The Government's policy on Bovine TB and badger control in England: Government transparency and accountability

July 2013

The publication of the Government’s policy on Bovine TB and badger control in England by the Department of Environment, Food and Rural Affairs (DEFRA) in December 2011 has resulted in a great deal of often heated scientific, political and public debate, and generated widespread concern among many stakeholder groups and the public at large.

Not least among those concerns has been the lack of transparency from DEFRA on this issue, the clear abuse of response timelines in order to avoid answering queries in a timely fashion, and its misuse of the Environmental Information Regulations 2004 in order to prevent the release of information which is clearly of significant public interest.

The provision of detailed information on all aspects of the Government’s policy is essential if the public is to have any confidence that the policy is evidence-based, has not been unduly influenced by those with vested interests, and is likely to generate credible information on which future policy can be based.

Three examples of the difficulties experienced are summarised below:

**The criteria and methodology for determining humaneness**

Humane Society International/UK (HSI UK) approached DEFRA in October 2012 with a number of specific questions relating to the criteria and methodology by which the humaneness of ‘controlled shooting’ would be assessed during the ‘pilot culls’, originally scheduled to take place in 2012 but subsequently delayed until 2013. DEFRA has used various tactics to prevent and delay disclosure of information, including:

- Delaying its responses until the last possible date within its own response timeframe at every stage in the process;
- Citing that disclosure of parts of the requested information would compromise public safety, without giving clear explanation or justification;
- Refusing to identify the criteria by which humaneness monitors/examiners would be considered suitably qualified for the task, on the grounds that ‘releasing details of precise qualifications or organisations could easily lead to the identification of individuals’;
- Claiming that the release of information could ‘unduly influence and bias the results of the monitoring of the pilots’ and that ‘the results collated by those carrying out the cull could be manipulated if details of how the examinations are to be carried out were placed in the public domain’, without giving any clear explanation why this might be the case.

DEFRA continued to refuse to disclose the requested information following an internal review, at which point HSI UK brought the matter to the attention of the Information Commissioner’s Office (ICO). Some 19 weeks later, on 16th May 2013, DEFRA finally released an extremely heavily redacted document (see front cover), which failed to provide satisfactory answers to any of the original questions asked by HSI UK.

The redacted document reveals that data will be collected during the pilot culls through the observation of some shoots by independent observers, and the radiographic and post-mortem examination of some badger carcases. This data will apparently be used to assess the duration and intensity of suffering. However, it gives no indication of the quantity of observations/examinations that will take place, how and by whom carcases are to be selected and examined, how the suffering experienced by badgers that are wounded and escape is to be factored in, or against what criteria the data will be assessed in order to determine whether or not the pilot culls will be deemed humane.
The Government has indicated (Hansard 24.6.13 HC Deb cc67) that Parliament will not be involved in any decision on whether the policy will be extended across much larger parts of the country following the pilot culls. This makes it even more crucial that the process of judging whether the pilots show that controlled shooting is humane is open and transparent.

On 21st May 2013, HSI UK informed the ICO that the heavily redacted document supplied by DEFRA failed to provide answers to the questions it had asked. On 28th June 2013, DEFRA revealed some limited information on the numbers and proportions of badger carcases that would be selected for examination, and the fact that post-mortem examinations would be carried out by veterinary surgeons, but how the information will be used to determine humaneness remains a mystery. As of July 2013, HSI UK’s information request remains in the hands of the ICO.

The risk of undue influence from vested interests

Attempts by the Badger Trust to obtain information on correspondence relating to the policy between DEFRA and the National Farmers Union (NFU) have been ongoing since the policy was first published in December 2011. DEFRA has consistently refused to release much of this information, raising suspicions that the NFU may have had undue influence over policy development. During this time, DEFRA has used various tactics to delay disclosure, or justify its refusal to disclose (of, in particular, a number of ‘risk and issue logs’), including:

- Unnecessary delays in responding to the Badger Trust with questions of clarification;
- Changing the provisions of the Environmental Information Regulations under which certain information was being withheld, without explanation;
- Claiming that advice received from the NFU on this issue effectively constituted a form of internal Governmental communication;
- Refusing to conduct concomitant internal reviews of its refusal to disclose on different issues;
- Claiming that the information requested was ‘very substantial’ and would divert DEFRA resources from other work;
- Claiming that public interest in withholding the information outweighed the public interest in disclosure, without giving reasonable explanation;
- Failing to respond to specific challenges brought by the Badger Trust relating to the lack of disclosure;
- Ignoring the concerns of the ICO that it was ‘delaying matters’.

On 12th June 2013, over 18 months following the original request for information, the ICO found in favour of the Badger Trust in relation to the NFU’s influence over DEFRA decision-making, agreeing that it was not lawful for DEFRA to restrict access to decision-making on the basis that the NFU was embedded in the department. The ICO ordered DEFRA to release the NFU-DEFRA risk logs. DEFRA has 7 weeks from that date to comply or appeal.

Public safety

The Cornwall-based organisation Badger Rescue and Vaccination Everywhere (B-R-A-V-E) contacted DEFRA, Natural England, relevant County Councils and Police Authorities in April 2013, asking for information on Risk Assessments carried out to assess any threat the ‘pilot culls’ might pose to public safety. On the advice of Natural England, the NFU was also contacted in May 2013. In a letter dated 29th May 2013, DEFRA stated that risk assessments had been carried out by the NFU and by the Animal Health Veterinary Laboratories Agency (AHVLA, a DEFRA agency), but that disclosure of the AHVLA assessments would be withheld under the Environmental Information Regulations on the grounds that ‘disclosure of this information would impact adversely upon the protection of the public’. In other words, according to DEFRA, disclosing information on public safety assessments could adversely impact public safety.
B-R-A-V-E has appealed the decision.

Concerns

These examples represent three of many cases where DEFRA has failed to disclose information relating to this policy which is clearly in the public interest. DEFRA has also clearly used its own rules, appeal processes and timelines on requests for information in order to delay disclosure, and to stretch out the process of appeal, both directly to DEFRA and through the ICO, for as long as possible.

This cynical attitude prevents proper scrutiny of the details of a Government policy which is of significant public concern, and in doing so prevents proper public debate and stifles the opportunity for non-government organisations and other civil society representatives to properly hold the Government to account.

DEFRA’s actions seriously undermine the pledge on Government Transparency published in the Coalition Agreement in 2010iii, which begins with the following statement:

‘The Government believes that we need to throw open the doors of public bodies, to enable the public to hold politicians and public bodies to account’

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TEAM BADGER MEMBERS:

Animal Aid
Badger Trust
Blue Badger
Brock
Change for Animals Foundation
David Shepherd Wildlife Foundation
Harper Asprey Wildlife Rescue (HAWR)
International Animal Rescue
League Against Cruel Sports
Pembrokeshire Against the Cull (PAC)
RETHINK bovine TB!
Save Me
Stroud 100
Viva!

Animal Defenders International
Badger Rescue & Vaccination Everywhere (BRAVE)
Born Free Foundation
Care For The Wild International
The Children of the Badgers (COBS)
Gloucestershire Against Badger Shooting
Humane Society International (HSI)
International Fund for Animal Welfare (IFAW)
Network for Animals
People for the Ethical Treatment of Animals (PeTA)
Royal Society for the Prevention of Cruelty to Animals (RSPCA)
South West Action for Hares
TBVAC
Wildlife Rescue & Ambulance Service (WRAS)