

FOCUS

Bovine Tuberculosis and the Law

Bovine tuberculosis (bTB) is arguably one of today's largest challenges facing cattle farming and is of a particular concern in the west and south west of England. This disease, which is caused by *Mycobacterium bovis*, has worryingly jumped the species barrier and can therefore infect other mammals and not just cattle: in particular badgers can be infected and the profile of the disease in badgers is very different from its profile in cattle.

To reduce the risk of bTB and it spreading, regulations have been created requiring farmers to comply with testing. However, it is also best practice to put in place good biosecurity and husbandry measures.

Firstly it is important to note that bTB is a notifiable disease and any suspicion of the disease must be reported to the Animal and Plant Health Agency (APHA). Cases or suspicions of TB in other species should also be notified to the APHA, although there is no statutory routine testing programme for the disease in other species apart from cattle.

1. How is bTB spread?

bTB is transmitted mainly through inhalation or ingestion of the bacteria. Contaminated food and water can also be a source of infection. bTB is transmitted amongst cattle, amongst badgers, and between the two species. This transmission typically happens when animals are in close

contact with each other. Bacteria released into the air through the infected animal coughing or exhaling are inhaled or ingested by uninfected animals and the disease is therefore able to spread.

2. Controlling the spread of bTB

To minimise the risk of the transmission of bTB between cattle herds the UK has adopted a test and slaughter programme designed to identify and destroy infected cattle as early as possible.

The primary screening test for bTB in cattle in Great Britain is the single intradermal comparative cervical tuberculin (SICCT) test, commonly known as the skin test. This is used worldwide to screen cattle, other animals and people for TB, and is the internationally recognised standard for detection as the best test currently available for detecting TB in live animals. This test is now supplemented by the interferon-gamma (IFN γ) blood test in certain prescribed circumstances, to improve the sensitivity of the testing regime and identify infected animals more quickly.

3. Testing Programme for Bovine Tuberculosis

3.1 Routine Herd Surveillance Testing

The relevant provisions are contained in the Tuberculosis(England) Order 2014 (SI2014/2383).

In England, herds in the Low Risk Area (LRA) are routinely tested every four years. Herds in the High Risk Area (HRA) and Edge Area (EA) are tested annually, except for herds in the EA part of Cheshire which since 1st January 2015 are tested on a six-monthly basis.

Any cattle that react to the skin test (the Reactor) will be removed for slaughter and the cattle owner compensated. The remainder of the herd is placed under movement restrictions and the farm's Officially Tuberculosis-Free (OTF) status is withdrawn. The farm will have to be cleaned and disinfected after the animal has been removed as per the APHA Notice.

A new voluntary TB test is being introduced for cattle keepers in England with herds on four-year surveillance testing. The new voluntary Government-funded Pre-Sale TB Check Test was introduced on 6th April 2016 for cattle keepers

in England with herds on four-year surveillance testing, who are planning to sell all or part of their herd and where they meet other eligibility criteria.

3.2 Pre-Movement Testing

Pre-movement testing is a statutory requirement for certain OTF herds.

Currently, the only type of test that can be used for pre movement TB testing is the single intradermal comparative cervical tuberculin (SICCT) skin test. It is the farmer's responsibility to book and pay for a pre-movement test with their private vet, although farmers can move stock that have tested clear at a statutory i.e. annual test for a short period.

Clear pre-movement test results are valid for 60 days from the date of injection (day one of the test).

Pre-movement testing is a valuable part of the biosecurity plan to reduce the risk of introducing bTB but the test is not 100% sensitive. Isolation and post movement testing should also be considered depending on the risk of the particular movement.

3.3 Post-Movement Testing in the Low Risk Area (LRA)

On 6th April 2016 compulsory post-movement testing was introduced in the Low Risk Area (LRA) of England for cattle moved from other areas of England and Wales.

3.4 Post-mortem testing

All cattle carcasses are inspected by the Food Standards Agency for suspect bTB lesions, with bTB cases identified traced back to the herd of origin.

Any Reactor will also be examined post mortem. If the carcass is found to have visible lesions or the culture tests are positive then the bTB outbreak will be considered high risk. The APHA will consider slaughtering other animals in the herd which they consider to be at high risk of being infected with bTB (such as direct contact animals) or slaughtering all the cattle in the herd if they believe that the infection is extensive.

4. Penalties for breach of Bovine Tuberculosis Regulations

Failure to comply with the 2014 Order is an offence under s.73 Animal Health Act 1981 punishable in accordance with s.75. This is penalised by way of fine upon summary conviction, the level of which will vary according to the number of animals involved. The court has discretion upon further conviction for a second or subsequent offence against the same provision to impose a custodial sentence not exceeding one month, in lieu of the fine.

5. Biosecurity and husbandry

Maintaining good biosecurity and husbandry practices is important in reducing the risk of bTB transmission. Even if bTB has never been revealed in a herd, it is advisable to take precautionary measures against possible infection from badgers and from brought-in infection from purchased or hired cattle.

5.1 Taking measures to protecting the herd

Good practice helps to reduce the risk of bTB and other diseases, for example: providing good ventilation in cattle housing, not overstocking cattle when housed (or at grass), following guidelines on cleansing and disinfecting and providing cattle with a balanced nutritional diet and the like.

In addition, farmers can take common sense, precautionary measures to help protect the herd from possible bTB infection from both badgers and cattle, such as:

- (a) **keeping badgers away from stored cattle feed as** badgers infected with TB can contaminate feed while foraging;
- (b) **making farmyards less attractive to badgers by, for example, keeping cattle feed inaccessible;**
- (c) **identifying the main badger latrines and active setts on or adjacent to pasture and, if possible, fencing cattle out of these high-risk areas;**
- (d) **double-fencing or -hedging boundaries and keeping cattle away from neighbouring**

herds to reduce the risk of disease spreading across weak boundaries;

- (e) **sourcing bought-in stock carefully and adhering to isolation procedures for inconclusive or reactor animals.**

6. The Identification, Movement and Tracing of Cattle

The EU requirements are enforced in England through the Cattle Identification Regulations 2007 (SI2007/529) and eponymous amendments in 2007 (SI2007/1046); 2013 (SI2013/517); 2015 (SI2015/219); and 2017 (SI2017/101).

There are strict rules on the control and movement of cattle for the purpose of disease control and also to maintain consumer confidence in farm produce derived from cattle.

6.1 Identification and Tracing of Cattle

The Statutory Management Requirements (SMRs) aim to maintain a system for the identification and registration of cattle to help with their traceability, particularly in the event of a disease outbreak.

All calves born on a holding must be tagged, as must cattle imported from outside the EU, with DEFRA-approved eartags within their respective timescales. Furthermore a farmer must not remove or replace ear tags without permission from the British Cattle Movement Service (BCMS) unless they are lost or illegible. Lost or illegible tags must be replaced, and tags and cattle passports must not be altered, obliterated or defaced.

Once livestock have been moved to a holding, no other animals are permitted to move onto or off it for six days (Disease Control (England) Order 2003 (SI2003/1729 as amended). This so-called 'standstill provision' was introduced as a result of Foot and Mouth Disease (FMD) in 2001 and restricts the movement of all livestock. Whenever livestock is moved onto a farm, no livestock (excluding pigs) may move off it for a period of six days.

The situation regarding pigs is more heavily regulated, and pigs must remain on the farm for six days where livestock has been moved on to a holding. However, where the livestock being

brought onto the farm are pigs, existing pigs must remain under standstill for a longer period of 20 days.

6.2 Movement of Cattle

The BCMS must be notified of movements of cattle on to your holding within three days of the event. This can be done by:

- using Cattle Tracing Service (CTS) Online;
- using the CTS Self Service Line;
- using a farm software package linked to CTS Web Services; or
- using the tear-out movement cards in the animal's chequebook-style passport.

These details must also be recorded in the "movement summary" section of the animal's passport. Before any movement takes place, you will need to inspect the cattle for signs of FMD. If you discover any signs this will mean that the General Licence to move the cattle will be revoked and penalties will apply.

6.3 Death of cattle on the holding

If an animal dies on farm, it must be reported electronically or the death details section of the animal's passport must be completed. The passport must be returned to the BCMS within seven days of its death.

If the animal is over 48 months old it must be sent to an approved sampling site so that a brainstem sample can be taken for Bovine Spongiform Encephalopathy (BSE) testing. Even if, for whatever reason, the animal has not been registered, it must still be sent for BSE testing.

You must notify the BCMS of any cattle deaths on your holding within seven days by either reporting the death electronically or completing the death details section of the passport, in either case the passport must be returned to the BCMS within seven days of the death.

Animals over 48 months old, which die on farm, must be sent for BSE testing. The TSE

cut off slip from the single page passport or a movement card from the cheque-book style passport should be placed in a clear plastic bag and left with the carcass, preferably attached to it in some way.

There are further regulations for cattle sent for slaughter which are beyond the scope of this article.

If an animal does not have a cattle passport, the keeper must notify its death to BCMS in writing within seven days, and include the ear tag number, the date of death, and the holding on which it died.

6.4 Definition of Holding

A holding means any establishment, construction or, in the case of an open-air farm, any place in which cattle are held, kept or handled. A keeper must register his holding(s) on the register for a County Parish Holding (CPH).

The movement of cattle between holdings is restricted as discussed in Part 3 above. These restrictions still apply if the movement is between two holdings which are registered separately but which come under the same keeper. This is the case where the holdings are adjoining but separately registered.

6.5 Penalties

A person guilty of an offence under the Regulations (in relation to the identification, movement and tracing of cattle) is liable—

- (a) on summary conviction: to a fine not exceeding the statutory maximum (currently unlimited) or to imprisonment not exceeding three months, or to both;
- (b) on conviction on indictment: to a fine or to imprisonment for a term not exceeding two years or to both.

The timely testing of cattle herds is a key bTB control measure. Those that fail to test on time increase the risk of disease spread. Since 1st

January 2015 cross-compliance penalties are applied to those who are late in completing their bTB tests. All types of bTB (skin) tests are included, except those which result from tracings of animals following a bTB breakdown elsewhere.

Under existing cross compliance rules, the RPA applies a percentage reduction to CAP Scheme payments claimed by those cattle keepers who have not met their bTB testing obligations. To further encourage the timely testing of cattle herds compensation will be reduced for any Reactors found on a test overdue by more than 60 days.

The Cattle Compensation (England) Order 2012 (SI2012/1379) sets out the reduction on a sliding scale:

- more than 60 days overdue but less than 90 days, reduced by 25%;
- more than 90 days but less than 180 days, reduced by 50%;
- more than 180 days, reduced by 95%.

7. A Recent Case

I recently dealt with a well-respected cattle farmer following his prosecution for eight offences under the provisions of the Animal Health Act 1981 which involved breaches of the 2014 Order and nine offences under ss.4 and 9 Animal Welfare Act 2006.

He farmed in West Sussex (an LRA), the North Eastern part of East Sussex (an EDA), and Dorset and the South Eastern part of East Sussex (an HRA). Not only does prevalence of disease vary across the country, but the precise epidemiology of the disease has regional variations, a fact that can allow tracing of the origins of infection.

The factual matrix was complex but the outcome was a Guilty Plea, fines totalling £12,500 and incalculable reputational harm to him and his farming enterprise.

The central message of this article is: understand bTB, the relevant regulations and make sure that you are fully compliant at all times.

Joshua Quinn, Knights Solicitors, Tunbridge Wells

ISSN 0964-8488

Farm Law is published 11 times per year by: E S Singleton, trading as Singlelaw, The Ridge, South View Road Pinner HA5 3YD
• Tel 020 8866 1934, <http://www.singlelaw.com/farm-law>

Marketing/Production: Tel 020 8866 1934 email susan@singlelaw.com

Subscription orders and back issues, sales and renewals: Call 020 8866 1934 • email: susan@singlelaw.com.

© Singlelaw 2017

Copyright While we want you to make the best use of *Farm Law*, we also need to protect our copyright. We would remind you that unlicensed copying is illegal. However, please contact us directly should you have any special requirements.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electrical, mechanical, photocopying, recording, or otherwise without the prior written permission of the publisher.

Disclaimer While all reasonable care has been taken in the preparation of this publication, no liability is accepted by the publishers nor by any of the authors of the contents of the publication, for any loss or damage caused to any person relying on any statement or omission in the publication.

Singlelaw

www.singlelaw.com