

Dorset County Council – 18 July 2013

**Badger Culling in Dorset
Briefing Paper by the Director For Environment**

1. Background

- 1.1 Defra has issued licenses for badger cull pilots to go ahead in Gloucestershire and Somerset to assess the effectiveness, safety and humaneness of controlling badgers by shooting in an attempt to control the spread of bovine TB. We are aware that an area in Dorset is being prepared as a contingency in the event that unforeseen circumstances prevent one of the two pilot areas going ahead. We do not as yet have any further details about the location or extent of that area.
- 1.2 Bovine TB is the most pressing animal health problem in the country. In 1972 only 0.01 per cent of cattle tested were infected. It has now spread extensively through the West of England and Wales. The number of new cases has doubled every nine years and in the last decade we have slaughtered 305,000 cattle across Great Britain. In 2012 in England alone, over 5.5 million bovine TB tests were performed, leading to the slaughter of 28,000 cattle at a cost to the taxpayer of nearly £100 million. At one point last year, 26 per cent of herds in the South West and West were placed under movement restrictions. In the last ten years bovine TB has cost the taxpayer £500 million. It is estimated that this will rise to £1 billion over the next decade if the disease is left unchecked.
- 1.3 Since 1994, £43 million has been spent on developing an oral vaccine for badgers and a vaccine for cattle. The Government has committed to investing a further £15.5 million in vaccine development over the next four years. Despite this, a potential cattle vaccine remains at least 10 years away. In addition to this, for a vaccine to be a workable solution changes to EU legislation will be required to enable cattle to be vaccinated against TB. Current legislation prohibits this and the country would risk seeing our beef and dairy exports banned if unilateral action were to be taken.
- 1.4 Within the EU the UK is the third largest dairy producer and fourth largest beef producer, both worth more than £8.4 billion to the economy. If the bovine TB issue is not brought under control it is possible that trade restrictions could be imposed on the UK.
- 1.5 The Government has also funded and developed an injectable badger vaccine and over the course of the next three years is making available £250,000 a year to support and encourage badger vaccination around the areas of any cull. The vaccine does, however, have significant limitations in the field. Badgers need to be trapped before they can be vaccinated and the process has to be repeated annually for many years; this limits its use to small-scale projects. In addition the vaccine is not 100 per cent effective in preventing TB and does not make any difference to those animals that are already infected. As a result Government advisors believe current vaccines, as far as they exist, will not be as effective as culling in reducing the spread of the disease from badgers to cattle.

2.0 Scientific Research

2.1 The research in the UK over the past fifteen years has demonstrated that cattle and badgers can transmit the disease to each other. The Government's position is based on the following information.

2.2 In 1997, Professor Lord Krebs and the Independent Scientific Review Group concluded that:

"The sum of evidence strongly supports the view that, in Britain, badgers are a significant source of infection in cattle. Most of this evidence is indirect, consisting of correlations rather than demonstrations of cause and effect; but in total the available evidence, including the effects of completely removing badgers from certain areas, is compelling."

2.3 Reflecting on the results of the Randomised Badger Culling Trial (RBCT), which was overseen by Professor John Bourne and the Independent Scientific Group on Cattle TB (ISG) which ran between 1998 and 2007, a 2007 report by the then Government's Chief Scientific Adviser, Sir David King, advocated culling as a tool in the battle against TB:

"In our view a programme for the removal of badgers could make a significant contribution to the control of cattle TB in those areas of England where there is a high and persistent incidence of TB in cattle, provided removal takes place alongside an effective programme of cattle controls."

2.4 In April 2011, a meeting of independent scientific experts at Defra, including Professor Lord Krebs, confirmed the evidence base for such a policy:

"The science base generated from the Randomised Badger Culling Trial shows that proactive badger culling as conducted in the trial resulted in an overall beneficial effect compared with 'survey only' (no cull) areas on reducing new confirmed cattle herd breakdowns which is still in evidence 5½ years after the final annual proactive cull."

2.5 Professor Christl Donnelly, a former member of the ISG, has published an update to her 2010 paper, *The Duration of the Effects of Repeated Widespread Badger Culling on Cattle Tuberculosis Following the Cessation of Culling*, saying:

"In the time period from one year after the last proactive cull to 28 August 2011, the incidence of confirmed breakdowns in the proactive culling trial areas was 28 per cent lower than in 'survey only' areas and on lands up to 2km outside proactive trial areas was 4.1 per cent lower than outside 'survey only' areas."

2.6 In January last year, Professor Donnelly published further analysis of RBCT data suggesting that badgers are responsible for half of all herd breakdowns in endemic areas:

"Based on mathematical modelling of data collected on badgers culled in initial proactive badger culls, estimates obtained by Donnelly and Hone (2010) indicated that on average at initial proactive badger culls roughly 50 per cent of bovine TB incidents could be attributed to infectious badgers."

2.7 There are a number of groups who oppose the badger cull, largely on moral grounds, but many people also dispute the scientific basis.

3.0 Dorset County Council

3.1 The County Council does not have a specific position on the proposed badger cull pilots, as this is primarily a matter of Government policy, but as with all such issues we hope that the Government will be led by the best available science in finding a solution to the problems associated with bovine TB.

3.2 However, there are three areas of operation where Dorset County Council would potentially have an interest in the event that a cull be extended to Dorset; Dorset Countryside, County Farms and Trading Standards Animal Health.

3.2.1 Dorset Countryside

Dorset Countryside's approach is to treat badgers as part of the asset on land used for public access, recreation and nature conservation. Badger watching tours are organised at Durlston Country Park.

3.2.2 County Farms

County Farm tenants, like all livestock farmers in Dorset, now live with the effects of Bovine TB as part of their everyday lives. Of the County Council's 53 farms, 33 holdings (62%) have been placed under TB restrictions in the last 5 years.

A dairy farmer who has a case of TB in his herd will have movement restrictions placed upon his farm preventing the movement in or out of any cattle. This will have knock on effects in terms of providing housing and feed for cattle which would otherwise be sold. Whilst the farmer is compensated for the loss of the culled cow, compensation is not provided for the loss of milk it produced and the movement restrictions which prevent restocking.

The farms are let on commercial terms at full market rents. There are no restrictions within the individual tenancy agreements which prohibit tenants from entering their farm into a cull. It is not possible to impose retrospective restrictions. Any attempt to try to impose any restrictions could give rise to a legal challenge from either the individual tenants, the National Farmers Union or the Tenant Farmers Association.

The current position adopted in respect of the County Farm Estate is to remain neutral on the subject and to allow the individual tenants to make their own moral decisions whether to make their farms available for any proposed cull or not.

3.2.3 Trading Standards Animal Health

The Trading Standards Service, its Trading Standards Service Manager, Authorised Animal Health Inspectors and other officers have no specific comments to make on badger culling proposals and their suitability. The culling approach is a government decision based on advice from government research scientists and Defra policy. There is a clear recognition that this highly sensitive issue generates strong feelings on either side of the debate.

As with many areas of animal disease control Local Authority officers (commonly in Trading Standards teams) enforce specific legislation using specific powers and fulfil certain statutory duties.

Under the Tuberculosis (England) Order 2007 cattle farmers are required in many geographical areas (including all of Dorset) to obtain a clear result from Tuberculosis tests before moving cattle. Dorset County Council's Trading Standards Service enforces breaches of this Order (this recently resulted in a

prosecution). Any restrictions on moving cattle causes additional work and costs for farmers and the Local Authority in carrying out its statutory duties. It is therefore in the interests of farmers and the Local Authority for Tuberculosis in bovines (cattle) to be less prevalent as the restrictions and administrative burdens of compliance will be less.

Trading Standards enforce animal welfare controls but this in relation to livestock/ farmed animals. The manner of any cull would not be a matter for Trading Standards to consider.

4.0 Positions Taken by Other South West Local Authorities

4.1 Somerset County Council

No land belonging to Somerset County Council is within the pilot cull area. As such this is not an issue which has been debated by the Council and no formal view has been formed.

4.2 Gloucestershire County Council

After 2 meetings of full Council the position reached by Gloucestershire County Council is that it is opposed to the pilot cull and as such has written to the Secretary of State confirming this. However, the legal advice they have received with regard to the legality of a cull on their tenanted County Farm Estate, has made it apparent that any decision to oppose or support the cull rests with the respective tenants, due to the nature of the existing tenancy agreements. This advice concurs with the advice provided by Head of Legal and Democratic Services below.

4.3 Wiltshire Council

There is no proposed pilot cull within Wiltshire and as such the issue has not been debated by the Council and no formal view has been formed.

4.4 Devon County Council

There is no proposed pilot cull within Devon and as such the issue has not been debated by the Council and no formal view has been formed.

4.5 Cornwall Council

There is no proposed pilot cull within Cornwall and as such the issue has not been debated by the Council and no formal view has been formed.

5.0 Legal Implications

In the context of a suggestion that a motion to the Council might propose a ban the Head of Legal and Democratic Services has advised on the culling of badgers, either generally or on County Council land only.

The County Council has no legal authority to introduce a general ban on the culling of badgers in Dorset. The County Council does of course own a large farm estate but its farms are tenanted and the County Council is not entitled to dictate to tenants on moral grounds how they should farm the land.

Under the Local Government and Housing Act 1989 I am the County Council's designated "monitoring officer" which means that under section 5 of the Act I am under a duty to intervene and prepare a report to the Council if at any time it appears to me that any proposal, decision or omission by the Authority has given rise to or is likely to or would give rise to a contravention by the Council of any enactment or rule of law. In the event of any motion to introduce a ban on the culling of badgers I would be bound to consider issuing such a report because of

the outcome of an attempt by Somerset County Council in 1993 to introduce a ban on hunting on part of that County Council's land. The Court of Appeal found the ban on hunting to be unlawful and I would be bound to advise Dorset County Council of this. Even if it was to be argued that the case of R v Somerset County Council ex parte Fewings might be decided differently nowadays I would be bound to caution the County Council against a course of action which would most likely see the Council embroiled in the same sort of lengthy and expensive court case that Somerset County Council involved itself in.

I realise that there are very strongly held moral views on both sides of the badger culling debate. I can only say that at a time when County Councillors are having to make very difficult decisions about spending and which services can be afforded it would seem very difficult to justify introducing a "ban" which would be of questionable effect and would most likely expose the Council to a very costly legal challenge.

6.0 Government Consultation

- 6.1 On 4 July 2013 Defra launched a consultation on a draft Strategy for achieving Officially Bovine Tuberculosis-Free status (OTF Status) for England.
- 6.2 The draft Strategy sets out how the Government envisages tackling the disease. The ambition is to make steady progress toward achieving OTF Status. This will take time. As progress is made, the Government hopes to be able to gain OTF Status for individual areas - or groups of areas - as early as practicable.
- 6.3 "OTF Status" takes its meaning from European law: for an area to be considered to have OTF Status at least 99.9% of the herds within it must have remained free from bovine TB for at least six consecutive years.
- 6.4 Members of the County Council may wish to make their own or collective representations on this consultation.

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