

Consultation on Bovine TB - Proposal to introduce changes to compensation arrangements in Scotland and update the Tuberculosis (Scotland) Order 2007 on other disease control measures

Summary of consultation responses

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1. Executive Summary

The Scottish Government recently consulted on a number of changes to the Tuberculosis (Scotland) Order 2007 (“the TB Order”); including proposals to introduce changes to the requirements for post movement testing and to the way we pay compensation where the provisions of the TB Order have been breached. We also proposed the introduction of a cap on compensation payments similar to that already in place elsewhere in the UK.

Similar TB measures already introduced by both Defra and the Welsh Government highlighted the need to review both the Scottish TB Order and compensation system to ensure they continue to incentivise compliance and best practice while still being financially sustainable in the future.

The Scottish Government is committed to a comprehensive, practical and proportionate programme of actions that will help maintain our current low levels of TB and to safeguard our Officially TB Free status. We have therefore considered whether there is scope to implement further TB control measures that will encourage farmers to follow good farming practices in order to keep disease out of their herds.

A total of 15 written responses were received to the consultation and these were sorted into the following respondent groups:

Respondent Group	Total responses received	% of total responses
Cattle / Livestock Keeper	6	40%
Cattle /Livestock Association	1	7%
Agricultural Livestock Markets	1	7%
Animal Health Organisation	7	46%
Total	15	100%

2. Breakdown of respondent information

Proposed Changes

In **Question 1** respondents were asked whether the amount of compensation paid to the owner of an animal illegally moved onto a TB restricted herd that subsequently went onto become a TB reactor, should be either reduced or withheld completely.

Total number of responses to Q1 and % of overall total number received	Yes	No	Don't Know	No response
14 (93%)	11	3	0	1(7%)
% of responses received to this question	78.5%	21.5%	0%	-

In **Question 2** respondents that had answered YES to Question 1 were asked whether the compensation payments should be reduced or withheld completely.

Total number of responses to Q2 and % of overall total number received	Reduced	Withheld	Don't Know	No response
11 (73%)	1	10	0	4(27%)
% of responses received to this question	9%	91%	0%	-

In **Question 3** respondents were asked where an owner/keeper has failed to meet their statutory testing obligations, whether the amount of compensation paid for any animals that were subsequently disclosed as TB reactors, should be either reduced on a sliding scale determined by the length of time the test is delayed or just withheld completely.

Total number of responses to one or more parts of Q3 and % of overall total number received	Yes	No	Don't Know	% of total consultation responses received to this part of question		No response
				Y	N	
14 (93%)						1(7%)
Reduced by a fixed amount	2	5	0	28.5%	71.5%	-
Reduced on a sliding scale	11	0	0	100%	0%	-
Withheld completely	3	7	0	30%	70%	-

In **Question 4** respondents were asked whether they thought that in order to maintain our current low levels of TB and to safeguard our Officially TB Free status that we needed to tighten up the rules on post movement testing.

Total number of responses to Q4 and % of overall total number received	Yes	No	Don't know	No response
14(93%)	14	0	0	1(7%)
% of responses received to this question	100%	0%	0%	-

In **Question 5** respondents were asked if they had answered Yes to Question 4 which of the following options they thought would be most appropriate and effective.

Total number of responses to Q5 and % of overall total number received	Yes	No	% of responses received to this question	Not answered
14(93%)				1(7%)
Option 1 – Introduce at statutory obligation on the seller to inform the purchaser and APHA if a required Post Movement test was still outstanding	1	0	7%	-
Option 2 – Require that Post Movement testing is completed on original holding of destination before animal is permitted to move again	13	0	93%	-

In **Question 6** respondents were asked whether Scotland should introduce a compensation cap of £5,000 to ensure consistency with the rest of the UK.

Total number of responses to Q6 and % of overall total number received	Yes	No	Don't Know	No response
15(100%)	9	3	3	0
% of responses received to this question	60%	20%	20%	0%

In **Question 7** respondents were asked whether they thought that Scottish Government should introduce an automatic justification threshold for cattle valuations in Scotland similar to the £3,000 threshold applied in Wales.

Total number of responses to Q7 and % of overall total number received	Yes	No	Don't Know	No Response
15 (100%)	4	5	6	0
% of responses received to this question	27%	33%	40%	0%

Business Impact

In **Question 8** respondents were asked what financial effects, if any, that the payment of either reduced or no compensation in such circumstances described in the consultation, would have on their business.

This is a “free text” question which does not allow for an exact quantitative collation of answers. Answers have therefore been broadly grouped into the follow categories.

Total number of responses to Q8 and % of overall total number received	Little or No Impact	Possible High Impact	Not applicable	No Response
10 (67%)	3	2	5	5 (33%)
% of responses received to this question	30%	20%	50%	

Question 9 respondents were asked what financial effects, if any, that the introduction of a £5,000 statutory cap on compensation payments would have on their business.

This is a “free text” question which does not allow for an exact quantitative collation of answers. Answers have therefore been broadly grouped into the follow categories.

Total number of responses to Q8 and % of overall total number received	Little or No Impact	Possible High Impact	Not applicable	No Response
9 (60%)	4	1	4	6 (40%)
% of responses received to this question	44.5%	11%	44.5%	

3. Introduction

About this report

This report summarises the responses received to the recent consultation on proposals to introduce legislative changes to the way we pay compensation for bovine TB reactors and to the post movement testing requirements for bovine animals coming to Scotland from high incidence TB areas.

Background to the consultation

In 2009 Scotland achieved Officially Tuberculosis Free (OTF) status in recognition of the low and stable incidence of TB found in Scottish herds. The Scottish Government is committed to a comprehensive, practical and proportionate programme of actions

in order to maintain Scotland's current low levels of TB and safeguard our officially TB free status.

Defra has already introduced provisions to reduce compensation for those keepers who have failed to carry out TB testing on time and have recently consulted on further proposed changes to payment of compensation. Wales have gone even further and recently introduced an enhanced TB Eradication Programme which links compensation to good biosecurity, husbandry practices and adherence with the rules, that allows them to reduce compensation across a number of different non-compliance issues.

This action already taken by both Defra and the Welsh Government has highlighted the need to review the Tuberculosis (Scotland) Order 2007 including the current arrangements for payment of compensation, to ensure they continue to incentivise compliance and best practice, while being financially sustainable in the future.

4. Summary of consultation responses

Proposed Changes

Q1 – Do you think that the amount of compensation paid to the owner of an animal illegally moved onto a restricted herd and which subsequently goes on to become a TB reactor, should be either reduced or withheld completely.

A total of 14 responses were received for this question.

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	4	1		1
Cattle /Livestock Association	1			
Agricultural Livestock Markets	1			
Animal Health Organisation	5	2		
Total	11	3		1
% of total responses	73%	20%		7%
% of question responses	78.5%	21.5%		-

There was a positive response to this question. The majority of respondents (73%) were of the view that no one should be compensated for acting illegally and that in such circumstances the amount of compensation should be either reduced or withheld completely.

Three respondents (20%) thought that compensation should not be reduced or withheld in such circumstances. Of these three, one respondent did not provide any additional explanation for their response and the other two appeared to have misunderstood the question. The issue here is not as suggested that the purchaser was deceived by the vendor as to the TB status of the stock purchased and subsequently moved into the restricted herd, but the fact that the 'on movement' itself was done illegally.

We understand that for a number of reasons there is sometimes a need for cattle to be moved onto a restricted farm, and in these situations APHA may, where appropriate, provide the keeper with a licence allowing them to do so. Such licence requests are subject to veterinary risk assessment and are not permitted until the first short interval TB test has been completed.

Scottish Ministers currently pay compensation at full market value to the owner of any animal they require to be slaughtered because of bovine TB. This currently includes those that have moved on to a restricted herd, either legally or illegally, that go on to become TB reactors. The intention here is to either reduce or withhold compensation for those animals moved on illegally, as it seems only fair and reasonable that where a keeper has broken the rules in this way, they should not then be able to recover the full market value for animals that become diseased as a result. Compensation for animals that were moved on legally and under licence will not be affected.

Q2 - Respondents that had answered YES to Question 1 were asked whether they thought that the compensation payments should be either reduced or withheld completely.

A total of 11 responses were received for this question.

Respondent Group	Reduced	Withheld	No Response
Cattle / Livestock Keeper		4	2
Cattle /Livestock Association		1	
Agricultural Livestock Markets	1		
Animal Health Organisation		5	2
Total	1	10	4
% of total responses	7%	67%	26%
% of question responses	9%	91%	-

The majority of respondents who answered YES to question one (91%) were of the view that where a keeper had illegally moved animals onto an infected premises without a licence permitting them to do so, then compensation for any such animals subsequently identified as TB reactors should be withheld completely.

The view was expressed that a strong deterrent is needed to change the risk-appetite of such owners and that withholding compensation completely is proportionate in relation to the extra costs incurred by Government in dealing with these animals. However, it was also felt that some flexibility should be built in to allow for cases where there has been a genuine error or some other mitigating circumstances.

Only one person thought that compensation should be reduced in these circumstances. Four respondents did not answer this question.

Q3 – Do you think that where an owner/keeper has failed to meet the statutory testing obligations, the amount of compensation paid for animals subsequently disclosed as TB reactors should be either reduced by a fixed amount, reduced on a sliding scale or withheld completely.

A total of 14 responses were received for this question.

Respondent Group	(a)Reduced by a fixed amount	(b) Reduced on a sliding scale	Reduced by (a) or (b) depending on circumstance	Withheld completely	No response
Cattle / Livestock Keeper		3	1	1	1
Cattle /Livestock Association		1		1	
Agricultural Livestock Markets					
Animal Health Organisation		5	1	1	
Total	0	9	2	3	1
% of total responses	0%	60%	13%	20%	7%
% of question responses	0%	64%	14%	22%	-

The majority of respondents (64%) agreed that where an owner/keeper has failed to meet their herd testing obligations and their statutory TB test has become overdue, the amount of compensation paid for animals subsequently disclosed as TB reactors should be reduced on a sliding scale. A sliding scale would mean that the longer the test is overdue then the greater the reduction in compensation paid.

Two respondents (13%) thought that compensation should be reduced by either a fixed amount or on a sliding scale depending on the circumstances and three respondents (20%) thought compensation should be withheld completely.

Three respondents highlighted the importance of the timely disclosure of reactors in a herd, from both a financial and a disease control point of view and the risk to Scotland's Officially Tuberculosis Free status from not testing on time. However, 50% of those that responded to this question thought there should some flexibility built in to allow for cases where the delay has been as a result of severe and mitigating circumstances (e.g. Bereavement or Mental Health issues) or where it is proved that the farmer is not the one at fault.

Q4 – Do you think that in order to maintain our current low levels of TB and to safeguard our Officially TB Free status we need to tighten up the rules on post movement testing.

A total of 14 responses were received for this question.

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	5	0	0	1
Cattle /Livestock Association	1	0	0	0
Agricultural Livestock Markets	1	0	0	0
Animal Health Organisation	7	0	0	0
Total	14	0	0	1
% of total responses	93%	0%	0%	7%
% of question responses	100%	0%	0%	-

There was an almost unanimous response to this question with 100% of respondents agreeing that the statutory requirements for Post Movement TB testing should be tightened up in order to safeguard Scotland's Officially TB Free status.

The common view was that all cattle coming either directly or indirectly from a high risk area into Scotland should be held on the first premises of destination until a negative post movement test is completed. This is because TB free status is considered too valuable and important to leave anything to chance.

Q5 – If you answered YES to Question 4 which of the following two options below do you think would be most appropriate and effective.

A total of 14 responses were received for this question.

Respondent Group	(1) Obligation on seller to inform purchaser and APHA if post movement test not done prior to sale	(2) Restrict animal on destination holding until post movement test completed with negative results	No response
Cattle / Livestock Keeper	1	4	1
Cattle /Livestock Association	0	1	0
Agricultural Livestock Markets	0	1	0
Animal Health Organisation	0	7	0
Total	1	13	1
% of total responses	7%	86%	7%
% of question responses	7%	93%	-

The majority of respondents who answered YES to Question 4 (93%) selected option 2 which would require all cattle coming either directly or indirectly from a high risk area into Scotland, to be held at the first premises of destination until a negative post

movement test was completed. The post movement test must be carried out between 60-120 days of arriving on a Scottish holding.

Comments provided by respondents were clear that option 2 was considered to be not only easier to monitor and control but would also involve less risk of spreading TB if an untested animal was permitted to move onto another holding within the 60-120 day post movement testing window.

It was also highlighted by one respondent that with more than half (57%) of the Scottish national herd now exempt from routine herd testing for TB, it is essential that all steps are taken to prevent disease incursion at the point of movement.

Only one respondent selected option 1 but no explanation for this choice was provided.

Q6 – Do you think that we should introduce a compensation cap of £5,000 in Scotland to ensure consistency with the rest of the UK.

A total of 15 responses were received for this question

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	3	2	1	0
Cattle /Livestock Association	1	1		0
Agricultural Livestock Markets				0
Animal Health Organisation	5		2	0
Total	9	3	3	0
% of total responses	60%	20%	20%	0%
% of question responses	60%	20%	20%	0%

The majority of respondents to this question (60%) were in favour of the introduction of a cap on the amount of compensation paid for individual animals which are slaughtered as TB reactors. Those in favour commented that a cap on compensation would be prudent and encourage good behaviour and that anyone with animals valued over £5,000 had the option to insure them against such risks. It was advised however, that while acceptable, this change would need to be well publicised to ensure that owners of high value animals were aware of the change.

There were three respondents (20%) who were against the introduction of a cap and there was some concern that this would result in pedigree animals being undervalued. The Institute of Auctioneers and Appraisers Scotland were of the view that this had not been a significant issue in the past and that as long as the professional valuation was justified that the owner should receive compensation at full market value.

A further three respondents (20%) were unsure about the impact of implementing a cap and so did not express a view on this one way or the other.

Q7 – Do you think that Scotland should introduce an Automatic Justification Threshold for cattle valuations, similar to that used in Wales (£3,000)

A total of 15 responses were received for this question.

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper		4	2	0
Cattle /Livestock Association	1	1		0
Agricultural Livestock Markets				0
Animal Health Organisation	3		4	0
Total	4	5	6	0
% of total responses	27%	33%	40%	0%
% of question responses	27%	33%	40%	0%

Views on the introduction of an Automatic Justification Threshold were fairly evenly split with 27% of respondents in favour, 33% against and a slight majority undecided at 40%.

Of those in favour only one offered the additional view that implementation may stop some over-inflated claims while another felt that a £3,000 threshold was too high and should be lower.

Those against the introduction of an Automatic Justification Threshold expressed the view that this would be too complicated and that keepers needed to have confidence in the present valuation process, which was considered adequate. The Institute of Auctioneers and Appraisers Scotland were of the view that any scrutiny of animals professionally valued should also be undertaken by professional valuers.

Of those that were undecided, the only comment made was that we already have competent and independent valuers who can provide a fair value.

Business Impact

Q8 – What financial effects, if any, do you think that payment of either reduced or no compensation in the proposed circumstances would have on your business.

A total of 10 responses were received for this question.

Respondent Group	Little or No Impact	Possible High Impact	Not applicable	No response
Cattle / Livestock Keeper	3			2
Cattle /Livestock Association		2	1	
Agricultural Livestock Markets				
Animal Health Organisation			4	3
Total	3	2	5	5
% of total responses	20%	14%	33%	33%
% of question responses	30%	20%	50%	-

This was a “free text” question which does not allow for an exact quantitative collation of answers. Answers were therefore broadly grouped into the above categories. The majority of respondents (66%) either didn’t respond to this question or indicated that it was not applicable to them as Animal Health Organisations or Associations.

Three respondents (20%) felt that reduced or no compensation would have little or no impact on their business and expressed the view that it was more important financially to remain TB free and that this measure would encourage responsible sourcing when buying in stock and discourage buying animals from high risk TB areas.

Only the remaining 14% of respondents felt that this proposal could possibly have a major financial impact on their business, particularly if stock of high genetic merit were lost or where a significant proportion of their herd was affected.

Q9 - What financial effects, if any, do you think that the introduction of a £5,000 statutory cap on compensation payments would have on your business.

A total of 11 responses were received for this question

Respondent Group	Little or No Impact	Possible High Impact	Not applicable	No response
Cattle / Livestock Keeper	3	1		2
Cattle /Livestock Association	1		1	
Agricultural Livestock Markets				
Animal Health Organisation	2		3	2
Total	6	1	4	4
% of total responses	40%	7%	26.5%	26.5%
% of question responses	55%	9%	36%	-

This was a “free text” question which does not allow for an exact quantitative collation of answers. Answers were therefore broadly grouped into the above categories. The majority of respondents (53%) either didn’t respond to this question or indicated that it was not applicable to them as Animal Health Organisations or Associations.

Just over half of those that provided a response to this question (55%) felt that the introduction of a £5,000 statutory cap would have little or no impact on their business. Those that offered further comment felt that it was more important financially to remain TB free and also because they had only a few animals that were valued over £5,000.

Only one respondent (7%) felt that this proposal could potentially result in a major financial impact that could put them out of business.

About this Consultation

Q10 - Are you content for the Scottish Government to contact you for further clarification of the financial effects that you have estimated if a Business Regulatory Impact Assessment is required.

A total of 13 responses were received for this question

Respondent Group	Yes	No	No response
Cattle / Livestock Keeper	5	1	
Cattle /Livestock Association	1		
Agricultural Livestock Markets			1
Animal Health Organisation	1	5	1
Total	7	6	2
% of total responses	46%	40%	14%
% of question responses	54%	16%	-

Q11 - Do you think there are any other controls that the Scottish Government should consider to help meet the aims set out in this document.

A total of 14 responses were received for this question

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	2	2	1	1
Cattle /Livestock Association	1			
Agricultural Livestock Markets			1	
Animal Health Organisation	4	2	1	
Total	7	4	3	1
% of total responses	47%	26%	20%	7%
% of question responses	50%	29%	21%	-

Half of those that responded to this question felt that there were other TB controls that should be considered by the Scottish Government. The additional controls suggested were;

- To test badgers in every area for TB.
- Increased cattle testing.
 - The return to 2 yearly routine testing.
 - Pre movement testing of all cattle entering Scotland.
- More publicity of disease situation in Scotland and on the risk from outside Scotland.
- Consider whether current movement requirements for animals entering Scotland from a Radial testing area in England are sufficient.

Q12 - Do you consider that the consultation explained the key issues sufficiently to properly consider your responses.

A total of 14 responses were received for this question

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	4		1	1
Cattle /Livestock Association	1			
Agricultural Livestock Markets	1			
Animal Health Organisation	7			
Total	13	0	1	1
% of total responses	86%	0%	7%	7%
% of question responses	93%	0%	7%	-

The majority of those respondents who answered this question (93%) felt that the key issues had been sufficiently explained in order for them to consider their response.

Q13 - Do you consider that you had sufficient time to respond to this consultation.

A total of 14 responses were received for this question

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	5			1
Cattle /Livestock Association	1			
Agricultural Livestock Markets	1			
Animal Health Organisation	6	1		
Total	13	1	0	1
% of total responses	86%	7%	0%	7%
% of question responses	93%	7%	0%	-

The majority of those respondents who answered this question (93%) felt that they had sufficient time to respond to the consultation.

Q14 - Do you have any other comments on the way this consultation has been conducted.

A total of 15 responses were received for this question

Respondent Group	Yes	No	Don't Know	No response
Cattle / Livestock Keeper	2	4		
Cattle /Livestock Association		1		
Agricultural Livestock Markets		1		
Animal Health Organisation		7		
Total	2	13	0	0
% of total responses	14%	86%	0%	0%
% of question responses	14%	86%	0%	0%

The majority of those respondents who answered this question (86%) had no further comments on the way this consultation was conducted.

One respondent made the comment that contact should be maintained with livestock hauliers, markets and abattoirs.

Other changes advised which were out with the scope of the consultation

1. Cost recovery where removal of a reactor animal is refused.
2. Non Payment of compensation for NoR animals.
3. State Aid Rules – Non-payment of compensation where infection is caused deliberately or by owner negligence.
4. Extension to the prohibition on testing.

5. Conclusion

Although the number of responses received to this consultation was quite low the Scottish Government are none the less grateful to those who have provided their comments. It is clear from those responses we did receive that there is support for the proposed changes across all the various respondent groups and that the level of importance attached to maintaining Scotland's OTF status is significant.

6. Next Steps

The responses submitted have provided us with some useful feedback on the TB policy changes proposed, which in turn has helped inform our thinking on how we would like to see this policy developed in Scotland. We have therefore made the decision to take forward all changes detailed in the consultation document, with the exception of the introduction of a £3,000 Automatic Justification Threshold for cattle valuations.

The views expressed on the introduction of an Automatic Justification Threshold were fairly evenly split (No 33% -Yes 27% 40% Not sure) and on balance we tended to agree with those against the proposal, in that the present valuation process is already satisfactory and fit for purpose. We also felt that the small number of TB reactor cattle valued between the £3,000 justification threshold and the £5,000 compensation cap being implemented did not justify the additional resource required to make this change.

Changes being implemented

- Compensation will be withheld completely (£1 nominal payment) for animals illegally moved onto TB restricted herds that subsequently go onto become TB reactors

- Where statutory TB testing obligations have not been met the compensation paid for any subsequent TB reactors disclosed will be reduced on a sliding scale depending on the length of time the test is overdue.
- A process of appeal for any decision to either reduce or withhold compensation in the above circumstances will be introduced to ensure that this policy is administered fairly and allows for any mitigating circumstances to be considered.
- Post movement testing will have to be completed on the original holding of destination before animals are permitted to move again.
- A £5,000 cap on compensation paid for individual animals will be introduced.

We will also introduce the following changes advised in the consultation document, which were out of scope and therefore included for information only.

- Cost recovery where removal of a reactor animal is refused by the owner and a warrant must be obtained by APHA allowing them to do so.
- Non-payment of compensation (£1 nominal payment) for animals that have only a Notice of Registration (NoR) instead of a cattle passport.
- The prohibition on testing is being extended to cover any test for tuberculosis, including any newly developed serological tests.

It is the intention of the Scottish Government therefore to introduce an amendment to the Tuberculosis (Scotland) Order 2007 and we would expect the amending legislation to be in place by July 2018.

7. List of Responding organisations

1. Animal & Plant Health Agency
2. Food Standards Scotland
3. Individual Scottish Cattle/Livestock Keepers
4. Institute of Auctioneers & Appraisers
5. Local Authorities (Scottish)
6. Scotland's Rural College
7. Scottish Beef Association



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