

FACTSHEET: COMPLAINTS ABOUT VETERINARY PRACTITIONERS

VETBOARD VICTORIA FACTSHEET



THE BOARD'S POWER TO INVESTIGATE COMPLAINTS

The *Veterinary Practice Act 1997* ('the Act') gives the Veterinary Practitioners Registration Board of Victoria ('the Board') the power to receive complaints and investigate allegations of unprofessional conduct made against veterinary practitioners.

Unprofessional conduct may mean all or any of the following conduct by a registered veterinary practitioner:

- conduct of a lesser standard than that which the public or other veterinary practitioners might reasonably expect of a registered veterinary practitioner
- professional misconduct or infamous conduct in a professional respect
- providing veterinary services of a kind that are excessive, unnecessary or not reasonably required for the animal's well-being
- a finding of guilt of an indictable offence, a breach of the Act or other law relating to veterinary practitioners or an offence which makes the veterinary practitioner unfit to be registered
- influencing or attempting to influence the conduct of a veterinary practice in such a way that an animal's well-being may be compromised
- the contravention of or failure to comply with a condition, limitation or restriction on the registration of a veterinary practitioner
- failure to comply with the Board's Guidelines

The Board does not have the power to:

- take complaints against veterinary *practices*; we only take complaints about veterinary practitioners
- deal with complaints about veterinary fees and charges, unless the complaint is about over-servicing
- award compensation or demand a refund from a veterinary practitioner or veterinary practice on a complainant's behalf, or
- answer questions about an animal's condition or give veterinary advice about treating an animal.

AFTER THE BOARD RECEIVES A COMPLAINT

After the Board receives a complaint, the Board will meet to discuss whether there should be a preliminary investigation. Preliminary investigations are conducted to decide if it is necessary to hold an informal/formal hearing into the professional conduct of a veterinary practitioner.

Most complaints received by the Board are investigated, unless the Board members decide a complaint is lacking in substance or vexatious.

Investigation staff will notify the complainant of the Board's decision.

PRELIMINARY INVESTIGATIONS

Preliminary investigations of complaints are usually conducted by two Board members appointed by the Board, assisted by investigation staff. A complaint can also be investigated by an officer of the Board, a lawyer or an investigator.

Investigation staff will collect information from the parties to a complaint, for example:

- from the complainant: a written statement about the complaint, photographs, other documentation
- from witnesses: written statements about the complaint, veterinary records, other documentation
- from the veterinary practitioner: their response to the complaint, clinical records, test results and other documentation.

A preliminary investigation may take several months to complete.

The persons appointed to investigate the complaint will read and consider all the information provided to the Board by the complainant, the veterinary practitioner, and other persons or agencies. They will also consider any laws and regulations that may apply to the complaint including the *Veterinary Practice Act 1997* and the Board's Guidelines on appropriate standards of veterinary practice and veterinary facilities.

After the preliminary investigation, the Board will decide either that:

- the matter should not proceed further, for example because the Board has formed the view that there has been no unprofessional conduct on the part of the veterinary practitioner, or
- the Board should hold an informal hearing or a formal hearing to decide if there has been unprofessional conduct on the part of the veterinary practitioner, or
- the Board should conduct a separate preliminary investigation into the physical or mental health of the veterinary practitioner.

The veterinary practitioner and the complainant will be notified in writing of the Board's decision.

More information about preliminary investigations:

- professional conduct – sections 20 to 24 of the *Veterinary Practice Act 1997*
- the health of registered veterinary practitioners – sections 25 to 33 of the *Veterinary Practice Act 1997*.

INFORMAL HEARINGS

INFORMAL HEARING PARTICIPANTS

Informal hearings are heard before a panel of up to three Board members, one of whom is not a veterinary practitioner. If there are not enough Board members to sit on an informal hearing panel or special expertise is needed, a person approved to sit on hearing panels by the Minister for Agriculture can be appointed to sit on the panel. At least one panel member is not to be a veterinary practitioner.

The veterinary practitioner is entitled to attend and can make submissions to the panel. The veterinary practitioner can be accompanied by another person (for support) but is not entitled to be legally represented at an informal hearing.

Informal hearings are closed to the public. However, the complainant and other witnesses may provide information to the informal hearing panel before the informal hearing.

INFORMAL HEARING APPROACH

The Board conducts informal hearings with as little formality and technicality as possible.

The informal hearing panel is not bound by rules of evidence. The informal hearing panel is bound by the rules of natural justice.

The informal hearing panel may inform itself in any way it thinks fit, including by referring to Board guidelines about appropriate standards of veterinary practice and veterinary facilities.

INFORMAL HEARING FINDINGS AND DETERMINATIONS

The informal hearing panel may find that:

- the veterinary practitioner has not engaged in unprofessional conduct, or
- the veterinary practitioner has engaged in unprofessional conduct which is not of a serious nature.

If the informal hearing panel finds that the veterinary practitioner has engaged in unprofessional conduct which is not of a serious nature, it may determine that the veterinary practitioner:

- be cautioned, and/or

- be reprimanded, and/or
- undergo counselling, and/or
- undertake further education.

If the panel forms the view that the veterinary practitioner may have engaged in unprofessional conduct of a **serious nature**, the informal hearing panel must refer the matter to a formal hearing.

AFTER AN INFORMAL HEARING

After the informal hearing, the veterinary practitioner and the complainant will be notified in writing of the informal hearing panel's findings and determinations, and the reasons for the panel's decision.

The veterinary practitioner can ask the Board to hold a formal hearing to review any findings and determinations of the informal hearing.

MORE INFORMATION

More information about informal hearings: sections 34-40, 47, and 49-54 of the *Veterinary Practice Act 1997*.

FORMAL HEARINGS

FORMAL HEARING PARTICIPANTS

Formal hearings are heard before a panel of not less than three Board members. One panel member must be a lawyer and at least one panel member must be a veterinary practitioner.

The veterinary practitioner is entitled to attend the formal hearing and can make submissions to the panel. The veterinary practitioner is also entitled to be legally represented.

The complainant and other witnesses may be required to attend the formal hearing to give evidence.

Formal hearings are open to the public.

FORMAL HEARING APPROACH

While the Board conducts informal hearings with as little formality and technicality as possible, a formal hearing is more like a court proceeding than an informal hearing. The two sides ("parties") at an informal hearing are the Board and the veterinary practitioner. The veterinary practitioner can choose to be represented by a lawyer, and the Board may also have legal representation.

Unlike a court, a formal hearing panel is not bound by rules of evidence. The formal hearing panel is bound by the rules of natural justice.

A formal hearing panel may inform itself in any way it thinks fit, including by referring to Board guidelines about appropriate standards of veterinary practice and veterinary facilities.

FORMAL HEARING FINDINGS AND DETERMINATIONS

The formal hearing panel may find that:

- the veterinary practitioner has not engaged in unprofessional conduct, or
- the veterinary practitioner has engaged in unprofessional conduct which is not of a serious nature, or
- the veterinary practitioner has engaged in unprofessional conduct which is of a serious nature.

If the panel finds that the veterinary practitioner has engaged in unprofessional conduct, the panel may make one or more of the following determinations:

— that the veterinary practitioner:

- be cautioned
- be reprimanded
- undergo counselling
- undertake further education
- have conditions, limitations or restrictions imposed on their registration
- be fined (a maximum of \$2,000)
- pay the reasonable costs of the hearing
- give a written undertaking
- have their endorsement as a specialist altered or cancelled
- be suspended
- have their registration cancelled.

AFTER A FORMAL HEARING

After the formal hearing, the veterinary practitioner and the complainant will be notified in writing of the formal hearing panel's findings and determinations, and the reasons for the panel's decision.

A person may apply to the Victorian Civil and Administrative Tribunal for review of a finding or determination made at a formal hearing.

MORE INFORMATION

More information about formal hearings: sections 39 to 54 of the *Veterinary Practice Act 1997*.

VICTORIAN OMBUDSMAN

If the complainant is not satisfied with the outcome of the complaint process, they can raise their concerns with the Victorian Ombudsman by:

- completing an online complaint form at www.ombudsman.vic.gov.au, or
- calling (03) 9613 6222 or 1800 806 314 (regional areas).

More information about the role of the Victorian Ombudsman: www.ombudsman.vic.gov.au/About/The-Victorian-Ombudsman

PERSONAL INFORMATION

The information about a complaint, including correspondence with the Veterinary Practitioners Registration Board of Victoria, is subject to the *Freedom of Information Act 1982* and the *Privacy and Data Protection Act 2014 (Vic)*.

The Board will only use and disclose personal information about a complainant and veterinary practitioner to investigate the complaint. Exceptions to this would be if the Board is required by law, or has obtained the consent of the person to whom the information relates, to use and disclose personal information for other purposes.

View the Board's Privacy and Data Protection policy at www.vetboard.vic.gov.au (search for 'privacy') or request a copy by calling the Board on +61 3 9620 7444.