

# Consultation Document

## Proposals to Amend the Veterinary Surgeons Registration Ordinance (Cap. 529)

October 2012



食物及衛生局  
Food and Health Bureau



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Agriculture, Fisheries and Conservation  
Department

# **CONSULTATION DOCUMENT**

## **PROPOSALS TO AMEND THE VETERINARY SURGEONS REGISTRATION ORDINANCE (CAP. 529)**

**Food and Health Bureau  
Agriculture, Fisheries and Conservation Department  
October 2012**



## TABLE OF CONTENTS

	<b>Page</b>
<b>EXECUTIVE SUMMARY.....</b>	<b>3-7</b>
<b>CHAPTER 1 ISSUES OF CONCERN .....</b>	<b>8-12</b>
<b>CHAPTER 2 THE PROPOSALS .....</b>	<b>13-17</b>
<b>CHAPTER 3 INVITATION FOR COMMENTS .....</b>	<b>18-19</b>
<b>ANNEX I THE VETERINARY PROFESSION IN HONG KONG .....</b>	<b>20-22</b>
<b>ANNEX II COMPLAINT HANDLING PROCEDURES .....</b>	<b>23-26</b>
<b>ANNEX III ADMINISTRATIVE MEASURES TAKEN BY THE VETERINARY SURGEONS BOARD OF HONG KONG TO ENHANCE EFFICIENCY IN HANDLING COMPLAINTS .....</b>	<b>27-28</b>
<b>ANNEX IV REGULATORY BODIES OF RELEVANT PROFESSIONS IN HONG KONG AND OVERSEAS .....</b>	<b>29-32</b>
<b>ANNEX V SUMMARY OF PROPOSALS TO AMEND THE VETERINARY SURGEONS REGISTRATION ORDINANCE (CAP. 529) .....</b>	<b>33-34</b>

## **EXECUTIVE SUMMARY**

### **Purpose**

1. The purpose of this document is to consult the veterinary profession, animal owners, animal welfare groups and other stakeholders, as well as members of the public on the Government's proposals to amend the Veterinary Surgeons Registration Ordinance (Cap. 529) (VSRO).
2. The proposals are made with a view to strengthening the membership of the Veterinary Surgeons Board of Hong Kong (VSB) and streamlining its modus operandi, thereby enhancing its capacity and efficiency in dealing with complaints and performing its statutory functions.
3. We would like to seek your views on the various proposals contained in this document. Comments should reach us on or before 30 November 2012.

### **Background**

4. Since the VSRO was enacted in 1997, there have been significant changes in circumstances. The number of registered veterinary surgeons has grown from around 150 to nearly 650. With the passage of time, there has been growing awareness of the importance of animal welfare and higher community expectations about the standard of veterinary service in Hong Kong.
5. These developments underline the important role that the VSB is fulfilling as a regulator of service standard, in the interest of promoting the further healthy development of the veterinary profession.
6. The number and complexity of complaints received by the VSB in recent years have grown markedly in tandem with the wider availability and utilisation of veterinary services in Hong Kong. In the past three years, for instance, the VSB on average received over 50

complaints annually as compared with 8 complaints received in 1998. The complaints have also become more complex with the advancement of new clinical diagnostic and treatment options over the past decade, such as the availability of magnetic resonance imaging and chemotherapeutic treatment of cancers, as well as the rising trend of specialist services in various aspects of small animal medicine and surgery, etc.

7. Rising to the challenges, VSB members have spent substantial time to handle the complaints. However, under the current structure and modus operandi, the VSB is not well placed to cope with the increasing demand:
  - (a) the size of VSB's membership as prescribed under the VSRO in practice restricts the maximum number of Preliminary Investigation Committees (PICs) which may be formed concurrently to three (thus creating a bottle-neck);
  - (b) a larger pool of VSB members with diverse experience is required for dealing with the increasingly complex and specialised complaints that come before the PICs and Inquiry Committees (ICs); and
  - (c) the VSRO requires that each and every complaint case reviewed by the PIC has to be reviewed again by the full board of the VSB before it can be referred to an IC for decision. This duplication is not conducive to efficient administration of complaints.
  
8. Between 2007 and 2011, excluding cases which are still being processed, it took on average about 16 months to conclude a case after a complaint was received by the VSB. Whilst the VSB has put in place a number of administrative measures to expedite the processing of complaints, there are still 92 cases outstanding, with the earliest case carried forward from 2008/09. This falls short of the public's expectations and additionally is not conducive to the further healthy development of the profession when the VSB has to devote a considerable portion of its resources on one single aspect of its work.

Chapter 1 further highlights the issues of concern in greater detail.

## **Proposals**

9. The VSB and the Government have jointly undertaken a review of the current situation to identify improvement measures. Having regard to the special circumstances of the local veterinary profession and with reference to the experience of local and overseas regulatory bodies, measures in two major areas are proposed:
  - (a) expanding and strengthening the membership of the VSB; and
  - (b) improving the complaint-handling procedures of the VSB.

### *Expanding and Strengthening the Membership of the VSB*

10. It is proposed to expand the VSB membership by adding three lay<sup>1</sup> persons and six veterinary surgeons to the board (which at present consists of one Chairman, one member who is a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong, two lay persons and six veterinary surgeons) so as to broaden the representation of the VSB and to help the sharing out of the increasing workload.
11. Under the existing law, one member of the VSB should be a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong. It is proposed that the relevant provision be widened to include “a medical practitioner or pharmacist or dentist” so as to allow the VSB to tap wider expertise in related disciplines.
12. The addition of nine members to the VSB will bring the total number of members to 19. Of the 19, 13 will continue to be appointed by the Government while the six newly added veterinary surgeon members, under the proposal, would be elected by members of their profession. This proposal provides added room for greater involvement of the

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<sup>1</sup> The term “lay” person refers to a person appointed under section 3(2)(c) of the VSRO, i.e., a person who, in the opinion of the Secretary for Food and Health, represents the interests of persons who utilise veterinary services.

profession in managing its own affairs.

13. To further enhance VSB's complaint-handling capacity, it is proposed that the pool of candidates who may sit on the relevant committees should be expanded by establishing a panel of assessors consisting of up to 18 persons, who are not VSB members. The panel of assessors will consist of 12 registered veterinary surgeons and six non-veterinary persons<sup>2</sup>. All of them will be nominated by the Secretary for Food and Health and appointed by the VSB. It is further proposed that the PICs and the ICs, which are currently filled by VSB members only, may each comprise one member from the panel of assessors. This proposal will expand the pool of manpower available to take part, by rotation, in the work of PICs and ICs formed.
14. Taken together, the proposal to expand the membership of the VSB (as outlined in paragraph 10 above) and the proposal to establish a panel of assessors (paragraph 13) will increase the number of PICs that may be formed concurrently, thus giving the VSB a greater capacity to stay on top of the rising caseload.
15. Furthermore, the establishment of a panel of assessors will widen the VSB's exposure to external expertise and advice from users' perspectives, thereby improving the quality of its deliberations. This will help the VSB to better fulfil its mission of safeguarding the health and welfare of animals and the interests of animal owners.
16. The PIC currently consists of two members. In case of diverging views between the two members, that is hardly conducive to efficient decision-making. It is proposed to increase the number of persons sitting on the PIC from two to three by adding another registered veterinary surgeon. Apart from easing the decision-making process, this proposal has the advantage of allowing the PIC to tap wider expertise when deciding whether a certain complaint should be referred to an IC.

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<sup>2</sup> The term "non-veterinary" refers to a person who is not a registered veterinary surgeon.

## *Improving the Complaint-handling Procedures of the VSB*

17. The VSB has adopted a number of administrative measures to enhance efficiency in handling complaints. For example, the VSB has set up a panel of reviewers selected from local registered veterinary surgeons. They provide support to the PICs by providing an initial digest, analysis and synthesis of the complaints. The PIC was required to do such work unaided in the past.
18. To further improve the procedure, we propose allowing complaints to be referred directly to an IC from the PIC, without having to seek endorsement from the VSB en route. The VSB would be informed of the need to hold an inquiry. The removal of this intermediate step would not derogate from the VSB's role in overseeing the complaint-handling process. According to the Rules of the Veterinary Surgeons Board (Disciplinary Proceedings), decisions of the IC will be sent to the VSB for review and the VSB may direct the IC to rehear any inquiry.
19. This proposal would avoid duplication of work, result in better efficiency and reduction in the processing time of complaints.
20. Chapter 2 provides further details of the proposals.

### **Way Forward**

21. The proposals will enhance the capacity of the VSB to safeguard and uphold high standards of service. This would be conducive to the further healthy development of the profession as well as the betterment of service to users. The proposals demonstrate the importance the Government attaches to the work of the VSB and our resolve to maintain the high standard of veterinary services in Hong Kong.
22. After collecting your views, we will finalise the proposed legislative amendments to the VSRO and take forward the necessary steps for introducing the Amendment Bill into the Legislative Council as soon as possible.



# CHAPTER 1 ISSUES OF CONCERN

## Background

### *The Veterinary Profession in Hong Kong*

- 1.1 The Veterinary Surgeons Registration Ordinance (Cap. 529) (VSRO) was enacted in 1997 to provide for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons, the disciplinary control of the professional activities of registered veterinary surgeons and for matters related to such registration and disciplinary control so as to ensure a high standard of veterinary care in Hong Kong.
  
- 1.2 The Veterinary Surgeons Board of Hong Kong (VSB) is established under section 3 of the VSRO. The mission of the VSB is to safeguard the health and welfare of animals and interests of animal owners through the development and improvement of professional standards, regulation of ethical standards, registration of veterinary surgeons, and diligent exercise of disciplinary control of the professional activities of registered veterinary surgeons. The VSRO stipulates that the VSB should consist of a Chairman, six registered veterinary surgeons, a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong, and two lay persons. As stipulated in section 5 of the VSRO, the functions of the VSB are to: (i) establish and maintain a register of registered veterinary surgeons; (ii) set and review the qualification standards for registration as a registered veterinary surgeon; (iii) examine and verify the qualifications of persons who apply for registration as registered veterinary surgeons; (iv) receive, examine, accept or reject applications for registration and its renewal; and (v) advise the Government on registration matters and deal with disciplinary offences.
  
- 1.3 With rising pet ownership and a greater willingness to spend on pet health and well being, the veterinary industry experienced steady growth in the past decade. Since the enactment of the VSRO in 1997, the number of registered veterinary surgeons has increased over four

fold from 150 to 649 as of July 2012, with a large proportion of the increase attributable to rising demand for companion animal clinical practice.

- 1.4 **Annex I** gives an overview of the **Veterinary Profession in Hong Kong**.

### *Disciplinary Process*

- 1.5 Any person may lodge a complaint against a registered veterinary surgeon. The VSRO lays down the procedures for the handling of complaints and prescribes the constitution of the Preliminary Investigation Committees (PICs) and Inquiry Committees (ICs). Once a complaint is received by the Secretary to the VSB, the matter is forwarded to a PIC. The PIC will determine whether to make a recommendation to the VSB for forwarding the complaint to an IC or whether the case should be dismissed (which may include issuing a letter of advice<sup>3</sup> to the veterinary surgeon). The IC is empowered under the VSRO to make a disciplinary order, which may include removing the name of the subject registered veterinary surgeon from the register on a permanent or temporary basis, or reprimanding the subject registered veterinary surgeon in writing, etc. Decisions of the IC will be sent to the VSB for review and the VSB may direct the IC to rehear any inquiry. An aggrieved person may also lodge an appeal to the Court of Appeal on any order made in respect of him by the IC.

- 1.6 **Annex II** gives further details about the **Complaint Handling Procedures**.

### *Current Constitution of the Complaint-handling Committees*

- 1.7 Under the VSRO, the PIC should consist of two members of the VSB with at least one of whom being a non-veterinary member, while the IC should consist of at least three members of the VSB with at least

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<sup>3</sup> Generally speaking, if the veterinary surgeon being complained against does not deny having made a mistake and the Committee considers that the mistake to be trivial though there is room for improvement, the Committee would issue a letter of advice to the veterinary surgeon concerned.

one of whom being a non-veterinary member. Although there are no restrictions on the number of PICs / ICs that may be formed, the size of VSB's membership (with three non-veterinary members) as prescribed under the VSRO restricts the maximum number of PICs which may be formed concurrently to three in practice. Furthermore, as the non-veterinary member who has been involved in the PIC cannot sit on the IC of the same case, only two non-veterinary members of the VSB will, de facto, be available to be appointed to an IC. The manpower of the VSB is put under further strain when there are two or more complaints associated with the same registered veterinary surgeon as it is necessary to arrange different members to sit on different complaint-handling committees related to this same veterinary surgeon to avoid bias.

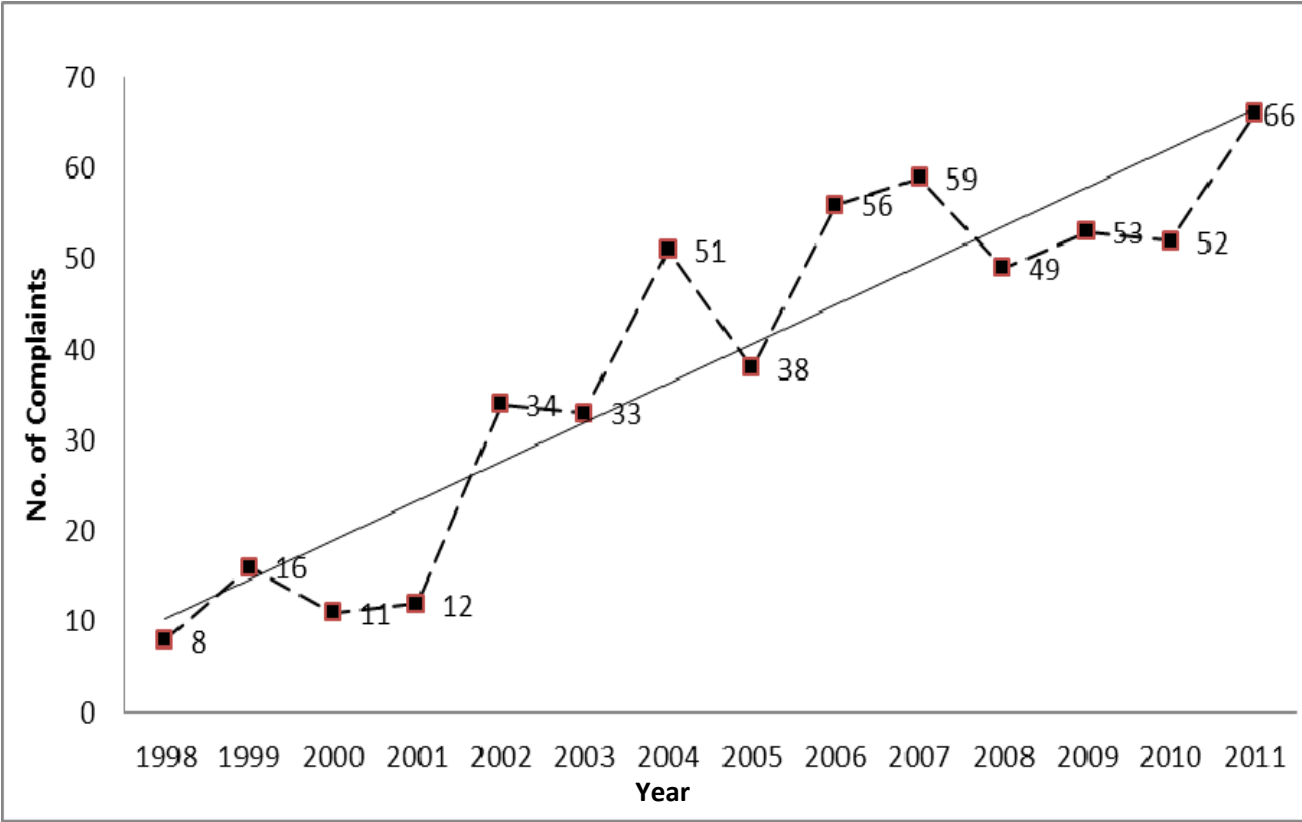
### ***The Need for Change***

- 1.8 As community and consumer expectations on animal welfare continue to rise, the service quality and the regulatory standard of the veterinary industry have come under more intense public scrutiny. The role of the VSB in shaping the healthy development of the profession is becoming more prominent than ever. It is necessary to expand the size and the diversity of VSB's membership to cope with the increasing demand on the work of the VSB.
  
- 1.9 The number and complexity of complaints received by the VSB in recent years have grown markedly in tandem with the wider availability and utilisation of veterinary services in Hong Kong. While eight complaints were received in 1998, the VSB received 66 complaints in 2011 (Graph 1). Of the 161 complaints received from 2007 to 2009, about 12 cases were referred to the IC per year on average. The complaints have also become more complex with advancement of new clinical diagnostic and treatment options over the past decade, such as the availability of magnetic resonance imaging and chemotherapeutic treatment of cancers. The rising trend of specialist services in various aspects of small animal medicine and surgery work also means that the complaints are now more complicated. As a result, the PICs / ICs need to spend longer time on each case and very often, external expert advice needs to be called

upon during the hearings.

- 1.10 Rising to the challenges, VSB members make every effort to find time for the increasing number of sitting days of the PICs and the ICs. However, despite substantial time spent by VSB members, the constraints under the VSRO on the membership hinder the capacity of the VSB to respond to this change. Between 2007 and 2011, excluding cases which are still being processed, it takes, on average, about 16 months to conclude a case after a complaint was received by the VSB. There are still 92 cases outstanding, with the earliest case carried forward from 2008/09. This situation is unsatisfactory.
- 1.11 Furthermore, the VSRO requires that each and every complaint case reviewed by the PIC has to be reviewed again by the full board of the VSB before it can be referred to the IC for decision. This extra step, which takes at least another eight weeks, is arguably redundant. The avoidable duplication is not conducive to efficient administration of complaints.
- 1.12 There is room to enhance the effectiveness of the VSB, by introducing improvements to the current complaint-handling system. To make it sustainable in the long run, it is essential to expand the limited manpower available to review and make judgments on important disciplinary matters. There is a pressing need to reform.
- 1.13 Against the above background, the Government has reviewed jointly with the VSB the existing regulatory regime in Hong Kong. This review has identified both administrative and legislative measures to improve the situation. The VSB has already begun to implement measures which can be carried out administratively. **Annex III sets out the Administrative Measures Taken by the VSB to Enhance Efficiency in Handling Complaints.**

**Graph 1. Number of complaints against veterinary surgeons from 1998 to 2011**



## CHAPTER 2 THE PROPOSALS

- 2.1 In formulating the current proposals, we have carefully balanced the veterinary profession's practical needs, the interests of persons who utilise veterinary services and those of the general public. We have made reference to other regulatory bodies of relevant professions in Hong Kong and overseas. We have also duly taken into account local circumstances and most importantly, the objective of protecting animal health and welfare. Any change made to the VSRO should not undermine the standard and availability of veterinary care which is currently provided in Hong Kong.
- 2.2 **Annex IV** gives further details about the other **Regulatory Bodies of Relevant Professions in Hong Kong and Overseas** that we have surveyed.

### *Proposals*

- 2.3 Measures in two areas are proposed:
- (a) expanding and strengthening the membership of the VSB; and
  - (b) improving the complaint-handling procedures of the VSB.

Details of the proposed measures are set out in the ensuing paragraphs.

### *Expanding and Strengthening the Membership of the VSB*

- 2.4 *Expanding the membership of the VSB and safeguarding the quality of its members* – we propose to amend the VSRO to expand the membership of the VSB. It is proposed that the current membership of the VSB (with one Chairman, six registered veterinary surgeons, one member who is a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong, and two lay persons) be expanded to one Chairman, 12 registered veterinary surgeons, one member who is a medical practitioner or pharmacist who is entitled to

practise his profession in Hong Kong and five lay persons, so as to broaden the representation of the VSB and to help the sharing out of increasing workload.

- 2.5 Under section 3(2)(b)<sup>4</sup> of the VSRO, one member of the VSB should be a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong. It is proposed that section 3(2)(b) be widened to include “a medical practitioner or pharmacist or dentist”. This will help the VSB to tap wider expertise in related disciplines.
- 2.6 In total, the 10-person board is to be changed to a 19-person board. The term for each member will continue to be no more than three years, and members are eligible to sit on the VSB for more than one term (as is the current situation).
- 2.7 To safeguard the quality of VSB members, it is proposed that a person will not be eligible to be a member of the VSB if he has a disciplinary order currently against him (in case of a registered veterinary surgeon), is imprisoned, detained in a mental hospital or is an undischarged bankrupt. Members should also be ordinarily resident in Hong Kong. The Secretary for Food and Health (in the case of an appointed member) and the VSB (in the case of an elected member) will be given the power to remove those members who are the subject of a disciplinary order, sentenced to a term of imprisonment, incapacitated by physical or mental illness, bankrupted, no longer ordinarily resident in Hong Kong or in the opinion of the VSB as appropriate, unable or unfit to discharge the functions of a member. The member’s office will then become vacant. It will be subsequently filled by appointment by the Secretary for Food and Health for appointed offices or election for elected offices (under VSB election procedures) as the case may be.
- 2.8 With an enlarged membership, the VSB would be better placed to align its resources for maintaining the service standard and guiding the further development of the profession, while at the same time, more PICs or ICs may be formed to shorten the processing time of

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<sup>4</sup> The current section 3(2)(b) of VSRO reads “a person who is a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong;”

complaints. Under the proposal, the ratio of veterinary surgeons to non-veterinary members<sup>5</sup> will be maintained at 2:1.

- 2.9 *Election of registered veterinary surgeons to the VSB* – The addition of nine members to the VSB will bring the total number of members to 19. Of the 19, 13 will continue to be appointed by the Government while the six newly added professional members, under the proposal, would be elected by members of the profession. This will provide added room for greater involvement of the profession in managing its own affairs.
- 2.10 The VSRO currently vests in the VSB the power to make rules<sup>6</sup>. It is proposed that the power to make the election rules will likewise be vested in the VSB under the VSRO. It is proposed that the election rules will be subject to the prior approval of the Secretary for Food and Health. Following the amendment of the VSRO, the VSB will further consult the profession to develop the rules for the election.
- 2.11 *Establishing a panel of assessors* – To further enhance the VSB’s complaint-handling capacity, it is proposed that the pool of candidates who may sit on the relevant committees should be expanded by establishing a panel of assessors consisting of up to 18 persons, who are not VSB members. The panel of assessors will consist of 12 registered veterinary surgeons and six non-veterinary persons. All of them will be nominated by the Secretary for Food and Health and appointed by the VSB. It is further proposed that the PICs and the ICs, which are currently filled by VSB members only, may each comprise a member from the panel of assessors. This proposal will expand the pool of manpower available to take part, by rotation, in the work of the PICs and the ICs formed.
- 2.12 Mirroring the requirements under the provisions on the membership of the VSB, the non-veterinary persons in the panel of assessors would be either medical practitioners, pharmacists or dentists who are

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<sup>5</sup> We have not counted the Chairman of the VSB since he / she may or may not be a registered veterinary surgeon.

<sup>6</sup> Section 6(c) of the VSRO states, “make such further rules as may be required by, or by virtue of, this Ordinance.” Section 28 (3) provides that for the avoidance of doubt, rules made by the Board under section 6 (amongst others) are not subsidiary legislation.



entitled to practise their profession in Hong Kong; or persons who represent the interests of users of veterinary services. Assessors will hold office for a period of up to three years and be eligible to be reappointed for further three year periods by the VSB. The assessors may be replaced in case they become ineligible, resign or the position becomes otherwise vacant.

- 2.13 The proposals of expanding the membership of the VSB (as outlined in paragraph 2.4 above) and establishing a panel of assessors (as outlined in paragraph 2.11 above) will increase the number of PICs and ICs that may be formed concurrently, thus enhancing the VSB's capacity to stay on top of the rising caseload. Furthermore, the establishment of a panel of assessors will widen the VSB's exposure to external expertise and advice from users' perspectives, thereby improving the quality of its deliberations. This will help the VSB to better fulfil its mission of safeguarding the health and welfare of animals and the interests of animal owners.
- 2.14 Currently, all VSB members are subject to a set of Guidelines on Declaration of Interest. According to the Guidelines, a member may be disqualified from hearing a matter such as an inquiry into a disciplinary offence if he has any direct pecuniary or proprietary interest in the outcome of the matter, or if there is a real possibility of bias on his part. All newly added members and assessors will continue to be subject to the same set of guidelines for preventing conflict of interest.
- 2.15 Reconstituting the PIC – The PIC currently consists of two members. In case of diverging views between the two members, that is hardly conducive to efficient decision-making. It is therefore proposed to increase the number of persons sitting on the PIC from two to three by adding another registered veterinary surgeon. Apart from easing the decision-making process, this proposal has the advantage of allowing the PIC to tap wider professional expertise when deciding whether a certain complaint should be referred to an IC.

*Improving the Complaint-handling Procedures of the VSB*

- 2.16 Direct referral of complaints from the PIC to an IC – It is proposed to amend the VSRO to provide for referral of complaints directly to an IC from the PIC. The PIC would inform the VSB of the need of an inquiry. The Secretary would then set a date for an inquiry to be held, thus saving the intermediate stage of routing through the VSB.
- 2.17 The proposed arrangement will speed up the handling of complaints without derogating from the VSB's role in overseeing the complaint-handling process. According to the Rules of the Veterinary Surgeons Board (Disciplinary Proceedings) made under the VSRO, decisions of the IC will be sent to the VSB for review. Depending on the circumstances, the VSB may direct the IC to rehear any inquiry.
- 2.18 Overall, better use of resources and a reduction in the time required for processing complaints will result without compromising the VSB's capacity to exercise its statutory role.
- 2.19 A **Summary of the Proposals** above can be found at **Annex V**.

## **CHAPTER 3 INVITATION FOR COMMENTS**

3.1 Comments are invited on –

Whether the proposed amendments to the VSRO as set out below are appropriate, sufficient and agreeable –

- I. Expanding the membership of the VSB and Safeguarding the Quality of its Members** (paragraphs 2.4 – 2.8);
- II. Election of Registered Veterinary Surgeons to the VSB** (paragraphs 2.9 – 2.10);
- III. Establishing a Panel of Assessors** (paragraphs 2.11 – 2.14);
- IV. Reconstituting the PIC** (paragraph 2.15 ); and
- V. Direct referral of complaints from the PIC to an IC** (paragraphs 2.16 – 2.18).

3.2 Please send us your comments by post, facsimile or email on or **before 30 November 2012**:

Address:                    Technical Services Division  
                                  Inspection and Quarantine Branch  
                                  Agriculture, Fisheries and Conservation  
                                  Department  
                                  5/F, Cheung Sha Wan Government Offices  
                                  303 Cheung Sha Wan Road  
                                  Kowloon, Hong Kong

Fax number:            (852) 2156 0215

Email address:        [tsdiq@afcd.gov.hk](mailto:tsdiq@afcd.gov.hk)

- 3.3 An e-comment form may be downloaded from [www.afcd.gov.hk](http://www.afcd.gov.hk). E-mail submission of the completed form is encouraged.
- 3.4 It is voluntary for any member of the public to supply his / her personal data upon providing views on the consultation document. Any personal data provided with a submission will only be used for the purpose of this consultation exercise.
- 3.5 The submissions and personal data collected may be transferred to the relevant Government bureau, departments or agencies for purposes directly related to this consultation exercise. The relevant parties receiving the data are bound by such purposes in their subsequent use of such data.
- 3.6 The names and views of individuals and organizations which put forth submissions in response to the consultation document (“senders”) may be published for public viewing after conclusion of the consultation exercise. The Agriculture, Fisheries and Conservation Department (AFCD) may, either in discussion with others or in any subsequent report, whether privately or publicly, attribute comments submitted in response to the consultation document. We will respect the wish of senders to remain anonymous and / or keep the views confidential in relation to all or part of a submission; but **if no such wish is indicated, it will be assumed that the sender may be named and his / her views be published for public information.**
- 3.7 Any sender providing personal data to AFCD in the submission will have the right of access and correction with respect to such personal data. Any request for data access or correction of personal data should be made in writing to the contact specified in paragraph 3.2 above.

## **THE VETERINARY PROFESSION IN HONG KONG**

1. As of July 2012, there are 649 veterinary surgeons registered in Hong Kong. The number registered has increased over four fold (from 150) since 1997. A person is qualified to be registered as a veterinary surgeon, if he/she holds a veterinary qualification which is recognised by the Veterinary Surgeons Board of Hong Kong (VSB) for registration purposes (covering the qualifications from specified universities in places such as the US, the UK, Ireland, Australia, Canada, New Zealand, South Africa and Taiwan).
2. In Hong Kong, veterinary surgeons are mainly employed in six major sectors, namely:
  - companion animal clinical practice (including animal welfare organisations);
  - government;
  - the equine industry and zoo-type facilities (including the Hong Kong Jockey Club, Ocean Park and Kadoorie Farm);
  - universities;
  - livestock production; and
  - miscellaneous commercial and other services.

### ***The Veterinary Surgeons Registration Ordinance (Cap. 529) (VSRO)***

3. The VSRO was first enacted in 1997 to provide for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons and the disciplinary control of the professional activities of registered veterinary surgeons and for matters related to such registration and disciplinary control so as to ensure a high standard of veterinary care in Hong Kong.
4. Pursuant to section 16(1) of the VSRO, no person shall practise veterinary surgery or provide a veterinary service in Hong Kong unless he is a veterinary surgeon registered with the VSB and the

holder of a practising certificate which is currently in force. Any person who contravenes this provision commits an offence and is liable on conviction to a fine at level 6 and imprisonment for 1 year as stipulated under section 25 (1)(h) of the VSRO. All registered veterinary surgeons fall under the regulatory control of the VSB under the powers as stipulated in the VSRO.

### ***The VSB***

5. The VSB is an independent statutory authority established under section 3 of the VSRO. Its functions, as stipulated in section 5 of the VSRO, are to: establish and maintain a register of registered veterinary surgeons; set and review the qualification standards for registration as a registered veterinary surgeon; examine and verify the qualifications of persons who apply for registration as registered veterinary surgeons; receive, examine, accept or reject applications for registration and its renewal; and advise the Government on registration matters and deal with disciplinary offences.
  
6. The mission statement of the VSB is:

*“The VSB is an independent statutory authority established under the Veterinary Surgeons Registration Ordinance in Hong Kong to maintain the register of veterinary surgeons and investigate complaints against registered veterinary surgeons of misconduct or neglect in a professional respect. The mission of the VSB is to safeguard the health and welfare of animals and interests of animal owners through the development and improvement of professional standards, regulation of ethical standards, registration of veterinary surgeons, and diligent exercise of disciplinary control of the professional activities of registered veterinary surgeons.”*

7. Section 3(2) of the VSRO stipulates that the VSB shall consist of –
- (a) a chairman;
  - (b) a person who is a medical practitioner or pharmacist who is entitled to practise his profession in Hong Kong;
  - (c) two persons who, in the opinion of the Secretary for Food and Health, represent the interests of persons who utilise veterinary services; and
  - (d) six persons who are registered veterinary surgeons,
- each of whom shall be appointed by the Secretary for Food and Health for a term not exceeding 3 years, but any person may be appointed for further terms not exceeding 3 years.
8. As such, the current ratio of registered veterinary surgeons to non-veterinary members<sup>7</sup> on the VSB is 2:1.
9. Under section 6 of the VSRO, the VSB is empowered to create, and appoint members of, committees to advise the VSB on the carrying out of its powers and functions, to issue a Code of Practice and make rules for the professional conduct and discipline of registered veterinary surgeons, and to make such further rules as may be required by, or by virtue of, the VSRO. An important function of the VSB is to handle complaints from the public regarding veterinary surgeons.

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<sup>7</sup> We have not counted the Chairman of the VSB since he / she may or may not be a registered veterinary surgeon.

## COMPLAINT HANDLING PROCEDURES

1. Any person may lodge a complaint against a registered veterinary surgeon. Vast majority of the complaints received are against registered veterinary surgeons engaged in small animal practice. Complaints are submitted to the Secretary to the Veterinary Surgeons Board of Hong Kong (VSB) through an established procedure set by the VSB and detailed in the Rules of the Veterinary Surgeons Board (Disciplinary Proceedings) (the Rules).

### *Stage 1 – Review of complaint by PIC*

2. After receiving a Complaint Form, the Secretary shall do any or all of the following things before forwarding the complaint to a Preliminary Investigation Committee<sup>8</sup> (PIC) for consideration:
  - (i) request the complainant to provide a copy of the medical record of the animal concerned (if available) or sign a consent form authorising the Secretary to request a copy of the medical record from the veterinary clinic concerned;
  - (ii) request the complainant to make written clarifications about the complaint or information; and/or
  - (iii) request any matter alleged in the complaint or information to be supported by one or more statutory declarations.
3. The Secretary will provide a copy of the Complaint Form to the veterinary surgeon complained against and invite him/her to provide a written response thereto.
4. Then, the Secretary may forward to a reviewer nominated by the

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<sup>8</sup> Section 17(3) of the VSRO states: “Where the Secretary receives a complaint alleging a disciplinary offence, the Secretary shall submit the complaint to 2 members of the Board appointed for the purpose, one of whom shall be a person appointed under section 3(2)(b) or (c), and the members shall determine whether or not the complaint should be referred to the Board.”



Reviewer Assessment Committee of the VSB a copy of the Complaint Form and any document provided under paragraph 2 above after removing the information identifying the complainant and veterinary surgeon complained against and request the reviewer to provide a report on the complaint for the consideration of the PIC.

5. The PIC consists of two VSB members. According to the Rules, the Chairperson is a non-veterinary member and the other member is a registered veterinary surgeon. A lawyer is also present to provide legal advice to the PIC.
6. The PIC may need to contact the complainant for clarifications and further information or documents about the complaint. The PIC will usually require the complainant to make a statutory declaration in support of these clarifications and further information or documents. The complainant should state only the truth in the statutory declaration, for it is a criminal offence to make a false declaration.
7. The PIC will then decide, on the basis of the information and materials supplied by the complainant, the written response from the veterinary surgeon and the report of the reviewer (if any) whether to proceed further with the complaint. If the PIC decides against proceeding further with the complaint, it will inform the complainant and provide explanations. If it decides to proceed further with the complaint, then the PIC will formally set allegation(s) against the veterinary surgeon. The veterinary surgeon concerned will be given an opportunity to file an explanation or make representations about the allegations against him/her.
8. The PIC may also choose to obtain an opinion from an independent expert in the subject matter of the complaint. In some cases, it may involve enlisting advice from overseas experts.
9. The PIC meets in private. Under usual circumstances, neither the complainant nor the veterinary surgeon complained against is required to attend its meetings.

10. After completion of its investigations, the PIC will consider what to do next on the basis of the information and documents supplied by the complainant, the explanation and submissions of the veterinary surgeon complained against, the opinion of the independent expert (if any), and other relevant evidence gathered in the course of the investigation. The PIC may decide that:
  - (a) the complaint should be referred, either in whole or in part, to the VSB for an inquiry to be held; or
  - (b) the complaint should not be referred to the VSB for an inquiry to be held; or
  - (c) the complaint should not be referred to the VSB for an inquiry to be held, but that a letter of advice should be issued to the registered veterinary surgeon complained against.
11. If the PIC decides that the complaint should not be referred to the VSB for an inquiry to be held, whether or not a letter of advice is to be issued, the complainant will be notified and told why.

### ***Stage 2 – Referral of Complaint from PIC to VSB***

12. If the PIC decides to refer a complaint to the VSB, the full board of the VSB will further review the complaint. If it considers it appropriate to hold an inquiry, the Secretary will then make the necessary arrangements for an Inquiry Committee (IC) to be convened.

### ***Stage 3 – Inquiry***

13. The IC consists of at least three VSB members, one of them must be a non-veterinary member. The Legal Adviser to the Board will be present to provide his legal advice to the IC at the inquiry.
14. The complainant will be notified about the date, time and place of the inquiry, and he/she will usually be called upon to give evidence

before the IC. Evidence will usually be given under oath. The veterinary surgeon complained against will also be present in the inquiry and he/she or his/her legal representatives will be given an opportunity to ask the complainant questions relating to the complaint. The veterinary surgeon may also adduce evidence and make submissions in defence.

15. At the conclusion of the inquiry, the IC will determine whether the veterinary surgeon complained against is guilty of misconduct or neglect in any professional respect. If he/she is found guilty, he/she may be punished by way of one or more disciplinary orders. These may include the removal of his/her name from the register of registered veterinary surgeons, either permanently or for a specified period of a maximum of two years; an order of reprimand; or any other order as the IC thinks fit. The complainant will be informed in writing about the outcome of the inquiry.

## **ADMINISTRATIVE MEASURES TAKEN BY THE VETERINARY SURGEONS BOARD OF HONG KONG TO ENHANCE EFFICIENCY IN HANDLING COMPLAINTS**

1. The Veterinary Surgeons Board of Hong Kong (VSB) has introduced new measures and arrangements administratively to cope with the rising workload particularly related to the processing of complaints.
2. Under the Veterinary Surgeons Registration Ordinance (Cap. 529), there is no restriction on the number of Preliminary Investigation Committees (PICs) that may be formed. With three non-veterinary members sitting on the VSB, in practice, up to three PICs may be formed concurrently. However, the Rules of the Veterinary Surgeons Board (Disciplinary Proceedings) (the Rules) previously contained a requirement restricting the formation of more than one PIC at any one time. To cope with the increasing demand, the VSB amended the Rules in 2011 to enable the formation of more than one PIC with a view to expediting clearance of cases. With the amendments, three PICs have now been set up and more meetings of PIC and Inquiry Committee (IC) could be held (table 1).
3. To lessen the burden on the PIC, the VSB has also engaged local registered veterinary surgeons to act as case reviewers on a voluntary basis. Information related to the complaint will be passed to the case reviewers but all sensitive information such as the identity of the complainant and the subject veterinary surgeon will be removed. The case reviewers will draw up an initial digest, analysis and synthesis of the complaints for reference by the PIC. The PIC was required to do such work unaided in the past. This arrangement reduces the time spent by the PIC on each case and allows the PIC to gain access to independent views in deciding whether or not to refer a complaint to an IC (through the VSB) for disciplinary proceedings. The case reviewers are required to possess at least five years experience of veterinary practice with two years (of the past five years) of that having been gained in Hong Kong. To ensure the quality of

the case reviewers, the VSB has established a Reviewer Assessment Committee to select suitably qualified candidates to undertake the task. Currently, 36 case reviewers have been recruited and they have actively participated in the scheme, providing useful assistance and facilitating the processing of cases by the PIC.

**Table 1. Number of PIC and IC meetings before and after administrative changes to the VSB**

	June 2010 - May 2011	June 2011 - May 2012
Number of PIC meetings	9	12
Number of IC meetings	8	14

## REGULATORY BODIES OF RELEVANT PROFESSIONS IN HONG KONG AND OVERSEAS

1. We have drawn reference from the practice of relevant regulatory bodies, including the Medical Council of Hong Kong (the Medical Council), the Dental Council of Hong Kong (the Dental Council), the Royal College of Veterinary Surgeons (RCVS) of the UK, the North Carolina Veterinary Medical Board of the USA and the Veterinary Surgeons Board of Queensland in Australia.

### *The Medical Council*

2. The Medical Council is a statutory body formed under Section 3 of the Medical Registration Ordinance (Cap. 161). The Medical Council oversees a total of around 13,000 registered medical practitioners. In 2011, the Medical Council received 476 complaints. The Medical Council is composed of 28 members. They include 24 medical practitioners and four lay persons. Fourteen of the medical practitioners are elected to the Medical Council with the remaining 10 being nominated by various bodies and appointed by the Chief Executive. No person is eligible to be a member of the Medical Council if he has a disciplinary order against him, is imprisoned, detained in a mental hospital or is an undischarged bankrupt<sup>9</sup>.
3. The Preliminary Investigation Committee (PIC) of the Medical Council consists of seven members and at least four of whom must both be registered medical practitioners and non-Council members nominated by respective bodies<sup>10</sup>. At least one of the members of the PIC must be a lay member of the Medical Council.
4. After reviewing a complaint case, if a PIC of the Medical Council decides to further proceed with the complaint, the Chairman of the PIC will notify the Chairman of the Medical Council who will then

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<sup>9</sup> Section 3(7) of the Medical Registration Ordinance (Cap. 161)

<sup>10</sup> The membership of PIC is stipulated in section 20S of the Medical Registration Ordinance (Cap. 161)

directly ask the Secretary to fix a date for meeting of an Inquiry Committee (IC)<sup>11</sup> without having the case being reviewed by the Medical Council. The Medical Council will appoint five of its members or at least three of its members with two non-member assessors<sup>12</sup> to form an IC. The non-member assessors are chosen from a panel of 14 assessors consisting of 10 medical practitioners nominated by relevant health or educational bodies and four lay persons nominated by the Secretary for Food and Health. Assessors shall hold office for 1-year periods and may be reappointed.

### *The Dental Council*

5. The Dental Council oversees a total of around 2 000 dentists registered in Hong Kong. It is composed of 12 members. Nine out of the 12 members of the Dental Council are from the dental profession.
6. Apart from the Registrar, who is an ex-officio member, all members of the Dental Council are appointed by the Chief Executive, with six of the professional members being selected from a panel nominated by the Hong Kong Dental Association<sup>13</sup>.
7. The PIC of the Dental Council consists of one member of the Dental Council and two registered dentists (from a panel of 12 registered dentists nominated by the Hong Kong Dental Association) who are non- members<sup>14</sup>.
8. After reviewing a complaint, the PIC may refer the case (via the Chairman of the Dental Council) to an inquiry by the Dental Council<sup>15</sup> without having the case being reviewed by the Dental Council.

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<sup>11</sup> Section 13(1) & 13(2) of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161E)

<sup>12</sup> Section 21B of the Medical Registration Ordinance (Cap. 161)

<sup>13</sup> Section 4(2)(d) of the Dentists Registration Ordinance (Cap. 156)

<sup>14</sup> Regulation 12 of the Dentists (Registration And Disciplinary Procedure) Regulations (Cap. 156A)

<sup>15</sup> Regulation 17(1) of the Dentists (Registration And Disciplinary Procedure) Regulations (Cap. 156A)

## *RCVS, UK*

9. The RCVS Council oversees approximately 25 000 registered veterinary surgeons. On average, the RCVS receives between 700 and 800 complaints annually. The RCVS Council currently has 33 registered veterinary surgeons and nine lay persons. Of these 42 Council members, there are 24 elected professional members; 14 members (at least half of whom being registered veterinary surgeons) appointed by seven UK universities; and four members appointed by the Privy Council.
10. Complaints received by the RCVS Council will be examined by a veterinary surgeon and a lay observer. If they conclude that the complaint may involve serious professional misconduct or if there is an arguable case, the case will be referred to a PIC which consists of five members of the RCVS Council, including the President and Vice President of the RCVS Council. The PIC will then decide whether there is a 'real prospect' of proving serious professional misconduct against the subject veterinary surgeon and if so refer the case to the Disciplinary Committee.
11. The Disciplinary Committee consists of 12 members who must be members of the RCVS Council, with at least six of them being elected veterinary surgeon members.

## *The North Carolina Veterinary Medical Board, USA*

12. In North Carolina, the Veterinary Medical Board has eight members (six veterinarians, one veterinary technician and one lay person). All members of the Board are appointed.
13. Complaints received by the Veterinary Medical Board will be reviewed by a committee consisting of three Board members.
14. The findings of the committee will be passed to the Veterinary Medical Board for decision. If any disciplinary action decided by the Board is contested by the veterinarian concerned and a probable cause is found, the Board will hold an administrative hearing on the



case.

*The Veterinary Surgeons Board of Queensland, Australia*

15. The Veterinary Surgeons Board of Queensland consists of six members overseeing around 2 800 registered veterinary surgeons. Of the six members on the Board, five are veterinary surgeons. Two out of the five veterinary surgeon members are elected.
16. In the case of complaints where an initial assessment by the Board finds prima facie evidence of professional misconduct, the Board may pursue proceedings against the veterinary surgeon, or refer the charges to the independent Queensland Civil and Administrative Tribunal (QCAT) for hearing. Only the QCAT has the power to remove or suspend veterinarians from the Register of Veterinary Surgeons.

**SUMMARY OF PROPOSALS TO AMEND THE  
VETERINARY SURGEONS REGISTRATION ORDINANCE  
(CAP. 529)**

<b>Proposal</b>	<b>Main Details</b>
<p><b>I. Expanding the Membership of the Veterinary Surgeons Board of Hong Kong (VSB) and Safeguarding the Quality of its Members</b></p>	<p>(a) the VSB membership shall be expanded to include a Chairman, 12 registered veterinary surgeons and 6 non-veterinary members by –</p> <ul style="list-style-type: none"> <li>(i) increasing the number of registered veterinary surgeons on the VSB from 6 to 12;</li> <li>(ii) increasing the number of non-veterinary members on the VSB from 3 to 6, with 5 representing persons who utilise veterinary services and 1 being a medical practitioner, a pharmacist or a dentist;</li> </ul> <p>(b) no person who has a disciplinary order currently against him, is imprisoned, detained in a mental hospital or is an undischarged bankrupt may be appointed or elected to the VSB; and</p> <p>(c) circumstances similar to those in (b) may be a cause to remove a sitting member from office.</p>
<p><b>II. Election of Registered Veterinary Surgeons to the VSB</b></p>	<p>(a) amongst the proposed 12 registered veterinary surgeons on the VSB, 6 are to be elected by veterinary surgeons registered with the VSB in accordance with the procedures to be set by the VSB. The election rules will be subject to the prior approval of the Secretary for Food and Health;</p> <p>(b) for an elected member of the VSB, each term shall be up to 3 years; and</p>

<b>Proposal</b>	<b>Main Details</b>
	(c) elected members are eligible for re-election.
<b>III. Establishing a Panel of Assessors</b>	<p>(a) a panel of 18 assessors, comprising 12 registered veterinary surgeons and 6 non-veterinary persons, all nominated by the Secretary for Food and Health and appointed by the VSB, shall be established to facilitate processing of complaints by Preliminary Investigation Committees (PIC) and Inquiry Committees (IC);</p> <p>(b) for a member serving on the panel of assessors, each term shall be up to 3 years; and</p> <p>(c) the PICs and the ICs may each comprise one member from the panel of assessors.</p>
<b>IV. Reconstituting the PIC</b>	(a) the number of PIC members shall be increased from 2 (with at least 1 being a non-veterinary person) to 3 (with at least 1 being a non-veterinary person).
<b>V. Direct Referral of Complaints from the PIC to an IC</b>	(a) complaints will be referred directly from the PIC to an IC without the intermediate step for review by the full board of the VSB.