

# Farriers Registration Council



Established under the  
Farriers (Registration) Act 1975

## **Reform of the Veterinary Surgeons Act 1966 – Defra Consultation**

The Council's position in respect of the Defra consultation is summarised as follows:

The FRC disagree with reform of the VSA as it is proposed in the consultation, but we are open to reform where it delivers better regulation for the benefit of animals and the public. We have set out our detailed observations below: our high-level overview is that what is proposed appears to fly in the face of Government's own desire for better targeted, agile and proportionate regulation. The proposition set out in the consultation amounts to heavyweight regulation, prescriptive in approach and features measures that will deliver at best marginal benefit to the public and in our view less so to the various professions, and notably so in the case of AVPs. Many of the regulatory proposals set out are disproportionate to the risks that are to be regulated, and, perhaps unsurprisingly, the consultation makes no attempt to cost the proposals. We anticipate a significant increase in costs for registered farriers, and this may push some farriery practitioners to the limits of viability and tempt some to practise unlawfully.

### **Overview**

AVPs should be subject to statutory regulation for the benefit of the animal, its owner and more broadly in safeguarding the public interest. The extent of the regulation should be proportionate to the level of risk, for example a saddler need not be subjected to the same level of regulatory oversight as a Veterinary Surgeon. The consultation appears not to acknowledge that regulation should be 'scaled' in this way; we suggest that any proposed regulatory measures be graded by risk and probability relative to the various professions and be applied only where there is a compelling case for doing so.

Farriers should remain subject to statutory regulation; however, the measures set out in the consultation are disproportionate and in the case of business regulation amount to regulatory overreach. The proposition that regulation of farriery in Northern Ireland may be achieved only by regulating farriery via a VSA is not correct and is misleading, a minor amendment to the FRA (removal of one sentence) will achieve that outcome. The consultation would benefit from detailed consideration of scope of practise across the animal welfare spectrum, which in our view is key in establishing where responsibility, accountability and authority should lie amongst relevant professionals.

### **Licence to Practise**

The Licence to Practise measures offer no additional benefit to registered farriers nor to the public beyond that already delivered by the FRC; some measures operated by the FRC are more advanced than those proposed, such as directed CPD for those rejoining the register after a period of absence. The consultation fails to set out arrangements for transfer and grandfather rights, and similarly in respect of differentiation between professionals.

## **Fitness to Practise**

The Fitness to Practise proposals set out a three-stage system (triage, case examination and hearing); this is more bureaucratic, time consuming and expensive than the current two stage system operated by the FRC. What is proposed will almost certainly introduce delay in disposal of cases which is not in the best interests of either registrants or complainants. The two-stage process operated by the FRC allows cases to be disposed of in around 12 months, the three-stage process which is currently operated by many other regulators delivers disposals often measured in numbers of years. The proposals appear to be optimised for internal resolution within veterinary practices, but these options do not appear to be available to sole traders. While undertakings are an attractive sanction, they require a level of oversight/monitoring to ensure compliance, and we consider this will add to the costs of operating the fitness to practise scheme.

The notion that removal of licence/removal from the register is subject to an arbitrary period of time flies in the face of natural justice. The sanction should fit the matters found proved, taking note of aggravating and mitigating factors and should be proportionate and reasonable, and considered to be so by the public. The sanction is a matter for a properly constituted tribunal having been advised by its legal assessor, it should not be the product of a templated outcome.

No mention is made of measures, currently in use with the FRC, that are 'sub-referral' such as letters of advice and non-statutory warnings. In our experience these are valuable and proportionate in addressing shortcomings that do not merit referral. While the consultation indicates a belated evolution to the civil standard of proof, the notion of a sanction of 'not able to work alone' is absurd in the context of farriery where the vast majority of practitioners are sole traders – this may apply also in respect of other AVPs.

## **Business Regulation**

Proportionality is a key principle of regulation; the intrusive regulation of businesses set out in the consultation is not appropriate, and not necessary, for the farriery industry. Farriers are most often sole-traders, working independently from a vehicle at a place of the client's choice such as yard or livery, or at a private home, and at time of writing there may be of the order of 2600 'premises' that would be in scope. Powers of entry and seizure seem disproportionate in respect of a business delivering animal healthcare. Save for where animal cruelty or neglect is suspected it is far from clear why such a measure is considered necessary, and it may fail the test of what is reasonable.

We suggest that the proposals for business regulation breach the principle that regulation should be proportionate to the risk being managed, and the proposal, in respect of farriery, amounts to regulatory overreach. The Competition and Markets Authority (CMA), the principal competition regulator in the UK, conducted a market investigation into veterinary services for household pets, but did not examine farriery and nor, to the best of our knowledge any of the other AVPs.

The extension of business regulations, as envisaged in the consultation paper, has the potential to make many farriery businesses unviable by way of increased costs and bureaucratic overload; this will increase costs for the regulator and the regulated. Aside from the risk of reducing the number of farriery practitioners at a time when the profession is contracting with a detrimental effect on equine welfare, it may tempt some to operate outwith regulation, i.e. unlawfully.

## **Governance**

The key benefit of Option 2 would be increased public confidence in the regulator in that it may operate in the best interests of animals, their owners and the public, without interference (real or perceived) from the profession. This approach adheres with key regulatory interventions in the UK: see volume 5 of the public inquiry post Shipman into the operation of the GMC (Dame Janet Smith), and the report 'Striking the Balance' by Lord Paul Bew in applying the seven principles of public life to regulation. A lay majority on the regulatory body is key in safeguarding public confidence.

Option1 (the status quo) appears 'cosy', and the public may take the view that the veterinary profession is 'marking its own homework' and 'looking after its own'. It is of note that no other statutory professional regulator uses this model – given the outcomes of Smith and Bew (above) that should come as no surprise. In our view there must be a clear separation of functions and powers between a Veterinary Regulator and the Veterinary Head of Profession; the two bodies would interact and have a professional relationship but would be mindful of each other's responsibilities.

The role of a professional leadership body might include the ownership of a strategy for the profession: i.e. a vision for where the profession wishes to be in 5 years, and a horizon out to 10 years. Such a body should own a research and development programme to shape the future of the profession, and perhaps also undertake talent management of the profession's brightest and best to encourage them to take up key appointments which will serve the profession's long-term interests.

The regulator shall need to set a fee that enables it to deliver its statutory outputs; separately, policies that are non-statutory (matters of choice) may be the subject of discussion or consultation. In terms of nomenclature and post-nominals there must be differentiation between the various professions, including within AVPs, i.e. Equine Dentist, Saddler, Equine Physiotherapist etc.

The options on offer are few and the consultation favours Option 1. This flies in the face of regulatory best practise and the outcome of a public inquiry. Option 2 will serve the public interest best – that is key and should prevail over other concerns. Other options appear not have been considered and merit consideration, including having a regulator for the AVPs (akin to the Health and Care Professions Council (HCPC)) attenuated to their regulation and leaving a Veterinary regulator to regulate Vets and Vet Nurses.

The FRC stands ready to engage further in the development of options for modernisation of regulation in the animal welfare sector; options should embrace the key principles of necessity, proportionality and what is reasonable.