

Department for Environment, Food and Rural Affairs

# Bovine TB Eradication Programme for England

## Compliance and Enforcement Priorities for 2012/13

January 2012

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# Why we need to focus on compliance and enforcement

1. Bovine TB is a serious problem and the number of infected herds in England has been on a slowly rising trend for some 25 years. The area affected by the disease has expanded to cover large areas of the West and South West of England and Wales. The costs it imposes on the livestock sector and the taxpayer has also grown, to the point where, left unchecked, the cost to the public purse alone is set to top £1 billion over the next ten years.
2. The need for a regulatory regime to tackle bovine TB is not just to save taxpayers' money. The Government's interventions are about protecting public health, animal health and welfare and the sustainability of the beef and dairy sectors (which support rural community sustainability in many parts of the country).
3. The Bovine TB Eradication Programme for England, published in July 2011, sets out the package of measures that the Government has, or is planning to, put in place to tackle the disease. It's a comprehensive package, which combines regulation of, and support for, those who have a front-line role.
4. As well as a big investment of time, effort and money by Government, great efforts to eradicate bovine TB, many involving significant financial cost, are being made by local authorities, individual livestock farmers and their representative organisations. So the effectiveness of the eradication programme is something on which there is a lot of shared interest and a lot at stake.
5. But eradication won't happen – or could take a lot longer and cost everyone involved a lot more – if the rules, information, advice and guidance are evaded, ignored or misunderstood by farmers and others with a role in making disease eradication a reality. We know that a small minority of farmers have, in the past for personal gain, been responsible for actions that contravene the rules and thereby not only jeopardise their own businesses but also undermine the efforts of the vast majority. We also know that advice, information and guidance on matters such as biosecurity is not always followed, or even considered, which also jeopardises the efforts of those who do all they can to tackle the disease in their areas.

6. So, to protect the investment of Government and the vast majority of responsible farmers we need to do more on compliance and enforcement - helping people to get things right and penalising those who get it wrong - in line with the commitments included in the Eradication Programme (see below).

## **Action on compliance and enforcement is not just for government**

7. There will be many winners from bovine TB eradication. But success won't be achieved if the Government is on its own in identifying and tackling wrongdoing and aiding those who want to do things properly. So our compliance and enforcement priorities for 2012/13 are based on the assumption that others will continue to play their parts. The livestock sector has most to gain and there needs to be an acceptance that farmers and their representatives will (a) do their bit to help their colleagues who need help; and (b) challenge those who are putting their industry at greater risk.

## **We've already committed to better compliance and enforcement**

8. We've already made clear our intentions. In the TB Eradication Programme for England we said:

- Because of the seriousness of this disease and the risks to other farmers, non-compliance with control measures cannot be tolerated and will be dealt with robustly.
- Over the next year we are planning a number of further measures including: ... developing a more rigorous, risk-based TB compliance and enforcement strategy.
- ... a minority of farmers deliberately avoid the rules and ... pose unacceptable levels of financial and disease risks to other farmers and the taxpayer, as well as potentially seeding TB into the local wildlife populations.
- ... we are developing proposals to better target enforcement activities by identifying high risk herds and to optimise co-ordination between the different enforcement agencies.

9. We've already taken some important steps. Most notably, in early 2011 Defra received evidence suggesting that a small minority of farmers had been illegally swapping cattle ear tags so that they could retain TB test positive animals in their herds and send other less productive animals to slaughter in their place. To protect the interests of all cattle farmers we took the decision to require TB reactors to be tagged in such a way that we can ensure that those sent to slaughter are the reactor animals.

10. Some of the further measures we need to take have already been flagged in the July 2011 Eradication Programme, including specific commitments on:

- Linking compensation to behaviour.
- Recouping more of the cost of some enforcement actions.
- Further action on overdue routine and other tests.
- Detecting and preventing fraudulent activity and applying penalties.
- Placing greater onus on sellers to provide information about herds.

11. There's a lot more to do. Some of it is specific and urgent. Some is more strategic and will have effect over the longer-term. But the work has to start now if we are to protect the investments of time, effort and financial resources the Government, the farming industry and others have made.

## **Ensuring consistency with the wider Defra agenda**

12. Compliance and enforcement are issues for many parts of Defra's business. So we need to be sure the measures we take on Bovine TB are consistent with the overall departmental approach, especially the work flowing from the Farming Regulation Task Force's May 2011 report. In particular, that means we need to follow through on the following commitments:

- We will not automatically seek stronger regulatory controls to address compliance problems – and will seek to do things which are consistent with the Government's better regulation agenda.

- We will ensure that due attention is paid to the Regulators' Compliance Code which asks regulators to perform their duties in a business-friendly manner, by planning regulation and inspections in ways that cause least disruption to business.
- We will look for ways to reward farm businesses that have a record of high compliance and applying good practice with a reduction in inspections.
- AHVLA will formalise arrangements to ensure that Official Veterinarians conducting bovine TB testing for the Government will contact the RPA to inform them of planned visits so that TB testing can be routinely combined with cattle identification inspections.

## Our compliance and enforcement priorities

13. We have identified four broad strategic priorities for the period to 31 March 2013.

### Priority one - addressing specific enforcement weaknesses

14. There are a number of specific enforcement issues that we know we need to focus on. These are important issues and tackling them must be our number one compliance and enforcement priority for 2012/13. They are:

- Working with the Food Standards Agency and local authorities to ensure that milk from reactor animals is not used in unpasteurised milk and/or products.
- Getting tougher on pre-movement testing compliance.
- Tackling overdue testing, including (but not only) by way of graduated compensation.
- Ensuring compliance with requirements for isolation of reactor animals on farm.
- Ensuring full and effective cleansing and disinfection on farms and at markets.

15. Our approach to these issues will need to be developed with all delivery partners but especially AHVLA and local authority colleagues, given their crucial enforcement responsibilities. We also want to involve farming industry representatives, so that we ensure our approach is practicable and will truly make a difference.

16. We will need smart approaches which take account of resource constraints. For that reason, **we will provide funding of £100k in 2012/13 for AHVLA to set up a special projects team which includes secondments from local authorities.** As well as looking at procedural improvements, the team will be charged with developing means of

improved coordination and partnership working by local authorities, as well as identifying and sharing enforcement best practices.

## Priority two - aiding compliance

17. A compliance and enforcement strategy must include ways of helping people to get it right, as well as proportionate penalties for getting it wrong. Compliance means conforming to the rules. Non-compliance may be because the rules are complex and/or guidance is poor.

18. The Farming Regulation Task Force pointed to improving compliance by:

- Introducing single sources of information.
- Improving guidance.
- Understanding farmers to influence behaviour (see priority three below).

19. We need to do all three of these.

20. *Dealing with TB in your herd* is the definitive source of information and guidance for livestock farmers affected by bovine TB, published in a series of leaflets by AHVLA. It is the information and guidance that we want all of the organisations with a role on bovine TB eradication to promote the use of. The published versions of the leaflets aimed at farmers in England have been in need of updating and re-presentation for some time.

21. Informing, advising and guiding farmers who have not been affected by bovine TB is extremely important too. There is a plethora of material from many different sources on a wide range of matters, especially biosecurity. This can be very confusing for farmers keen to do the right thing to protect their herds and their neighbours' herds. We currently fail the Farming Regulation Task Force's test of having single sources of information.

22. With that in mind, **we and AHVLA will work with a panel of farmers and others with relevant communications skills to (a) update and improve the accessibility and usability of the *Dealing with TB in your herd* series for England; and (b) seek ways of joining up with other providers of information, advice and guidance to farmers looking for help in preventing bovine TB affecting their herds, so that we act move towards single, definitive sources of information**

## Priority three - influencing behaviour

23. High quality accessible and practical information, advice and guidance is crucial. But the benefits will not be achieved if these products are not heeded by those who should use them. Learning from Defra's wider work on influencing, our messages need to convince those who they are aimed at that they should act on them – not just because they will ultimately gain from acting but also out of a sense of responsibility.

24. The potential gains are clear from the economics of bovine TB. There can be no doubt that the disease poses a severe risk to long-term prospects of livestock and dairy businesses. Doing the wrong things puts businesses – and ultimately the sustainability of the livestock industry – at great risk.

25. We know that the vast majority of farmers have a strong sense of responsibility. We know that taking steps to control disease is important to those who care about farming and animal health and welfare.

26. Government has a part to play in influencing farmers and others to do the right things for their businesses and industry. But experience shows that peer pressure can be more effective. With that in mind, **we will work with the National Farmers Union and others on a stakeholder-led publicity campaign**, aimed at influencing all farmers to do the right things to tackle Bovine TB. Our campaign won't be expensive or complicated. It will be based on lessons from other campaigns to combat disease – including animal and public health campaigns around the world.

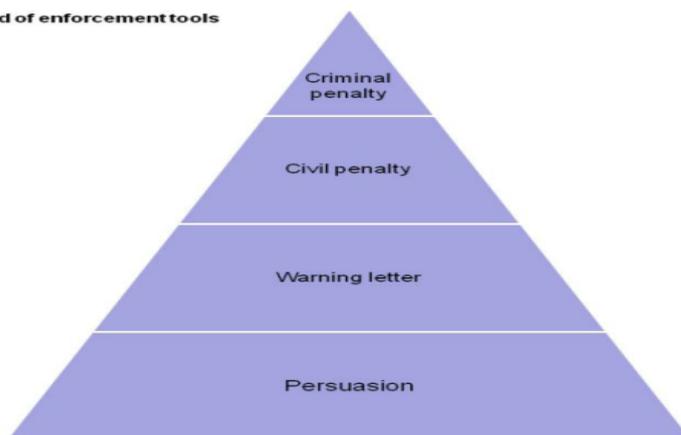
## Priority four - Improving the effectiveness of penalties (including administrative penalties)

27. The Farming Regulation Task Force pointed to improving enforcement by, among other things, making penalties proportionate. They said: *Penalties must be proportionate: stiff punishments for major misdemeanours but a light touch for breaches of process and minor non-compliance.*

28. So our approach to enforcement of bovine TB regulatory controls needs to encompass a broad range of penalties, and more consistent application of them - from

tough criminal sanctions through to warnings. A good illustration of this is the pyramid of enforcement tools included in the Task Force's report

Pyramid of enforcement tools



29. *Warnings* are important. They are likely to be an effective deterrent for some – especially first time and/or low risk offenders who may simply be unaware of the rules.

30. *Civil penalties* allow a focus on putting things right, rather than paying fines and allow flexibility so that the most appropriate enforcement action can be taken with businesses who are trying to do the right things. They may encompass tools such as restoration notices, fixed penalties and stop notices. For bovine TB they could include enhanced cross compliance mechanisms.

31. But we are very clear that we need to continue to have appropriate criminal penalties – and a clear commitment to take whatever steps we can to prosecute serious offenders.

32. An ad hoc, piecemeal approach to revising penalties relating to bovine TB is unlikely to be effective and will take too long. So **we will carry out a full review of our penalties regime during 2012/13**, involving external partners as well as Defra legal and communications experts. The review will cover the top three parts of the pyramid and will be informed by the separate work on 'persuasion' (influencing behaviour - priority three above).

33. As well as penalising wrongdoing, our work on penalties will also include looking at **options for recouping more of the cost of enforcement actions** – something to which we committed in our July 2011 Eradication Programme.

## **Delivering on our compliance and enforcement priorities**

34. Responsibility for the work flowing from this set of priorities sits with Defra, though other organisations will be very closely involved. In line with the structures already in place, we will report on progress through the Animal Health and Welfare Board for England and the Bovine TB Eradication Group for England.

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