



security action for everyone

Data Protection Impact Assessment – Scotland's BVD eradication scheme, Phase 5 – publishing BVD positive CPH numbers

Information Assurance and Risk

October 2018



Scottish Government
Riaghaltas na h-Alba
gov.scot

Data Protection Impact Assessment (DPIA)

1. Introduction

The purpose of this document is to report on and assess any potential Privacy Impacts as a result of the implementation of Phase 5 of the Bovine Viral Diarrhoea eradication scheme, specifically the proposal to publish the locations of infected cattle.

2. Document metadata

- 2.1 Name of Project: Phase 5 of the Bovine Viral Diarrhoea eradication scheme, specifically the proposal to publish the location of infected cattle.
- 2.2 Author of report: Jenny Purcell
- 2.3 Date of report: 22/03/2019
- 2.4 Name of Information Asset Owner (IAO) of relevant business unit: Sheila Voas
- 2.5 Date for review of DPIA

| Review date | Details of update | Completion date | Approval Date |
|---|-------------------|-----------------|---------------|
| One year after the coming-into-force date of Phase 5 of the BVD eradication scheme. | | | |
| As required during the development of the legislation. | | | |
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3. Description of the project

3.1 Description of the work:

Animal Health and Welfare Division policy staff are working with the SG legal team to draft subordinate legislation on BVD (Bovine Viral Diarrhoea) which is subject to an industry-led eradication scheme in Scotland. BVD is a very infectious cattle disease and causes significant health and welfare problems, resulting in reduced herd productivity.

One of the proposals for the new legislation is that the wider cattle industry should be made aware of herds where infection is known to be present. The aim is to promote responsible cattle purchasing (i.e. don't buy cattle from herds with active infection) and it will also allow disease-free herds to take precautions against disease spread if their neighbours have active BVD infection.

All agricultural businesses that keep animals, including keepers of cattle, must register their holding with Scottish Government Rural Payments and Inspections Division (SGRPID). Registration requires submission of information to SGRPID about the “legal person” running the business at the holding (this could be a sole trader, partnership, limited company or other form of business model), the land on which the business will take place (called the holding) and the type of business operated. The business is then allocated a unique identification number based on its County, Parish and Holding (referred to as a CPH number or code, also known as a Location Code) and a Business Reference Number (BRN). A CPH may refer to a single parcel of land or to a number of separate land parcels that are all used by the business.

All the official identities (IDs) of cattle in Scotland are held on ScotEID. This is an online data base identifying the current BVD status of cattle on each CPH. The information on the database is inputted under legal obligations on keepers of cattle. Put very broadly, BVD status relates to whether the herd on any CPH has been exposed to the BVD virus. The same applies to all individual cattle registered as being located in Scotland that have a BVD status because they have been individually tested. A BVD positive status for a herd or individual animal is not normally a good thing for a farming business. BVD is easily transmitted by BVD positive cattle to those that are “naïve”, i.e. not protected by BVD vaccination or previous exposure. Infection can spread within a herd, “over the fence” between neighbouring herds and between individual cattle anywhere that they are gathered, e.g. shared transport, livestock markets or shows.

Where a cattle herd includes one or more BVD positive animals, we propose to publish the CPH number of where the herd is located on the ScotEID database in the first instance. The list of CPH numbers will be updated on a continuous basis. Cattle keepers will have 40 calendar days to retest or remove (kill or send for slaughter) a virus positive animal before their CPH is added to the list. As soon as the animal(s) is/are reported as having a negative BVD result at retest or as dying or moving off the CPH, the CPH number will be removed from the list.

3.2 Personal data to be processed.

| Variable | Data Source |
|------------|-------------|
| CPH number | ScotEID |
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3.3 Describe how this data will be processed:

- The CPH numbers will be highlighted automatically by software included in the ScotEID BVD database, by selecting those holdings with one or more BVD positive animals from all the holdings on the database.
- The list of BVD positive holdings will be generated automatically. The list will be visible by anyone who visits the ScotEID website and clicks on the appropriate option, which will be labelled as “BVD positive holdings”. Once the list is opened, it will have the title “BVD positive holdings” and information directly below the title to explain that the holdings on the list have at least one animal that has tested positive for BVD virus on at least one occasion. Website visitors will not need to register or to log-in to ScotEID to see the list of positive holdings.

- The list of BVD positive holdings will only be available electronically. It will be updated at least every 24 hours by ScotEID to add newly-disclosed positive holdings to the list, and remove those holdings where previously BVD positive animals have retested negative or have died/been killed.
- The list will be stored electronically. It will be updated daily and no archive will be kept.
- The data controllers in common will be SG and ScotEID. The data will be managed by ScotEID.com Ltd, a wholly-owned subsidiary of SAOS. ScotEID's data protection policy is published on the ScotEID website.
- BVD test result data is checked for accuracy and uploaded to the ScotEID database by approved laboratories that comply with ISO17025. The ScotEID software makes further automated checks for transcription errors in uploaded results. Keepers of BVD positive cattle will receive an automatically-generated email when the positive result is uploaded to the ScotEID database, advising them to take appropriate action within two months to avoid being listed as a BVD positive holding. The automated email will also prompt the cattle keeper to check that the information uploaded to the database is correct, e.g. that it matches the results that they will have received from the testing laboratory. The list of BVD positive holdings will be updated every 24 hours.

3.4 Explain the legal basis for the sharing with internal or external partners:

The underlying legal basis for obtaining BVD positive holding data and sharing it with the Scottish cattle industry is subordinate legislation already made and the publication proposals for provisions in a new order to be made under the Animal Health Act 1981 (which allows the Scottish Ministers to make such Orders as they think fit for the purpose of in any manner preventing the spreading of disease).

The existing BVD (Scotland) Order 2013, made under the Animal Health Act 1981, sets out the mandatory requirements of eradication of BVD and imposes restrictions on BVD positive cattle and the herds that contain them. The replacement BVD (Scotland) Order will consolidate the 2013 Order and amendments and will contain additional measures to eradicate BVD, including publication of the CPH numbers of positive holdings. By identifying holdings where there is active BVD infection, other cattle keepers, including prospective buyers and neighbours, can reduce the risk of introducing infection to their herd.

The CPH is the conventional means of defining cattle herd location within GB, and is widely understood throughout the cattle industry. Whilst the CPH may refer to a number of land parcels, which may be geographically disconnected, use of CPH is no more ambiguous than using the cattle keeper's address, which can be geographically distant from cattle if they are grazing or housed at separate locations.

Since its introduction in 2013, the ScotEID database has provided a "BVD lookup" facility that allows anyone to enter a CPH number and see its current BVD status. The publication of all BVD positive CPHs in a single list can be seen as an extension of the existing "lookup" facility. A CPH will only identify a cattle keeper if the viewer already has additional information, e.g. from previously trading with the keeper. Without any additional personal information, the list will allow viewers to determine whether there is active BVD infection within a specific county and parish, and to take precautions to protect any cattle that are kept there.

The overwhelming majority of cattle keepers comply with both the law and the BVD eradication scheme guidance, and as a result approx. 90% of Scotland's cattle breeding herds are negative for BVD exposure. Of the remaining 10% a small number of herds are known to be BVD positive, the remainder being of unknown status or simply late in completing annual testing. ScotEID data

downloaded on 5th May 2018 showed that 104 cattle holdings had one or more BVD positive animals, this represents 1% of all breeding cattle herds. Thus sharing the list of BVD positive CPHs would benefit the majority of the cattle industry whilst penalising a small minority.

Scotland's cattle industry is worth approx. £1 billion to the Scottish economy annually, and the eradication of a disease that is estimated to cost £90 million per year (figures based on 2015 data) is in the public interest because it makes milk and meat production more efficient. Eradication of BVD is also associated with reduced use of antibiotics on farm and better animal welfare, both of which are public goods.

BVD eradication schemes exist in other parts of Europe, some are national programmes, others are regional. The Republic of Ireland's BVD eradication scheme includes informing all neighbouring farmers of a BVD positive animal, which allows them to take appropriate disease control measures to reduce or prevent spread to their own herds.

4. Stakeholder analysis and consultation

4.1 List all the groups involved in the project, and state their interest.

| Group | Interest |
|----------------------------|--|
| Scotland's cattle industry | Eradication of BVD from Scotland to achieve a healthier, more profitable national cattle herd. |
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4.2 Method used to consult with these groups when making the DPIA.

Consultation with the Animal Health and Welfare Division's general stakeholder group.

4.3 Method used to communicate the outcomes of the DPIA .

Email/press release

5. Questions to identify privacy issues

5.1 Involvement of multiple organisations

Data comes only from ScotEID

5.2 Anonymity and pseudonymity

Data from one database only. Data is limited to the CPH number, a geographical identifier that does not, on its own, identify an individual.

5.3 Technology

N/A

5.4 Identification methods

CPHs, or County, Parish, Holding numbers are geographical identifiers allocated to farm businesses. They are also sometimes called location codes. All agricultural businesses that keep animals, including keepers of cattle, must register their holding with Scottish Government Rural Payments and Inspections Division (SGRPID). Registration requires submission of information to SGRPID about the “legal person” running the business at the holding (this could be a sole trader, partnership, limited company or other form of business model), the land on which the business will take place (called the holding) and the type of business operated. The business is then allocated a unique identification number based on its County, Parish and Holding (referred to as a CPH number or code, also known as a Location Code). On its own, the CPH number in Scotland cannot be used to identify a living person.

5.5 Sensitive/Special Category personal data

N/A

5.6 Changes to data handling procedures

Only CPH numbers will be displayed on the list of BVD positive holdings. The list will be updated every 24 hours to reflect test results that would result in removal from or addition to the list, and to take account of reported deaths or movements of BVD positive animals.

5.7 Statutory exemptions/protection

N/A

5.8 Justification

This proposal is valuable to the cattle industry in Scotland. By making public those herds that are a source of disease, other cattle keepers can put measures in place to protect their animals. Approximately 90% of Scotland’s breeding cattle herds are BVD negative. Some of the remaining 10% are not negative because their testing status has lapsed and is now overdue, and some because they have one or more BVD positive animals in their herd. Publishing a list of the small minority of herds that persist in retaining highly-infectious BVD positive cattle will help the compliant majority of Scotland’s cattle keepers who are trying to keep BVD out of their herds.

In general, consultees felt that the benefits of the proposal outweighed the data protection costs for those keepers of BVD positive cattle whose CPH would be published. One response suggested that only the county and parish numbers should be published, in order to protect individuals with BVD positive herds. However, this might reduce commerce for all cattle herds in the parish, which could unfairly disadvantage compliant farmers, without providing the specific information that could assist potential buyers from, and neighbours of, the positive herd. Another suggestion was to replace the publication of CPH numbers with total movement restrictions on BVD positive herds. Positive herds are already subject to a partial movement ban; total movement bans are very onerous for cattle keepers. There is a disease control rationale to a total movement ban for BVD positive herds, and it could be considered for a later Phase of the eradication scheme if some keepers continue to retain virus positive cattle. However, illegal movements are only enforced after they have taken place, i.e. after the disease spread has occurred. Also, a total movement ban on the positive herd would not provide potentially beneficial information to neighbours who may wish to take biosecurity precautions to protect their cattle.

The public goods that are associated with reduction and eradication of BVD are: more efficient production of milk and meat resulting in lower greenhouse gas emissions per kilo of meat/litre of milk; reduced cattle welfare problems due to healthier herds; and reduced use of antibiotics on farm leading to reduced likelihood of bacteria developing antimicrobial resistance.

5.9 Other risks

5.10

N/A

6. General Data Protection Regulation (GDPR) Principles

| Principle | Compliant – Yes/No | Description of how you have complied |
|--|---------------------------|---|
| 6.1 Principle 1 – fair and lawful, and meeting the conditions for processing | yes | We have assessed the public interest and determined that it is appropriate to make provision for publication of the list of BVD positive CPHs in new subordinate legislation made under the Animal Health Act 1981. |
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.2 Principle 2 – purpose limitation | yes | BVD test results are already gathered for the purpose of disease eradication, publishing the list of BVD positive CPHs would further promote disease control. |
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.3 Principle 3 – adequacy, relevance and data minimisation | yes | Only the CPH will be published, no other personal data would be provided. |
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.4 Principle 4 – accurate, kept up to date, deletion | yes | The accuracy of Scottish CPHs is under review with Government |

| | | |
|--|---------------------------|--|
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.5 Principle 5 – kept for no longer than necessary, anonymization | yes | CPHs will be listed after 40 days of becoming BVD positive and will be removed from the list on the day that they are no longer positive. No archive will be available on ScotEID. |
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.6 GDPR Articles 12-22 – data subject rights | yes | The list of positive CPHs will be accompanied by clear instructions for anyone identifying errors in the data to contact ScotEID so that the errors can be rectified. |
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.7 Principle 6 - security | yes | ScotEID maintains Cyber Essentials + and ISO 9001 2015 in accordance with GDPR article 5(1)(f). |
| Principle | Compliant – Yes/No | Description of how you have complied |
| 6.8 GDPR Article 24 - Personal data shall not be transferred to a country or territory outside the European Economic Area. | yes | The data will not be transferred outside the European Economic Area. |

7. Risks identified and appropriate solutions or mitigation actions proposed

Is the risk eliminated, reduced or accepted?

| Risk | Ref | Solution or mitigation | Result Eliminate/reduce/accept |
|--|------------|---|--|
| Inaccurate data | 1 | BVD test results are checked and uploaded to the ScotEID database by the testing laboratories as part of the procedures required under ISO 17025. The CPH numbers uploaded to ScotEID are subject to automatic checks to reduce typographical errors. Data held on the ScotEID database can be corrected and updated at any time in the event that errors are identified. | reduce |
| Farmers or others may take action against the cattle keeper associated with a BVD positive | 2 | If vigilante action occurs as a result of publication of a BVD positive CPH, normal law enforcement activities would be triggered. If | accept |

| Risk | Ref | Solution or mitigation | Result Eliminate/reduce/accept |
|---|-----|---|-----------------------------------|
| CPH | | Scottish Ministers consider that the list of BVD positive CPHs has resulted in unacceptable public disorder, publication could be ceased or limited. | |
| Complaints that the delay in publication of the list has harmed cattle keepers who would have avoided historic outbreaks of BVD in their herd had they known that a neighbouring herd was infected. | 3 | Since the introduction of the ScotEID BVD database in 2013, anyone, including all cattle keepers, has been able to look up the status of other herds on the BVD database. If a cattle keeper knows his neighbour's CPH number, which would be the case if livestock had been moved or traded between the holdings, he could have looked up his neighbour's BVD status at any time since 2013. | accept |
| Farmers unaware of BVD status publication before implementation | 4 | The BVD Advisory Group will undertake a publicity campaign in the 6 months ahead of the introduction of publication to ensure, as far as possible, that every cattle keeper in Scotland is aware of the measure. | reduce |
| 40 days not long enough to organise re-test | 5 | The 40 day amnesty period is based on our understanding of the turnaround times of laboratories, veterinary practices, knackeries and livestock transporters: 40 days should be ample time for a BVD virus positive animal to be removed from the herd, with or without re-sampling for confirmation of PI status. If, on review, 40 days is judged to be insufficient, the amnesty period will be increased. | eliminate |
| CPHs provide information about premises, place of work and potentially working conditions | 6 | CPHs identify a geographical location that may be associated with additional information. A keeper who chooses to retain BVD positive cattle may experience embarrassment or inconvenience following the publication of his CPH. However, allowing neighbours to take precautions to protect their cattle, and potential buyers to source cattle responsibly, provides overall benefits to Scotland's cattle | accept |

| Risk | Ref | Solution or mitigation | Result Eliminate/reduce/accept |
|---|-----|--|-----------------------------------|
| | | industry in reducing exposure to BVD. The publication of a BVD positive CPH remains within the control of the keeper because, by removing the BVD positive animal(s) from the herd, publication can be avoided, or if it is already underway, terminated. | |
| Neighbours' awareness of CPHs could affect personal or commercial relationships | 7 | If neighbours know a keeper's CPH, they can already check the BVD status using ScotEID's BVD lookup facility. This has been available since 2013, and has not caused complaints about adverse effects on neighbour relationships. | accept |
| If CPH covers several land parcels there could be unjustified negative aspects for business | 8 | If the herd has several land parcels, the BVD positive animal could have been in any or all of them, which could put neighbouring cattle at risk unless the premises follows best practice as regards boundary fencing. The protection of neighbouring herds from BVD infection is an important reason for publication. | accept |
| Even with rapid removal from the list there may be long-lasting repercussions of being listed as BVD positive | 9 | The online list held by ScotEID will list only those CPHs where BVD virus positive animals are alive in the herd. It will not be retrospective. Any lasting repercussion of having been listed will be mitigated by the current status of the herd being shown on ScotEID. If, on review, the publication of BVD positive CPHs is judged to be counterproductive to the BVD eradication scheme, it will be discontinued. | reduce |
| The effect of publishing BVD status may be significant on the individual cattle keeper. | 10 | The BVD status of all Scottish breeding herds is already available on ScotEID and can already be accessed by anyone who types the CPH in to the BVD lookup facility. The change to listing positive CPHs in a separate list is a change in that it will make it easier for website users to find BVD positive CPHs. We acknowledge that there is | accept |

| Risk | Ref | Solution or mitigation | Result Eliminate/reduce/accept |
|--|-----|---|-----------------------------------|
| | | <p>stigma associated with publication of a positive CPH. We anticipate that the stigma will be a driver for positive decision making on the part of the keeper. The 40 day amnesty period is based on our understanding of the turnaround times of laboratories, veterinary practices, knackeries and livestock transporters: 40 days should be ample time for a BVD virus positive animal to be removed from the herd, with or without re-sampling for confirmation of PI status. If the keeper takes prompt action after disclosure of a virus positive animal, the CPH will not be listed.</p> | |
| Errors could be made when sampling | 11 | <p>It is the keeper's responsibility to tag cattle in accordance with the regulations and to keep accurate records. Where a vet is involved (blood sampling) their professional obligation to keep accurate records should provide additional mitigation. See also risk 1.</p> | reduce |
| Errors could be made when testing in the lab | 12 | <p>The approved BVD laboratories are accredited to ISO17025, which means that measures are in place to reduce errors, and to identify and rectify them where they occur. If errors appear to be occurring, SG would raise the problem with lab and the UK accreditation service. See also risk 1.</p> | reduce |
| Errors could be made when uploading data | 13 | <p>BVD data uploads are carried out by approved BVD laboratories, which are accredited to ISO17025. Accreditation means that labs will have procedures to minimise transcription and reporting errors. ScotEID's automated processes include checks for upload errors and reports findings to the laboratory to allow prompt correction. Data held on ScotEID can be corrected at any time by the uploading laboratory. See also risk 1.</p> | reduce |
| Errors could be made | 14 | The data presented by ScotEID is | reduce |

| Risk | Ref | Solution or mitigation | Result Eliminate/reduce/accept |
|---|-----|--|-----------------------------------|
| when the data is presented online | | exactly as uploaded by the laboratories, the safeguards that the laboratories have in place for the reporting of BVD results will therefore mitigate risk of data errors when presented online. See risks 1 and 13. | |
| CPH is seen by some as a direct identifier of premises/owners | 15 | CPHs identify a geographical location that may be associated with additional information. However, it is the only means we have of identifying a herd. CPHs will only be listed while there is a BVD positive animal in the herd and will be removed from the list as soon as the animal is no longer in the herd. ScotEID will not display a historical list. | accept |
| | | | |

8. Incorporating Privacy Risks into planning

Explain how the risks and solutions or mitigation actions will be incorporated into the project/business plan, and how they will be monitored. There must be a named official responsible for addressing and monitoring each risk.

| Risk | Ref | How risk will be incorporated into planning | Owner |
|------------------------|------|--|--------------|
| As listed in section 7 | 1-15 | All risks will be monitored by the BVD policy team under the guidance of the Information Asset Owner | Nick Ambrose |
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9. Authorisation and publication

The DPIA report should be signed by your Information Asset Owner (IAO). The IAO will be the Deputy Director or Head of Division.

Before signing the DPIA report, an IAO should ensure that she/he is satisfied that the impact assessment is robust, has addressed all the relevant issues and that appropriate actions have been taken.

By signing the DPIA report, the IAO is confirming that the impact of applying the policy has been sufficiently assessed against the individuals' right to privacy.

The results of the impact assessment must be published in the eRDM with the phrase "DPIA report" and the name of the project or initiative in the title.

Details of any relevant information asset must be added to the Information Asset Register, with a note that a DPIA has been conducted.

I confirm that the impact of (undertaking the project/applying the policy – add appropriate wording) has been sufficiently assessed against the needs of the privacy duty:

| Name and job title of a IAO or equivalent | Date each version authorised |
|--|------------------------------|
| Sheila Voas, Chief Veterinary Officer Scotland, Deputy Director Animal Health and Welfare Division | 4 April 2019 |