



COMPLIANCE & ENFORCEMENT POLICY

VETERINARY PRACTITIONERS REGISTRATION
BOARD OF VICTORIA

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DEFINITIONS

In this policy, **compliance** is defined as the **adherence** to the legal requirements and obligations of the *Veterinary Practice Act 1997*. Compliance is an ongoing process, so veterinary practitioners need to regularly assess the potential for any risks associated with their practice and seek to improve their methods for eliminating or minimising those risks.

Regulatory action is the use of influence, authority and statutory powers under the Act to achieve or compel compliance.

Under the *Veterinary Practice Act 1997*:

the Board means—the Veterinary Practitioners Registration Board of Victoria.

fitness to practise means—the Board believes the ability of a registered veterinary practitioner to practise veterinary medicine or surgery may be affected becauseL

- (a) of physical or mental health of the veterinary practitioner; or
- (b) the veterinary practitioner has an incapacity; or
- (c) the veterinary practitioner has a sever substance dependence

lacking in substance means—the Board deems that there is no evidence to warrant further investigation

registered veterinary practitioner means—

- (a) a person registered under Part 2 (whether or not the registration of that person is general or specific); or
- (b) a person deemed to be registered by operation of section 3A

unprofessional conduct means—all or any of the following:

- (a) professional conduct which is of a lesser standard than that which the public might reasonably expect of a registered veterinary practitioner;
- (b) professional conduct which is of a lesser standard than that which might reasonably be expected of a veterinary practitioner by his or her peers;
- (c) professional misconduct;
- (d) infamous conduct in a professional respect;
- (e) providing veterinary services of a kind that are excessive, unnecessary or not reasonably required for an animal's well-being;
- (f) a finding of guilt of—
 - (i) an indictable offence in Victoria, or an equivalent offence in another jurisdiction;
 - (ii) an offence which, in the opinion of the Board, makes the veterinary practitioner unfit to be a registered veterinary practitioner;
 - (iii) an offence under this Act or the regulations;
 - (iv) an offence as a veterinary practitioner under any other Act or regulations;
- (g) influencing or attempting to influence the conduct of a veterinary practice in such a way that an animal's well-being may be compromised;
- (h) the contravention of or failure to comply with a condition, limitation or restriction on the registration of a veterinary practitioner imposed by or under this Act

veterinary practice means—the **practice** of veterinary surgery and veterinary medicine

vexatious means—the complaint is brought without sufficient grounds and purely to cause annoyance to the defendant

the VPRBV means—the Veterinary Practitioners Registration Board of Victoria.

1. INTRODUCTION

The Veterinary Practitioners Registration Board of Victoria (“VPRBV”) is an independent statutory body established by the *Veterinary Practice Act 1997 (VPA)*. The VPRBV’s purpose is to protect the health and safety of the public and the health and welfare of animals by regulating the veterinary profession.

In this policy, “the VPRBV” refers to the organisation and “the Board” refers to the 9 members of the Board.

1.1. PURPOSE

The purpose of this policy is to set out how the VPRBV prevents harm to the public and animal welfare by promoting and ensuring compliance with:

- the legal requirements and obligations of the VPA and its regulations
- requirements and obligations created under other legislation/laws applicable to veterinary practitioners
- standards of professional conduct
- standards of personal conduct that are relevant to a veterinary practitioner’s fitness to practise.

We call this our **compliance approach**.

In this policy we set out:

- the key principles, priorities and objectives underpinning our compliance approach
- the activities and tools we use to achieve compliance and respond to non-compliance
- guidance for the use of investigation, prosecution and regulatory action (including sanctions) by the VPRBV
- how we account for the regulatory action we take.

This Compliance and Enforcement Policy complements other key policies, including our Strategic Plan and Regulatory Strategy.

1.2. SCOPE

This policy applies to persons who are involved in identifying and investigating the professional conduct and fitness to practise of veterinary practitioners and imposing sanctions and taking other regulatory action as is appropriate. This includes Board members, staff and officers of the VPRBV, and contractors and third-party consultants.

2. OUR COMPLIANCE APPROACH

2.1 PRINCIPLES UNDERPINNING OUR COMPLIANCE APPROACH

The VPRBV is guided by the following principles:

Risk-based regulation	As a risk-based regulator, the VPRBV prioritises its regulatory efforts towards behaviours that pose the greatest risk to the public and to animal welfare.
Values-driven culture	The values of Responsiveness, Integrity, Impartiality, Accountability, Respect, Leadership and Human Rights guide the VPRBV's individual and collective behaviours in administering the VPA.
Accountability	Individual practitioners are accountable for their own professional judgement and must not influence other practitioners to act in a way that compromises professional standards. Equally, the VPRBV's actions and decisions must be justifiable and (where privacy permits) open to scrutiny.
Proportionate and fair processes	Any regulatory action by the VPRBV is proportionate to the seriousness of any non-compliance and the circumstances surrounding it. The VPRBV's processes and the regulatory action that it takes must be fair and must be seen to be fair. Its actions must be unbiased, and practitioners must be given the opportunity to respond to claims against them.
Consistency with adaptability	The VPRBV strives to maintain a consistent approach to the operation of its processes, decisions and imposition of sanctions to promote trust, confidence and understanding in the regulatory system. The VPRBV adapts its regulatory approach to changes in peer and community expectations or the legal framework regulating veterinary practitioners.
Evidence based and intelligence-led	Regulatory, risk-based action should be based on reliable data and information about patterns of veterinary practice and misconduct. The VPRBV is improving its systems for collecting data and information from veterinary practitioners, stakeholders, other regulators and its own records.
Reflective practice and growth	A positive culture of learning supports strong professional standards. The VPRBV employs constructive and rehabilitative approaches to support good practice and continued professional engagement, reflection and growth. Equally, the VPRBV fosters a culture of learning, development and commitment within its office.
Encouraging stakeholder compliance	In addition to detecting and sanctioning non-compliance, the Vet Board focuses on fostering compliance and supporting good practice through proactive communication and awareness raising, education programs, risk assessment and strategic targeting.
Deterrence	An effective deterrence framework ensures that misconduct by veterinary practitioners will be detected and sanctioned. The VPRBV applies workable strategies that maximise the prospect of delivering credible deterrence in a risk-based environment.

2.2 STRATEGIC ALIGNMENT

Our compliance approach is guided by strategic priorities described in the VPRBV's Strategic Plan and Regulatory Strategy 2022-25. Priorities are driven by key trends in our operating environment which may impact the safety of the Victorian public and the health and welfare of animals in Victoria.

The VPRBV Regulatory Strategy outlines our regulatory priorities:

- creating a prevention and protection culture, through information and education of veterinary practitioners and the public
- proactive regulation, preventing harm based on risks and trends
- focusing on deliberate non-compliance
- enhancing data and intelligence capabilities to focus efforts and share insights
- equipping and working with other regulators and agencies to increase our reach and presence.

The VPRBV's three strategic regulatory initiatives to achieve this are:

1. **Proactive prevention:**

- establishing what good practice looks like, to support a prevention and protection culture
- stakeholder engagement which supports voluntary compliance.

2. **Responsive and outcomes-driven complaints management:**

- considering early resolution opportunities where appropriate
- encouraging constructive reflection and professional/personal growth
- targeting deliberate and/or continued non-compliance
- targeting high risk activity.

3. **Intelligence and accountability**

- investing in intelligence capabilities; data and insights inform our strategies, policies and initiatives.
- transforming regulatory measurement and reporting to increase transparency, enable greater collaboration and partnership, and foster continuous improvement.

Our compliance activities span these strategic priorities and initiatives to guide both individual and systemic behaviours in the veterinary sector.

2.3 KEY RISKS OF HARM

The risks of harm through veterinary practice are complex and interrelated. In the 2024-2027 period, we will focus on the following key risks in the veterinary sector:

- professional standards risk arising from breach of professional standards of care
- practitioner health risk, arising particularly from high stress and mental health problems
- practice management risk, relating to veterinary practice systems, processes, leadership and management.

We will also consider and aim to address:

- ethical risk, from conflict of interest
- risks relating to legislation that is no longer fit for purpose
- risk of overlap, gaps, contradiction and/or doublehanding with other regulatory agencies.

2.4 KEY HARMS

Within our protective mission, the VPRBV seeks to prevent or minimise key harms relating to:

Animal welfare	Public health and safety	Health and wellbeing of veterinary practitioners
Death Pain and suffering Exacerbated injury Prolonged illness of or injury Delayed recovery from illness or injury Long term complications and compromised health	Antimicrobial resistance Threat to food security Death or illness from infectious disease, including emergency zoonotic diseases Economic damage to food-producing industries Significant psychological and emotional damage to animal owners Unnecessary/avoidable costs	Compromised practitioner health (mental or physical) Drug addiction Risk to the reputation or standing of the veterinary profession

These harms can arise from a range of causes including:

- inadequate clinical management
- veterinary practitioner working outside competency
- improper supply of drugs
- over-servicing
- cruelty
- poor communication:
 - with animal owners
 - with colleagues/other vets
- poor record keeping
- system failure
- substance (drug/alcohol) abuse
- health impairment
- conflict of interest
- unregistered person holding themselves out to be a vet.

3. OUR COMPLIANCE ACTIVITIES AND TOOLS

The VPRBV views our regulatory activities as opportunities to lead and strengthen the *veterinary profession*. We do this through regularly reviewing the VPRBV's guidelines on appropriate standards of veterinary practice and veterinary facilities, effectively communicating with our stakeholders and providing resources and information to support professional standards.

Through our compliance and enforcement activities, we also aim to impartially guide and support individual veterinary practitioners in their pursuit of good practice, for example through:

- **understanding** what good practice and professional behaviours look like
- demonstrating **accountability** for mistakes and potential deviation from professional standards
- demonstrating appropriate **reflection, remorse and remedy**
- developing the **knowledge, skills, behaviours and capacity** to uphold contemporary professional standards of practice.
- **detering recurrence** of potentially harmful behaviour, both specifically and generally.



Figure 1: Shifting behaviour through a regulatory approach ('Regulatory concepts', With Purpose Solutions, June 2022)

The VPRBV has a range of regulatory activities and tools which are tailored to the issue under consideration to promote and achieve compliance. These activities and tools are discussed below.

3.1 PROACTIVE AND PREVENTATIVE ACTIVITIES

The VPRBV conducts activities to proactively foster compliant behaviours by engaging with the veterinary profession broadly or informing and educating a specific group or cohort of veterinary practitioners. Examples of these include:

- undertaking educational activities to promote good veterinary practice and raise awareness of the law, expected standards of professional conduct and the consequences of non-compliance

- working collaboratively with stakeholders and partners to improve industry practices, inform future standards and encourage and promote understanding, within and beyond the profession, of responsibilities and obligations under the VPA and other relevant legislation and guidance
- providing guidance and building relationships with veterinary practitioners to ensure veterinary practitioners know what compliance is and assist them develop their capability to achieve compliance.

The VPRBV also encourages registered veterinary practitioners to be proactive in preventing harm. A veterinary practitioner can ask the VPRBV to impose a condition, limitation or restriction on their registration if they believe their ability to practise veterinary surgery or medicine is affected because¹:

- of their mental health, or
- they have an incapacity, or
- they have a severe substance dependence.

The Board and the veterinary practitioner can agree on the conditions. In cases where an agreement cannot be reached, the matter must be referred to preliminary investigation².

3.2 COMPLIANCE MONITORING

The VPRBV's monitoring activities provide important intelligence about non-compliant behaviours within the profession.

A complaint, and any subsequent investigation and hearing into an individual's behaviour, provides insight into that practitioner's knowledge, capabilities, attitudes, work systems and environment. Individual matters may also flag the possibility that similar behaviours and approaches to work are occurring across the veterinary profession in Victoria. This important data may inform our preventative and responsive activities.

The VPRBV utilises a number of compliance monitoring tools including:

- implementing and strengthening processes to identify non-compliance, including at registration renewal
- intelligence and risk-based assessments
- sharing and receiving information with other agencies
- receiving enquiries, complaints³, referrals and feedback from the public and veterinary practitioners
- conducting investigations⁴
- conducting informal or formal hearings, either following a preliminary investigation⁵ or of the VPRBV's own motion⁶.

3.2.1 Registration

The VPRBV collects and reports on information collected during the registration and annual re-registration process. For example, veterinary practitioners are required to make declarations about:

- any health condition which might impair their ability to practice
- completion of continuing professional development activities, and
- whether they are subject to, and have complied with, any Vet Board compliance or enforcement in any other jurisdiction.

Veterinary practitioners may self-report health impairment throughout their period of registration. The VPRBV acknowledges that many health conditions are well-managed through ongoing relationships with

¹ Section 31 VPA

² Section 31(3) VPA

³ Section 20(1) VPA

⁴ Sections 21 and 25 VPA

⁵ Section 22 VPA

⁶ Section 23 VPA

health practitioners and do not require regulatory intervention. Well managed impairments are not grounds for reporting and for those who have suffered a health condition there are pathways to return to full registration

3.2.2 Complaints

The VPRBV can identify non-compliance through the information and complaints it receives. Anyone can notify the VPRBV of their concerns about a veterinary practitioner who is registered in Victoria (or was registered at the time the conduct took place).

The VPRBV will engage with concerns that relate to the professional conduct or fitness to practise of a veterinary practitioner where they are of substance and are not vexatious. When it receives notification of concerns about a veterinary practitioner, the VPRBV will triage the notification by assessing the seriousness of the actual and/or potential harm and the likelihood of its reoccurrence.

Where there is a serious risk that the health and safety of the public or the health and welfare of animals may be endangered, the Board may form the view that it is necessary to suspend a veterinary practitioner's registration.

The VPRBV does not engage with notifications of concerns:

- if they are lacking in substance or vexatious
- about persons who are not veterinary practitioners, e.g., veterinary nurses, clinic administration officers, lay practice managers
- about the cost of veterinary services
- about issues that fall outside the scope of unprofessional conduct and fitness to practise which may be more appropriate to raise with another agency, e.g., workplace issues and disputes, complaints of discrimination or bullying against staff which can be lodged with the Workplace Ombudsman
- about veterinary services provided outside of Victoria.

3.2.3 Investigations

Under the VPA, the VPRBV has the power to investigate the professional conduct and fitness to practise of veterinary practitioners, including the power to conduct an investigation into the health of a veterinary practitioner.

Before deciding to investigate, the VPRBV may engage with the veterinary practitioner and/or complainant to gather more information. We provide information for the veterinary practitioner and complainant and respond to any questions they may have about the process.

The VPRBV acknowledges that investigations and hearings may in themselves be considered by veterinary practitioners as a general deterrent. However, to reflect the VPRBV's intent of impartial information-gathering through these activities, we aim for efficient and helpful interactions and processes.

The VPA sets out different rules for the investigation of complaints concerning the professional conduct of veterinary practitioners and the investigation of a practitioner's fitness to practise veterinary medicine or surgery.

Professional conduct investigations

The VPRBV must investigate a complaint about the professional conduct of a veterinary practitioner unless the Board finds the complaint to be lacking in substance or vexatious⁷.

⁷ Section 21(1) VPA

The VPRBV must conduct a preliminary investigation into a complaint about the professional conduct of a veterinary practitioner to determine whether or not it is necessary to conduct a formal or informal hearing into a complaint⁸.

Fitness to practise investigations

The VPRBV has discretion as to whether to conduct a preliminary investigation into a veterinary practitioner's fitness to practise veterinary medicine or surgery, i.e., a health investigation⁹.

The VPRBV is mindful of the sensitive and confidential nature of health investigations and the potential impacts of prolonged investigation.

When a health investigation is completed, the VPRBV has discretion as to which if any regulatory action should follow. We work with the veterinary practitioner and their health practitioner to select actions which reduce the risk of harm, while supporting rehabilitation, accountability and continued practice wherever possible.

Immediate action/suspension

The VPA empowers the Board to suspend the registration of a veterinary practitioner on an interim basis.

In cases involving professional conduct complaints¹⁰, if the Board is of the opinion it is necessary to suspend the registration of a veterinary practitioner because there is a serious risk that the public or the health and welfare of animals will be endangered, the VPRBV may suspend the registration of a veterinary practitioner until any investigation/hearing is completed, if:

- the Board has determined to conduct a preliminary investigation into the professional conduct of a registered veterinary practitioner, or
- the Board has determined to conduct a formal or informal hearing into the professional conduct of a registered veterinary practitioner without preliminary investigation.

In cases involving fitness to practise, the Board may suspend the registration of a veterinary practitioner if it has appointed a person to conduct a preliminary health investigation under section 25 of the VPA.¹¹

The Board must not suspend the registration of a veterinary practitioner unless it:

'Reasonably believes that the ability of the veterinary practitioner to practise veterinary medicine or surgery is likely to be affected to such an extent that to allow the veterinary practitioner to continue to practise would pose an unacceptable risk that the health and safety of the public or the health and welfare of animals will be endangered.'¹²

If the Board has investigated a complaint and has concerns that the veterinary practitioner has engaged in unprofessional conduct and/or is not fit to practise, it may engage with the veterinary practitioner to explore options to resolve those concerns. For example, the veterinary practitioner may acknowledge wrongdoing and agree to enter into an agreement with the Board to undertake further education, professional development or counselling, or take other action to address or minimise the risk of future non-compliance.

3.2.4 Hearings

In some cases, the Board may decide to conduct an informal or formal hearing into the professional conduct of a veterinary practitioner (or a person who was a veterinary practitioner at the time of the alleged conduct):

- following a preliminary investigation into a complaint,¹³ or

⁸ Section 21(2) VPA

⁹ Section 25 VPA

¹⁰ Section 24(1) VPA

¹¹ Section 26A VPA

¹² Section 26A(2) VPA

¹³ Section 22 VPA

- on its own motion.¹⁴

In cases where a veterinary practitioner who is the subject of a health investigation does not agree to undergo a medical examination or does not reach an agreement with the Board on action to be taken after the preliminary investigation, or does not abide by the terms of any of agreement entered into with the Board to address their health concerns, the Board may refer the matter to a formal hearing. The Board must refer a matter to a formal hearing if a veterinary practitioner who agrees their ability to practise veterinary medicine of surgery is affected by a health issue cannot reach an agreement with the Board about the condition, limitation or restriction to be imposed on their registration.

Hearings are not undertaken lightly. If the Board has discretion under the VPA about whether or not to refer a matter to a hearing, it will consider the factors set out in section 4 below before deciding whether to take this regulatory step.

3.2.5 Data monitoring and reporting

The VPRBV records the number and type of enquiries and the number, type, issues of concern, actions taken, findings and determinations of professional conduct and health complaints, investigations, hearings and self-reported matters. Strengthened capacity to monitor trends will assist the VPRBV to guide regulatory activities within and across jurisdictions, and to collaborate with other stakeholders.

The VPRBV also records compliance statements made when registered veterinary practitioners apply to renew their registration, e.g., a statement that required continuing professional development activities have been undertaken.

3.3 RESPONSIVE ACTIVITIES AND TOOLS

Sometimes the VPRBV will need to take a targeted regulatory action to address the non-compliance of an individual veterinary practitioner. The tools available to the VPRBV include actions that may:

- **remedy** the concern, e.g., counselling, agreements/undertakings, directions to undertake further education or improve systems, and/or changes in registration category or imposition of conditions, limitations or restrictions on registration, or
- **deter** future harm by the practitioner (specific deterrence) and the broader profession (general deterrence), e.g., a fine, caution, reprimand, suspension of registration, cancellation of registration, .

For example, within the scope and processes set out in the VPA, the VPRBV can:

- encourage and assist compliance – by providing information, guidance, education and/or support
- direct compliance – by providing written warnings and imposing conditions on registration (by agreement or unilaterally imposed by the VPRBV)
- enforce action – by suspending registration, cancelling registration, or refusing registration (when a practitioner applies to renew their registration) or imposing conditions, limitations or restrictions on registration
- impose sanctions – by a hearing panel against a veterinary practitioner who is found to have engaged in unprofessional conduct or by a court if a person is found guilty of breaching the VPA (discussed further below)
- prosecute a person for an alleged breach of the VPA (discussed further below).

Depending on the circumstances of the case, options to promote and enforce compliance with the VPRBV's Guidelines and the VPA are:¹⁵

- communications with the veterinary practitioner, complainant and the broader veterinary profession

¹⁴ Section 23 VPA

¹⁵ Sections 38, 45 and Part 5 VPA

- an educative letter
- a warning letter
- a written undertaking from the veterinary practitioner
- an agreement reached with the veterinary practitioner subject to a health investigation to:
 - suspend the practitioner’s registration
 - impose conditions, limitations or restrictions on the practitioner’s registration
 - change the way the practitioner practises veterinary surgery or medicine
- an agreement with the Board to amend, vary or revoke conditions
- an informal or formal hearing resulting in:
 - counselling
 - further education
 - a written caution
 - a written reprimand
- a formal hearing resulting in:
 - suspension or cancellation of the veterinary practitioner’s registration
 - the imposition of conditions, limitations or restrictions on the practitioner’s registration
 - alteration or cancellation of any endorsement of registration as a specialist veterinary practitioner
 - a prohibition on reapplying for registration.
 - a fine
 - the veterinary practitioner paying the costs of the hearing
- prosecution.

The nature and use of these options are discussed further below.

3.3.1 Encouraging, assisting and directing compliance

The VPRBV’s complaints and investigation process serves to strengthen veterinary practitioners’ and public understanding of professional standards, and how they can be achieved.

Within VPRBV **communications to stakeholders**, including investigation correspondence and reports to the complainant and the practitioner, we explain the *issues* identified during our investigations and our *reasons* for deciding whether a practitioner’s conduct was unprofessional. Correspondence to the practitioner encourages compliance by positively acknowledging professional conduct and any appropriate reflection and plans to strengthen practice. To assist future compliance, we reference relevant professional *standards* and may provide additional guidance through an **educative letter**. Where trends emerge, discussion of de-identified case studies within the VPRBV newsletters extends learning to the broader profession.

Counselling by a hearing panel, typically at the conclusion of a hearing, provides specific feedback to the practitioner about the panel’s concerns and constructive suggestions for alternative future practices. This may include consideration of the role and efficacy of workplace systems, processes, policies and protocols.

A direction to undertake **further education** to develop knowledge and skills relevant to the matter is one of the most commonly used compliance tools by the VPRBV. Veterinary practitioners are guided by the VPRBV to the required topic/s and type of education, such as a structured and assessed course, a mentor or coaching relationship, observing practice, or a peer-reviewed literature review. The cost of education undertaken is covered by the practitioner. The VPRBV specifies the time frame for completion to balance practicality with prompt risk reduction. The practitioner must provide proof of completion and learning. To optimise professional and personal development, the VPRBV often requests a written reflection from the practitioner of what they learned and the ways they will incorporate this into their practice. Where there are deficiencies in clinical record-keeping the VPRBV may periodically review a selection of the practitioner’s records and provide constructive feedback.

Other options open to the VPRBV to direct compliance include issuing a **warning letter** to a veterinary practitioner, or obtaining a **written undertaking** from a practitioner, or entering into an **agreement** with a practitioner to alter the way they practise.

3.3.2 Enforcing action

Suspensions

Where there is a serious risk that the health and safety of the public or the health and welfare of animals will be endangered, the Board may form the view that it is necessary to suspend a veterinary practitioner's registration. Suspension of a veterinary practitioner's registration is available to the Board at the time it decides to conduct a preliminary investigation or a hearing into a veterinary practitioner's professional conduct.

Conditions, limitations or restrictions on registration

On conclusion of professional conduct or health investigations, the Board may impose conditions on a veterinary practitioner's registration to ensure future compliance and reduce the risk of harm to animals, other people and the practitioner. Conditions may be imposed on registration with or without the agreement with the veterinary practitioner (in accordance with principles of natural justice with the veterinary practitioner being afforded procedural fairness).

Refusal to renew registration

Under the VPA, the Board has the power to refuse to renew a veterinary practitioner's registration in certain circumstances including:

- where the veterinary practitioner's character is such that it would not be in the public interest to allow the applicant to practise as a registered veterinary practitioner
- the veterinary practitioner has been found guilty of an indictable offence or an offence where their ability to practise is likely to be affected by the finding of guilt or it is not in the public interest to allow them to practise because of the finding of guilt.

3.3.3 Imposing sanctions

When a matter is referred to a hearing, the Board will seek outcomes that align with its regulatory approach and are informed by Australian case law. In addition to the other compliance and enforcement options above, sanctions that the Board may seek from hearing panels are:

- a written caution
- a written reprimand
- payment by the veterinary practitioner of a monetary amount, e.g., recovering reasonable legal costs of the hearing (if the unprofessional conduct is of a serious nature only)
- a fine, up to **a maximum of** \$10,000 (if the unprofessional conduct is of a serious nature only).

3.3.4 Prosecutions

The VPA includes offence provisions, which are summary offences punishable by a maximum penalty of a fine. The VPRBV is empowered to prosecute offences in the Magistrates Court of Victoria.

4. DECISION TO TAKE COMPLIANCE / ENFORCEMENT ACTION

The VPRBV takes an escalating, risk-based approach to enforcement action, seeking to prevent harm and address strategic priorities at individual, systemic (workplace) and professional levels.

Selection of the most appropriate regulatory action is based on several factors:

- the severity or seriousness of the non-compliance
- likelihood that the non-compliance will recur
- culpability or attitude (including the veterinary practitioner's history)
- public interest considerations
- strategic priorities, including key harms and risks of harm
- any aggravating or mitigating factors
- legal guidance and interpretation of the VPA.

When deciding on enforcement action, the VPRBV will consider the importance of each relevant factor in the circumstances and make an overall assessment based on those considerations.

The VPRBV takes an escalated and responsive approach to enforcement as follows:



Figure 2: Escalated and responsive approach to enforcement ('Regulatory concepts', With Purpose Solutions, June 2022)

4.1 RISK OF HARM

Central to decisions about appropriate action is an assessment of risk, determined by considering the **consequences** or impact of the non-compliant conduct, and the **likelihood** that the conduct may recur. A guided assessment of consequences and likelihood of recurrence is used by the VPRBV:

- strategically, to group issues that inform our focus including prevention and communication initiatives
- at individual level, to triage complaints and prioritise investigation actions.

Selection of the appropriate compliance and enforcement response is then guided by the consequences and the **culpability** or attitude of the veterinary practitioner (including any history of non-compliance).

The tables below present risk assessment frameworks used by the VPRBV to assess risk at various decision stages of complaint and investigation processes. When assessing a matter, the VPRBV may need to consider multiple elements within these frameworks. The risk frameworks set out below are used as a guide, alongside other strategic priorities, to

- facilitate consistency in assessment and decision-making
- discuss and document investigations and decisions
- assist the Board to set and communicate expectations, including about its decision making.

4.1.1 Consequences or impact of the conduct

Considerations include:

- the degree of harm or potential harm resulting from a breach. This includes consideration of the likely harm caused to public confidence in the effectiveness of the VPA and Regulations
- the magnitude or degree of non-compliance
- the duration of non-compliance.

The following table categorises the consequences and impact of different types of professional conduct and health issues, with some appearing in multiple levels. The VPRBV’s categorisation of professional conduct will depend on the specific details of a matter and the range of issues under consideration.

Table 1: Framework for considering the consequences or impact of conduct

Rating	Description
Minor	<ul style="list-style-type: none"> • Undesirable patient outcomes (no significant adverse or negative outcome) • Dissatisfaction with service received from a practice or arising from interpersonal disputes (no significant adverse or negative outcome) • Poor record keeping (no significant impact on animal’s wellbeing) • Over-servicing (no significant impact on animal’s wellbeing)
Medium	<ul style="list-style-type: none"> • Inadequate clinical management • Inadequate communication • Unanticipated negative outcome • Prescription, handling, supply and use of drugs in clinical practice • Record keeping resulting in adverse consequences to the patient. • Over-servicing (impact on animal’s wellbeing) • Behaviour (conduct and attitude)
Major	<ul style="list-style-type: none"> • Inadequate clinical management, resulting in potential for significant adverse outcomes • Inadequate communication, resulting in potential for significant adverse outcomes • Prescription, handling, supply and use of drugs in clinical practice • Cruelty • Unanticipated significant negative outcome • Behaviour (ongoing or potentially severe, e.g. dishonesty or abuse).
Severe	<ul style="list-style-type: none"> • An indictable act under any legislation, particularly involving fraud, violence, psychological harm or of a sexual nature • Prescription, handling, supply and use of drugs to humans • Cruelty • Fraud • Fitness to practise – physical and mental health, incapacity, and substance dependence

4.1.2 Likelihood of repeated or ongoing conduct

The likelihood of repeated or ongoing conduct is assessed through consideration of:

- the veterinary practitioner’s capacity to address the issue/s of concern via available knowledge, resources and systems, and their ability to apply these.
- timing of previous or current complaints. There is no fixed rule for time; relevance and currency of past issues are considered in relation to future risk.
- the frequency of the conduct type and context, for the practitioner and within the profession generally. For example, the likelihood of recurrence may be low in relation to the supply and use of a medication specific to an uncommon disease or condition, but high in relation to a general anaesthetic regime and management.

The following table categorises the likelihood of recurrent or ongoing behaviour according to capacity, timing and contextual frequency. When the VPRBV is triaging and responding to initial complaints and investigations into an individual’s behaviour or considering whether a sanction is appropriate, this framework assists the VPRBV to profile different types of duty holders and/or issues.

Table 2: Framework for considering likelihood of recurrent or ongoing behaviour

Rating	Description
Unlikely	<ul style="list-style-type: none"> • Willing to comply and has a capacity to comply, with only isolated previous incidents of minor non-compliance and complaints • Context of conduct is rare
Possible	<ul style="list-style-type: none"> • Engaged in repeated non-compliance and has questionable capacity to meet regulatory requirements • Demonstrates patterns of non-compliance and has poor risk management processes in place • Context of conduct uncommon
Likely	<ul style="list-style-type: none"> • Demonstrates repeated patterns of non-compliance with limited resources to meet regulatory requirements • Limited processes and systems in place to identify and manage risks • Context of conduct is common
Certain	<ul style="list-style-type: none"> • Multiple contemporaneous or similar previous severe complaints about the practitioner • Evidence of possible ongoing behavioural or psychological problems • Repeated failure to implement processes and systems to identify and manage risks after being put on notice about lack of processes and systems • Context of conduct is very common

4.1.3 Culpability and attitude of the veterinary practitioner

The VPRBV uses the following framework to assess the culpability and attitude of a veterinary practitioner when making compliance and enforcement decisions and determining any deterrent sanctions. It accounts for past behaviour and behaviour around the matter in question and is used in conjunction with assessment of the consequences or impact of conduct.

The outcome of the combined assessment is then considered alongside factors such as strategic priorities, the communication of which can influence the behavioural expectations and therefore culpability of a registered veterinary practitioner.

Table 3: Framework for assessing culpability and attitude

Rating	Description
Minor	<ul style="list-style-type: none"> No intention to cause harm Proactively engages with regulatory process Implements changes to prevent harms from recurring
Medium	<ul style="list-style-type: none"> Acknowledges regulatory process but lacks capacity to comply Is not proactively engaged with compliance expectations, requiring intervention by regulator Demonstrates patterns of disregard towards compliance requirements and fails to address reoccurrence of non-compliance
Major	<ul style="list-style-type: none"> Reckless conduct that includes repeated non-compliance or systemic avoidance of compliance, ignorance of compliance requirements, behaviour that enables others' non-compliance Non-acknowledgement or non-engagement with regulatory process
Severe	<ul style="list-style-type: none"> Deliberate, wilful or misleading conduct that includes ongoing non-compliance, deliberate omissions and action driven by personal gain Deliberately inflicting harm, exploitative acts, predatory behaviour and criminal acts No regard to obvious harm or consequences or actively hindering regulatory action No regard to behavioural change expectations of the Board, established through formal or informal hearings

The above table broadly aligns with the normal distribution of regulatory duty-holders (i.e., registered veterinary practitioners) in relation to compliance. The figure below highlights that a significant proportion of practitioners are likely to respond to clear regulatory guidance through varied degrees of general profession-wide and specific, personal engagement by the VPRBV. A relatively small proportion of "laggards" may pose ongoing risk of non-compliance and are more likely to require increased deterrence and/or incentive and regulatory effort to effect behaviour which meets peer and public expectations.

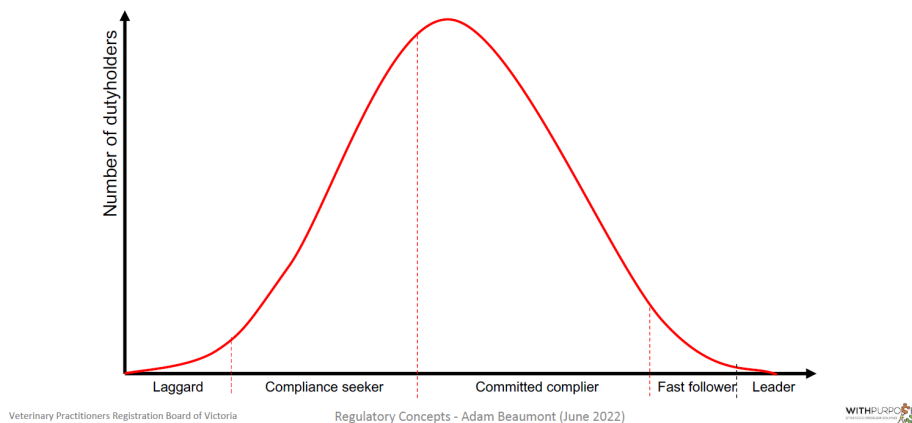


Figure 3: The shifting behaviour of duty-holders ('Regulatory concepts', With Purpose Solutions, June 2022)

4.2 STRATEGIC PRIORITIES

All professional conduct and practitioner health matters are taken seriously. In prioritising resources, the VPRBV considers its strategic direction, and current and emerging trends in public and animal health risks.

During the 2024-2027 period, the VPRBV will focus on:

- recurrent and recidivist behaviour
- high culpability/conduct-based issues, such as fraud, theft, drug misuse
- clinical management issues presenting major risks, particularly related to
 - competencies in surgical techniques
 - supply and use of medications
 - considered diagnostic approach
- communication, including obtaining informed medical and financial consent from an animal's owner, and discussing diagnosis, treatment options and aftercare with the animal's owner. w

The VPRBV recognises the increasing role of workplace systems and practitioner health in influencing practitioners' decisions and behaviour.

4.3 APPLICATION OF FACTORS TO DECISIONS

The applicability of, and weight to be given to, each of the following factors will vary and will depend on the circumstances of each case.

Aggravating factors

Aggravating factors which may warrant the taking of more serious action include, but are not limited to:

- the consequences of the non-compliance or offence being known or foreseeable
- a history of non-compliance by the practitioner
- ongoing non-compliance or offence
- financial gain or other advantage to the practitioner as a result of non-compliance
- uncooperative conduct of the practitioner
- disadvantage (financial or reputational) to other stakeholders.

Mitigating factors

Mitigating factors which may warrant the taking of less serious regulatory action include, but are not limited to:

- a good compliance record of the practitioner (first time offence)
- any action subsequently taken by the practitioner to eliminate or reduce the risk of damage resulting from the non-compliance or offence, including changing their practice or completing further education
- cooperative conduct on the part of the practitioner
- a long period of time having elapsed since the non-compliance or offence occurred/staleness of the offence.

Public interest

- whether the alleged offence is of considerable general public concern
- the necessity to maintain public confidence in the VPA and the profession
- the prevalence of the alleged offence and any need for deterrence, both personal, i.e., of the alleged practitioner) and general (i.e., of the veterinary sector at large) or both
- the cost to the general community of the non-compliance, including the cost of imposing and ensuring compliance with the regulatory action being considered

- the degree of culpability of the practitioner in connection with the non-compliance or offence
- whether the consequences of any regulatory action would be unduly harsh or oppressive
- whether regulatory action is required to achieve the objectives of the VPA
- the youth, age, maturity, intelligence, physical health, mental health or special disability or infirmity of the practitioner or witness

Factors which do not influence the selection of regulatory action

- the race, religion, sex, national origin, social affiliation or political associations, activities or beliefs of the alleged offender or any other person involved (unless they have special significance to the commission of the particular offence or should otherwise be taken into account objectively)
- the personal feelings of the investigating officers or Board members about the non-compliance, offence, the practitioner, animal owner or patient
- the possible effect of the decision on the personal or professional circumstances of those responsible for the investigation or prosecution, or otherwise involved in its conduct
- The possibility of the veterinary practitioner exercising their right under the VPA to appeal the decision.

4.4 WORKING WITH OTHER AGENCIES

Regulatory action taken by another authority does not prevent the VPRBV from taking regulatory action in response to non-compliance with the VPA or an offence. However, where non-compliance or an offence is identified which involves conduct that another regulatory agency may also be addressing, in appropriate cases the VPRBV will consult with the responsible authority to facilitate a coordinated, constructive and proportionate approach to regulatory action.

5. ACCOUNTING FOR REGULATORY ACTION

The VPRBV accounts for investigation and regulatory action functions in its Annual Report. Except where authorised or permitted by law, the VPRBV does not report on or disclose detailed information about compliance matters and regulatory actions. Examples of what may be disclosed include:

- reporting statistical information about the use of its regulatory action powers in its Annual Report
- publishing on its website regulatory actions undertaken and outcomes from such actions, including sanctions and convictions (unless there is a reason not to publication)
- de-identified case studies and reports for education and awareness.

The VPRBV provides transparency about its specific regulatory activities to the parties involved by:

- acknowledging receipt of complaints from members of the public, other veterinary practitioners or other agencies
- providing periodic progress reports about a matter's status
- providing reasons for decisions at relevant stages of the complaints management process
- advising relevant individuals when an investigation matter has concluded
- providing information about decision review avenues.

PUBLICATION DETAILS AND DOCUMENT CONTROL

Document	Author	Revision number	Date
VPRBV Compliance and Enforcement Policy	Veterinary Practitioners Registration Board of Victoria Approved by Board 12 December 2023	1.0	12 December 2023