



Veterinary Council of Ireland

Sanctions Guidance

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Introduction

The Veterinary Council of Ireland ("the VCI") is a statutory body established under the Veterinary Practice Act 2005 ("the Act") to regulate the practice of veterinary medicine and veterinary nursing in Ireland.

The jurisdiction of the Council extends to ensuring proper professional conduct amongst veterinary practitioners and veterinary nurses and imposing sanctions, as appropriate.

This document outlines the relevant procedures in relation to sanctions, provides guidance in relation to the different types of sanctions which can be imposed on a registrant, sets out the factors taken into consideration when deciding on sanctions, and summarises previous VCI sanction decisions.

The VCI adopted this guidance as an aid to fair, impartial, transparent and consistent decision-making. Fair and transparent disciplinary proceedings help maintain public confidence in the profession, and in professional standards.

In determining the issue of sanction, the Council is not bound by this guidance document: its discretion to determine sanction in fitness to practise cases remains in accordance with the relevant legislation and the exercise of its own judgment according to the circumstances of each case.

This guidance came into effect on 16 March 2022 and will be updated and revised as the need arises.

Background

The Act sets out the powers and functions given to the VCI to regulate the veterinary profession in Ireland.

When a complaint is made about a registrant, it is firstly reviewed by a screening committee called the Preliminary Investigation Committee who must decide whether further action or no further action is required. If the Preliminary Investigation Committee decides that further action is required, the complaint will be referred to the Fitness to Practise Committee.

The Fitness to Practise Committee conducts a hearing and hears evidence about the complaint. The Fitness to Practise Committee decides whether the allegations made against the registrant are proven and whether findings are made.

After a hearing has concluded, the Fitness to Practise Committee is required to complete a report which sets out its findings. The committee, may in its report, also recommend the sanction it believes should be imposed on the registrant. However, only the Council has the power under the law to decide upon and impose the sanction. The Council cannot revisit or change in any way the findings made by the Fitness to Practise Committee.

The imposition of sanction on a registrant is an important matter which can have far-reaching consequences for a registrant. The guidance provides a framework to assist the Fitness to Practise Committee in recommending the sanction it believes should be imposed on a registrant. It also provides a framework to assist the Council in imposing sanction to ensure it takes a consistent approach in deciding what sanction to impose.

This guidance is also designed to make sure that all the parties are aware from the outset the approach the Council will take to imposing sanction, together with the factors it will take into consideration. This guidance is not exhaustive nor is it intended to restrict the Council, from exercising its own judgement. The Council will come to its own decision on sanction, having regard to this guidance.

Range of Sanctions

The Council can impose a range of sanctions, up to and including erasure from the relevant register, on a registrant.

A registrant can be sanctioned if:

- (a) found guilty of professional misconduct
- (b) unfit to practise by reason of physical or mental disability
- (c) his or her registration is erroneous due to a false or fraudulent declaration or misrepresentation
- (d) he or she fails to comply with any provision of the Veterinary Practice Acts or any regulations made under them
- (e) he or she has been convicted of an offence triable on indictment.

1. Advice, Warn or Censure

These are the lowest sanctions which can be applied. Neither advice, warn or censure restrict the right of the registrant to practise.

2. Conditions on Registration

Conditions place restrictions on a registrant's practice or ability to operate for a specified period of time. If conditions are attached, the registrant may continue to work or operate; however, the registrants must do so in a way which is consistent with the conditions imposed.

3. Suspension of Registration

Suspension prevents a registrant from practising for a specified period of time.

4. Removal of Registration

The registrant's entry in the Register is removed and they will no longer be able to practise. They are no longer permitted to practise as a veterinary professional. It is used where there is no other way to protect animals and the public interest, for example, due to persistent lack of insight, or an inability or unwillingness to resolve matters. It may be appropriate even where the registrant does not present a risk to the public, but the nature and gravity of the allegations are such that any lesser sanction would lack the deterrent effect or undermine public confidence in the profession or in the regulatory process.

Factors Taken into Consideration When Deciding on Sanctions

Sanctions are imposed in order to:

- (a) Protect and promote the health and welfare of animals and to protect public health.
- (b) Promote and maintain public confidence in the veterinary profession and the delivery of veterinary services.
- (c) Promote and maintain proper professional standards and conduct for the members of the profession.

In disciplinary hearings, references to the public interest are to be read as including these elements. The Council will have regard to these three elements in its consideration of cases before it, in particular when considering the questions of an appropriate sanction.

The purpose of imposing a sanction upon a registrant is not to punish him/her, though a sanction may well have a punitive effect. The purpose of sanctions is to protect the public and address the public interest.

The following factors are considered when deciding on a sanction:

Proportionality and Leniency

The Council must have regard to the principle of proportionality in deciding which sanction to impose. In this regard, it must consider the interests of animals and the public, as well as those of the registrant. Therefore, the Council must choose a sanction that protects animals and the public interest, and maintains public confidence in the veterinary profession, but does not go further than is necessary to achieve this objective. This will also normally involve the Council considering and weighing up any aggravating and/or mitigating factors presented to it.

Mitigation and Aggravating Factors

The Council will consider any mitigating and aggravating factors that may have an impact on sanction. The Council will decide whether a factor is a mitigating or aggravating factor, having regard to any submissions made on behalf of the Registrar or the registrant.

The weight which the Council gives to a mitigating or aggravating factor is a matter for the Council, having regard to the nature of the findings and its role in protecting the public. The factors set out below are not exhaustive, nor will they be relevant in every case.

Mitigating Factors

The Council needs to balance any mitigating factors presented by the registrant against the aim of imposing the appropriate sanction. Mitigating factors carry less weight in fitness to practise proceedings than in criminal proceedings because the primary purpose of sanction is to protect the public and the standing of the profession, rather than to be punitive.

Mitigating factors that may be taken into account include, but are not limited to:

- ▶ The circumstances of the incident, including the promotion of the health or welfare of an animal.
- ▶ No actual harm or any risk of harm to an animal
- ▶ Immediate admission of wrongdoing when discovered
- ▶ Appropriate insight into the wrongdoing
- ▶ Remorse
- ▶ Previous unblemished record as a registrant
- ▶ Positive references and/or testimonials
- ▶ No harm and/or risk of harm to animals
- ▶ Demonstrated commitment to high standards of professionalism in all aspects of veterinary practice going forward.
- ▶ Single and isolated incident
- ▶ Personal and professional matters such as ill-health, stress, or lack of adequate supervision.

Aggravating Factors

The Council will consider and balance any aggravating factors presented to it against the aim of imposing an appropriate sanction.

Aggravating factors that may be taken into account include, but are not limited to:

- ▶ Actual injury to an animal
- ▶ Risk of injury to an animal
- ▶ Fraud
- ▶ Dishonesty
- ▶ Recklessness
- ▶ Premeditated misconduct
- ▶ Financial gain
- ▶ Breach of confidentiality or client trust

- ▶ The involvement of a vulnerable client
- ▶ Discriminatory behaviour
- ▶ Abuse of professional position
- ▶ Conduct exacerbated by drug or alcohol misuse
- ▶ Misconduct sustained or repeated over a period of time
- ▶ Lack of insight into the wrongdoing
- ▶ Lack of remorse
- ▶ Denial of the facts of the case
- ▶ Attempts to cover up the wrongdoing
- ▶ Attempts to unjustly place the blame on other parties
- ▶ Previous convictions
- ▶ Previous adverse findings from the Veterinary Council of Ireland or another regulatory body

The Imposition of Sanction by the Council

The Council will consider the sanction which is to be imposed at a meeting of the Council which is held in private. The registrant will be afforded the opportunity to make either written or oral submissions to the Council in relation to the sanction to be imposed. The Council will consider the submissions made by or on behalf of the registrant.

The sanction(s) which the Council imposes must be based on the evidence of the proven allegations and must take account of the mitigating and aggravating factors, as appropriate.

A range of sanctions are available to the Council under section 80 of the Veterinary Practice Act 2005, as amended and the Council may impose one or more of these sanctions (see above for the range of sanctions).

A registrant may apply to the High Court within 21 days of the receipt by the registrant of the notification of the sanction for an order for cancellation, suspension, or imposition of conditions. The High Court may make any order it considers appropriate, including an order affirming or setting aside any decision of the Council or an order remitting the decision of the Council for reconsideration.

All sanctions imposed, aside from advise, warn or censure, are required to be confirmed by the High Court.

Stepped approach in determining sanction

The Council will examine the findings made by the Fitness to Practise Committee and it will consider what sanction is appropriate to those findings.

In selecting the appropriate sanction, the Council will start with the least restrictive i.e., advice.

If the Council decides that this sanction would not be sufficient to protect the public, the Council will then move on to the next lowest available sanction (warn) and will repeat this process until it decides that a particular sanction is appropriate.

Advice/Warn/Censure

These may be the appropriate sanctions where the registrant's practice does not need to be restricted but there is a need to demonstrate to the registrant and the profession and the public that the conduct or behaviour of the registrant has fallen below acceptable standards. The sanctions of advise, warn and censure are appropriate for conduct and the lower end of the spectrum of concern. The Council will consider whether the sanction provides adequate protection to the public as neither advice, warn or censure restrict practise.

Advise, warn or censure may be the appropriate sanction where the lapse concerned is isolated, there is a low risk of recurrence, or the registrant has shown insight and taken remedial action.

Advice, warn or censure are unlikely to be appropriate where the registrant lacks insight. In this case conditions, suspension or removal from the Register should be considered.

Attachment of conditions to registration

Where conditions are imposed, the registrant may continue to work or operate but must do so in a way that is consistent with the conditions. Conditions may appear on the public register maintained by the VCI.

Conditions may be attached to a registrant's registration where the failure or deficiency may be remedied, or where there is some risk to the public for the registrant's practise, but that risk can be appropriately dealt with by the attachment of conditions.

Conditions are likely to be appropriate where the concerns about the registrant's practice are such that limits need to be placed on the type of veterinary medicine or veterinary nursing practised. They may also be used where there are concerns in relation to health or where there is evidence of shortcomings in a particular area of practice.

Even with a monitoring regime, to a large extent, the registrant will have to be trusted to comply with the conditions and so the Council will need to be confident that the registrant will adhere to those conditions.

Conditions are unlikely to be suitable where the findings relate to issues such as serious overall failings, persistent failings, lack of insight, denial or matters involving dishonesty or abuse.

Conditions need to be clear and understandable, realistic, workable and time defined. Conditions are likely to be workable where the registrant has insight, the conditions have a reasonable prospect of being adhered to by the registrant and there have been no previous failure to adhere to conditions or they are clear and understandable to all parties involved and are capable of being verified and monitored.

Where there are findings relating to adverse physical or mental health, the conditions should include a requirement for the registrant to be subject to medical supervision as well as supervision at their place of work. Generally, it is not appropriate to impose medical supervision as a condition if the registrant's fitness to practise has not been found to be impaired by reason of adverse physical or mental health.

Suspension

Suspension prevents a registrant from practising by the Council. It has a deterrent effect and can be used to send out a signal to the registrant, the profession, and the public about what is regarded as inappropriate behaviour. Suspension will be an appropriate response to misconduct that is so serious that action must be taken in order to protect members of the public and to maintain public confidence in the profession. It will be appropriate where a lesser sanction would not adequately protect the public interest and would fail to act as a sufficient deterrent for the registrant or wider profession.

A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration.

Suspension may be appropriate in relation to conduct which, while not presenting a risk to patients, undermines confidence in the profession.

Suspension may have long term consequences for a registrant, including dismissal from employment or an inability to secure employment in the future, and this should be taken into account in determining the proportionality of the sanction.

Suspension must be for a specified period of time and reasons should be given for the specified period. Suspension may be accompanied by advice, warn or censure, or conditions to come into effect at the conclusion of the period of suspension.

The following are examples of the circumstances where suspension may be appropriate:

- ▶ A serious falling short of the conduct or standards expected of a registrant, which is fundamentally incompatible with continued registration.
- ▶ The breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or animals or maintain confidence in the profession.
- ▶ No conditions can be adequately framed to protect the public.
- ▶ A single serious incident in respect of which a lesser sanction would not be sufficient.
- ▶ Where the registrant has shown insight and is not considered to be likely to repeat the behaviour but that the breach was serious.
- ▶ Where it is necessary to send a message to the profession and the public that the conduct complained of is unacceptable.

Removal from the Register

Where this sanction is imposed, the registrant's name will be removed from the register, and they will no longer be able to practise as a registrant. Removal of a registrant's name from the Register is a sanction of last resort for serious, deliberate or reckless acts, such as those involving abuse of trust, dishonesty or persistent failures. It should only be used where there is no other way to protect the public, for example, due to a lack of insight, or an inability or unwillingness to resolve matters.

Removal may be appropriate even where the registrant does not present a risk to the public but the nature and gravity of the allegations are such that any lesser sanction would lack the deterrent effect or undermine confidence in the profession or in the regulatory process.

Removal will be appropriate if a registrant's behaviour is fundamentally incompatible with being a registered professional.

Removal may be appropriate where:

- ▶ It is the only sanction that will sufficiently protect the public interest, including reducing the risk of harm and maintaining public confidence in the profession and in its regulation.
- ▶ The registrant has harmed others or animals or behaved in a way that could foreseeably cause harm, either deliberately or recklessly, through repeated incompetence.
- ▶ The findings involve a serious abuse of position or trust.
- ▶ The findings involve fraud, theft or dishonesty, especially if persistent or covered up.
- ▶ The registrant displays a persistent lack of insight or failure to respond to interventions.
- ▶ The findings are serious findings of professional misconduct that cannot be addressed by attaching conditions.
- ▶ The findings involve reckless practice or willfully unskilled practice.

Reasons

The Council must give clear written reasons for its decision regarding sanction in each case so the registrant, the veterinary profession and the public can understand and have confidence in the Council's decision.

Moreover, the registrant may have the right to appeal against the Council's decision. A clear explanation of the reasons for the decision will help the registrant decide to whether to exercise that right and will help the court which has to consider any appeal. This will also assist a registrant removed from the Register who subsequently applies for restoration of his or name to the Register.



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