



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Consultation on guidance to Natural England on licences to control the risk of bovine tuberculosis from badgers.

28 August 2015



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Any enquiries regarding this publication should be sent to us at:

BTBengage@defra.gsi.gov.uk

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Part A: Background

1. Purpose of this consultation

- 1.1 This consultation is about proposals to update the licensing criteria that would apply to applications to Natural England (NE) for a badger control licence, from 2016¹.
- 1.1 The proposals apply to England and are part of the ongoing implementation of the twenty-five year strategy for achieving Officially Bovine Tuberculosis Free status for England². The aim of badger control within the Strategy is to reduce new incidents of Bovine Tuberculosis (bTB) in cattle³. The proposals are intended to increase the potential for achieving disease control benefits.
- 1.2 You can respond to the consultation questions at: <https://consult.defra.gov.uk/>. Views are not sought on wider bTB policy.
- 1.3 Responses are invited by 25 September 2015.

2. The badger control licensed in 2013 and 2014

- 2.1 The previous government consulted in 2010 on the options for a badger control policy, taking into consideration the scientific evidence and veterinary advice on badger culling and badger vaccination⁴.
- 2.2 Based on the clear evidence of the role of badgers in transmitting the disease to cattle and the contribution that badger removal can make to reducing bTB in cattle, a Policy Statement on controlling the risk of bTB from badgers and accompanying Guidance to NE⁵, was published in December 2011. This

¹ In the event of a future decision to extend licensed operations to additional areas from then. Licences to kill or take badgers for the purpose of preventing the spread of disease are issued under section 10(2)(a) of the Protection of Badgers Act 1992, and the Wildlife and Countryside Act 1981. Defra provides Guidance to NE about licence criteria.

² The Strategy for achieving Officially Bovine Tuberculosis Free status for England, (PB 14088).
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300447/pb14088-bovine-tb-strategy-140328.pdf

³ Comparable to the relative reduction in confirmed (now termed OTFW) breakdowns as seen in the proactively culled areas of the Randomised Badger Culling Trial (RBCT).

<http://webarchive.nationalarchives.gov.uk/20081107201922/http://defra.gov.uk/animalh/tb/culling/index.htm>

⁴ <http://webarchive.nationalarchives.gov.uk/20110203030352/http://www.defra.gov.uk/corporate/consult/tb-control-measures/index.htm>

⁵ The Government's policy on badger control in England (PB 13691)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69463/pb13691-bovinetb-policy-statement.pdf
Guidance to NE (PB13692): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69464/pb13692-bovinetb-guidance-ne.pdf

allowed farmers and landowners to vaccinate or cull badgers for bTB control purposes if licensed by NE. Two pilot culls began in 2013, in Somerset and Gloucestershire.

- 2.3 These continued in 2014 and the UK Chief Veterinary Officer (CVO) concluded that the outcome of the second year in Somerset indicated that farmer-led groups could, in the right circumstances, deliver the level of effectiveness required to be confident of achieving disease control benefits.
- 2.4 The Government considers that the removal of badgers where incidence of disease is high remains an important part of the twenty-five year strategy to achieve Officially Bovine Tuberculosis Free status for England. It has reviewed the experience to date and is considering changes to the licensing criteria that provide more flexibility to reduce badger populations effectively.
- 2.5 While the majority of the licensing conditions, such as those dealing with the numbers of badgers to be removed and biosecurity requirements, will be retained, experience has indicated that some criteria are unduly inflexible and no longer necessary to provide confidence of achieving effective population reduction.
- 2.6 The duration of an individual culling operation and the extent of the land access can be revised to reflect this experience. Also, updated statistical analysis of the RBCT⁶ indicates that the minimum area size can be reduced. The intention remains to secure the primary outcome of controlling bTB and a more detailed rationale for the changes is set out in the next chapter.

Part B: Proposals for updating the guidance

3. Specific Proposals

- 3.1 Any decision by the Secretary of State to implement these proposals will be informed by the experiences of a third year of badger control in Somerset and Gloucestershire and the first year of badger control in Dorset, as well as responses to this consultation.

⁶ See earlier footnote for the weblink to the RBCT.

- 3.2 The proposals are intended to increase the potential to achieve disease control benefits, by introducing more flexibility to enable culling where it will be effective in reducing badger populations.
- 3.3 Responses are invited to the three questions in this section.

Duration of the period of operations

Proposal 1: to increase the likelihood of achieving a significant reduction of the badger population (and thereby disease control) by providing for NE to keep the duration of the culling period under review, without specifying in the licence an initial limit on its duration. N.B. No change is proposed to the current closed seasons⁷.

- 3.4 A six-week initial limit on the duration of the badger culling period is currently stipulated as a licence condition. Defra's Science Advisory Council and the bTB Science Advisory Body (SAB-SAC) suggested six weeks as a compromise between conducting operations as intensively as possible to secure disease control benefits (while minimising the possible perturbation effect) and what was considered operationally deliverable by farmers.
- 3.5 Operations were extended beyond the initial six weeks in Somerset and, to a greater extent, Gloucestershire in 2013. This experience has shown that more flexibility in the duration of the culling period would provide a greater assurance of achieving the necessary reduction in the badger population.
- 3.6 Retaining an intensive effort from the outset of operations would be consistent with SAB-SAC's previous advice. Replacing the specific six-week initial limit with a requirement for NE to keep the duration of the culling period under review would allow operations to be adapted to reflect the requirements and progress of different control areas. NE would determine when to require culling to cease, as early as possible, once sufficient progress had been made⁸.
- 3.7 The intention to remove badgers as intensively as possible from the outset would still be articulated in the initial operational plan submitted to NE. NE's agreement with the licensed farmers, the Badger Control Deed of Agreement (BCDA), would impose an obligation to adhere to the operational plan.
- 3.8 The licence issued to farmers would be subject to any directions given by NE under the BCDA that required culling to be discontinued or suspended in all, or part, of the control area. The BCDA would also require the licensee to comply

⁷ Culling is not permitted during the following closed seasons: 1 December to 31 May for cage-trapping and shooting, and 1 February to 31 May for controlled shooting.

⁸ In the context of the need rapidly to reduce the badger population and the expectation that culling will continue for a minimum of four years.

with any directions that NE (after consulting the licensed company) had given to increase the likelihood of an effective cull within the available open season.

- 3.9 The assessment of the duration would take into account: the CVO's advice on disease control; the latest evidence and advice on the remaining badger population; and whether any immediate action is appropriate. It is proposed that updated Guidance to NE would give greater prominence to NE's discretion whether or not to take action to terminate operations on a case-by-case basis (with advice from the CVO where appropriate). The updated Guidance would reinforce the need for NE to keep the duration under review.
- 3.10 The Guidance would also emphasise that in exercising this discretion, NE should take into account the extent to which the operational plan is being complied with and the licensing criteria continue to be met (for example, whether the extent of access has been reduced since the grant of the licence) and, if so, whether this is likely to affect adversely the effectiveness of operations in reducing badger numbers.
- 3.11 This proposal preserves the principle of a proportionate duration of licensed operations that takes account of local circumstances and is sufficiently effective within the open season to achieve an acceptable outcome within the context of culling continuing over at least four years.
- 3.12 Question 1: We would be grateful for your views on altering the duration of the culling period, and amending the Guidance to NE as set out in paragraphs 3.9 and 3.10.**

Minimum size of a control area

Proposal 2: increase the range of potential areas that can achieve disease control benefits by acting on evidence that indicates a change can be made to the licensing criteria to allow culling in a minimum area size of 100km².

- 3.13 The current minimum area size of 150 km² is based on previous long-term analysis of the RBCT⁹, which had shown that to be highly (97.5%) confident of culling having a net beneficial result¹⁰ it should be carried out over an area of at least 141 km².
- 3.14 Subsequent statistical analysis¹¹ of the RBCT, including an additional two and a half years of data¹² has shown that beneficial effects have persisted for longer

⁹

<http://webarchive.nationalarchives.gov.uk/20130402151656/http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/tb/documents/bovinetb-scientificexperts-110404.pdf>

¹⁰ Measured by confirmed new herd incidents of bTB in cattle in the area to be culled and a surrounding ring of a 2km width.

¹¹ <http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=17993>

¹² Data from the time period one year after the last proactive cull to 28 March 2013.

than recorded at the time of the original analysis. This more recent evidence indicates that the same high confidence of a net beneficial result can be achieved in an area of 102 km². This can be rounded to 100km² for simplicity with a negligible loss of confidence (~97.38% instead of 97.5%).

3.15 While Somerset, Gloucestershire and Dorset (the additional area licensed this year) are all significantly larger than this proposed minimum size, there may be concentrated areas of high cattle density and infected badger populations less than 150km², where farmers wish control operations to be licensed in the future. Being clear on the smallest area in which badger removal could take place with the same high confidence of a net beneficial result would be important in these circumstances.

3.16 Question 2: We would be grateful for your views on reducing the minimum area size to 100km².

Land access requirements

Proposal 3: increase the range of potential areas that can achieve disease control benefits by providing more flexibility for licensing new areas with the potential to deliver an effective cull, by removing the licence requirement for at least 70% of the land in candidate areas to be accessible but retaining a requirement that approximately 90% of the land in the control area be either accessible, or within 200m of accessible land.

3.17 The current Guidance to NE states that applicants for badger control licences must satisfy NE that they have access to “at least 70%” of the total land area in the application. The Guidance also contains a requirement that “at least 90%” of the land within the application area is either accessible or within 200m of accessible land.

3.18 These existing requirements were based on the average land area accessible in the proactive cull areas in the RBCT. This does not mean that areas in the RBCT with less than this proportion signed up did not see a disease control benefit. Five of the ten proactively culled areas had less than 70% direct access but two of those met the 90% requirement. Of the other three, two had 86% and one had 83% of the land either accessible or within 200m of accessible land. The variation in the level of access did not significantly affect the disease control benefits of badger removal.

3.19 The existing land access licence requirements were used to help provide confidence of delivering an effective cull, pending experience of the licensed operations in 2013 and 2014. NE (and Defra) now have three years' experience of assessing operational plans to deliver an effective cull, and can apply that expertise to assessing future plans, e.g. if an area has sufficient cage traps and

manpower, without the need for strict guidance on the exact percentage of accessible land.

- 3.20 Experience from the RBCT demonstrated that, in order for 90% of the land in the control area to be accessible or within 200m of accessible land, it is likely that there would in any case continue to be a need in practice for approximately 70% of the total land of the application area to be accessible. We have considered whether a criterion of “approximately 70%” access materially adds anything to a criterion of approximately 90% of the land within 200m of accessible land, and have concluded that it does not. If the latter is satisfied, we consider that the former would be too.
- 3.21 Therefore removing the “at least 70%” requirement would remove a rigid inflexibility which could prevent an otherwise strong application with marginally less than 70% access to the total land from being taken forward.
- 3.22 Replacing the “at least 90%” requirement with “approximately” 90% has a similar rationale. The variance from 90% which will be accepted will be decided by NE on a case-by-case basis, with advice from the CVO where appropriate. Examples of possible factors that could be taken into account for this purpose would be the presence of areas inaccessible to or less suitable for badgers such as lakes, reservoirs, upland areas and urban areas.
- 3.23 Question 3: We would be grateful for your views on removing the 70% land access requirement from Defra’s Guidance to NE, and retaining only a requirement that approximately 90% of land in the cull area should be accessible or within 200m of accessible land.**

Part C: Tell us what you think

4. Your comments invited

- 4.1 Animal health policy, including bTB, is devolved. This consultation therefore applies to England only. Further information is available on bTB policy in [Northern Ireland](#), [Scotland](#) and [Wales](#).
- 4.2 This consultation is about a limited set of licensing changes and has three questions only. We recognise that there is interest in badger control and are therefore consulting publicly on our proposals. Anyone is welcome to respond to the consultation. The deadline for responses is 25 September 2015.
- 4.3 We have written to principal organisations that we believe have a direct interest in the proposals to help raise awareness about this consultation and to invite them to respond. We hope this will help ensure a wide range of informed views can be considered. Anyone else who would like to respond to the consultation is however free to do so. Each response will be considered in its own right and on its own merit.
- 4.4 You can respond in one of three ways.
- **Online** by completing the questionnaire at: <https://consult.defra.gov.uk/>.
 - **Email** to: bTBengage@defra.gsi.gov.uk.
 - **Post** to: Bovine TB Programme
Nobel House
17 Smith Square
London
SW1P 3JR
- 4.5 Our preferred method is online because it is the fastest and most cost-effective way for us to collate, analyse and summarise responses. If you require a different format, please let us know.
- 4.6 Every response will be read and considered by the policy team in Defra in taking forward our work on the policy. We intend to publish a summary of responses to this consultation. It will not be practical to describe every response in detail.
- 4.7 The summary will not include your personal name (unless you have asked us to include it) or other personal data such as contact details. The summary may

contain the name of your organisation, if you are responding on an organisation's behalf.

- 4.8 Defra will retain copies of responses for a suitable length of time. Please note that a member of the public can ask to see copies of information held. If you need to keep any part of your response confidential, please tell us when you respond. Please note that confidentiality disclaimers automatically added to e-mails do not count.

Important: We will take your reasons into account if someone asks for information. Because we must comply with the law, including access to information legislation, we cannot promise that we will always be able to keep details that you provide to us confidential.

Bovine TB Programme

28 August 2015

Annex A: Economic Analysis

Introduction

5.1 This annex sets out an assessment of the costs and benefits of the proposed changes to the guidance to Natural England (NE) on licences to control the risk of bovine tuberculosis from badgers. The proposals are:

- A licence change to provide for NE to keep the culling period under review, without any initial limit on the duration. Currently the guidance stipulates six weeks.
- A change to the licensing criteria to allow a minimum control area size of 100km². Currently the guidance stipulates a minimum of 150km².
- Remove the licence requirement for at least 70% of the land in candidate areas to be directly accessible but retain a requirement that approximately 90% of the land in the control area be either accessible, or within 200m of accessible land. Also, to clarify that, if considering whether to exercise its right¹³ to require the licensee to refrain from further culling, NE may take into account whether or not there have been changes to the land area initially signed up and whether or not these would be likely to prevent an effective level of badger removal.

5.2 The overarching aim of these proposals is to use the knowledge and experience gained from two years of licensed operations to ensure the requirements for licences are fit for purpose and as efficient as possible, while focusing licensing decisions on factors that will give the greatest chance of achieving effective population removal that contributes to delivering a net reduction in the level of bTB in cattle.

The costs and benefits of badger control

5.3 Defra's 2011¹⁴ impact assessment set out the expected costs and benefits of piloting badger culling to reduce bTB in cattle. During 2013 and 2014 licensed operations took place in areas of Gloucestershire and Somerset using a combination of controlled shooting and cage trapping and shooting.

5.4 The benefits of badger removal are the net reduction in the level of bTB in cattle herds within and around culling areas, as seen in the RBCT trial over 10

¹³ under the Badger Control Deed of Agreement.

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182452/bovine-tb-impact-assessment.pdf

years from the commencement of culling. These benefits are valued by the savings in disease control costs to farmers and Defra (i.e. taxpayers) through avoided cases of bTB in cattle.

- 5.5 The benefits to farmers are the avoided economic losses associated with repeated testing of herds where bTB is disclosed and movement restrictions until they are declared bTB free; the isolation, removal and slaughter of test-positive cattle, net of any taxpayer compensation received; economic losses associated with testing of neighbouring herds and any cattle traced from the infected herd; and the stress to farmers brought about by cases of bTB.
- 5.6 The benefits to Defra are the avoided costs of veterinary fees for repeated testing of herds until they are declared bTB free; the testing of neighbouring herds and any cattle traced from the infected farm; administration; and the removal, slaughter and compensation, net of salvage received, for any test-positive cattle.
- 5.7 The main costs of badger culling to licensed farmers are surveying, preparation and coordination which includes communication, planning, support, management and administration; and delivery of culling through a combination of controlled shooting and cage trapping and shooting which includes equipment and manpower.
- 5.8 The main costs of badger culling to NE (an executive, non-departmental public body, sponsored by Defra) are licensing of cull areas which includes scrutiny of applications and monitoring of compliance; the main costs to the Animal and Plant Health Agency (an executive agency working in England on behalf of Defra) relate to training and mentoring; and local police forces incur costs in relation to maintaining public order and safety. All of these costs are met by taxpayers.

Impacts of proposed changes

- 5.9 The proposed changes would apply to new areas applying for a licence from 2016 onwards in the event of any future decision¹⁵ to extend licensed operations to additional areas as from then. They are intended to ensure that the licence criteria for new areas are fit for purpose, whilst focusing decisions on factors that will give the greatest chance of delivering effective population removal that leads to a net reduction in the level of bTB in cattle.

¹⁵ No such decision is anticipated before consideration of progress made in the culling season of 2015.

Benefits

- 5.10 Licensed farmers: Should benefit from a more flexible approach to licensing which may enhance their operational efficiency. In particular the costs to farmers of preparation and coordination may decrease where the changes allow efficiencies and streamlining of the application process. For example, amendments to the guidance on accessible land within an area may reduce the costs of planning and administration if less land area is signed up in the agreements.
- 5.11 Defra, APHA, police forces: No benefits are anticipated for these bodies because overall these proposals are not expected to materially affect the benefits of culling on levels of bTB in cattle.

Costs

- 5.12 Natural England: Where the proposed changes require further scrutiny or review of applications the costs to NE may rise marginally.
- 5.13 Licensed farmers: These proposals to introduce more flexible and fit for purpose licensing requirements are not expected to generate costs for farmers.
- 5.14 Defra, APHA, police forces: We do not expect that there will be additional costs for these bodies as a direct result of these changes, as these proposals do not materially impact on the level of bTB in cattle or on the level of policing, when compared to the existing licensing regime.

Overall assessment

- 5.15 More flexible and fit for purpose licensing requirements should enhance the operational efficiency of licensed farmers. There may be increased administration implications for NE, e.g. keeping the duration of the culling period under review. All such impacts are expected to be relatively marginal. The proposed changes are not expected to materially affect the benefits of culling on levels of bTB in cattle.