

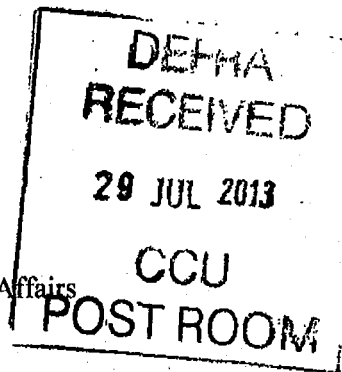


Royal Society for the Prevention of Cruelty to Animals

23 July 2013

Our Ref: GG/aw

Rt Hon Owen Paterson MP
Secretary of State for Environment, Food and Rural Affairs
Defra
Nobel House
17 Smith Square
London SW1P 3JR



Dear Owen,

Defra assessment of humaneness test on badger pilots

The RSPCA was pleased to see in the draft 25 year strategy on achieving bovine TB free status that there would be a pause in 2014 to evaluate the report from the expert panel that you set up to evaluate humaneness before deciding whether to cascade out badger culling to other areas. This assessment will be crucial if the pilots are to retain any scientific credibility. However as there has been little information released as to what information the pilots will be collecting and no information released from Defra on what test will be applied to assess if the pilots have been successful or not we can only conclude that this exercise is not open and a decision is already made on rolling out the culls to other areas.

It is essential that the two pilots are assessed scientifically and transparently. Whilst recognizing that some aspects of the cull need to be confidential, the redacted document that has been released on assessing the humaneness of the culls does not show several key issues such as how badgers that have been shot, wounded and escaped will be assessed, how the shot badger carcasses will be collected to prevent bias, or how the person collecting the data will be attached to certain shooters or what will happen if the minimum number of carcasses to be assessed (500) are not collected. In addition you have not made clear what judgments and tests you will be adopting once the report is passed on to you by the panel. For instance would a mark of 80% of badgers dying instantly be enough to pass the humaneness test? The RSPCA believes that unless you release the report and the tests under which you will assess humaneness, the pilots risk losing their credibility to the wider public as well as to many MPs that supported the pilots and who now find that they will no longer have any say in widening out the culls to the areas outlined in the 25 year strategy.

On a separate issue the EFRA pre-legislative scrutiny report released last week on circuses removes the last barrier that remained for Defra to publish its Bill on circuses. The RSPCA does not agree with the EFRA report that any Bill should only prohibit elephants and big cats. There is no evidence for a partial ban, unlike a complete ban, and every other country that has recently undertaken prohibitions have done so on the basis of a complete ban on the use of wild animals in circuses.

Gavin Grant
RSPCA Chief Executive

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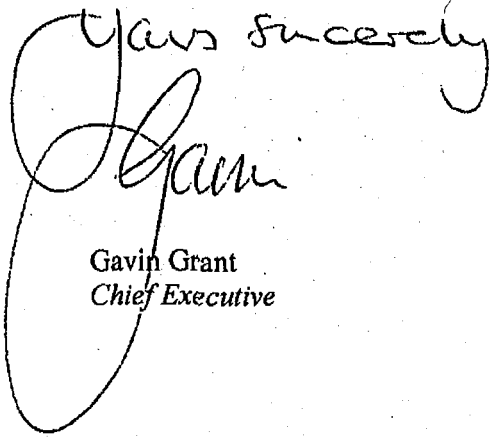
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Vice Patron His Grace
The Archbishop of Canterbury

The RSPCA would warmly welcome you publishing your timetable and Bill soon so that it can start its parliamentary stages and I would welcome confirmation on when you expect this to occur.

Yours sincerely


Gavin Grant
Chief Executive



**Department
for Environment
Food & Rural Affairs**

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Gavin Grant
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Our ref: PO 318018/CC
Your ref: GG/aw

(Signature)
August 2013

The Rt Hon Owen Paterson MP
From the Secretary of State

Thank you for your letter of 23 July regarding your concerns about releasing details of the humaneness monitoring of the pilot badger culls and wild animals in circuses.

As you are aware, we have put in place plans for intensive monitoring to test our assumptions about the humaneness of controlled shooting. We have made a summary of the procedures for this monitoring available on our website. In addition, we made some further details available earlier this year, in response to a request which we handled under the Environmental Information Regulations.

As you state in your letter, it is of fundamental importance that these assessments of humaneness provide a clear and credible evaluation of the impacts of controlled shooting. However, we do not agree that placing all of the details of the protocols for this monitoring in the public domain is the best way to achieve this. Releasing these details risks compromising the delivery of robust and meaningful results. The reasons for this are set out below.



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1. The monitoring involves the collection of information relating to a number of variables. It is important that full details of what these variables are and how they will be used to assess humaneness are not available to those carrying out the shooting itself. This is so that there can be no possibility that a shooter adjusts his/her behaviour in order to influence the results of the monitoring. We have every confidence in the integrity and commitment of those carrying out the cull. Nevertheless, it is important to be able to demonstrate that those being monitored are unable to influence the results of such monitoring. Public release of full details of the monitoring procedures would make this assurance impossible.
2. Release of the full monitoring procedures would potentially prompt any individuals seeking to disrupt this policy to attempt to find out the timings and location of monitoring activity. This could potentially jeopardise the data collection process.
3. Release of this information would also potentially allow the identification of individuals, teams, or organisations involved in the monitoring. Such information could be used by those opposed to the policy, to target individuals. This is a controversial area. Some individuals involved in similar work have previously experienced intimidation by animal rights activists and threats have been made to individuals and their families.

For the reasons given above, we do not intend to release any further details of this monitoring until after the pilots have been completed. However, as stated above, we are mindful of the importance of a robust assessment of humaneness, and have put in place a number of measures, detailed below, to allow reassurance on this issue:

1. The monitoring protocols are the result of an extensive process of discussion and development within Defra, dating from the early stages in the design of the badger control policy. This has drawn on the substantial expertise in humaneness and animal welfare science that is available within the Defra network. Draft protocols have been scrutinised by evidence specialists and statisticians within the Defra network. They have also been subject to review by the appropriate ethics committees.
2. The protocols, developed as outlined above, have then been subject to independent scrutiny by the expert panel. The function of the panel is one of independent peer review and quality assurance, as outlined in its terms of reference which are publicly available.
3. The findings of the monitoring will be subject to a similar degree of independent scrutiny by the panel. As part of their assessment, the panel will examine the robustness of the entire monitoring process, including the processes of data collection and data analysis, through to commenting on the validity of the conclusions drawn.

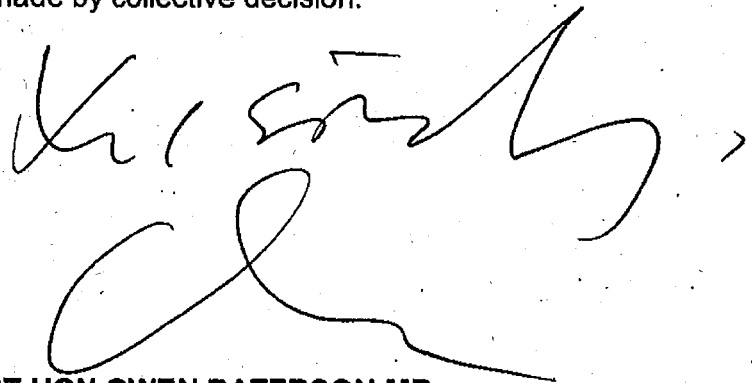


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4. The panel will be supported in this by an independent audit of the use of data, by a qualified and experienced auditor.
5. As set out in the information released previously under the Environmental Information Regulations, in addition to a final report following conclusion of the pilots, monitoring data will also be reported during the pilot period itself, so that action can be taken if appropriate.

You ask in your letter what specific judgements and tests will be adopted once the results from the monitoring have been reported. The expert panel has examined and approved the proposed variables on which information will be collected as part of this monitoring. As judgements on humaneness are to some extent subjective, it is appropriate that a final decision on humaneness is taken by Ministers, who are publicly accountable for their decisions and actions. However, this decision will be based on all relevant information collected during the monitoring, together with the panel's expert assessment of this information.

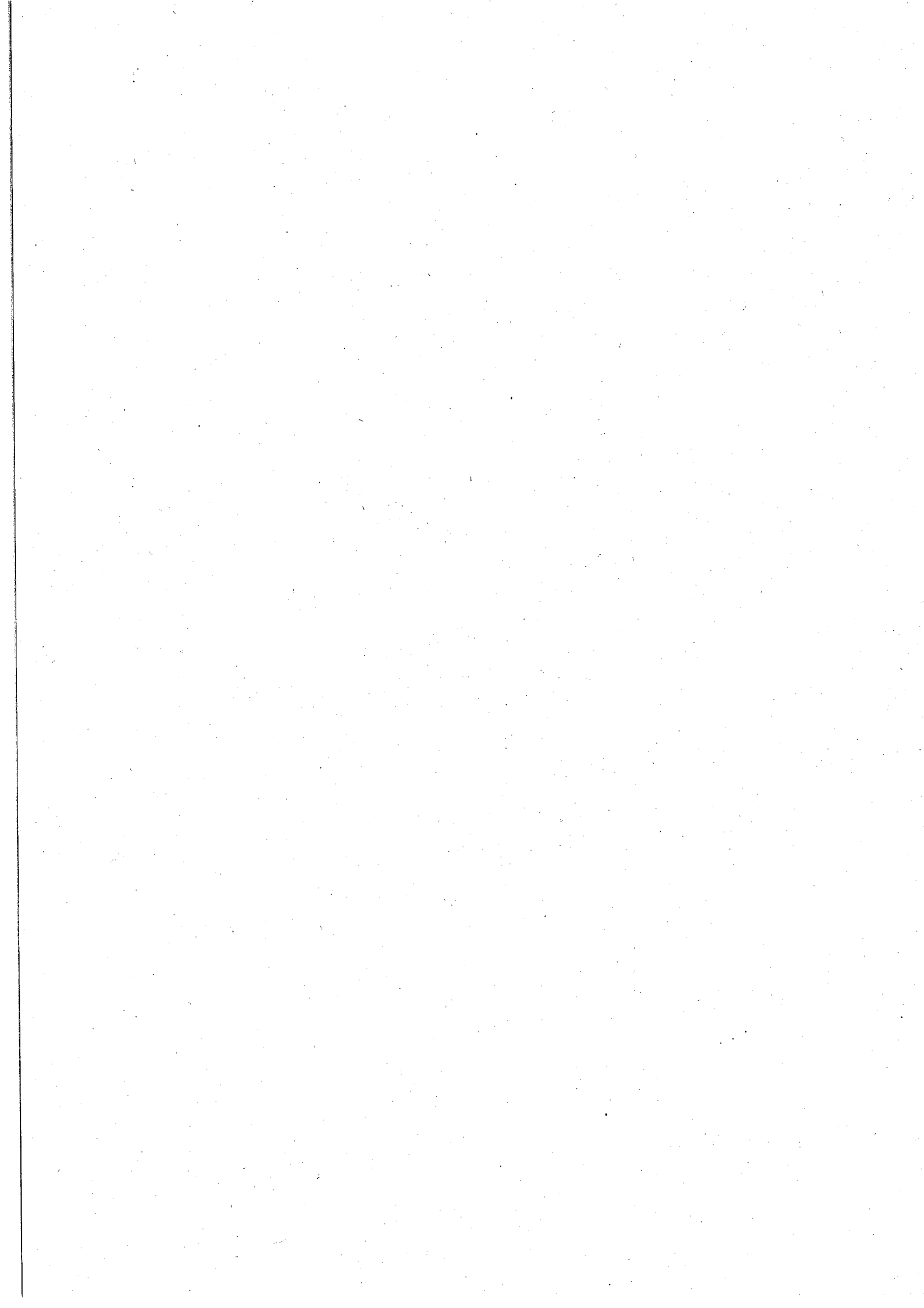
On the Government's draft Wild Animals in Circuses Bill, we are currently considering EFRA's recommendations. The Government has then to formally respond to EFRA's report and we will be doing this in due course. As I said in my letter of 26 June, I cannot say more about the future parliamentary timetable at the moment. Decisions on future parliamentary programmes are made by collective decision.



THE RT HON OWEN PATERSON MP



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Royal Society for the Prevention of Cruelty to Animals

22nd August 2013

Rt Hon Owen Paterson MP
Secretary of State
Defra
17 Smith Square
London
SW1P 3JR

Sent by email: secretary.state@defra.gsi.gov.uk

Dear Mr Paterson,

I write to repeat our previous requests for the immediate provision of basic information concerning the location and timing and the assessment of humaneness of the imminent proposed badger culling pilots in England.

Humaneness information

Regarding the criteria and process for assessing the humaneness of the proposed badger culling pilots this year, you will be aware of the recent Information Commissioner's Office decision on the application under the Freedom of Information Act 2000, to wit that Defra was incorrect to apply 12(5)(a) to parts 2, 4 and 5 and 12(5)(g) EIR to parts 4 and 5 of the request and the request that Defra disclose the previously redacted information within 35 calendar days. Specifically the information requested was:

1. What proportion of badger carcasses will be collected for examination?
2. How the carcasses are going to be selected for examination?
3. Who will be examining them?
4. What examination protocols will be used to determine humaneness?
5. How shot and wounded badgers that retreat underground to die will be factored into any assessment of humaneness?

Despite this Decision Notice being dated 6 August, we note that at the recent meeting (16/08/13) held at your offices, also attended by Assistant Chief Constable Paul Netherton (Devon and Cornwall police), a Defra official repeatedly refused to provide requested information on the humaneness assessment despite the ICO ruling.

As part of our operational activities rescuing badgers in all areas of England and Wales (i.e. including the planned cull zones which are not, as yet, precisely identified), it is likely that the RSPCA will receive reports of injured badgers from in and around these zones. When attending these animals, we may well collect information that is relevant to an assessment of humaneness. It appears wholly irrational that any proper or adequate assessment of the overall humaneness of the cull would discount such information either implicitly or explicitly. These injured badgers may well show signs of having been shot, either legally (as part of the cull) or illegally.

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Furthermore, the perturbation effect reported in the RBCT may lead to an increase in the numbers of road casualty badgers in and around the cull zones. If any data related to these injured badgers will not be included in any humane assessment of the cull, any such assessment would be flawed.

The RSPCA is willing to make any data from these injured badgers available to the Independent Expert Panel but in the absence of any knowledge of the assessment process, it is impossible for the RSPCA to collect meaningful data regarding the humaneness assessment for the IPE and in the correct format, which would effectively constitute an implicit discounting of that information. Furthermore, in the aforementioned meeting, it appeared from the comments of the Defra official that the assessment of humaneness would be limited to the assessment of badger carcasses received from cull operators only (which might reasonably be expected to constitute a biased sample and thereby limit the effectiveness of the IEP, however independent its members may be).

We therefore ask that the information requested in this letter be released to us immediately and if not, that the cull operations be suspended until this information is made available. If you are not willing to release the information, please state your reasons fully. This matter is clearly urgent as the cull could begin at any moment.

Public safety information

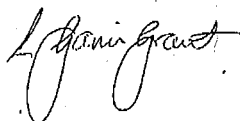
Safety measures fell outside the original FOIA request, which was made by another organisation. However, as an organisation with major operational activities within the proposed cull zones, there is a specific health and safety concern for our staff operating in those areas and in those times. For that reason, information concerning the timing and locations of cull activities is of vital importance to our duty to protect our staff. In particular, our staff need to be able to (a) judge the safety of a call concerning an injured badger or other animal, which may be genuine or malicious and may occur at any time and in any place, without prior warning, (b) prepare the response to that call depending on the particular risk factors involved, (c) coordinate activities with other stakeholders who may or may not be immediately contactable and (d) conduct themselves appropriately to mitigate any risks of injury to the public or themselves, for example being shot.

In the aforementioned recent meeting with Defra and Paul Netherton, we repeated our request for this information and our assurance that the information would not be shared beyond the staff who need to know it to ensure their or other colleagues' safety. Given the importance of the information in public safety and the prior existence of a robust and trusted intelligence information exchange process operated under the Home Office licence arrangements, we were disappointed and concerned that the information is still kept secret. This surprise was shared by Paul Netherton who, as a responsible public official, made a responsible offer to provide confirmation of the start of the cull and advice on active locations to the RSPCA. Given that Defra are also public officials, we would request that a similar level of responsibility is taken in ensuring that those trying to help animals are adequately protected and not harmed through an inexplicable lack of transparency. By refusing to provide this information, we believe you are placing RSPCA Inspectors, Animal Welfare Officers and Animal Collection Officers at risk.

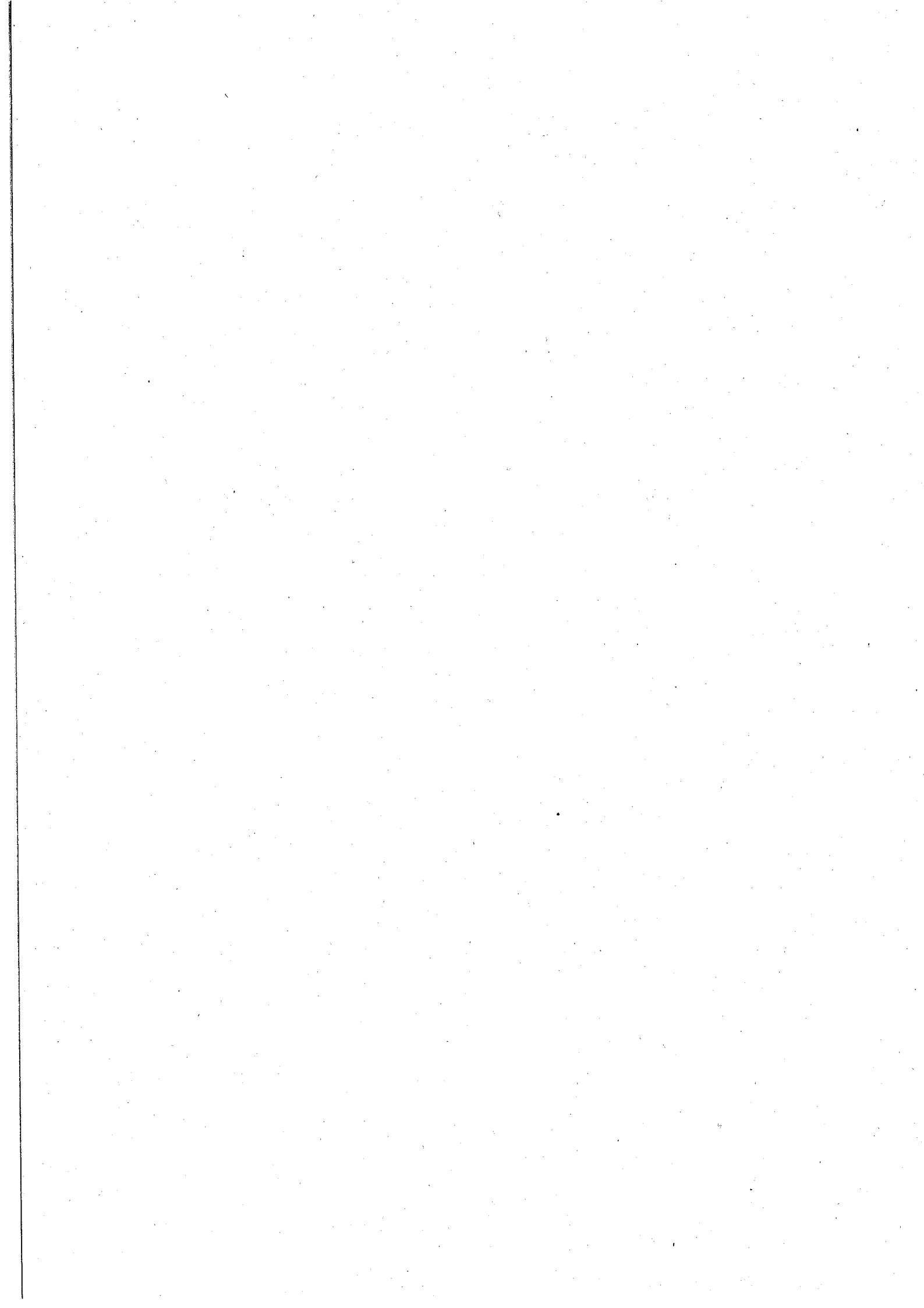
It would be inappropriate and dangerous for the cull to start at any point while this information has not been provided.

For that reason, we formally repeat our request for information about where and when the cull activities are going to occur. We request that the cull does not start until both sets of information are disclosed appropriately.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gavin Grant". The signature is written in a cursive style with a large initial 'G'.

Gavin Grant
Chief Executive





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Gavin Grant
Chief Executive, RSPCA
Wilberforce Way
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West Sussex, RH13 9RS

23 August 2013

From the Principal Private Secretary

Dear Mr Grant,

Thank you for your letter dated 22 August 2013. I am responding on behalf of the Secretary of State. This letter responds to the urgent points that you raise in your letter. A substantive response to your other points will be sent next week.

Seeking to ensure that the culling operations are humanely carried out has formed an important part of the preparations for those operations. We will address the points you raise about humaneness of the cull in our substantive response.

Your letter raises your organisation's concerns about the safety of the public and of your personnel. Safety is plainly extremely important to all concerned with the pilot culls; we are satisfied that appropriate measures are in place to seek so far as possible to ensure that the operations will be conducted safely. We do not consider that the information sought in your letter is a precondition to the culling operations being safe, or that it would be appropriate for the cull companies to postpone the start of the cull.

The cull companies are well aware of the need to ensure such safety. In any event, as was made clear in the meeting on 16 August 2013, any of your officers who receive a report from a member of the public of an injured badger in Somerset or Gloucestershire should first make contact with the local police force who will provide them with appropriate advice.




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There are powerful operational and security reasons for not disclosing either the precise start date or the precise location of the culling operations. In the circumstances, we do not consider that any of the points you have raised provide a basis for treating the RSPCA any differently from any other organisation regarding such disclosure.

Defra is still considering its position in relation to the ICO decision of 6 August 2013. Defra has 28 days from the date of the sending of that decision to lodge an appeal should it decide to do so (and in any event, the date for compliance is 35 days from that date). Please note that we do not intend to treat your letter as an FOI/EIR request unless you tell us that it is your intention that the letter be considered under the FOI/EIR regime.

Yours sincerely,



JEREMY MARLOW



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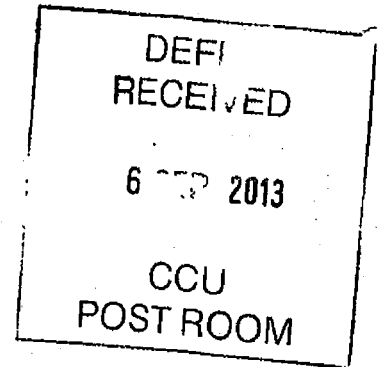


Royal Society for the Prevention of Cruelty to Animals

28th August 2013

Rt Hon Owen Paterson MP
Secretary of State
Defra
17 Smith Square
London
SW1P 3JR

Sent by email: secretary.state@defra.gsi.gov.uk



Dear Mr Paterson,

I refer to my letter of 22nd August and the initial reply (dated 23rd August) received from Jeremy Marlow, on your behalf.

I note you "...are satisfied that appropriate measures are in place to seek so far as possible to ensure that the operations will be conducted safely". Whilst such assurance is obviously welcome, you provide no details about how the safety risks have been assessed in general or, more specifically, for RSPCA inspectorate officers who will be responding at night in a cull area to emergency calls from the general public. This goes much wider than just responding to calls about injured badgers. As an organisation with a uniformed inspectorate that operates a 24 hour call-out service, providing first responders to emergency calls from the public reporting animals in distress, I now request a more detailed explanation of your conclusion that "*we do not consider that any of the points you have raised provide a basis for treating the RSPCA any differently from any other organisation regarding such disclosure*". We also point out that one of the stated reasons for proceeding with the pilots is test your assumptions about the safety of the method being used. In those circumstances, we can reasonably expect you to be more forthcoming about the safety assessments that have been carried out in relation to the pilot areas.

The case for disclosure of the information relating to the humaneness of the cull does not rest principally on the ICO's decision (which you may or may not decide to appeal against). Rather, it rests on the legality of the Government's decision to proceed with the pilot itself, given the stated aim of testing your assumption about the humaneness of the method used. It is of critical importance, now that the cull has started in one of the pilot areas, for this information to be published immediately, so that the Government's decision-making on both these critical points can properly be subjected to public scrutiny. Please confirm that this information will now be published, or provide your reasons for refusing to do so.

Yours sincerely,

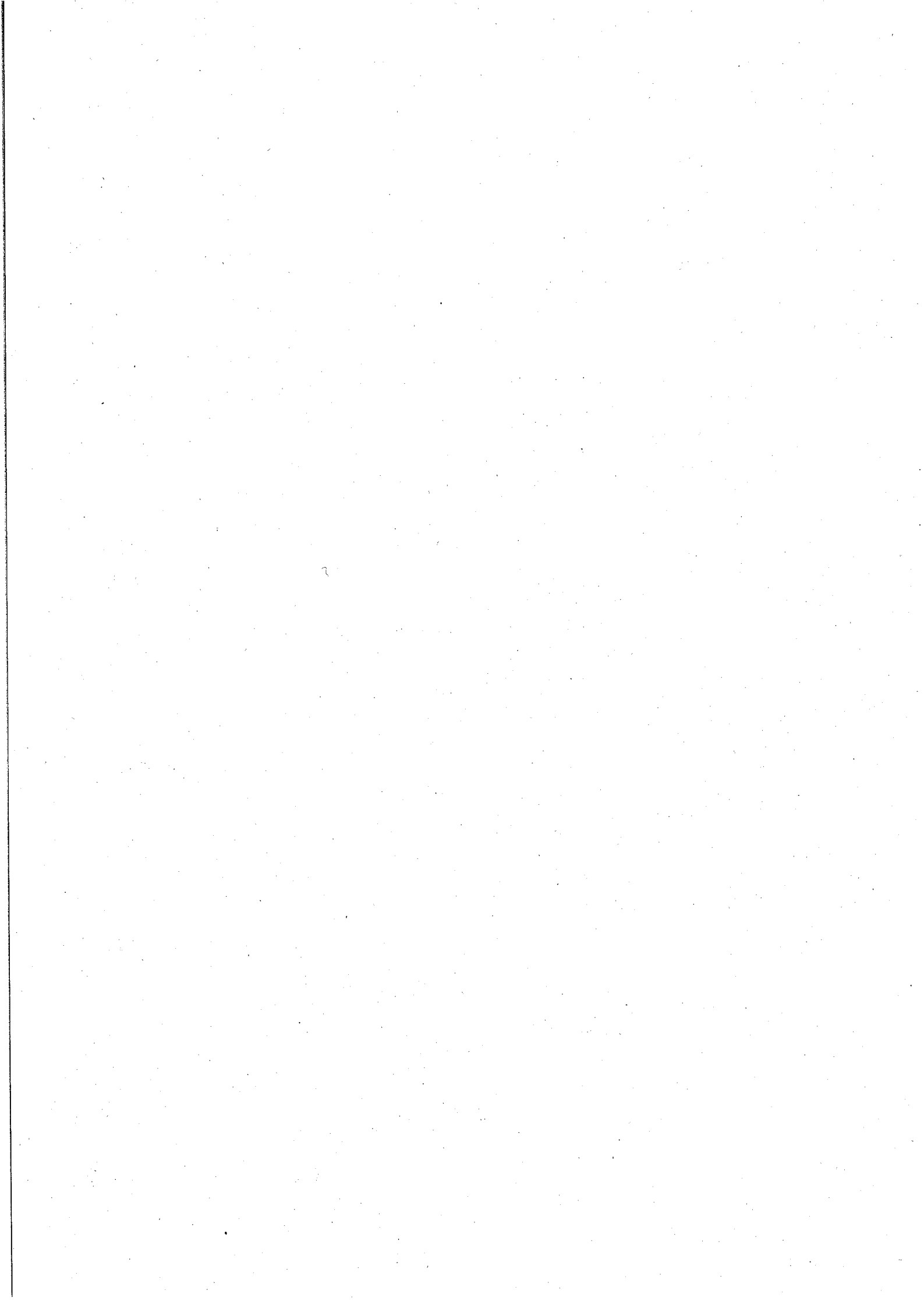
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Chief Executive

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September 2013

The Rt Hon Owen Paterson MP
From the Secretary of State

Thank you for your letter of 28 August in response to my Principal Private Secretary's letter of 23 August.

Before turning to the points you make in that letter, I should like to address those raised in your earlier letter of 22 August that were not covered in Jeremy Marlow's reply. Let me start by emphasising the high regard with which I hold the animal welfare work carried out by RSPCA employees and volunteers on the ground. I know the invaluable service they provide in innumerable cases to protect the welfare of wildlife, livestock and pets.

My Department has made it clear throughout the preparations for the cull that David Heath and I attach a high degree of importance to the welfare of any injured badgers. The Government's aim is to keep the number of badgers wounded but not killed to the minimum.

This is why pilots are being undertaken to monitor the humaneness of the proposed culling methods that will be operated by the companies licensed to carry out the culls.

As you heard most recently when you attended the 16 August meeting with Defra officials and the police, the Department has worked closely alongside Natural England and other experts to put in place sound procedures to ensure that the right practices are followed.



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If your staff suspect any attempted unlawful killing of badgers, clearly this should be reported immediately to the police.

An Independent Expert Panel has been appointed specifically to look at the effectiveness, humaneness and safety of the control method. The Panel has overseen the development of the monitoring protocols and is content that they are robust and unbiased. As you will be aware, the RSPCA was asked at a meeting on 6 September 2011 by the then head of the bTB programme in Defra if you would like to be a part of the monitoring of the pilots, but the offer was declined. However, if you have evidence relevant to the assessment of the humaneness of the pilot culls, you should submit it to my Department so that it can be taken into account in the overall assessment of the pilot culls. I also thank you for your offer to send further evidence that your staff might find in the cull areas. Any such further evidence should also be sent to my Department.

On completion of the pilot culls and following receipt of the Panel's assessment of it, the Government will decide whether or not the effectiveness, humaneness and safety of the control method are such as to enable wider roll-out. At that point, such material as is considered necessary to explain properly and justify that decision will be put into the public domain. We understand your organisation's concerns about the potential increase in deaths of badgers by road traffic accidents. There is, however, no evidence (either from the Randomised Badger Culling Trial or from other sources) to suggest that any changes in badger behaviour due to culling activity will lead to additional deaths of badgers by road traffic accidents. Moreover, the Panel's remit, so far as it relates to humaneness, is to assess the humaneness of the culling method. We are aware of no evidence that perturbation will be increased by the choice of culling method.

Public safety is extremely important to me and to all concerned with the pilot culls; this includes those with primary responsibility for it, the cull companies and local police. Comprehensive assessments of the risks involved have been made.

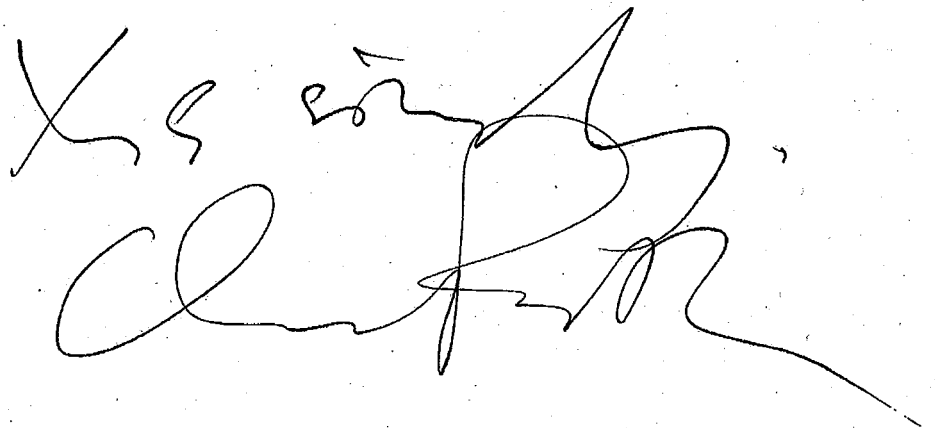
In your letter of 28 August you clarified that your concern for the safety of your staff also arises in relation to emergency calls to them relating to animals other than injured badgers. It seems to me that anyone making such a call in relation to for example livestock, horses or pets will be in a position to inform your staff about culling that is being carried out on the land. The same is likely to be true of anyone who finds a wounded badger, unless the person's presence on the land is by virtue of a public right of way or public right of access and it is not apparent whether or not culling is being carried out in the immediately surrounding area. This, I think, is likely to be a rare case. As mentioned in Jeremy Marlow's letter, any of your staff receiving a report from a member of the public of an injured badger in Somerset or Gloucestershire should first make contact with the local police force, which will provide appropriate advice.

The view expressed in Jeremy Marlow's letter, that the points you have raised do not provide a basis for treating the RSPCA differently from any other organisation, related to disclosure of the start date and location of the operations. With respect to the request in your letter of 28 August to see any assessments made in relation to safety and



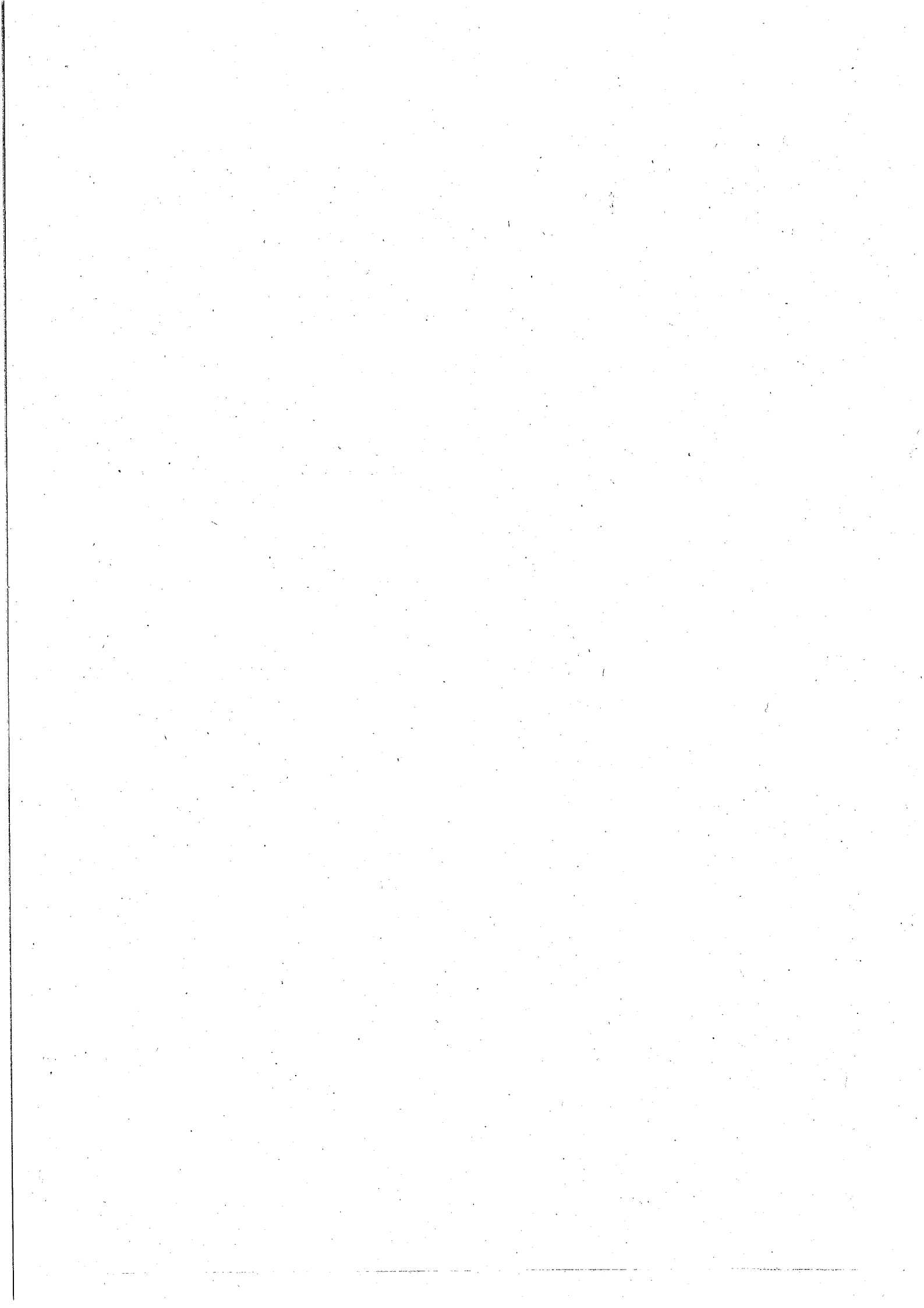
humaneness, I am happy to provide summaries of the principal matters considered for the purpose of assessing whether the pilot culls could be carried out safely and humanely. These are attached.

You suggested that your wish to see any assessments that have been made is supported by the fact that the purpose of the pilot culls is to test assumptions made about these aspects of the cull. However, it is precisely because the purpose of the pilot culls is to test the safety, humaneness and effectiveness of culling by the methods being employed that any firm conclusions about those matters must be deferred until analysis has been carried out following the completion of the pilots. Whilst a full assessment of these aspects can only be conducted on the basis of the evidence derived from the pilot culls, we are clear that the steps that have been taken to ensure the safety and humaneness of the pilot culls are sufficient to allow the cull to proceed.

A handwritten signature in black ink, appearing to read 'Owen Paterson', written in a cursive style.

THE RT HON OWEN PATERSON MP

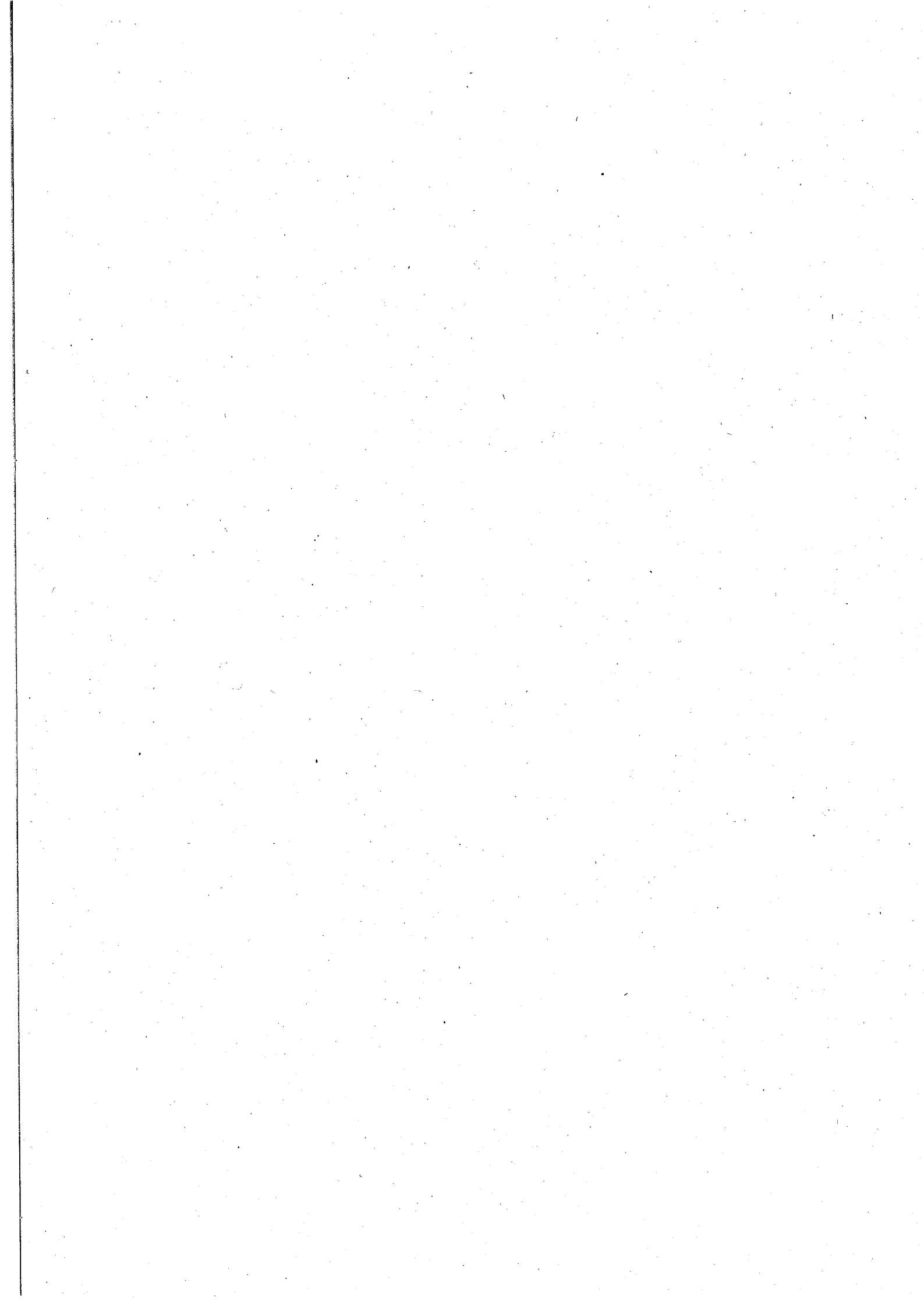




Annex 1

Public safety: summary of principal matters considered

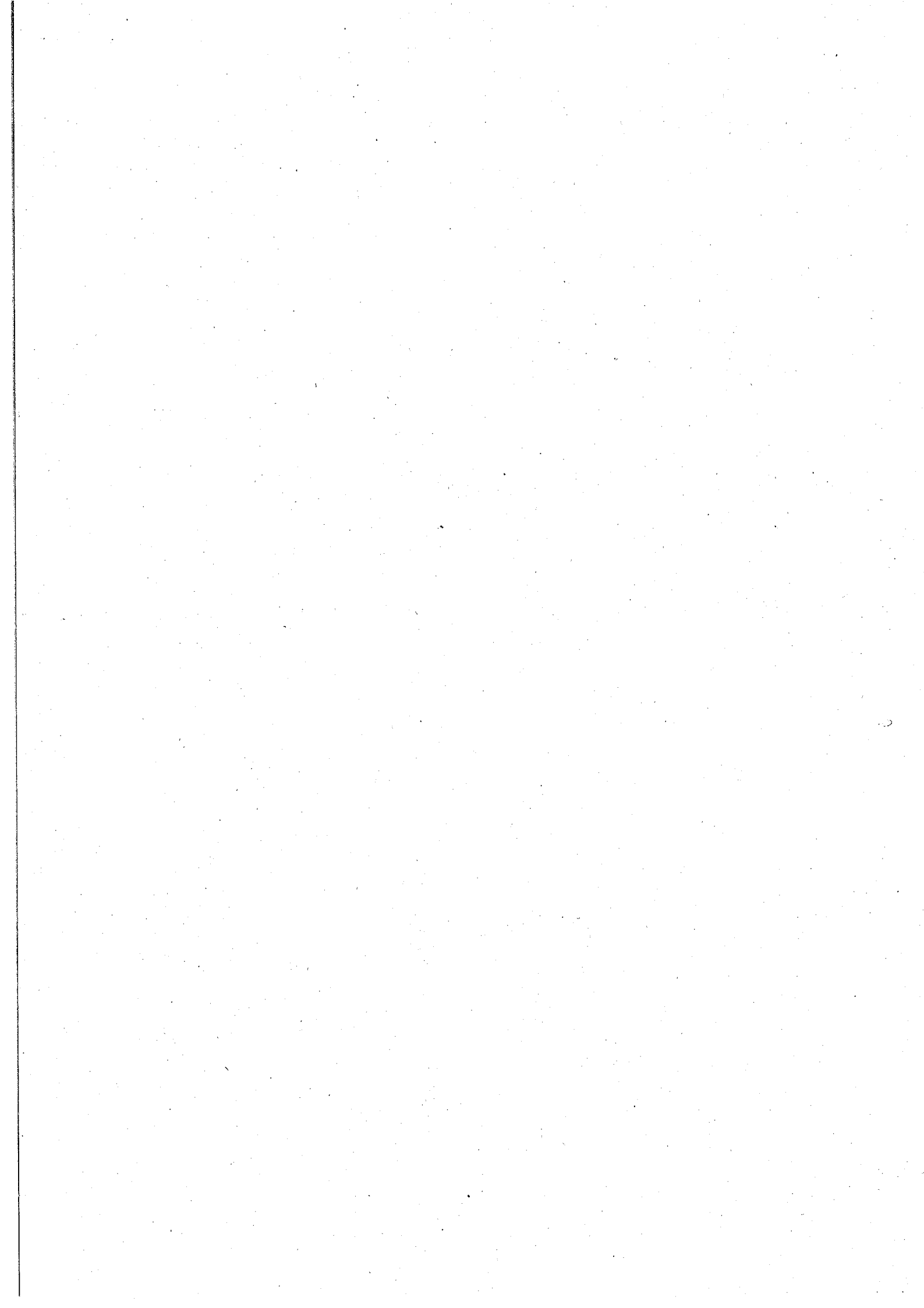
- a. All the contractors have to comply with Defra's published Best Practice Guidance when undertaking the cull – "Best Practice Guidance for Controlled Shooting of Badgers in the field under licence to prevent the spread of bovine TB in cattle". That guidance makes it clear that public safety risks must be taken into account by operators and includes, for example, instructions that all shooters must be accompanied by another individual whose role is to scan the area for unexpected targets (including livestock and members of the public). Operations will not be taking place in close proximity to public footpaths or roads.
- b. All individuals involved in the shooting have been required to demonstrate an appropriate level of marksmanship, through appropriate training and must have received and passed Defra approved training
- c. All of the individuals contracted to carry out this cull have significant experience and are authorised by the police to own and use firearms. Many, if not all, will already undertake night-time shooting. Only experienced shooters have been allowed to participate, and all participants have been checked with the police for suitability.
- d. As set out at paragraph 9 of the "Best Practice Guidance for Controlled Shooting of Badgers in the Field", each person shooting badgers must be in possession of a current Shotgun or Firearms Certificate and have authority to shoot on the land where it is taking place. The Police are the body with responsibility for the Firearms Certificates. The Firearms Certificates must recognise specifically that badgers are to be shot or include wording that (as confirmed by the police to Natural England) includes the shooting of badgers.
- e. Risk assessments have been developed by the applicants, including individual contractor risk assessments, and have been shared with the police, who satisfied themselves that adequate mitigation of the risks had been put in place before any amendments were made to firearms certificates.
- f. Furthermore the licence holders have given a specific undertaking to the police to withdraw if there are any public or other persons in the vicinity of the cull sites.



Annex 2

Humaneness: summary of principal matters considered

1. Controlled shooting is a technique already widely used by the rural and pest-control communities. Controlled shooting is also used in countries where badgers are routinely hunted and killed, such as Germany, Sweden and Finland.
2. The main body of evidence on controlled shooting is from the 2006 report of the Game Conservancy Trust. It is commonly used to kill foxes (at night) and deer (during the day time) suggesting it is an acceptable method of control for these species. This evidence has been extrapolated for controlled shooting of badgers.
3. There is also extensive evidence on the humaneness of cage-trapping and shooting, both from the RBCT and ongoing research and vaccination work.
4. There is some evidence from tests on badger carcasses that shooting with frangible ammunition will cause sufficient damage to render an animal immediately unconscious from a well-placed shot.
5. Contractors undertaking culling have to undergo training and assessment specific to the shooting of badgers. This is one of the criteria for a cull application which states "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".
6. The Best Practice Guidance sets out additional measures to ensure a humane kill is achieved. These include the following requirements.
 - a. Operators must never feel rushed into taking a shot.
 - b. Any badger shot must be far enough away from a sett entrance, or other cover where the badger might be lost, to allow for a follow-up shot if needed, so avoiding any opportunity for a wounded badger to retreat back into the sett.
 - c. The distance over which a contractor can shoot a badger is limited to ensure that the bullet still has enough energy at impact.
 - d. A second shot is encouraged if there is any doubt that the first shot did not kill instantly.
7. The Protection from Badgers Act 1992 specifies a high-powered gun and ammunition combination which is consistent with the choice of controlled shooting as a culling method.
8. A closed season is in place to protect dependent young in the spring.

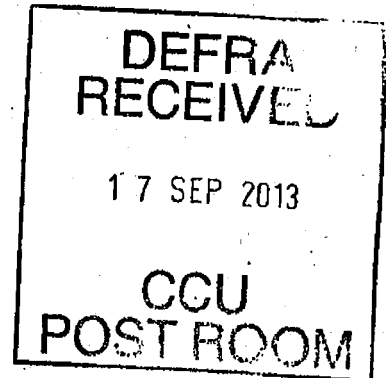




Royal Society for the Prevention of Cruelty to Animals

16th September 2013

Rt Hon Owen Paterson MP
Secretary of State
Defra
17 Smith Square
London
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Sent by email: secretary.state@defra.gsi.gov.uk

Dear Mr Paterson,

I write to repeat our previous requests for the immediate provision of basic information concerning the assessment of humaneness of the current badger culling operations in Gloucestershire and Somerset.

I previously requested basic humaneness information regarding the criteria and process for assessing the humaneness of the proposed badger culling pilots this year, following the Information Commissioner's Office decision on the application under the Freedom of Information Act 2000 (Case Reference Number FER0483676). This information still does not appear to have been released.

This Decision Notice was dated 6 August, meaning that the deadlines for appeal and for release of the information have passed. There has been no announcement of an extension to date and it is hard to see on what grounds and by what process such an extension could have been legitimately granted.

This appears to be part of a wider issue over governmental transparency and the provision of information about the badger cull trials to the public. There have also been a number of unsubstantiated reports with no information coming back from the government about the figures, such as reports that numbers being killed are significantly below the government targets. If there are concerns over the numbers, the government should stop the cull with immediate effect. We would additionally, proactively counsel against any further extension to the culling period. The trials have already significantly deviated from the RBCT protocol and any further deviation would reduce any postulated effect and increase risks of inhumaneness even more than the current protocol.

This continued lack of transparency only serves to reinforce the perception that Defra are failing to provide the public with information in order to make an informed decision about the humaneness of the cull and to subject future decision about "rolling out" the cull to democratic scrutiny.

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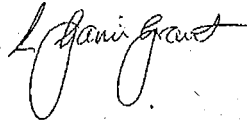
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We therefore repeat, once more, our request that the information requested in this ICO report be released to us immediately. If you refuse, please state your reasons fully.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gavin Grant', written in a cursive style.

Gavin Grant
Chief Executive



Department
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Gavin Grant
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Wilberforce Way
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17 September 2013

From the Principal Private Secretary

Dear Mr Grant,

Thank you for your letter of 16 September. I am responding on behalf of the Secretary of State.

The Department has been granted an extension until 23 September for an appeal from the ICO Decision of 6 August.

My previous letter of 23 August and the Secretary of State's letter of 4 September responded to the substantive points you have raised about the assessment of humaneness. We have nothing further to add at this stage.

Yours sincerely,

JEREMY MARLOW



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