

Outcome of VCNZ Judicial Committee Hearing

In a hearing which commenced on 31 August 2010 the Judicial Committee heard two charges brought by the Complaints Assessment Committee against a veterinarian.

The charges are summarised as follows:

1. that the veterinarian failed to make arrangements for veterinary services to be available to a farm on 18 July 2006 when absent from the area, contrary to clause 6.5 of the Code of Professional Conduct.
2. that over the period November 2008 to August 2009 when the Committee was investigating the complaint the veterinarian, contrary to his obligations under clause 5.10 of the Code of Professional Conduct, failed to comply with requests by the Committee to provide it with certain specified information. In particular there was a failure to comply, on two occasions, with notices issued by the Committee pursuant to section 41 of the Act requiring the veterinarian to provide certain specified information within 20 working days.

The Judicial Committee, after hearing the evidence, dismissed the charges because in its view the actions of the Complaints Assessment Committee in terms of the investigation and the laying of charges were made without requisite statutory authority. The basis for this view was that the original letter to the Complaints Assessment Committee that triggered the investigation was not considered by the Judicial Committee to be a letter of complaint and therefore should not have been investigated under section 38 of the Veterinarians Act.

The Judicial Committee went on to consider what the outcome would have been if this technical point had not arisen.

In respect of the first charge, of failing to make arrangements for veterinary services to be available to a farm on 18 July 2006 during the veterinarian's absence, the Judicial Committee found the charge was not upheld. While the Committee noted that the evidence was clear enough that the veterinarian did not have any specific prior arrangements in place with a colleague or colleagues to provide cover for clinical services in circumstances when they could not be provided by him, his general arrangements for clinical services to the farm were unaffected by his absence from the immediate locality.

In respect of the second charge the Committee noted that had it found that the original letter was a complaint it would have upheld the charge. The Committee acknowledged that the veterinarian was acting on legal advice but that in dealing with his professional body, he must take responsibility for his own actions. In further mitigation the Committee noted that, on receiving advice from a barrister the veterinarian made good the earlier failure, though without abandoning his contention that absence of a complaint meant he did not have to.

The decision serves as a reminder to the profession of the obligations of those subject to a complaint to co-operate with the Complaints Assessment Committee and to provide information to the Committee when requested to do so. Notices under s41 of the Act requiring provision of information must be complied with within the time frame given.

The Council wants to make clear that regardless of the decision in this particular case veterinarians continue to be bound by clause 6.5 of the Code of Conduct. Veterinarians must make specific prior arrangements with colleagues for emergency services to be provided in circumstances where they cannot provide the services themselves - either at night, on weekends or other off duty periods, or by reason of holidays, sickness or emergencies of any kind,