

# **Summary of responses to the consultation on Guidance to Natural England on the implementation and enforcement of a badger control policy**

**December 2011**

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This document/publication is also available on our website at: [www.defra.gov.uk/consult/2011/07/19/bovine-tb/](http://www.defra.gov.uk/consult/2011/07/19/bovine-tb/)

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## Introduction

1. Bovine TB is a pressing animal health problem and the Coalition Government has committed, as part of package of measures, to develop affordable options for a carefully-managed and science-led policy of badger control in areas with high and persistent levels of bovine TB. Following a public consultation in 2010, the Secretary of State confirmed her view that there remained a compelling case for badger control as part of a package of measures.
2. Before taking a decision on whether to proceed with the policy, the Government wanted to ensure that it could address a number of important issues that were raised during the public consultation. On 19 July 2011, Defra published a consultation on draft 'Guidance to Natural England on the implementation and enforcement of a badger control policy' which would be issued under section 15(2) of the Natural Environment and Rural Communities Act if a decision was taken to allow culling as part of a package of measures to control bovine TB. The consultation provided an opportunity for key stakeholders to comment on the draft guidance. The consultation closed on 20 September 2011.
3. Further details of the consultation can be found on the Defra website at (<http://www.defra.gov.uk/consult/>).

## Consultation Response

4. Defra received 45 substantive responses which addressed the questions posed in the consultation document. Most of these responses were from the key stakeholders who were invited to respond via formal letters from Defra. The remaining responses were from a variety of interested organisations and individuals. Around 65,000 other responses were received in the form of letters and signatures to petitions and campaigns, mainly disagreeing with the proposal to cull badgers.
5. A copy of each of the responses is available in the Defra Library in London, (unless the consultee requested that the response be kept confidential). The library can be contacted on 020 7238 6575 or via email at [defra.library@defra.gsi.gov.uk](mailto:defra.library@defra.gsi.gov.uk).

## Responses to consultation questions

6. The consultation sought views on specific questions relating to the draft guidance. The following sections include a summary of the main comments made in response to each

question; it is not intended to be an exhaustive record of all the points made. We have also given an indication of the number of responses which explicitly agreed with the proposals made under each question. In a large number of cases consultees disagreed with all proposals because they are opposed in principle to the proposal to cull badgers to reduce the incidence of TB in cattle. In addition some consultees were not explicit about whether they agreed or disagreed. The views given in response to this consultation are generally more nuanced than can be reflected in a short summary.

7. The responses received have been considered and have informed the Government's approach to tackling the reservoir of bovine TB in badgers in areas with high and persistent levels of TB in cattle. This summary briefly sets out, for each question, any changes that the Government has made to the policy as a result of comments received in light of the consultation. A full explanation of the policy and the rationale of each of the licence criteria is set out in the policy statement "The Government's Policy on Bovine TB and Badger Control".<sup>1</sup>

**Question 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'?**

8. As with many of the responses, the majority of those who disagreed with the basic culling policy requirements did so because they disagree with the principle of culling badgers in order to reduce TB incidence in cattle. Of the 30 responses that directly answered this question, 7 were broadly content with the basic policy requirements, others commented on the need for further clarification or amendments to parts of the policy requirements. An outline of some of the points made in the responses that relate to specific licence criteria are listed below.

9a All participating farmers are complying, and for the duration of any licence will continue to comply, with current **statutory TB controls**.

- The draft guidance did not indicate how compliance with statutory TB control measures would be monitored.
- More information is required on the approach Natural England would take in circumstances in which farmers may be non-compliant through no fault of their own.
- Culling licences should be withdrawn if any participant was found not to be complying with statutory TB controls.
- Non-compliance with statutory TB controls should be linked to reduced compensation payments from Government.

<sup>1</sup> [www.defra.gov.uk/animal-diseases/a-z/bovine-tb/badgers/](http://www.defra.gov.uk/animal-diseases/a-z/bovine-tb/badgers/)

9b Reasonable **biosecurity** measures are being, and for the duration of any licence will continue to be, implemented by participants on their land. For this purpose “reasonable measures” means measures that in the particular circumstances are practicable, proportionate and appropriate.

- Biosecurity measures must be implemented by all participants and should be mandatory within control areas.
- The assessment of biosecurity is a veterinary issue and Natural England is unlikely to have the expertise to assess whether appropriate biosecurity is being practised on farms.
- Any additional regime implemented by Natural England to inspect biosecurity is not required and could lead to duplication.
- Inspections should be undertaken by AHVLA staff and official veterinarians who currently undertake on-farm inspections and testing activity.
- Other organisations such as Trading Standards and the Rural Payments Agency also check compliance in the related areas of feed and food law or cross-compliance and information from the visits undertaken by these organisations might be used in order to avoid duplication.
- More detail is required on how Natural England would determine what measures might be deemed to be “practicable, proportionate and appropriate”.
- The assessment should be based on veterinary principles of disease control and made on a case by case basis.
- The costs of increased biosecurity measures might be prohibitive and tenants may not be able to implement reasonable measures, despite being willing to do so, where fixed equipment on holdings is the responsibility of the landlord.
- A biosecurity workshop would be useful for participants and non-participants in order to improve awareness of reasonable measures that could be taken.

9c. The application must cover an area of **at least 150km<sup>2</sup>**.

- A minimum size of 150km<sup>2</sup> and the use of boundaries are possible and are likely to mitigate perturbation effects.
- The minimum size requirement of 150km<sup>2</sup> is one of several deviations away from the tested approach of the Randomised Badger Culling Trial (RBCT).

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- There is no basis for assuming that an effective cull can be carried out over an area of 150km<sup>2</sup> or larger.
- Arable farmers in an area may have no incentive to join a cull or vaccinate badgers, which may affect the ability to meet the required area size to obtain a licence.
- The criteria should take into account the shape of the culling area, as deviations from a circular area could increase edge effects and undermine overall benefits.

9d The area must be composed wholly of land within the **Parish Test Interval 1 (PTI 1)** area at the time of application (i.e. an area within which cattle are subject to annual testing for TB).

- PTI 1 is the area where it is likely badgers are involved with persistent TB in cattle.
- Applications for a licence to cull badgers should be prioritised according to the incidence of TB in cattle and/or likelihood of transmission by badgers.
- Badger control should be targeted where disease incidence in badgers is highest.

9e There must be access for culling to at least **70% of the total land** area in the application.

- No comments were made in relation to this criterion.

9f The size and number of **inaccessible areas** within the application area should be minimised, with at least 90% of the land within the application area either accessible or within 200m of accessible land.

- This criterion is excessive, and was not achieved in the RBCT across all proactively culled areas.
- Failure to target badgers on areas of inaccessible land would be expected to reduce culling efficiency and undermine the benefits for cattle TB.
- It might be difficult for farmers to estimate the proportion of accessible land, and the proportion of inaccessible land within 200m of accessible land, without specialised (and expensive) software.
- More detail is required on how a potential conflict of interest would be arbitrated, in a situation where non-participants did not want badgers resident on their land to be culled (especially where they might be vaccinating badgers).

10.a. Culling must be **co-ordinated** on accessible land across the entire control area.

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- The delivery of a culling operation by farmers / landowners (rather than Government) deviates substantially from the approach taken in the RBCT and a farmer-led approach may not be able to match the effort employed when the RBCT was undertaken. This deviation from the conditions of the RBCT could increase the likelihood that the results will differ positively or negatively in an unpredictable way.

10 b. Culling must be **sustained**, which means it must be carried out annually (but not in closed seasons) for the duration of the licence (minimum of 4 years). The killing/taking of badgers will be limited to a six-week cull period specified in each licence and will not be permitted during the following **closed seasons**:

- i. 1 December to 31 May for cage-trapping and shooting badgers;
- ii. 1 February to 31 May for controlled shooting; and
- iii. 1 December to 30 April for cage-trapping and vaccination

- The duration of the licence should be increased beyond four years in order for culling to have the maximum positive effect.
- The culling period should be less than six weeks on the basis of evidence from the RBCT, where culling was generally completed over 8-11 nights. There is no scientific basis for extending this period to six weeks.
- The advice from ‘the Joint Group’ (Defra’s Science Advisory Council and Bovine Tuberculosis Science Advisory Body) was that it should be “preferably less” than six weeks and should extend to “no longer than 4-6 weeks”. The Best Practice Guidance should therefore refer to ‘less than six weeks’ rather than six weeks.
- The six-week cull period should be increased, because it is impractical to carry out culling in areas in excess of 350km<sup>2</sup> in a six-week period. A longer period should be permitted where local operations identify severe impediments to being able to complete the cull in the six-week period. It will be more difficult to achieve the required removal within six weeks in later years.
- Maintenance culling should be reconsidered to remove as many infected animals as possible. Repeated culling in-year would lead to greater reduction in cattle TB incidence. Some maintenance culling should also be permitted within the closed season.
- The closed season should extend from January until at least the end of July on the grounds that badgers are born between January and March and they remain dependent on their mothers for approximately 15 weeks.
- The closed season presented in the guidance is not consistent with Government advice given in the leaflet ‘Forestry Practice Guide 9: Forest Operations and Badger



Setts' where the breeding season is described as spanning the months of December to June inclusive.

- More detail is required on how contingency plans be would be assessed by Natural England and what they might consist of.

10 c. Culling must remove a minimum number of badgers in each year as specified below:

i. in the first year of culling, a **minimum number of badgers** must be removed during an **intensive cull** which must be carried out throughout the land to which there is access, **over a period of not more than six consecutive weeks**. This minimum number should be set at a level that in Natural England's judgement should **reduce the estimated badger population of the application area by at least 70%**;

ii. a **minimum number of badgers** must also be removed in subsequent years of culling through an intensive six-week cull which must be carried out throughout the land to which there is access. This minimum number should be set at a level that in Natural England's judgement should maintain the badger population at the reduced level required to be achieved through culling in the first year.

- A reduction of the badger population by 70% is appropriate.
- The aim should be to remove as many badgers as possible as was the aim in the RBCT - the greater the reduction level, the greater the positive impacts on TB control are likely to be.
- There are intrinsic difficulties and uncertainties in estimating badger numbers in proposed licensed areas and any estimate of the proportion of the badger population removed could have a very wide margin of error.
- To improve accuracy, extensive sett surveys would be required with population dynamics factored into the proposed method of estimation.
- There would be detrimental effects on disease control as a result of either overestimating or underestimating the number of badgers in an area.

#### Question A: Government's response

9. We do not propose to change fundamentally the licence criteria, as they are criteria which the evidence suggests are necessary to realise the overall reduction in TB in cattle in culled areas achieved in the RBCT. The rationale for each of the criteria is explained in the Policy Statement<sup>2</sup>.

<sup>2</sup> [www.defra.gov.uk/animal-diseases/a-z/bovine-tb/badgers/](http://www.defra.gov.uk/animal-diseases/a-z/bovine-tb/badgers/)

**Question 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?**

10. Of the 32 responses that directly addressed this question, 10 agreed the proposed mitigation methods are adequate and appropriate. Points made in the responses included:

- There is a need to take reasonable measures to minimise the impacts on those not participating in the culling operation.
- There is no evidence on the effectiveness of these measures in mitigating perturbation and/or its effects; and it is not possible to predict the impacts of perturbation from controlled shooting as it has not been tested before. Similar geographical barriers were used in the RBCT, yet detrimental effects still occurred.
- Where non-participants are not expected to derive any benefit from badger control they should be protected from any detriment, not least from a human rights perspective. Non-participants within and surrounding a control area should be fully compensated for any financial loss (including loss of trade, and as losses as a result of a reduction in tourism) and emotional stress caused as a result of a cull.
- The guidance should clarify who will be legally responsible if a non-participant suffers damage due to culling. Details should also be provided on what action non-participants can take for damage caused by badger control measures and/or breaches of licence conditions.
- Negotiations should occur between participants and the owners of land adjacent to the control area, to agree to an approach to culling along the boundary (particularly if vaccination is occurring on neighbouring land).
- Badger control operations on nature reserves should be for vaccination purposes only. Where nature reserves on which cattle graze are adjacent to control areas, landowners should provide badger-proof fencing to reduce badger movement from areas where the cull is in operation.

11. Many responses commented on the possible barriers and buffers, with a variety of views expressed. The comments made included:

- Only large rivers or the sea can act as a barrier to badger dispersal.
- Major roads with high traffic loads (i.e. all 'A' roads and major 'B' roads) could act as suitable buffers.

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- Badger-proof fencing on the scale required is very expensive and therefore is unlikely to be used.
- The use of poor badger habitat land should be excluded as surviving badgers may be more likely to cross land they do not normally inhabit when perturbed.
- The rationale for the policy (to reduce the incidence of TB in cattle) would be undermined if farmers agreed to accept the risk of a potential increase in TB incidence in the area surrounding the cull area.

12. A number of responses commented on the potential for vaccination to be used to mitigate the potential detrimental effects on non-participants, making the following points:

- The findings from the RBCT suggest that contact rates between badgers apparently increase in response to culling and therefore the effectiveness at the population level of a badger vaccine would be undermined, rather than reinforced, by combining it with culling.
- Vaccination should occur on all non-participating land within the control area and around the entire boundary.
- Vaccination should not be compulsory as it has no proven benefit and could be costly.
- Vaccination of badger cubs could be used in the periphery of the culled area to provide a source of uninfected badgers to re-populate an adjacent area as culling ends (as these juveniles are the individuals that are least likely already to be infected, most likely to disperse to re-populate the culled area and the easiest to catch).
- The ability of vaccination to mitigate perturbation effects would be limited by timing, if culling and vaccination commenced at approximately the same time.

### **Question B: Government's response**

13. We are content that this criterion and Natural England's guidance to applicants on reasonable measures to reduce the risk of detrimental impacts on non-participants remain appropriate.

14. We have, however, amended the recommended best practice guidance, to make it clear that where culling and vaccination are taking place on adjacent land, applicants should take reasonable steps to negotiate an agreed approach to badger control operations along the relevant boundary with that landowner/occupier. This is to ensure that the interests of those who may not want the badgers from setts on their land to be culled are taken into account.

**Question 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?**

15. Of the 33 responses that directly answered this question, 8 agreed the proposed requirements were proportionate and appropriate. Specific points made in the responses in relation to the relevant criteria are listed below .

9h Applicants and owners of land must **enter into agreements under section 7 of NERC** to permit access to their land for culling (including by Government). The agreement should be entered into by the freehold owners of at least 70% of the Control Area unless Natural England considers that the likelihood of accessible land falling below 70% as a result of the termination of any tenancy for any reason (see para 9e) is very low. This may depend on:

- i. the margin of accessible land above the minimum of 70%;
- ii. the proportion of accessible land where the freehold owner is not participating; and
- iii. the length of the tenancies to which the accessible land is subject.

- The proposed approach is neither proportionate, nor appropriate and likely to be prohibitively difficult to achieve in practice.
- The involvement of freehold owners should only be necessary where the occupation of the farmer concerned is either insecure or will not extend for the full period envisaged by the culling operation. Where there is an agricultural tenancy let under the Agricultural Holdings Act 1995 for a term of years equal to or greater than the cull period, the agreements should be made between the tenant farmer and Natural England. Where the agreement holder does not have security for the length of the agreement they should be required to obtain their landlord's counter-signature to ensure that the scheme can continue if the tenancy agreement is brought to an end and not renewed.
- There may be difficulties in persuading large institutional landlords to countersign the agreements as they may consider that the decision to cull badgers is one for the tenant alone to decide.

9i Applicants must have arrangements in place to **deposit sufficient funds** to cover the total cost of a four-year cull, plus a contingency sum, and this deposit must be made before culling begins.

- As the farming community operates on very low margins it is not proportionate to require participants to deposit the total cost of the cull, plus a contingency sum, before culling commences and this may be a disincentive to potential participants.

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- The level of the deposit should be based on participants' costs.
- Basing a 'sufficient funds' deposit on the lowest cost estimate may be unrealistic and unwise.
- The Government should bear some of the financial risk if there was a need to revert to cage-trapping and shooting only (i.e. if the Government decided not to proceed with allowing controlled shooting following the pilots).
- More detail is required on the mechanism to be used to ensure funds are accessible by all parties responsible for undertaking control operations, including the Government in a default situation.
- Any mechanism under which Government sought to control the applicants' access to their own funds would be wholly unacceptable.
- More detail is required on how individual contributions to the cost would be calculated, such as for non-bovine susceptible species whose owners might want to participate.
- Other mechanisms to ensure that funding was available in the event that Government needed to intervene to complete a cull could include guarantees, performance bonds or an insurance-based model.
- In the pilot areas, the first year of culling should be funded by Government, with future years funded through the Responsibility and Cost Sharing Levy funds. This should include a levy to fund future culling and vaccination of badgers.

### Question C: Government's response

16. In light of responses to the consultation, we have made some amendments to the proposals and provided further detail on the requirements for the upfront financial deposit.
17. The draft TB Management Agreement on which we consulted has now been split into two agreements to clarify the requirements on the different signatories. The licensee will be required to sign a Badger Control Agreement (under section 13 of the of the NERC Act) requiring them to comply with the requirements contained in the Guidance to Natural England and any additional licence conditions for the purpose of ensuring that:
- an effective cull is carried out each year for a minimum of four years; and
  - the financial deposit is sufficient and is managed appropriately.
18. All participating farmers will be required to sign a TB Management Agreement (under section 7 of the NERC Act) requiring them to permit access to their land for culling

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(including by Government) and to take appropriate biosecurity measures, and agreeing that Government can recover any additional costs of culling

19. We are retaining the requirement that the TB Management Agreement should also be entered into by freehold owners (or landlords) of at least 70% of the Control Area (unless Natural England considers that the likelihood of accessible land falling below 70% as a result of the termination of any tenancy for any reason is very low). This is because of the necessity of ensuring that there will always be access to at least 70% of the control area in order to deliver an effective cull. Without this, we could not be confident that tenanted land would continue to participate if the tenancy came to an end. We have, however, amended the structure of the agreement so that landlords sign an undertaking appended to the agreement to allow access to land rather than countersigning the tenants' agreements, and made it clear through the agreement that landlords would not be financially liable for any additional costs of culling.

20. We have also provided more details, in the Badger Control Agreement, of how the upfront financial deposit should be managed.

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

11 a. Those licensed to kill badgers must be able to demonstrate a level of **competence** appropriate to the method they will be licensed to use. Successful completion of a training course approved by Government will be taken as proof of competence.

11 b. Culling must be in line with the Best Practice Guidance.

11 c. In order to ensure humaneness, only two **culling methods** will be permitted (which can be used in combination, or as single control methods):

i. cage-trapping followed by shooting; and

ii. controlled shooting.

11 d. All badger carcasses must be disposed of in line with **Animal By-Products Regulation 1069/2009/EC**.

21. Of the 29 responses that directly answered this question, 6 agreed that the proposed measures are adequate and appropriate. A number of specific comments were made on the proposed approach as follows:

### *Training*

- It is inappropriate for farming industry to design and deliver the training, given the lack of expertise in this specialist area.

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- All operatives should be required to pass a night-shooting assessment. The DSC1 certification is not applicable to the shooting of badgers at night using a spotlight
- The use of the DSC1 certification of marksmanship is an appropriate assessment of competence for badger control. The introduction of a badger-specific or night-shooting assessment is unnecessary, likely to be expensive and could form another barrier to the successful implementation of the policy

### *Best Practice Guidance*

- The minimum distance of shooting from a sett (30m) should be increased substantially because a wounded badger could cover this distance more quickly than a second shot could be delivered.

### *Control Methods*

- As humaneness is a relative concept and not an absolute one, a satisfactory reconciliation has to be achieved between the desirability of the aims and the cost of achieving them.
- There are unavoidable welfare and safety risks associated with controlled shooting, as badger behaviour and anatomy mean there is a high risk of wounding with controlled shooting.
- It will be very difficult to monitor how many badgers will be wounded and subsequently escape to thick undergrowth or a sett.
- A trap, test and euthanize method should be considered and researched as a culling method.

### *Monitoring*

- The control measures should be overseen and audited by agencies with no financial interest in the process (for example, the RSPCA).
- Consideration needs to be given to how Natural England will audit the information reported by contractors for accuracy.
- The proposed monitoring is inadequate, as without sufficient observers shooters will “take short-cuts” and may illegally dispose of carcasses that show evidence of wounding or a second shot.
- Operators would never choose to dispose of carcasses illegally as, apart from risking criminal charges, such actions would also place the operators’ firearms / shotgun

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certificate at risk. Therefore, onsite monitoring is only required if there are concerns following inspection of carcasses.

- The very presence of an observer may affect the behaviour of those being observed, and a possible solution to this would be the use of CCTV systems for digital video recording, particularly where shooting at bait points is the method used.
- To avoid the potential problems of sampling bias, all carcasses should be submitted with the randomised sampling for post-mortem undertaken at the laboratory.
- The impact of controlled shooting on other species should be monitored.
- The current draft of the Management Agreement allows access at “reasonable times, with reasonable prior notice”. There is a need to ensure that unannounced visits are also permitted to ensure effective monitoring.
- A sample of carcasses should be tested for evidence of TB to determine whether incidence is rising or falling. If it is found that a high proportion of badgers in a particular control area do not carry TB then culling should cease and be replaced by vaccination.
- The monitoring must have enough “statistical power” to reveal the difference between culled and uncultured areas; therefore some areas that will be used in comparison should be excluded from eligible areas for licensing but be subject to the same level of advice and input on biosecurity.

### *Pilots*

- As there is no direct evidence base for controlled shooting, the pilots are a welcome proposal. Lessons learned from the pilots should be reflected in the Guidance and best practice guidelines.
- Six – eight weeks should be sufficient for pilot evaluation. The pilots should also be used to evaluate administrative and other operational aspects and review the safety of controlled shooting.
- Two panels or subsets of a larger panel would be required for evaluation of the two different elements of the pilots – humaneness and effectiveness.
- More detail is required on what ‘failure’ of the pilots might look like and what the exit strategy would be in such a situation.
- The pilots may not be representative of potential cull areas as the size can vary extensively. The logistics of operating at different scales, sustained and simultaneous are likely to be very different.



**Question D: Government response**

22. Having considered the responses to the consultation, we have amended the proposals so that all operators (including those with the Deer Stalking Level 1 Certificate) will be required to undertake a specific badger marksmanship test to include:

- shooting at a zeroing/grouping target (using a rifle) to assess whether the rifle is zeroed correctly and if the operator can shoot accurately and consistently;
- shooting at a badger target (using a rifle and shotgun);
- shooting at a badger target at night with the aid of a lamp (using a rifle and shotgun). These targets could be in a field at unknown locations with safe and unsafe areas;
- assessment of the attendees' ability to judge distances and know when a badger would or would not be within range.

This will ensure that all operators are assessed on the same basis and have demonstrated the same high level of competence.

**Question 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?**

Natural England should aim to ensure that culling will “not be detrimental to the survival of the population concerned” within the meaning of Article 9 of the Bern Convention on the Conservation of European Wildlife and Natural Habitats, and for this purpose in considering applications for a licence should have regard to the guidance of the Standing Committee on the interpretation of Article 9 of that Convention. (The current guidance is dated 27 October 2010, document T-PVS/Inf (2010) 16). For that purpose Natural England should:

- a. determine appropriate area-specific licence conditions; and
- b. set a maximum number of badgers to be removed from the licence area.

23. Of the 28 responses that directly answered this question, 6 agreed that the measures were appropriate. Specific points made in the responses included:

- Additional measures should be included in the policy to address concerns about the impact of culling on the badger population, including setting a limit on the size of individual control areas and on the total contiguous area; and setting an upper limit on the number of licences to be issued each year which is lower than ten and/or a lower maximum number of concurrently running licences.
- No additional measures are necessary and there should be no upper limit on the size of the control area.
- Controlled shooting carries a far greater risk of local extinction than cage-trapping and shooting.
- It will be difficult to set a minimum and maximum number of badgers to be removed given that there are no up-to date reliable figures for badger population numbers at the spatial scale proposed. Because of the lack of information on badger numbers, neither upper limits on badgers licensed nor adjustments to monitoring during control operations can guarantee survival locally.
- The only reliable way to assess the badger density reduction achieved by culling would be to conduct field studies before and after culling, using consistent methodology.
- A badger control policy should be delayed until after a regional census of badger numbers.
- The setting of an upper limit on the number of badgers to be removed would ensure that local extinction should not occur.

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- No upper limit should be set as there is a risk that the maximum number of badgers allowed to be culled will be set by Natural England at a level that is too low to allow the full benefits of culling to be realised.
- The Government has not adequately established that there are 'no satisfactory alternatives' nor that the policy will not be detrimental to the survival of the local badger population.

### Question E: Government response

24. Having carefully considered the points raised in responses to the consultation, we remain of the view that the requirements at paragraph 12 of the Guidance to Natural England, together with the general safeguards within the policy, are sufficient to be confident that culling will not be detrimental to the survival of the relevant population of badgers. These safeguards include:

- only permitting culling in the area of England where TB is endemic – defined as the area under annual routine TB testing;
- setting a maximum on the number of badgers that might be removed from each licensed area in each year;
- granting no more than 10 licences each year;
- implementing a closed season over winter and spring months; and
- monitoring badger activity in licensed areas.

### Question 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?

25. Of the 29 responses that directly addressed this question, 6 agreed that the measures were sufficient. Points made in the responses included:

- Posting notices to inform the public about the dates of culling operations may encourage targeted disruption and intimidation by anti-cull protestors, which could compromise both public and operator safety and the effectiveness of the policy. The use of firearms for fox and vermin control during the hours of darkness is an extensive and regular practice with a long-term safety record, and notices are not generally posted to alert the public to these control operators.
- The proposed 28-day "opportunity to comment" will enable the identification of all livestock farmers in the area (even those not participating in the control operation) and they could become the target of protest activities. Instead applicants should be

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able to consult privately with those who might be affected in order to minimise security risks.

- More robust assurances are needed about Government's ability to protect farmers from identification under freedom of information legislation and that the precise location of the first two control areas will not be released.
- Information about the location of control areas should be made available, because the public has the right to peaceful protest.
- The use of notices on parish notice boards is inadequate; all residents within and on the periphery of the control area, as well as emergency services and local medical facilities should be directly informed of dates, times and locations of proposed control activities. Information on proposed culling operations should also be publicised in Tourist Information Centres.
- The proposed culling methods have serious consequences for public safety, far beyond those of the RBCT, especially with respect to controlled shooting being carried out at night.
- Public liability insurance should be required for all those involved in a cull to ensure protection to all in case of injury or fatality.

### **Question F: Government response**

26. We remain of the view that it is appropriate for Natural England to give the public an opportunity to comment on the licence applications that are made and so have not amended this requirement. Following the consultation, the guidance has been amended to clarify that NE will act on advice from the local police forces on whether additional licence conditions are required to protect public and operator safety.

**Question G: Do you have any other comments on the draft Guidance to Natural England? Please refer to the specific paragraph number(s) in your response.**

27. Additional points made in response to the consultation included the following:

- a) Natural England should allow for an appeals process on the decision to grant or withhold a licence to cull badgers.
- b) Implementation should proceed cautiously in a phased manner with regular checks and independent evaluation at each stage.
- c) Licences should also be issued in two-year testing parishes to allow comparison to be made as to the effectiveness in controlling TB in the most heavily infected areas as compared with areas where lower level of infection would be expected
- d) Government should consider whether AHVLA would be a more appropriate organisation to issue licences given its veterinary expertise.
- e) Government must ensure that there are sufficient resources to allow the efficient processing of both wildlife licences and variations of firearms certificates.
- f) The guidance should make clear that the Welsh Government is the licensing authority for Wales and for those cases where an application straddles the border they will issue a licence along with Natural England.
- g) The cost of policing and security should be included in the cost-benefit analysis.
- h) Annex H should contain details of enforcement action that will be taken against licence holders if they fail to comply with licence conditions.
- i) Natural England's Enforcement Policy Statement of March 2009 is not appropriate for the enforcement of a Badger Control Policy. Monitoring and enforcement will need to be much more vigorous.

**Question G: Government response**

28. The points raised have been taken on board where appropriate (points b, e, f, g, h and i above). In response to the other points:

- the Protection of Badgers Act 1992 does not include an appeals mechanism, however the "Local Opportunity to Comment" exercise gives those potentially affected by a badger control licence the opportunity to make their views known to Natural England so that they can be considered as part of Natural England's licence decision.
- we are not proposing to extend the area eligible for culling licences to areas under two-yearly routine TB testing. This is because badger culling should be

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focused on the areas worst affected by TB in cattle, which for this policy is defined as being in the annual routine TB testing area.

- Natural England is the appropriate licensing authority for licences under the Protection of Badgers Act 1992 – a function delegated to Natural England in the Natural Environment and Rural Communities Act 2006.

## The way forward

29. Having considered the responses to this consultation and the 2010 public consultation, alongside other evidence, the Government has decided to proceed with a policy of badger control, initially licensing two pilot areas in the first year.

30. A policy statement outlining the reasons for the Government's decision has been published and is available at [www.defra.gov.uk/animal-diseases/a-z/bovine-tb/badgers/](http://www.defra.gov.uk/animal-diseases/a-z/bovine-tb/badgers/).