been sentenced to six weeks imprisonment, increased on appeal to two months. Kirk had also erected a very large sign outside his surgery premises depicting in effigy the magistrate concerned. As ever, the case was complex, and took place over five days between January and March 1988.²⁰⁶ At the conclusion the DC Chairman said:

Your conduct before the Magistrate was wholly reprehensible, and has brought your chosen profession into the gravest disrepute. As the events in question occurred before you received a warning from the Chairman of the Committee in January 1984, we leave that matter entirely out of our consideration.

But the offence you committed was serious in the extreme, and would ordinarily merit the penalty of removal from the register or suspension from practice for a substantial period. But we have had regard to the heavy prison sentence that was imposed upon you for this offence and the possibly disastrous consequences of being prevented from practising your profession in the Channel Islands for any substantial period.

For those reasons we have decided to postpone judgment upon you for two years from today's date.

Judgment was thus postponed for two years, and in 1991 Kirk was again warned as to his future conduct.

²⁰⁴ Case No. 6665a ST Jones, (1992).

²⁰⁵ Case No. 6687 HT Pressman, (2000).

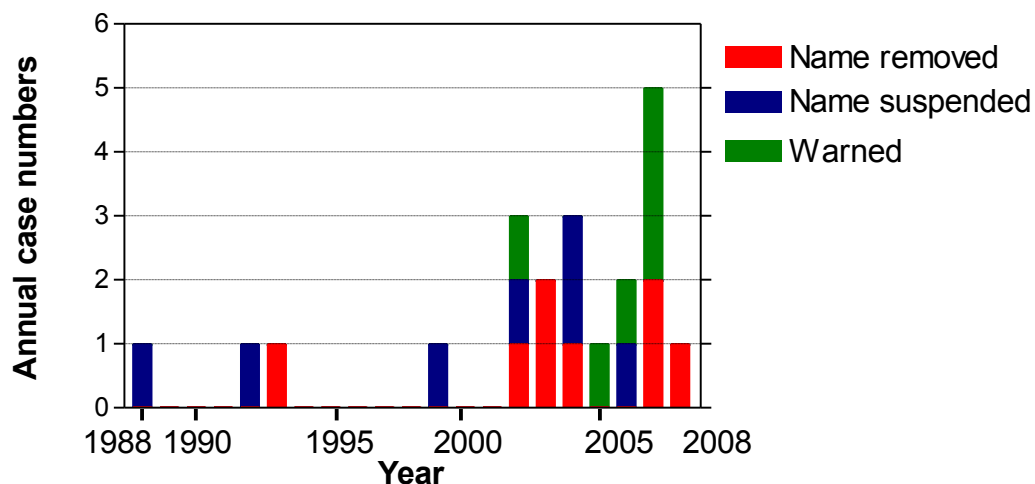
²⁰⁶ Case No. 6652, MJ Kirk (1998, resumed 1991).

Kirk appeared yet again before a DC hearing in 2002,²⁰⁷ when the College cited thirteen convictions on a variety of charges ranging from motoring offences to assault, and a charge that he had, on one occasion whilst attending an injured animal, behaved ‘in a rude or aggressive manner’. The Committee stated that ‘It seems ... Mr Kirk has no intention, and is possibly not capable, of altering his behaviour’. On this occasion his name was removed on account of the several convictions, which taken together, were found to amount to disgraceful conduct. Kirk appealed, but unsuccessfully, and he remains off the Register at the time of writing.

Improper conduct

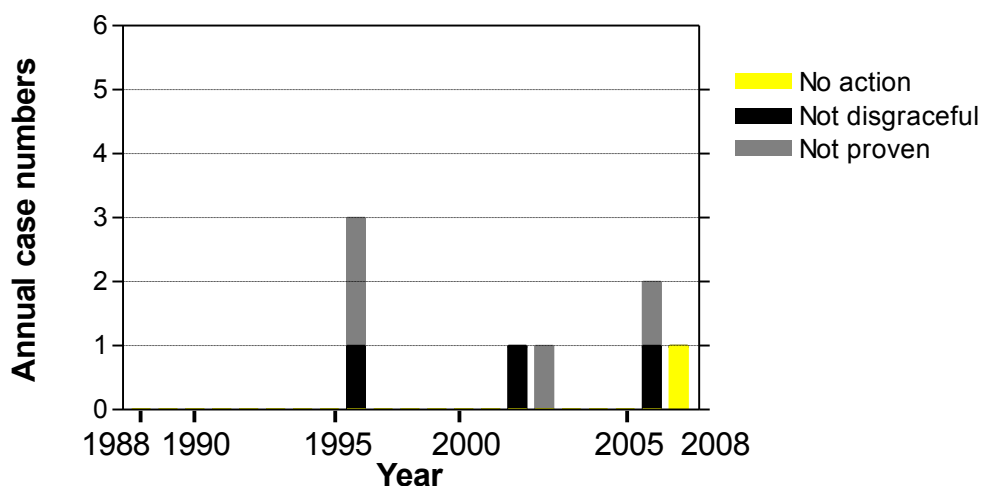
Earlier chapters have described the manner in which the *Guide to Professional Conduct* evolved to reflect the change from what may now be considered the old-fashioned values ascribable to a learned profession, to a brasher, more commercial style. The nature of cases referred to a DC hearing changed accordingly. The DC has heard twenty-eight cases of improper conduct during the last twenty years but although the number of such cases referred by the Preliminary Investigation Committee increased considerably, by no means all resulted in sanction (Figures 34 and 35).

Figure 34: Sanctions in 'impropriety' cases 1988-2008 (1)



²⁰⁷ Case No. 6696 MJ Kirk, (2002).

Figure 35: Sanctions in 'impropriety' cases 1988-2008 (2)



Two cases of drug abuse came before the DC in these years. The decisions show that the disciplinary process can be gentle and understanding where appropriate. The case of R. J. King was one such, and provides another example of the use of postponed judgment. He had dishonestly obtained pethidine from two pharmacists, purportedly for animal use, in fact to be administered to himself. King freely admitted the offences, which were found to amount to disgraceful conduct. Judgment was postponed for two years on condition that he would be monitored by a psychiatrist and that:

He would supply a short report... at three monthly intervals during the two year period, confirming that he had been drug free, and that he would not obtain or use Pethidine or other Class A drugs as defined by the Misuse of Drugs Act 1971 until permitted by the College so to do, and in the event of an adverse report from the psychiatrist or in the absence of any report, the proceedings [would] be resumed.

King followed this agreement to the letter, and at a resumed hearing showed in addition that he had completed ninety-five hours of continuing professional development during the two years. He was warned as to his future conduct.²⁰⁸

In a second case, however, the Member's name was struck from the Register. M. M. McCarthy had stolen several veterinary drugs, including morphine, diazepam and

²⁰⁸ Case No. 6683 RJ King, (1999 and 2001).

buprenorphine (an opioid), for self-administration.²⁰⁹ At the hearing he represented himself, freely admitting the charges and conceding that each amounted to disgraceful conduct. He apologised to the Committee and to the witnesses. He said that he intended to return to New York, where he had family willing to support him in overcoming his dependency, adding that he ‘fully expected to be struck off the Register’. The Committee considered that ‘he would benefit from a time away from access to restricted drugs in order to restructure his life’, and ordered removal of his name.

Alcohol brought others before the DC, including W. K. McNeil and M. Jones. The former was found guilty of being intoxicated in front of clients on many occasions, and had also been convicted of assault upon a policeman.²¹⁰ This was an instance in which the RCVS tried to assist a Member, inasmuch as two members of Council had visited McNeil, sadly finding him ‘in a state which demonstrated that he was unfit to undertake veterinary practice at that time’. His name was struck from the register. M. Jones faced two charges of being drunk when dealing with patients, plus evidence of a conviction for a drink-driving offence and an alleged failure to examine a dead horse before certifying that it had died of lightning stroke.²¹¹ The Committee did not pursue the conviction matter as there was no evidence of the level of blood alcohol, but his name was removed from the Register on the other charges. Jones appealed, chiefly on the grounds that there was new evidence regarding his alleged attendance upon a client whilst drunk. At the Privy Council hearing the order for removal was quashed and the charge was ordered to be re-heard by the DC, although the finding that the certification matter was disgraceful was upheld. At the re-hearing the matter of intoxication was not pursued by the College, and, in the light of mitigating factors over the certification, the final sanction was suspension for two months.

The case of E. Swanepoel similarly demonstrates that repeated misconduct may attract a severe sanction. In 1992 he was found by a DC hearing to have fraudulently claimed a fee for a small operation on a dog and for administration of fluids to a monkey, when he had performed neither. For these offences his name was suspended

²⁰⁹ Case No. 66122 MM McCarthy, (2007).

²¹⁰ Case No. 6677 WK McNeil, (1996).

²¹¹ Case No. 6684 M Jones, (2000).

for three months. In the following year he was accused by the RCVS of having charged for the neutering of a supposedly female cat which was in fact an already neutered tomcat.²¹² Swanepoel failed to appear and the case was heard in his absence. The Committee found that his actions showed ‘blatant dishonesty’, and ordered the removal of his name.

‘Animals under his care’

The importance of maintaining certain classes of drug under veterinary control was emphasised by the penalty of removal in two cases. A. M. McFerran was found by two Royal Pharmaceutical Society inspectors to be selling cattle wormers to a complete stranger, that is, one of the inspectors. He provided a receipt for the sale, but described the drugs as minerals, writing this on his professional paper, but he tore off the heading before handing over the paper. This was an early case in which the Legal Assessor (Philip Cox QC) advised that ‘It is a necessary implication of the conviction that the product was not sold for *animals under the care of the Respondent*’ (emphasis added). The hearing decided not only that the profession had been brought into disrepute, but that McFerran's actions must be marked by ‘an order which will reflect the College's determination that the provisions of the Medicines Act should be upheld’, and his name was removed.²¹³

D. W. Marten too made the mistake of selling drugs to an incognito inspector of the Royal Pharmaceutical Society, from the back of his car in a horse market. This was contrary to the legislation,²¹⁴ although the product was a horse wormer, and thus a ‘PML’ class drug²¹⁵ which could be sold, even by a saddler for example, from registered premises, but not from a car. The Committee found this action to be disgraceful conduct, but in addition found that Marten had had in his car unrefrigerated vaccines and several drugs past their expiry dates. His name was removed.²¹⁶

²¹² Case Nos. 6666a and 6666 E Swanepoel, (1992 and 1993).

²¹³ Case No. 6654 AM McFerran, (1988).

²¹⁴ Medicines (Veterinary Drugs) (General Sale List) Order 1984, SI 1984/768.

²¹⁵ PML; a prescription medicine which may be sold by certain categories of person under licence.

²¹⁶ Case No. 6660 DW Marten, (1990). This is the same DW Marten of the important case which determined that actions by a Member not necessarily concerned with professional practice could be disgraceful professional conduct (No. 4863, 1964, see Ch. IV p. 57). His name had also been removed in 1952 after conviction for moving, without a licence, a heifer in a Controlled Area. (Case No. 48105).

In mitigation, Counsel for Marten had referred to the case of C. S. Reid, in which an allegation of selling drugs for animals not under his care had been found to be not disgraceful, (although the DC in Marten's case did not consider it to be relevant).²¹⁷ Reid had been found guilty of contravening the Medicines Act by supplying antibiotic to a herd of pigs, allegedly not under his care. However, he argued before the Committee that he frequently visited the farm to attend to the owner's cattle, and that through these visits and discussions with the farmer, his responsibility for the pigs had been real, not nominal. Emeritus Professor Richard Penny gave expert evidence that the Respondent's actions were perfectly in line with pig practice of the time. Concluding, the Chairman said simply 'Mr Reid, the Committee finds that the offence of which you were convicted does not render you unfit to practise veterinary surgery'.

J. G. Allcock tried to circumvent the rule that a veterinarian may sell drugs only for animals under his care.²¹⁸ He set up a company to sell drugs to farmers, based on information collected by the company through questionnaires compiled by telephone and by visits made, not by veterinarians, but by the field staff of an agricultural pharmacist who visited local farms on a regular basis. These staff were given a day's training by Allcock who then gave each the title 'Veterinary Prescribing Assistant'. The Committee learned that farms in this scheme could be hundreds of miles away from Allcock's base, so that it was impossible for him to provide twenty-four hour cover; he had conveniently assumed this to be the responsibility of the farmer's regular veterinary practice. Indeed, such cover was specifically excluded by the company's literature, which also excluded provision of clinical services and support. There was no evidence that Allcock ever liaised with the practices normally servicing the farmers to whom he sold drugs.

The Committee found that whilst Allcock had been given some responsibility by the farmer, the animals were only nominally 'under his care'. It concluded that he did not visit the animals nor could he have had personal knowledge of the health of the herds or flocks. Each omission contravened the rulings in the *Guide*, as did his failure to liaise with local veterinary surgeons. Allcock was also found to have contravened the

²¹⁷ Case No. 6656, CS Reid, (1989).

²¹⁸ Case No. 66018 JG Allcock, (2004).

Guide by inappropriately advertising his services, particularly in that ‘medicines may be advertised to clients or to prospective clients only at their request and may not be advertised generally’. Counsel for Allcock argued that this was a ‘make-weight charge’, but it was found proven, as were the other charges, and each constituted disgraceful conduct. Allcock’s name was suspended for twelve months.

Dishonesty

The temptation to exploit professional knowledge and a client's innocence continues into the 21st century among a few veterinarians. In May 2009 K. Segev was charged with dishonestly representing the findings on a patient's radiograph and subsequently recommending a specific unnecessary and expensive course of treatment for a dog. The dog was insured, and the Committee found that Segev had chosen to embark on a dishonest course of conduct with a view to financial gain. The Committee described his behaviour in extreme terms, as 'abusive', and his name was removed from the Register.²¹⁹ R. K. Sanyal, in 2005 was also found guilty of dishonesty in respect of six charges that he had represented to animal owners that if they had insurance in respect of veterinary fees for one animal he would certify for the purposes of an insurance claim that fees incurred by way of treatment for another, uninsured animal, had been incurred in respect of treatment for the insured animal. He had also charged a client for radiography of a patient when he had not in fact radiographed the animal. His name was removed from the Register.²²⁰

²¹⁹ Case No. not allocated, as it falls just outside the chosen time limit for this thesis.

²²⁰ Case No. 6112 RK Sanyal (2005) Mr Sanyal’s name was restored in. 2007, after the Committee had ‘considered long and hard’.

Clinical incompetence

In this period the DC heard eighteen cases in which clinical incompetence was alleged. (Figures 36 and 37).

Figure 36: Sanction in clinical incompetence cases (1)

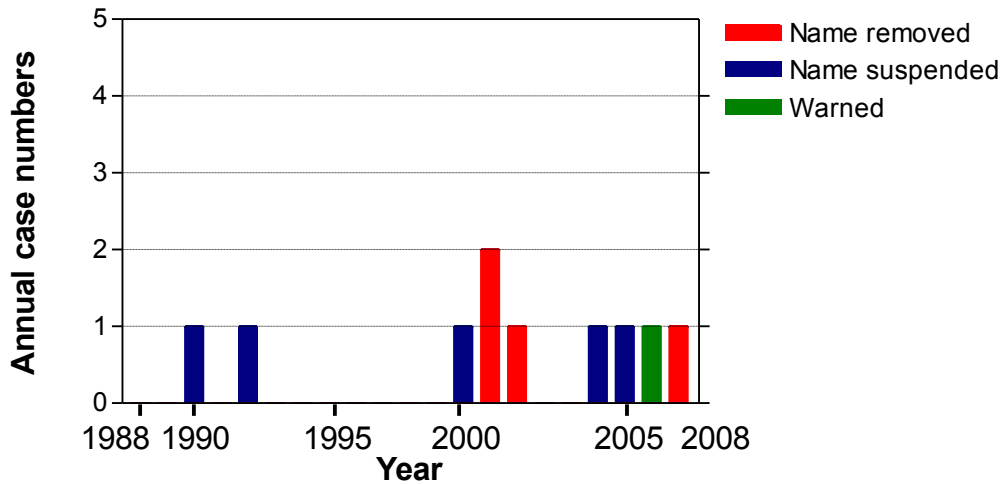
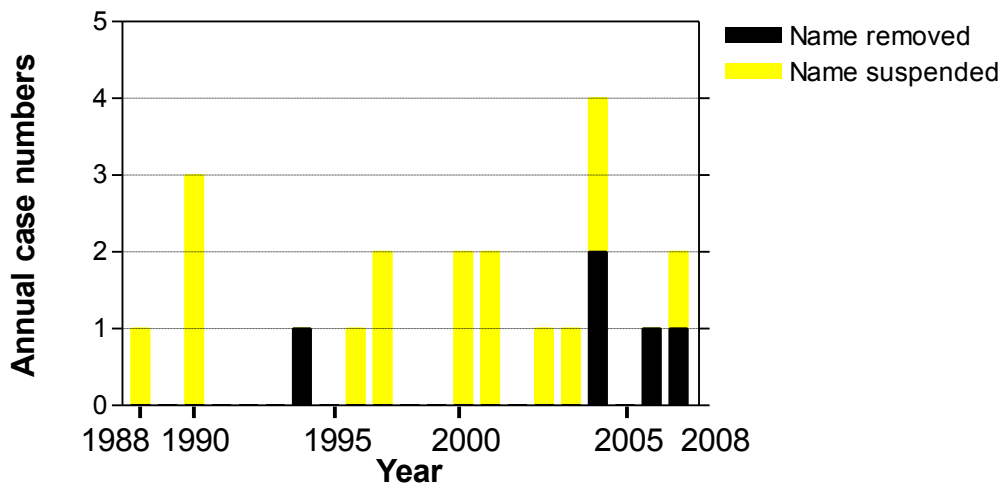


Figure 37: Sanctions in clinical incompetence cases (2)



Four cases resulted in removal of the Member's name from the Register. In the example already noted above (p. 116) R. K. Sanyal was found guilty of having, in three separate cases, bandage an animal's leg so tightly that the consequent severe necrosis necessitated amputation of the affected limb. In fourth case, the bandaging had led to severe necrosis, but the limb, treated by another veterinary surgeon, was saved.²²¹

²²¹ Case No. 66111 RK Sanyal (2005). This case was cited in the appeal by Walker (p. 106).

D P Cronin was found guilty of several charges. Twice he had performed euthanasia of a cat in an inhumane manner. He had also, on several occasions, been rude and, or, threatening to his clients, and to his staff. He had been convicted of boarding cats and dogs together, contrary to the regulations of the Boarding Establishments Act 1963; he had failed to communicate in a timely manner with the RCVS Professional Conduct department when the complaints were investigated.²²²

In 2008 L Higgott was found to have provided extremely poor care to a dog over a period of several days. When the distressed owner pushed her way into the room in which the dog was kept, she found it behind a pile of boxes, dead and soaking wet. His name also was removed from the Register.²²³

There were two instances when a poor clinical approach led to postponement of judgment on the Respondent, with conditions imposed that further training and work under supervision be carried out. M. J. Roach was found to have ‘forgotten’ to remove the uterus and ovaries of a cat during a routine cat neutering, and to have grossly mishandled the castration of a guinea pig. Judgement was postponed whilst he operated only in the presence of a supervisor, and undertook further training.²²⁴ L. A. Basha was found guilty of numerous charges of clinical failings in respect of the diagnosis and treatment of several cats and dogs, of inadequate clinical notes, and of false insurance certification. However, the Committee expressed considerable disquiet over the actions of his employers, who had failed to ‘provide adequate supervision, guidance and support for a new, inexperienced overseas graduate placed in a single handed practice’, allowing this continue for nine years.²²⁵ The Committee, despite the seriousness of the offences, took the ‘unusual step’ of postponing judgment whilst Mr. Basha agreed to work in a RCVS accredited practice and to undertake training. This he did, and in late 2008 the case concluded with a reprimand in respect of the finding on the insurance certification charge.

²²² Case No. 66115 DP Cronin (2005).

²²³ Case No. 66134 L Higgott (2008).

²²⁴ Case Nos. 6685 MJ Roach (2000). Mr. Roach later became extremely ill, and his case was set aside.

²²⁵ Case No. 66117 LA Basha (2006).

Cases found ‘Not disgraceful’

As noted above (Ch. VII p. 99), the Preliminary Investigation Committee refers cases to the DC when there is a realistic chance of proving the facts of a case, and that those facts, if proven, would amount to disgraceful conduct in a professional sense. However, the DC is able to investigate the charges in great depth, and it is inevitable that some cases referred by the PIC are found to be either not disgraceful, or the charges are unproven.

Thus in Reid (above p.115), the question of whether a group of animals was truly under the care of the respondent could be determined. Similarly, a ‘genuine oversight’ might also lead to a judgement that certain conduct was not disgraceful.²²⁶ W. H. S. Manson had been convicted of failing to notify the relevant authority that there had been a reduction in the number of eligible sheep for the purpose of obtaining a sheep premium. Manson was in single-handed practice and the failure had occurred during the busy lambing season. Some of the sheep were on a separate family farm eighty miles away in rural Ireland and, unbeknown to him, his brother had reduced the number of ewes there. Whilst emphasising the importance of complying with Government regulations, the Committee was satisfied that Manson’s convictions did not ‘affect his ability or fitness to practise or call his honesty into question or endanger the public. They arose as a result of a genuine but regrettable oversight on his part’. The case was dismissed.

A full disciplinary hearing also allows for proper scrutiny of contested evidence. In 2007 Ms. M. Dos Santos Correia was accused of failing to provide proper care by causing or permitting a horse that might have had a fractured leg to be transported some fifty miles without adequate physical support.²²⁷ On three successive days she had attended a horse with a puncture wound high on a hind leg, which she had diagnosed as cellulitis and treated with antibiotic, anti-inflammatory drugs, and cold-water hosing. After conferring with her senior veterinary surgeon she decided to send it to a specialist equine clinic. Upon arrival the leg was clearly broken and displaced, and the animal was immediately destroyed.

²²⁶ Case No. 66107 WHS Manson, (2004).

The Committee heard from three laypersons associated with the horse, and from two expert witnesses, one appearing for the College, the other for the respondent. During the hearing it became clear not only to the Committee but to both experts that Correia had carried out a 'full and competent examination'. The College expert said that the type of fracture which had occurred was 'very difficult to diagnose' and would rarely be found in first-opinion practice, where cellulitis is much more common. In its findings the DC noted that it had been impressed by the respondent's 'calm, patient and consistent response to vigorous cross-questioning', and where the evidence of lay witnesses and the respondent differed, they found the latter's evidence to be more reliable. The case was dismissed.

A disciplinary hearing might recognise that a veterinary surgeon's actions when treating a particular animal might well be unsatisfactory, but not fall so far below proper care as to amount to disgraceful conduct. Such was the case with L. L. Swift.²²⁸ Here there were several allegations regarding his management of two cases, one of which involved a dog upon which Swift had operated to remove a large tumour, subsequently applying a Roberts Jones splint (which incorporates layers of heavy padding) and leaving it on too long. The Committee 'could not commend the practice,' and believed that it illustrated poor clinical judgement but not so poor as to amount to serious professional misconduct. Swift also, when asked later to attend an injured greyhound, found that he could not approach it because of its aggression (nor could the owners) and left it under a light gazebo overnight in the owner's garden, a less than satisfactory response to the aggression in terms of continuing care. In considering their judgment on Swift, the Committee paid particular regard to the case of *McCandless v GMC* 1995.²²⁹

McCandless had treated patients in a manner which the disciplinary committee of the GMC concluded fell 'deplorably short' of what patients should expect. *McCandless* appealed and their Lordships themselves referred to an earlier Privy Council judgment that 'serious professional misconduct' (concerning a dentist) had occurred

²²⁷ Case No. 66126 M Dos Santos Correia, (2007).

²²⁸ Case No. 66100a LL Swift (2002). Swift appeared before the DC again in 2004 (No. 66106) charged with assault on a 14 year old girl and with use of drugs outside the 'cascade' of permitted drugs. His name was then removed.

²²⁹ *McCandless v. General Medical Council, Privy Council Appeal No. 28 of 1995.*

where the treatment given, ‘judged by professional standards in the light of the objective facts about individual patients... no dentist of reasonable skill exercising reasonable care would carry out’.²³⁰ They stated that this test was equally applicable to doctors, and the RCVS Disciplinary Committee found it applicable also to veterinary surgeons. In the Swift case, however, the Committee observed that that his professional care ‘was of a poor standard but was not so inadequate as to constitute disgraceful conduct in a professional respect’, and no further action was taken.

Appeals to the High Court and Privy Council 1965 to 2008

The veterinary profession is unusual in that appeals against a decision of its Disciplinary Committee are heard by the highest court in the land, the Judicial Committee of the Privy Council, a procedure established by the Act of 1966. In the subsequent forty-two years and 129 hearings by the DC, there have been only eleven appeals against a decision as such.²³¹ 14 (below) lists the appeals against DC decisions and summarises the points arising from them. It is notable that the records of these appeals consistently show that their Lordships have been reluctant to ‘interfere with a professional body’s exercise of discretion as to sentence’, or to alter the decision of a disciplinary tribunal.²³² However, there are occasions when the Board accords ‘an appropriate measure of respect to the judgment of the Committee’ but declines to defer to the Committee’s judgment ‘more than is warranted by the circumstances’.²³³

²³⁰ *Doughty v. General Dental Council (1988) A.C. 164, 173.*

²³¹ The College has been involved in fifteen appearances before the Privy Council since 1966, but in three of these the appellant was seeking either disclosure of documents or against taxation of his costs. The appellant was Mr. Maurice Kirk, His name had been removed from the Register in 2002 (see p. 110) and the High Court subsequently declared him to be a ‘vexatious litigant’. His story continues.

²³² Appeals (See Table 14) by Marten, Lawther, Kirk, Williams.

²³³ Appeal (See Table 14) McLeod.

Table 14: Appeals to the High Court and Privy Council 1965 to 2008

Year	Appellant and Case No.	Judgment given by	Significant points
1965	Marten/ 4863*	Lord Parker	Conduct not directly in pursuit of his profession can be disgraceful as reflecting upon his profession. RCVS decision to remove upheld.
1968	Lawther/ 6609	Lord Pearce	Striking off not such a severe penalty, as Council could re-admit if there was a lesson learned and a 'penitent return'. RCVS decision to remove upheld.
1980	Smith/ 6631	Lord Diplock	Reckless disregard of care in certification has serious consequences at home and overseas, hence is disgraceful. RCVS decision to remove upheld.
1980	Stevenson/ 6632	Lord Diplock	Conviction for fraud brings profession into disrepute. Decision, 12-month suspension, upheld.
1995	Plenderleith/ 6674	Lord Slynn	Employing two non-UK veterinarians not yet on the Register. <i>Under the circumstances</i> (very brief period) Board's decision, matter NOT disgraceful.
2000	Jones/ 6684	Lord Hutton	New evidence on a charge was allowable, erasure decision quashed and matters must be re-heard.
2002	Tait/ 66101	Lord Steyn	Case incorrectly heard <i>in absentia</i> . Case must be reheard. But noted that "dishonesty lies at the top end of the spectrum of gravity of misconduct".
2004	Kirk/ 6696	Lord Hoffmann	Violent and repeated anti-social behaviour can be disgraceful conduct. RCVS decision to remove upheld.
2004	Archbold/ 66104	Sir Kenneth Keith	Proven dishonesty comes at the top end of the spectrum of gravity of misconduct. RCVS decision to remove upheld.
2006	McLeod/ 66114	Lord Carswell	Contravention of rules relating to animals under [her] care is disgraceful. However, the RCVS DC did not "avowedly" consider whether reprimand would suffice. 'Disgraceful' finding upheld, but suspension changed to reprimand.
2007	Walker/ 66121	Lord Mance	Not all certification cases are of equal gravity; mis-certification is disgraceful conduct but lesser sanction may suffice. Mitigation in principle has less effect in a disciplinary hearing than in ordinary sentencing. There <i>is</i> a substantial difference between suspension and removal. Removal of name altered to 6 months suspension.
2008	Williams/ 66128a	Lord Mance	Deliberate misleading of insurers, purchasers or export agencies about physical status or health, or risk to animal or human health, can be disgraceful. RCVS decision to remove upheld.

* The first appeal listed, Marten, 1965, was held under the 1948 Veterinary Surgeons Act and heard before the High Court.

Pause and inquire

This history has lightly sketched some aspects of the history of the Royal College of Veterinary Surgeons, showing that where once the emphasis of actions against RCVS Members concerned activities improper to 'the professional man' - advertising and so-called 'covering' - in the 21st century there is a greater tendency to look outwards to the needs of owners and, in the case of certification, to public probity, accompanied by a recognition that society itself is in constant flux. The story has reached the point at which to 'pause and inquire' into how fair and just the College's disciplinary procedures have been.

Chapter IX

Fair and Just?

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Introduction

In the mid-nineteenth century it was not felt necessary for the Royal Charter of 1844 to define the meaning of a profession, it simply deemed the 'body politic' of those who practised the veterinary art, to *be* a profession, not least because they had, through their training, 'superior education and attainments'. This recognition was in accord with the views of the economist Adam Smith who wrote:

We trust our health to the physician, our fortune and sometimes our life to the lawyer and attorney. Such confidence could not be reposed in people of very mean or low condition. Their reward must be such as may give them rank in that society which so important a trust requires.²³⁴

Earning rank in society implies compliance with certain standards, a view which has been held for centuries; in 1637 Sir Francis Bacon observed that as the members of a profession rightly seek 'countenance and profit', so too they should endeavour 'by way of amends to be a help and ornament thereto'.²³⁵ Compliance with set standards is assured within a profession by 'self-regulation', critically by the power to discipline or expel a member of that profession.

²³⁴ Adam Smith (1776) *Inquiry into the Nature and Causes of the Wealth of Nations*. Quoted in Monopolies Commission report into the professions and restrictive practices, Cmnd. 4463 (1970) Part II, Appendices, p. 29.

²³⁵ Sir Francis Bacon (1637) *The Elements of the Common Laws of England, Preface* p. 28. Quoted in Monopolies Commission report as above.

In the 21st century, following events such as passage of the Human Rights Act and the Kennedy and Shipman Inquiries, the scope of self-regulation was addressed by a Parliamentary committee. Their report includes a definition of a modern, effective, self-regulatory body, the main points of which are given in Box 19.²³⁶

Box 19: Criteria for self-regulation

A profession

- provides codes of conduct, ethics and practice;
- has in place a complaints mechanism for members of the public;
- has in place a disciplinary procedure that is accessible to the public;
- includes external representation on executive councils to represent patients or clients and the wider public interest.

A profession for the 21st century?

Can it be concluded that the RCVS has sufficiently revised and adapted its procedures in accord with the needs and manners of the passing decades, such that today its disciplinary procedures are consonant with the criteria outlined above?

A code of conduct

The Veterinary Surgeons Act of 1881 gave the young profession the legal means to exert discipline among its members, but RCVS Council was surprisingly late in providing a detailed guide for Members as to conduct considered proper, beyond the blunt brevity of Bye-law 53, (Ch. III p. 34). Later on, Registrar Bullock's Handbook did provide guidance, but merely expanded the code of Bye-law 53.²³⁷

For over half of the years from 1881 to the present, qualified veterinary surgeons had to compete with the unqualified. It is not then surprising that early disciplinary cases reflect action against Members who responded to market pressure and drummed up business by handing out their professional cards, or by leaving an employer's practice and setting up nearby, taking clients with them. Such behaviour was deemed to be not that of persons of 'rank' and 'respectability'; it was thoroughly reprehensible.

²³⁶ Select Committee on Science and Technology: Sixth Report at <http://www.parliament.the-stationery-office.co.uk/pa/ld199900/ldselect/ldscstech/123/12308.htm>. Accessed February 2010. The criteria come from Budd S & Mills S, (2000) *Regulatory Prospects for Complementary and Alternative Medicine: Information Pack*. University of Exeter on behalf of the Department of Health, quoted in the Select Committee report.

²³⁷ See Chapter III. p. 35.

Similarly, it was more profitable to employ, that is cover, an unqualified assistant than to employ a qualified person. Each of these practices was condemned in accordance with the bye-laws, and transgressors punished in ways thought proper at the time.

A great deal of time was given to preventing self-advertisement, even by those who had gained specialised skills, for this was a means of protecting the public from those who would make unwarranted claims for their skill, or seek simply to create a demand. To some degree this remains true, but in the mid-20th century government pressure forced a change in attitude towards advertising, permitting that which had been forbidden, for the professions were found to be too close to Adam Smith's taunt that they were a 'conspiracy against the public'.²³⁸ It became obligatory to allow competition between those who had earlier been deemed 'brother practitioners'.²³⁹ At the same time the College had developed post-graduate qualifications by which many had gained greater expertise in particular fields. Gaining such qualifications imposed a financial cost, and it would be unrealistic for those who had become specialists not to seek to recoup that cost by advertising their services. RCVS Council has responded by considerably relaxing its rules.

From 1949 the College has published a more or less detailed guide to the conduct expected of Members, and has updated that guidance with increasing frequency. The Preliminary Investigation and Advisory Committee of 1949 (Ch. IV p. 50) and its successor, the PIC (Ch. V p. 60) gave advice to the profession through the RCVS *Annual Report*. Registrar Porter's initiative in accurately reporting cases heard by the DC brought further advice before the profession, again through publication of these in the *Annual Report*.

The decisions reached in disciplinary cases, whether by the Registration Committee prior to 1948, or afterwards by the Disciplinary Committee, have often been used to interpret and amplify the advice given in successive *Guides*. RCVS Members now have also the benefit of 'Advice Notes' on specific topics, and in recent years much material has been made available not only to Members but also to the general public through publication on the College's website, thus increasing the transparency of

²³⁸ Adam Smith *Wealth of Nations* in *The Oxford Dictionary of Quotations*, Oxford University Press, 3rd Edn. 1979.

²³⁹ F Bullock (1927) *Handbook for Veterinary Surgeons*. Taylor and Francis, London. p. 20.

action by the Royal College.²⁴⁰

A complaints mechanism

The preceding chapters have shown a clear evolution of attitudes within the veterinary profession, from being self-regarding and self-protecting to a more outward-looking ethos. The modern attitude is made explicit by the 'strap-line' currently attached to RCVS publicity material, declaring that the College's role is to 'promote and sustain public confidence in the profession' – very different from celebrating mere recognition as 'a profession'.²⁴¹

There have always been letters written to the RCVS by animal owners with complaints against veterinary surgeons. The official response could be brusque (Ch. IV p. 56), but there has been a steady change in the sympathy and courtesy given to such complaints; the College came to recognise that many are valid. The dramatic findings of the Kennedy Report on the Bristol heart children, and the Shipman Inquiry, were recognised as a watershed in professional regulation; indeed, an editorial in the *British Medical Journal* of the time declared that regulation of the professions was 'all changed, changed utterly'.²⁴² By the end of the 20th century the RCVS Council had taken account of these developments by instituting a clear written complaints procedure, and by enlarging the Professional Conduct department and codifying its procedures.

²⁴⁰ At <http://www.rcvs.org.uk>.

²⁴¹ *Ibid.* More colloquially, it has been said that nowadays it is the role of the British Veterinary Association to protect vets from the public, whilst the College protects the public from vets. (Comments *passim*).

²⁴² Anon. (1998) *British Medical Journal*, **316**, pp. 1917-1918. Quotation from WB Yeats; *Easter 1916*.

An accessible disciplinary procedure

Concurrently with the passage of the Veterinary Surgeons Act 1966, the accompanying rules on procedure specifically ensured that RCVS DC hearings would be held in public unless it was in the interests of justice to exclude them.²⁴³ In later years protocols for handling complaints have been established and made readily available to the aggrieved - steps which satisfy the need for 'a disciplinary procedure that is accessible to the public'.

External representation

Chapter VIII related the manner in which the RCVS made efforts to include lay people on its Council and committees, including both the PIC and the DC. Such inclusiveness came late in the College history, for at the inception of the 1966 Veterinary Surgeons Act legislators saw no need for explicit lay involvement. It was by the actions of RCVS Council itself, and some of the veterinary schools, that the number of lay members has been increased, although that number is still constrained by the Act. Almost all of the lay members on Council are appointed to the DC; its chairman will now normally be a layperson, and lay observers are appointed to the PIC²⁴⁴.

Disciplinary Committee Manual

As an integral part of ensuring adherence to modern criteria for self regulation (see Box 19 p.126), in 2007 the Professional Conduct department issued a manual entitled *Disciplinary Committee Guidance*. Its aim was to advise DC members on the Committee's purpose and function, its decision making, and other matters. In early 2010 this was updated and extended, to provide considerable insight into the activities of the DC, covering the responsibilities and duties of committee members, the role of the DC chairman, legal assessor and clerk, and to supply an introduction to committee procedures.²⁴⁵

²⁴³ *The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 1967*. Part V 15 (2) and (3). The rulings on hearings being in public, (with other regulations to ensure justice) were continued in *The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004*, at Part VI 21.1.

²⁴⁴ RCVS Council *Nominations Policy* (2010).

²⁴⁵ Anon. (2010) *Royal College of Veterinary Surgeons Disciplinary Committee Manual*.

Double jeopardy

Several legal assessors to the DC have asserted that the purpose of disciplinary hearings is not necessarily to punish an offender, but where a respondent appears as a result of a court conviction then there is an appearance of being punished twice, contrary to the ancient rule that no-one should be tried twice for the same offence. The principle is incorporated into the Seventh Protocol, Article Four, of the European Convention of Human Rights. This 'double jeopardy' is, however, expressly not relevant to the disciplinary hearings of a profession, as the Court of Appeal has made clear on several occasions. Lord Justice Diplock, for example, has commented that 'the purpose of disciplinary proceedings against a person convicted of crime is not to punish him a second time for the same offence but to protect the public who come to him as patients and to maintain the high standards and good reputation of an honourable profession'.²⁴⁶ It is also argued that, even where a Court has acquitted a respondent of a charge, a disciplinary hearing on the same matter is a proper action. Lord Justice Simon-Brown has observed that 'the double jeopardy rule has no application save to other courts of competent jurisdiction and there is therefore no bar to the bringing of disciplinary proceedings in respect of the same charge, adding that 'it is surely right that this should be so'.²⁴⁷ The Disciplinary Committee of the RCVS thus operates safely and properly under this principle.

Fair and just?

This thesis has described a process of continuing change within the veterinary profession. The Royal College was given the powers to regulate the conduct of its members through its Council for, as veterinarians themselves, they were best placed to know the standards required - a concept reinforced by the comments of several Boards of the Judicial Committee of the Privy Council. RCVS Council itself, and its appropriate committees, fought initially to elevate a business - the care of animals - into the status of a profession, steadily refining the standards of conduct to be observed by Members.

The RCVS disciplinary procedures evolved as the world in which they were applied

²⁴⁶ In *Ziderman v. General Dental Council* [1976] 2 All ER 334.

²⁴⁷ *R (on the application of John William Redgrave) and the Commissioner of Police for the Metropolis*. (2002). At http://www.hmcourts-service.gov.uk/judgmentsfiles/j1508/redgrave_v_police_metropolis.htm. Accessed March 2010.

changed. The importance of accurate certification grew, and Council responded, developing standards which became widely recognised as sound. Attitudes changed too and where once it was thought proper to call a man before the full Council for the President to administer a very public reprimand, there grew a recognition of human frailty. The powers granted, but closely defined, by a Parliamentary Act were imaginatively extended, for example the postponement of a judgment to allow time for the 'cure' of improper conduct.

It cannot be said that the disciplinary committees of the RCVS have always made correct decisions, nor, as their Lordships of the Privy Council have recently implied, been consistent.²⁴⁸ But it is a truism that 'circumstances alter cases', and the brevity of earlier reports precludes a full understanding of the nuances of a hearing which may have extended over several days. One measure of the accuracy and consistency of DC decisions is the reactions of those likely to be affected, both members of the profession and the animal-owning public. As to the former, research in the pages of a reputable journal, the *Veterinary Record*, reveals only two cases which caused widespread controversy and condemnation of a decision, those of André (Ch. VI p. 84) and Walker (Ch. VIII p. 104). As to the public, there are occasional protests,²⁴⁹ and at the time of writing there is an on-line organisation called the Action Group against the RCVS, who claim that the College is weak and self-protective.²⁵⁰ Conversely, the decision of a DC to remove a Member's name may also result in protest by the respondent's supporters. In one such instance a member of the Committee was booed in the street as he left the College's headquarters.²⁵¹ Research in the archives of *The Guardian* and *The Times* newspapers,²⁵² however, indicates that there appears to have been very little public antagonism towards the College.

²⁴⁸ See Chapter VIII. This was in relation to hearings of alleged mis-certification.

²⁴⁹ See for example <http://www.justiceforted.com>. Accessed March 2010.

²⁵⁰ At <https://secure.wsa.u-net.com/www.animalaid.org.uk/news/2002/0208rcvs.htm>. Accessed March 2010.

²⁵¹ Author's personal observation following case of RK Sanyal (2005), case No. 66112.

²⁵² Described in Ch. I on the methods of research undertaken.

The future

The data in Chapter VIII (p. 117) showed that in the last decade the RCVS has been more inclined to take action in clinical matters where a Member's actions have fallen so far below the competence expected of a reasonable veterinarian as to become disgraceful conduct. This inclination has been buttressed by including within the profession's guidance on professional conduct, advice to Members to maintain and develop their knowledge and skills, to have professional indemnity insurance, even advice on how to proceed if a Member has concerns about a colleague's professional competence; all must be fit to practise.²⁵³ Further, the circumstances in which the veterinary profession works continues to change, and guidance given by RCVS Council must accept that many veterinary practices are now run by limited companies; practices may be situated within pet 'superstores'; some practices restrict themselves to a single species or provide only a neutering service. At the time of writing a working party of the RCVS Council is yet again reviewing the *Guide* to keep it up to date, and it is likely that wider matters than before will be addressed.

Yet all this must still be done within the constraints of the Veterinary Surgeons Act of 1966, whereas most other recognised professions operate under much more modern legislation. Council has stated for several years, and for several reasons, that a new Veterinary Surgeons Act would be desirable, and two sub-committees have considered the matter.²⁵⁴ At the time of writing, however, it has been made clear that there is no foreseeable opportunity for such legislation to be introduced.²⁵⁵ A working party reporting to RCVS Council has recently suggested that a relatively new constitutional device, the Legislative Reform Order (LRO)²⁵⁶ might be used to implement separation of the Disciplinary Committee from RCVS Council. This would allow the introduction of new rules on membership of the DC, specifically excluding serving members of Council, and defining the number of laypersons to serve on it. Whether this will be achieved remains an open question.

The veterinary profession today faces new challenges; the lure of exploiting the

²⁵³ *Guide to Professional Conduct* (2010) p. 13.

²⁵⁴ RCVS Council minutes *passim*.

²⁵⁵ Lord Rooker (May 2008), Department of Food and Rural Affairs, addressing the House of Commons Environment, Food and Rural Affairs Committee.

²⁵⁶ LRO; a legislative device that does not require complex legislation and can be introduced by Government Order, where such an Order may lead to better regulation.

insured status of a patient; the fact that a veterinary practice may now be owned by a layperson (who may lack a truly professional ethic); commercialisation of veterinary practice; a reversion from profession to trade.

As a counter to such concerns, this thesis has recorded that, almost forty years ago, the view was expressed in the *Guide to Professional Conduct* that ‘opinions on matters of professional ethics do change with the years, since ethics and professional conduct must be appropriate to the situations and times in which we live’ – a sentiment as true now as then.²⁵⁷ The thesis has also shown that the profession's approach to disciplinary matters *has* changed and is changing, and one may hope that it will ensure a continuation of that ethos of decency embodied in the oath which every new Member takes on grant of the privilege of membership of the Royal College of Veterinary Surgeons:

I promise, above all, that I will pursue the work of my profession with uprightness of conduct and that my constant endeavour will be to ensure the welfare of the animals committed to my care.

²⁵⁷ Chapter V page 74.