



A Guide To: Veterinary Malpractice Claims

When veterinary services are provided, a pet owner is relying on expert professionals to guide them through proper decisions and treatments. Pet owners, as consumers/clients, will virtually always be less knowledgeable than veterinarians about the services recommended or rendered. This puts pet owners at a disadvantage, as we must be able to trust our veterinary providers and their guidance. This document provides some general guidance if you strongly suspect your veterinarian provided services falling below the due standard of care. Note that being disappointed in services provided will not be the same as having an actionable claim. Read through to the end to find out what you can do now to prepare for any action.

I. If you believe your vet provided poor service and the problem is easily rectified/ not substantial.

The veterinary care that you seek for your pet is a service that you purchase. Veterinarians must deliver this service with reasonable care and skill. If you believe that the service provided was not given with reasonable care and skill, you have a few options:

1. Complain to the vet - write a clear, detailed letter of complaint, setting out the grounds for your complaint and including all relevant evidence.
2. Ask them to correct the problem for free.
3. Ask for a full or partial refund for the services rendered if they cannot correct the problem.

These limited options are recommended if the problem can be easily corrected and/or if the problem is not very serious.

II. If you believe your vet was negligent in their care of your pet

Unfortunately, mistakes are often made in healthcare, when treating humans and animals. A mistake, or an unwanted or unsuccessful outcome, is not necessarily a sign of negligence.

A veterinarian is guilty of professional negligence if they failed to meet the standard of care based on what other veterinarians would reasonably do in the same circumstances. The vet's conduct must have fallen short of or fallen below the expected standard of a reasonably competent vet, but does not need to be so far that it amounts to serious professional misconduct that affects future fitness to practice (see Section III).

To prove that your vet was negligent, you must show that your vet did not perform with the same skill and judgment that would be expected of the average or reasonably competent vet. The vet must have breached their duty of care to the client and/or the patient (and in some cases third parties).

When determining whether a vet has breached their duty of care, many factors may be considered:

- The standards of the profession
- Accepted approaches to the clinical situation
- The veterinarian's expertise and experience
- Whether the vet's care is considered a reasonable approach/treatment
- That the breach of duty led to loss or damage
- That the loss or damage caused was reasonably foreseeable

Essentially, veterinary malpractice is:

(a) any sort of professional negligence, breach of professionalism, or breach of ethical codes and guidelines, that

(b) leads to injury, harm, loss or death of or damage to an animal.

Veterinarians are responsible for ensuring they provide the highest possible standard of care to your pet.¹ To understand whether there has been a breach under (a), one must consider what the legal responsibilities of veterinarians are.

¹ RCVS Code of Professional Conduct

<https://www.rcvs.org.uk/setting-standards/advice-and-guidance/code-of-professional-conduct-for-veterinary-surgeons/>

- To provide the highest possible standard of care to their animal patients
- To act with the due care and attention when diagnosing and treating them.
- To be aware of any relevant legal or ethical codes that apply to their profession as a whole, such as those set by the Royal College of Veterinary Surgeons (RCVS)

Examples of damage include (for general understanding only, these examples do not determine whether a specific situation amounts to negligence):

- Your pet's condition worsening due to a missed diagnosis
- Death or permanent injury caused by an inappropriate course of treatment

Cases may be brought for breach of contract or for breach of duty of care (called tort law), or potentially both.

Breach of contract

If there was a written contract, you should find and read the terms of the contract. Some will have standard terms and conditions, and some will have bespoke terms. Even if it's not written in the contract, under section 49(1) of the Consumer Rights Act 2015 there is an implied term that services will be performed with reasonable skill and care, which would apply to contracts with vets. It may be that the contract was not written but oral, which is of equal validity. Claims under breach of contract must be made within 6 years of the breach.

It may be that you can claim against the individual veterinary practitioner for breach of contract, or against the veterinary practice, or both. If you have a contract with the practice, it may be better to bring a claim against them.

Proving negligence

Proving negligence is incredibly difficult, because you have to prove that the care the vet provided did not meet the standard of the profession. To that end, you may need to obtain a second opinion from another veterinarian. Some vets will be reluctant to become involved in this type of situation.

To prove negligence, you must show:

1. The vet owed you and your pet a duty of care
2. The vet breached that duty by failing to act with reasonable competence
3. The breach caused harm, injury, or loss
4. The harm or loss was reasonably foreseeable

The statute of limitations for actions in professional negligence cases (as with other types of 'torts') is generally six years from the date on which the cause of action accrued under the Limitation Act 1980. This is usually when the injury to the animal or other damage occurred.

This means that you must start any legal proceedings within six years from the date the suspected negligence happened.²

What can you claim for?

If you think your vet has been negligent and you want to complain, you'll need to decide what outcome you want. For example, you might want:

- a formal apology
- free corrective treatment
- a refund
- compensation

You can claim reasonable compensation on top of the cost of the treatment if the vet's negligence costs you extra money or injures your pet. However, **note that you cannot claim damages for the emotional suffering caused from the loss of or harm to your pet.** (See [this explanation](#) of a relevant case for more on this topic.)

If the financial damages claimed for are below £10,000, the claim will be handled in Small Claims Court. It thus may not be financially viable to instruct a solicitor for such an action - something to consider going forward.

Pre-Action Protocol for Professional Negligence

The UK has a Protocol that applies when a claimant wishes to claim against a professional as a result of that professional's alleged negligence or breach of contract. The Protocol sets out a code of good practice and steps which parties should generally follow before commencing court proceedings for a professional negligence claim.

You may find it helpful to follow the steps set out in this document: it may help you make a stronger case, and to find a solution in a speedier, lower-cost and less stressful manner.

If you do not follow it, any court you go to may require you to follow the protocol subsequently, delaying the process, or impose some other sanction for not having followed it.

The Protocol aims to enable parties to:

- Understand and properly identify the issues in dispute in the proposed claim and share information and relevant documents with the other party;
- Make informed decisions as to whether and how to proceed;

² However, note that for negligence actions, there is a special time limit in cases where the facts relevant to the cause of action are not known at the date of accrual: six years from when the cause of action accrued or, if later, three years from when the claimant had knowledge of certain material facts as defined in the Act. There is also a 'long-stop' limitation of 15 years from the date of the negligent act or omission whether or not the claimant is aware of the damage. All of this would be discussed with a solicitor.

- Try to settle the dispute without proceedings or reduce the issues in dispute;
- Avoid unnecessary expense and keep down the costs of resolving the dispute; and
- Support the efficient management of proceedings where court proceedings cannot be avoided.

If you are considering pursuing a claim of professional negligence, details of the Protocol can be found [here](#).

III. What you can do now

- Keep detailed records of all aspects of the situation, including relevant dates - bills, reports, notes, photographs. The more information you have, the more robust your potential case.
- Read and consider the Pre-Action Protocol
- Call Citizens Advice consumer helpline: 0808 223 1133
- Contact a solicitor specialising in animal cases (see A-LAW list of solicitors firms)
- Contact a mediation service for additional support and advice. Mediation may be a good alternative.

Veterinary Client Mediation Service (VCMS)

Telephone Number: 0345 040 5834

Email Address: enquiries@vetmediation.co.uk

Website: <https://www.vetmediation.co.uk/>

VCMS is an independent dispute resolution service supporting mediation between veterinary professionals/practices and pet owners. They have a cost-effective service, funded by the Royal College of Veterinary Surgeons (which regulates all veterinary surgeons and nurses in the UK). They can assist with complaints concerning customer service or the standard of care provided by a veterinary practice, with solutions including an apology, a refund, further treatment, discretionary payment, or an explanation.

IV. If you think your vet is guilty of professional misconduct

Professional misconduct allegations may apply to only the most grave of situations. If you think your vet is guilty of professional misconduct to the extent that they should not be allowed to practice or hold a valid license anymore, you can contact the Royal College of Veterinary Surgeons (RCVS). The RCVS regulates veterinarians' professional conduct. When the harm caused rises to the level of serious professional misconduct, the RCVS gets involved. You can report your vet to this body, and they may investigate your complaint.

What might rise to the level of serious professional misconduct:

- If your vet has been dishonest
- If your vet has taken advantage of your age, inexperience, lack of knowledge
- If your vet has acted against your instructions in the care of your pet

Note that RCVS involvement is for the professional aspect of the situation, not related to your claims for negligence or damages. Whilst serious professional misconduct is proved at a stricter standard than negligence, the RCVS does not adjudicate allegations of negligence. They are able to discipline the veterinary provider; their investigation is unrelated to you bringing legal charges or claiming damages - you will not receive any compensation in any way from an RCVS investigation. However, it may be worthwhile if you think the vet's conduct rises to such a serious level that their practice should be examined.

If you want to make a complaint, the same recommendation about keeping detailed records applies.

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