

Natural England Board



Meeting: 12
Date: 16 September 2008

Paper No: **NEB PU12 03**

Title: **Implementation of Government policy on badger licensing**

Sponsor: **Tom Tew, Chief Scientist**

1. Purpose

- 1.1. To update the Board on the reactions to and implications for Natural England of the Government announcement on 7 July of its new policy on bovine tuberculosis and badger culling.

2. Recommendation

- 2.1. It is recommended that the Board consider the implications of the decision set out below.

3. The Decision

- 3.1. The Secretary of State has made a firm decision that licences should not be issued to farmers to cull badgers to prevent bovine TB. He remains open to the possibility of revisiting this policy under exceptional circumstances, or in the light of new scientific evidence. However, it is clear that there is a very firm presumption against culling badgers for the foreseeable future.

- 3.1.1. There were two other key messages:

- i) there will be no additional controls or enhanced TB surveillance in cattle; and
- ii) the focus of future efforts (and new funding) will be directed at the development and trial deployment of badger and cattle vaccines. The announcement is summarised at Annex 1.

4. Public Reaction

- 4.1. The reaction to the announcement was mixed, as expected, although the extent of media coverage on 7th July was less than anticipated, probably because of the coverage that followed the leak of the announcement on 4th July.
- 4.2. Neither national nor regional press office teams received enquiries about Natural England's role or views, with media interest focusing firmly on farmers and Defra. The wildlife licensing unit received two calls from members of the

public on 4th July (following the leak), and one since (to 3rd September). The Unit has also received three requests for information (mostly concerning historical data on numbers of badger licences issued) from the National Farmers Union.

- 4.3. The Environment, Food and Rural Affairs Select Committee published its response to the announcement on 23rd July. The Committee is supportive of the increased investment in vaccines, but believes that the Government is wrong to focus efforts solely on vaccination. It describes the Government's TB strategy as failing "...to recognise fully the seriousness of the situation." (see Annex 2 for further commentary on the EFRA Committee response).

5. Policy implications

- 5.1. The Government's policy is very close to our own position (Annex 3), particularly in the emphasis placed on the potential role, in the long-term, of vaccines in combating the disease.
- 5.2. Defra has provided a Policy Statement setting out the implications of the new policy for the licensing undertaken by Natural England on behalf of the Secretary of State under the Protection of Badgers Act 1992 for the purpose of preventing the spread of disease. That guidance was published on 2nd September (Annex 4 – Guidance to Natural England Under the Protection of Badgers Act 1992).

6. Operational implications

- 6.1. We do not expect to issue any licences to cull badgers to prevent the spread of bovine TB, except the small number which are routinely issued each year to animal hospitals allowing captive badgers (usually orphaned and rehabilitated animals) testing positive to TB to be euthanased. Furthermore, owing to the firmness of the language used in the announcement, we expect to receive few licence applications (unless there is an organised campaign challenging the policy). Under the Defra policy guidance it is likely that most applications will be rejected following an initial sift. Any that fall outside that guidance (i.e. are potential exceptions) are required to be referred to the Secretary of State.
- 6.2. The new policy rules out the killing (and taking) of badgers to prevent the spread of TB, but does not rule out licences to permit sett interference. A sett interference licence may be justified in certain situations, for example, to allow closure of a badger sett located under farm buildings where the continued presence of badgers would prevent effective biosecurity on the farm.
- 6.3. The licensing regime required to deliver this policy will be relatively simple, focusing on the provision of advice to farmers (e.g. on how to minimise contact between badgers and cattle) and screening any applications received. This will be delivered by a discrete unit within the Regulatory Services Team using existing staff resources. Security concerns are considerably less under a "no culling" policy. But there is still merit in separating this licensing function from the rest of Natural England's wildlife licensing work from the outset (e.g. by providing separate contact details for the public) as the outcome of any legal action against the policy cannot be predicted.

- 6.4. Forty-nine applications for licences to kill badgers were on hold when the policy was announced and none has been received since. Following receipt of Defra's policy guidance on 2nd September, Natural England commenced the process of determining those applications. A preliminary screening of the applications suggests that none of the 49 applications is likely to fall into the 'exceptional' category.
- 6.5. The Policy Statement (Annex 4) reinforces existing Government policy that badgers should not be moved outside their home ranges, because of the risk of spreading TB to other badgers and cattle. That policy is relevant to all badger licensing and has a particular bearing on the options available to resolve badger damage problems.

7. Legal issues

- 7.1. Natural England is authorised to issue licences under the Protection of Badgers Act 1992 on behalf of the Secretary of State in accordance with section 78 of the Natural Environment and Rural communities Act 2006.
- 7.2. As the licensing authority, there is a risk for Natural England that it will be judicially reviewed for not granting a licence under the Protection of Badgers Act 1992 to prevent the spread of bovine TB.
- 7.3. In such an event, our first line of defence will be to refer to Government policy. That would effectively mean that the Secretary of State would become a party to any proceedings. Defra have specifically acknowledged that they would expect this to happen. It is, however, important to ensure that our decision-making processes are separate to Defra's, and that we form our own view on the merits of granting a licence.

ANNEX 1

Defra's Key messages for bovine TB and badger announcement

Bovine TB and Badgers policy announcement Monday 7th July 2008

Key Messages

- The Secretary of State announced today that Defra's policy will be not to issue any licences to farmers to cull badgers to prevent bovine TB.
- Culling is ruled out but we remain open to the possibility of revisiting this policy under exceptional circumstances, or if new scientific evidence were to become available.
- Delivering an effective large area cull in practice would be a difficult and costly operation and need to be sustained for a number of years. Public opposition to culling would increase the challenge of effective delivery. We therefore cannot be certain any cull would be effective and a badly delivered cull would make the disease situation worse.
- The EFRA Select Committee recommended licences be issued to cull badgers only if farmers/ their agents could satisfy Government that they could meet the conditions for successful culling as set out by the ISG and Sir David King. The Secretary of State has decided the risk of making the disease worse if such stringent conditions were not met in practice is too high.
- This has been a difficult decision to take and we acknowledge that farmers are disappointed.
- We recognise that badgers will continue to be a source of infection for some herds.
- The Secretary of State has, therefore, decided that we need to put our effort into strengthening our programme of research to develop cattle and badger vaccines and plan for their deployment - £20m over the next three years.
- As part of this increased effort, we will be implementing an Injectable Badger Vaccine Deployment Project. The broad aims of the demonstration project are to help build confidence in the long term contribution badger vaccination can make to tackling bovine TB and to provide valuable information which can help us move towards the longer term goal of an oral badger vaccine.
- We want to work in partnership with industry to decide how we should move forward on the control of bovine TB. As with other areas of animal health policy, we want to share responsibility for decision taking with farmers. We will therefore be establishing a Bovine TB Partnership group with the industry to agree the best way forward.

- We now need to move forward together on this issue. We urge industry to engage with us, work with us and reshape the way Government and the farming industry work together to take future decisions about TB control measures.

ANNEX 2

The Environment, Food and Rural Affairs Committee response to the Government announcement on badger culling

On 23rd July, the EFRA Committee published the Government response to its report (published February 2008) on the findings of the Independent Scientific Group on Cattle TB, along with its comments on the Government response and the announcement by the Secretary of State of the Government's TB policy to Parliament on 7th July.

Key points

- The Committee describes itself as “*extremely disappointed*” by the “tentative” Government response to the recommendations in the EFRA report;
- It accuses the Government of failing to recognise the seriousness of the disease;
- It believes that the Government strategy is “*not good enough*” as it:
 - unwisely places “*all its eggs in one basket*” by focusing on vaccination; and
 - offers little beyond existing cattle-based measures (i.e. surveillance, testing and slaughter) to tackle the disease in the short-term.
- The Committee also accuses the Government of abdicating leadership via creation of a new Bovine TB Partnership Group involving industry.
- Defra is asked to respond to a number of additional points and the Secretary of State is requested to give oral evidence on his response to the February EFRA Report.

EFRA comments on key issues

Cattle-based measures and Cattle testing:

The Committee notes that the Government response reveals no additional measures, beyond what the Government is already doing. Responding to the Government view that increasing cattle testing or using the gamma interferon test more widely would come at a high cost with little benefit, the Committee has asked Defra to share its cost benefit analysis data with it. The Committee is concerned that decisions on cattle-based measures will be delayed should the industry not participate in the work of the Bovine TB Partnership Group.

Epidemiology and Biosecurity:

The Committee wants to know why a conclusive answer on the spread of cattle TB cannot be produced. In respect to biosecurity, Defra is urged to make the results of the biosecurity research available as soon as possible and to learn from the Welsh experiences on the animal husbandry intensive treatment area, and make preparations to introduce a similar scheme in England on a pilot basis at short notice. The Committee requested more information on the incentives for farmers for implementing biosecurity measures.

Vaccines:

The Committee welcomes the prioritisation given to vaccine development and wants the Government to commit to early discussions with the European Commission to resolve legal hurdles in relation to a cattle vaccine. It makes a number of demands for information on future research and funding on vaccines and TB.

Compensation:

Defra must be prepared to pay a fair price for cattle which are compulsorily slaughtered.

Badger culling:

The Committee is disappointed that Defra has not had detailed discussions with the NFU concerning badger culling in the south-west and wanted to know what assessment it had made of the NFU (actually National Beef Farmers Association led) proposal for a large-scale cull (referred to as "VLA 9"). The Committee has also asked for a clearer indication of the evidence the Government would need, and the circumstances that would be required, for it to revisit the policy of culling.

Scientific advice:

The Committee is disappointed that the Government hasn't accepted their recommendation for a continued dialogue between the Independent Scientific Group on cattle TB and the new Government Scientific Adviser, especially on the issue of culling.

ANNEX 3

Natural England's general position on badgers and bovine tuberculosis

Natural England acknowledges that bovine tuberculosis is a serious infectious disease of farmed cattle, causing economic hardship and emotional distress to significant parts of the farming community, which needs to be controlled.

We accept that badgers are a disease reservoir and their role in transmitting bovine tuberculosis (bTB) to cattle cannot be ignored. In the absence, to date, of an effective cattle vaccine, measures that minimise cross-infection between cattle and badgers must form part of any disease control strategy.

Past control measures based on culling badgers proved ineffective at controlling the rising incidence of the disease in cattle. We believe that a long-term solution which involves an integrated and multi-faceted approach provides the best hope of effectively controlling this disease. This solution should include a programme of vaccination in badgers, when available, combined with the diligent application of existing cattle-based measures, including surveillance, pre-movement testing and herd biosecurity. Cattle vaccination, though still some way off, will also be important.

The Independent Scientific Group report concluded that culling of badgers will often exacerbate the spread of the disease in cattle through perturbation of the badger population, and that culling will help disease control only in very specific circumstances when the scale of the area covered, and the intensity and duration of any culling programme, is very high. We note that following detailed consideration of both this evidence and other factors (including economic issues and the practicalities of delivering a cull) the Independent Scientific Group led by Professor John Bourne concluded that badger culling could not meaningfully contribute to the future control of cattle TB in Britain.

Annex 4

**GUIDANCE TO NATURAL ENGLAND: LICENCES TO TAKE OR KILL
BADGERS FOR THE PREVENTION OF BOVINE TB UNDER SECTION
10(2)(a) OF THE PROTECTION OF BADGERS ACT 1992**

