

20 SEPTEMBER 2011

BVA AND BCVA JOINT RESPONSE TO THE CONSULTATION ON GUIDANCE TO NATURAL ENGLAND ON THE IMPLEMENTATION AND ENFORCEMENT OF A BADGER CONTROL POLICY

1. The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom and has over 12,000 members. Its primary aim is to protect and promote the interests of the veterinary profession in this country, and it therefore takes a keen interest in all issues affecting the veterinary profession, be they animal health, animal welfare, public health, regulatory issues or employment concerns.
2. The British Cattle Veterinary Association (BCVA) is a specialist cattle division of the British Veterinary Association comprising 1350 members of which approximately 950 are practising veterinary surgeons working with cattle in farm animal veterinary practice.
3. We are pleased that the Government is taking forward a controlled cull of badgers as a key component of the TB eradication plans for England. The BVA and BCVA have long argued for a targeted, humane badger cull to be used alongside stricter cattle controls, and we believe that failure to tackle wildlife sources of TB infection has prolonged the presence and enhanced the spread of infection in all affected species populations. We therefore welcome this opportunity to comment on the guidance to be provided to Natural England on the implementation and enforcement of the control policy.
4. The consultation poses a number of specific questions and our responses to these are outlined below. In addition to the points that we have made below, we believe that there should be a general right to appeal available to applicants who have their license applications refused or revoked by Natural England.
5. We would be happy to provide further information on any of these issues if required.

Consultation questions

a) Do you agree that the basic culling policy requirements set out in paragraphs 9a-9f and paragraph 10 of the draft Guidance form the basis for an 'effective cull'?

6. We are of the opinion that the culling policy requirements set out in the guidance do provide the basis for an effective cull. We do, however, have a number of comments to make in relation to some of the criteria:

Criterion a

7. This criterion makes reference to the need for all participating farmers to comply with current statutory TB controls. It is essential that statutory controls are fully complied with, and we suggest that any compensation within a licensed area could also be linked to full compliance. This would reduce any risk of non-compliance, and would also reduce the risk of enforcement action or the rescinding of the licence, which would clearly be counterproductive.

8. There are occasions where tests become overdue through no direct fault of the farmer/land owner. As such, we believe that there should be some guidance on types of mitigating factors which might be considered in an appeal, although we recognise that this could not be a comprehensive list, as each case would need to be judged on its own merits.

Criterion b

9. We agree that the implementation of reasonable biosecurity measures should be a requirement. Biosecurity measures as they relate to bovine TB should be based upon veterinary principles of disease control, but with due consideration to the fact that there is still no 'proven' data to demonstrate the efficacy of these measures as they might relate to occurrence or duration of TB breakdowns. We would welcome the opportunity to assist in reviewing or finalising the detail contained within the proposed biosecurity checklist.
10. If Natural England are to be the assessors or scrutineers of biosecurity measures, careful and considered guidance is essential to ensure the following:
 - a. That measures are appropriate and proportionate;
 - b. That the cost of implementing measures must not be a deterrent;
 - c. That due consideration should be given to the work on this area previously undertaken and currently utilised in Wales. There should be careful consideration as to whether aspects of the Biosecurity tool used in Wales could be utilised for the purpose of this guidance.
11. There should be practical veterinary input at some level to assist with this aspect of the licensing. We therefore propose that a 'biosecurity workshop' is held for each licence application area with specialist veterinary input. We believe that such information should also be made available to non-participants.
12. The Natural England guidance document refers to the removal or suspension of a licence if inadequate biosecurity measures are found. We therefore propose that farmers are notified if further measures are considered necessary, with a period of grace to implement them and a means to verify that these changes have been made; there should be specialist veterinary input at this level if this issue arises.
13. There must be a focus on the need to ensure any cull is not suspended or abandoned mid-term. Appropriate contingency plans should be drawn up for Government to complete the cull in accordance with the defined criteria within the licensed area should the need arise.

Criterion d

14. This criterion states that the licensing area must be composed wholly of land within the Parish Test Interval 1 area at the time of application. We agree, as these are the areas where it is likely that the badger is involved with the ongoing presence of bovine TB in cattle herds.

Criterion f

15. We agree with the principle that the size and number of inaccessible areas within the application area should be minimised, however, we have no comment on the numbers given.

b) Paragraph 9g of the draft Guidance requires applicants to take reasonable measures to mitigate the potential risk to non-participants. Do you agree that the mitigation methods proposed in the draft guidance to applicants at Annex H are appropriate and adequate?

16. We agree that it is right to seek to mitigate the potential risk to non-participants, and believe that the mitigation methods are appropriate and adequate. The review conducted by the scientific experts group¹ referred to deviations away from the methodology of the RBCT having potential positive and negative effects. These proposed measures are focused on enhancing the benefit and reducing the risk of a negative effect.

Although, as noted above, we do agree that these methods are appropriate, we feel it is necessary to note that there are no known measures that are proven to reduce the risk of perturbation. Instead we can only make logical deductions about what might work. The use of areas where re-colonisation by badgers was impeded by geographical barriers was one of the reasons cited for the larger beneficial effects in terms of the reduced incidence of TB in cattle, seen during the Irish Four Areas Trial (when compared to the RBCTs'). Such barriers might include coastline, large rivers or roads, urban conurbations, and areas where, due to certain geography and land type, badger densities are likely to be very low.

17. One of the 'measures' suggested in Annex H is badger vaccination. We do not believe that badger vaccination should be insisted upon. It would add significant cost at a time when there is no proven benefit in terms of the incidence of TB in cattle within an area where vaccination is deployed.
18. Finally, it should be noted that it is impossible to establish whether a bovine TB breakdown on a farm is due to perturbation, or is resulting from any another cause.

c) Are the requirements at paragraphs 9h and 9i of the draft Guidance for all participants to enter into a TB Management Agreement (under section 7 of the NERC Act) and deposit the total cost of the funds upfront proportionate and appropriate to ensure that culling will be delivered effectively?

Paragraph 9h

19. As this is a farmer driven policy, it must be seen to be proportionate and appropriate in order to be successful. We believe that the requirements in this paragraph are proportionate and appropriate; however, there are aspects of section 7 NERC agreements which are overly cumbersome as they relate to tenants and landlords (freeholders). Minimum 70% land participation for 4 years should be the defining criteria.

Paragraph 9i

20. We agree that applicants must have sufficient funds to ensure the completion of a four year cull by the means specified in the licence application. However, we believe that Government should accept some of the risk if, for any reason, controlled shooting is deemed ineffective in the pilots. If this is the case, applicants will have to complete the culling using cage trapping

¹ Bovine TB - Key conclusions from the meeting of scientific experts¹, held at Defra on 4th April 2011
<http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/tb/documents/bovinetb-scientificexperts-110404.pdf>

and shooting alone, which is much more costly. We believe that such a diversion from the methodology contained within the licence application should be covered, at least in part, by Government, as this may be prohibitive for applicants and a disincentive to submitting applications.

21. In addition, we feel that funding for cage trapping and shooting should be provided by Government if a licence is revoked through any delay to a cull or impact on its efficiency caused by outside interference by the failure to ensure the performance of legal activity by those working within a licence.
22. Care is also needed regarding non-compliance or licence revocation as referred to in earlier questions on compliance with controls and biosecurity arrangements.

d) Are the measures included at paragraph 11 of the draft Guidance, in addition to the proposed monitoring described above (at paragraphs 42-43), adequate and appropriate for ensuring that controlled shooting is carried out safely and humanely?

23. We believe that the degree of monitoring as proposed in paragraphs 42-43 is appropriate and proportionate. In our joint response to Defra's consultation on a badger control policy in 2010 we noted the importance of providing safeguards and assurance that the humaneness and the efficacy of methods would be monitored carefully; we therefore welcome these measures.
24. We feel that it is very important to ensure that the expert group tasked with judging the culling methods in the pilot has practical veterinary representation and includes an experienced veterinary pathologist alongside relevant academic expertise. We believe that the remit of the review panel should be as follows:
 - To review the humaneness of the approved methods of either controlled shooting or trapping and shooting deployed within the approved 'pilot areas':
 - To review the effectiveness of the deployed methods in achieving the target reduction in badger numbers (as outlined by Natural England) within the licensed pilot areas. *We believe that it is essential that a target range should be specified rather than a specific figure.*
 - To review the safety aspects of the approved methodology.
25. The review should be conducted in as short a time period as is reasonable. We would consider a period of 6-8 weeks appropriate for the above criteria. A short review period would enable the prompt roll out of other licensed areas provided that the assessment of the pilots is satisfactory. The review could provide guidance based upon the above criteria so that methodology may be adapted, where appropriate, in licensed 'non-pilot' areas.
26. With regard to the monitoring that will take place during the pilots, we support the use of vets and fieldsmen in the field to provide a comprehensive assessment, as long as they do not affect the successful rate of removal, or that this is allowed for in the final assessment. We suggest that the Government investigate the use of video evidence via digital night sights to assist in monitoring.
27. Also in the pilots, we believe that gross post-mortems of a proportion of badgers in these areas should take place primarily to determine accuracy of shot and humaneness. Care should be taken in using gross post mortems as a means of estimating TB prevalence in

culled badgers within licensed areas due to the low sensitivity in determining actual 'infection' with M.bovis.

28. The monitoring in non-pilot areas should build on experience gained from the pilots. This may not necessarily need to be as stringent as for the pilots, as proof of principle will have been achieved by that stage by definition.
29. Any impact on other species should also be monitored.

e) Do you consider that the measures at paragraph 12 of the draft Guidance and the proposed monitoring described above (at paragraph 41), are appropriate to address concerns about the impact on the badger population?

30. The aim of the culling policy is to reduce the level of infectious challenge by reducing population density not by removing all badgers in the area and we would not wish to see the badger population eliminated. We believe that the 70% target removal will ensure that there will not be local or regional extinction and the policy will therefore comply with the Bern Convention. However, assessment of the initial population is crucial here and we request that further details be given as to how this would be undertaken. If there is a gross underestimate, the target of 70% removal will reduce the population by much less than 70%, potentially impacting upon the expected benefit. Conversely, if there were a gross overestimate this would risk a reduction of the population in excess of 70%, potentially impacting upon compliance with the Bern Convention. Consequently, we believe that the creation of an expert panel is absolutely crucial in terms of setting targets and making judgments against these targets.
31. We suggest that additional guidance is provided to give clarification to the term 'local'. Regard should be had to any relevant experience gained in Ireland.
32. The licence area will also be important here. The cost analysis makes reference to areas that are likely to exceed 350km². We believe that a precise upper limit should not be stipulated as it is important to allow flexibility for the purpose of ensuring appropriate use of hard boundaries and land ownership.
33. We agree that after the first year of culling the 'minimum number of badgers' removed should be set at a level to maintain the badger population at the reduced level.
34. We accept that Natural England will have to make assessments before granting a licence which might have a significant effect on a European protected site, but we believe that this may unfairly restrict some areas wishing to apply. We would like the Government to consider how these areas are to be addressed in due course, should the policy be effective but they are not able to apply the controls.

f) Do you agree that the measures included at paragraphs 11a-c, 23 and 27-28 of the draft Guidance are sufficient to mitigate the risks to the safety and security of those carrying out a cull and to the general public?

35. Generally speaking we agree that these measures are sufficient to mitigate the risks but please note those comments in response to question d where they relate to paragraph 11.

36. We note that competence is to be demonstrated by attendance of a training course. We believe that this provides an adequate safeguard which will be complemented with ongoing monitoring to ensure compliance as it relates to safety and security.
37. We agree that Natural England should consider whether additional licence conditions are required to ensure public and operator safety, but stress that any additional conditions should be reasonable in the circumstances.
38. Paragraph 31 refers to the notification of licence applications in local press with invitations to comment. The pros and cons of this notification and the detail included should be very carefully considered, as whilst the guidance to Natural England may mean that they will not reveal details of operators / participating land owners, such notification would clearly focus opponents on the licensed areas and put participants at risk of direct / indirect actions.
39. We propose that the initial application process consists of more than 2 pilot areas (e.g. the 10 areas that might be approved in year 1-2). Then local notification can be given in those areas that are granted outline approval and the pilots can be selected from these areas. This could dilute attention and enable focus on areas where interference might be least, as assessed at the notification stage and would also expedite the roll out of subsequent areas should the pilots be judged successful.
40. Paragraph 32 refers to the Freedom of Information Act and states that the names of those operators undertaking the culling activities are 'unlikely' to be made public. We believe that more robust assurances should be made to operators.

g) Do you have any other comments on the draft Guidance to Natural England?

41. We have a number of other comments on the draft Guidance which are given below:

Annex A - Draft Guidance

Para 19:

42. As mentioned above in our answer to question d, we believe that the panel of experts should include practical veterinary opinion and experts from the field.

Para 20:

43. Again, as noted above the selection/application process should continue whilst the pilots are underway to ensure that maximum benefit is achieved in the first year, if the pilots are found successful. To pause the process would add delay and result in many less than 10 areas in the first year.

Para 21:

44. This paragraph states that '*Natural England should give the public an opportunity to comment on the licence applications that are made*'. We believe that these consultations should focus on those in the area likely to be affected. This process should not unduly delay the application process nor the subsequent implementation of a licensed cull.

Para 26:

45. This paragraph refers to the disclosure of information by Natural England. Absolute numbers of badgers reported killed are misleading and potentially emotive. They must be balanced against the assessed population at the start and performance against removal benchmarks for the specific area, referring to the monitoring information as contained in paras 24 & 25. As referred to in our response to question d (para 23) we believe that a target range should be specified rather than a specific figure. We suggest that percentages are published in relation to the targets.

Para 32:

46. We agree that consultation with the Welsh Assembly Government (WAG) should take place for applications near to the Welsh border. We believe that the edge of the area should be able to go up to the Welsh border if appropriate, with communication with the WAG regarding the possible perturbation effect in the surrounding area.

ANNEX C: Updated cost benefit analysis

47. We would like to make a number of points regarding the cost:benefit analysis.
48. The review by the scientific group referred to deviations away from methodology of RBCT having potential positive and negative effects. The proposed deviations from that methodology are logical and are much more likely to enhance the benefits than incur negative impacts:
 - a. The relative effect of perturbation will be reduced by the use of 'hard' natural or man-made boundaries
 - b. The relative effect of perturbation will be reduced in relation to the (increasing) size of area contained within a licence application.
49. The Impact Assessment includes a range of possible impacts which are difficult to evaluate accurately in terms of total cost:benefit. Therefore it is logical to assess cost:benefit as it evolves during and after the cull period in the approved / licensed areas.
 - a. It should be noted that the stated improvement in terms of the cost:benefit is primarily in favour of government rather than farmers, although this does not take into account non-monetised costs or benefits to farmers, as mentioned in the paragraph below.
 - b. It should be noted that cost therefore to the taxpayer is minimal
50. For the badger cull to be carried out effectively it clearly requires full support from the participating farmers.
 - a. Whilst important to demonstrate a clear a net benefit during and beyond the 4 year culling period, it is not necessarily the defining factor for those committing to the policy.

- b. For many farmers there will be a significant non-monetised component which would be very difficult to evaluate in a cost:benefit assessment.
- c. Such non monetary costs and benefits may well be as or more important to farmers committing to wildlife controls as those that are defined in the CBA.
- d. Whilst there is reasonable statistical evidence to provide guidance as to the longer term benefits as regards incidence and prevalence of bTB, it is a much more subjective view on how in the longer term adoption of such a wildlife control programme will impact on farming, regional (and international) trade, business planning and development.

ANNEX F – TB management agreement

3(9)(b) ‘the further taking or killing of badgers would be unlikely to result in an effective cull or to provide any further material benefit in preventing the spread (or reducing the incidence) of bovine TB in the Control Area;’

- 51. We ask that more explanation of this condition be provided and in particular the circumstances under which it could become an issue.

ANNEX G –Best Practice Guidance on Controlled shooting

- 52. The guidelines suggested are extremely laudable and if adhered to, should be sufficiently robust.
- 53. On page 11 of the best practice guidance, it is noted that headshots are not permitted in controlled shooting. However, the document mentions involuntary muscle spasms as an indication of a correctly placed shot (page 15). This should be clarified and linked only to where headshots are permitted i.e. cage trapping and shooting.
- 54. More guidance should be given about what procedures to adopt if a badger is shot and then goes to ground. We note that the guidance states that setts should not be disturbed, but an injured badger underground is a key welfare issue.
- 55. It is imperative that a humane and efficient kill-method is adhered to and that independent audits verify that shotguns are only used for shooting in traps or from high-seats at bait points. If it is considered that night-sights will improve targeting-efficiency and shot-accuracy then these should be permitted within badger-cull rules.
- 56. It is important that licence-holders are audited to check that they have had their firearms certificates amended, and this provides an ideal opportunity to verify the appropriateness of the calibre of the weapon and the type of ammunition expected to be used.

Page 17 - Bagged carcasses stored on site

- 57. Information should be given as where the carcasses should be stored and how to prevent vermin from disturbing the carcasses. Whilst we recognise the need to comply with ABP rules,

it would be better to have a derogation to allow removal to a secure location at approved / appropriate sites. This would also enable better control of cleansing and disinfection.

Page 19- Clinical waste handling

58. More specific details regarding disposal are needed.

Page 20

59. We believe there should be more detail here, for example in specifying appropriate care to avoid cuts and bites, and information regarding disinfection etc.