4. Integrating professional advice into policy-making

Introduction

4.1 This chapter describes the ways in which MAFF and DH sought to integrate the distinctive contributions of their own professional advisers with those of ‘generalist’ administrative policy-makers, and how they made use of external expert advisers.

4.2 The policy-making process described in the preceding chapter involved the submission to Ministers by administrative civil servants of timely warnings about issues arising and of considered advice on options. Much policy-making also required the input of specialist advice: from lawyers, economists, statisticians and many other disciplines. In DH, an internal management review noted that:

... a major tenet since the Ministry of Health was founded in 1919 has been that professional input should be fully integrated into policy making. 82

4.3 Each Government Department had to consider the best way, within its particular area of responsibility, to assimilate such professional and technical advice for Ministers. Sir Kenneth Stowe, Permanent Secretary of DH (then the DHSS) until March 1987, commented on the problems of integrating such advice into policy-making. He saw it as ‘a universal and perennial source of difficulty’ experienced worldwide. Workable integration could only be achieved by staff gaining ‘mutual awareness and confidence’ of the responsibilities and expertise of their colleagues. 83 For Sir Kenneth, the question was not one of organisation but of ensuring that all relevant disciplines were identified and brought to bear on any given issue. 84

4.4 BSE raised policy issues on animal health and human health, including food safety. To handle it, the Government needed two specialist streams of advice – on animal health issues and on the implications for human health – and also a wide-ranging programme of research. This approach required the involvement of veterinarians, doctors and other medical specialists, and a range of other scientists (including epidemiologists and microbiologists). As with legislation generally, lawyers had to advise on and draft all the BSE-related Orders and Regulations introduced by MAFF, the Scottish Office and the Northern Ireland Departments.

4.5 Both MAFF and DH depended heavily on the advice of their own specialist staff – respectively, the veterinarians in the State Veterinary Service (SVS), who reported to the Chief Veterinary Officer (CVO); and the medical staff who until 1995 reported to the Chief Medical Officer (CMO). DH also relied heavily on a network of external expert advisers and committees.

82 Dr N J B Evans, Review of the Department of Health’s Arrangements for Obtaining External Medical and Scientific Advice, Department of Health, March 1995 (M39 Tab 3) (hereafter cited as the Evans Report), p. 19, para. 2.46
83 Sir Kenneth Stowe paras 8–9
84 T46 pp. 26–7
4.6 One other group of specialist advisers played a significant role in the BSE story. These were the scientists: those in the Departments who advised on policy and identified and commissioned what they concluded was appropriate research; and those in the research community (the funding bodies and the laboratories and institutes) who provided it. The principles that underlay the commissioning and funding system, the system itself, and how it was used in the case of BSE, are described in vol. 2: Science. The relevant organisational arrangements within MAFF and DH are illustrated in Annex 1 to this volume.

The Chief Veterinary Officer (CVO)

4.7 The Chief Veterinary Officer was the Grade 3+ chief adviser on veterinary policy for the whole of Great Britain and was based at Tolworth in Surrey, just outside London. The CVO also had ‘substantial responsibilities for implementation of policies’, including control measures for animal diseases. The arrangements in place for Wales, Scotland and Northern Ireland are described in Volume 9 of this Report. A Regional Veterinary Officer (RVO) was head of the SVS in Wales and supervised the implementation of the animal health and welfare policies of MAFF and the Welsh Office. In Scotland, the advisory and day-to-day management roles rested with an Assistant CVO, who reported to the CVO at Tolworth. Northern Ireland had its own CVO.

4.8 The CVO had professional and line management responsibility for the SVS. When the Central Veterinary Laboratory (CVL) became an Executive Agency in 1990, the CVO no longer had line management responsibility for its staff, but he retained a significant say in its work both as head of the SVS, which was a main customer for the new Agency’s services, and because he retained the budget for disease surveillance work undertaken at the CVL.

4.9 The CVO was the leading presenter of government policy on animal health matters to the UK agricultural industry and its various representative bodies. Moreover:

The importance of the CVO’s role in presenting Government policies to the media and the public cannot be over-emphasised.

4.10 ‘As the main contact point on veterinary matters with other countries’, the CVO represented the UK in a wide range of international fora including the World Health Organisation (WHO) and the Office International des Epizooties (OIE), and dealt extensively with the European Union. In exercising this responsibility, he consulted the ACVO for Scotland and the CVO for Northern Ireland. A former Minister for Agriculture, Mr Waldegrave, told the Inquiry that ‘. . . the CVO’s office . . . carried considerable prestige in Europe’, attributing this in part to recognition that the CVO was not ‘just A N Other administrative official’.

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85 That is, for England, Wales and Scotland. The post was graded ‘3+’ because the required competences and responsibilities exceeded those normally associated with Grade 3 posts. Evidence suggests that at least from August 1991 until November 1994, a Grade 3 administrator worked ‘under his leadership’ – see S110 Haddon para. 10.
86 Chief Veterinary Officer: Information for Applicants, MAFF, September 1996 (M52 tab 3), p. 1 (hereafter ‘CVO job description’).
87 See S280 Scudamore p. 5 para. 16. The position in Northern Ireland and Scotland is described in more detail in vol. 9: Wales, Scotland and Northern Ireland.
89 CVO job description (M52 tab 3), pp. 1 and 2.
91 T89 pp. 114–15.
4.11 The CVO published an annual report (*Animal Health*) surveying developments in this field during the year and the work of the SVS.

4.12 During the period 1989–96, the CVO or a deputy attended the regular meetings between the Permanent Secretaries of MAFF and DH, instituted by them to facilitate joint policy formulation and consideration of matters of common interest. The CMO or an appropriate Deputy CMO also attended. The CVO had direct access to the Permanent Secretary at MAFF and to Ministers if required. Mr Meldrum, told the Inquiry that:

. . . with all of these Ministers I believe I established a very close working relationship. [One] had to establish and did establish a very special relationship between Ministers and the CVO and I am sure with several other officials such as Permanent Secretaries and so forth. There was no difficulty. There was openness, frank discussion, reliance upon the judgement of each. And we worked as a team.

4.13 Mr Meldrum also emphasised that, as CVO (from June 1988), he could give MAFF Ministers his own views, even if these had a different slant from the advice offered by the Permanent Secretary. An example of this was when he disagreed with the advice given by DH and the Spongiform Encephalopathy Advisory Committee (SEAC) to Ministers about breeding from the offspring of BSE-infected cattle.

4.14 Mr William Rees, the CVO from 1980 to May 1988, told the Inquiry that when dealing with DH:

. . . it would be normal for the contact to be made Permanent Secretary to Permanent Secretary.

This reflected the difference between the CVO and the CMO in terms of their respective civil service grades, the latter being more senior. Mr Rees’s attempt to establish an informal working relationship with the CMO by means of working lunches was unsuccessful. Mr Meldrum said that when he became CVO, he and Sir Donald Acheson (the CMO) ‘tended to discuss important issues by letter’. However, he added that:

Soon after Dr Calman was appointed [as CMO] we had a meeting at his request where we established the guidelines for our working relationship, and Dr Calman stated that he would be happy to meet with me whenever there was a need to do so. I took him up on this invitation on a number of occasions. I tried to give Dr Calman as much warning as possible of any new findings even though they may have been extremely preliminary and were not subsequently confirmed.

4.15 Mr Meldrum told the Inquiry that Ministers were content for him to make public statements. Indeed, he could remember only one occasion on which the

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92 CVO job description (M52 tab 3), p. 2
93 T68 p. 71–2
94 T68 p. 72
95 This episode is discussed in vol. 5: *Animal Health, 1989–96*
96 During that period, still DHSS (Department of Health and Social Security)
97 T54 p. 121
98 T54 pp. 77–8
99 S184A Meldrum p. 8 para. D4
Minister decided that he would himself speak instead of the CVO. ‘But on technical issues I tended to speak both at press briefings and also in public.’

4.16 In one respect, the post had less freedom of action than the CMO. In response to the question ‘You have said the Chief Medical Officer has an independent status. Am I right in understanding you did not regard yourself as having an independent status?’ Mr Meldrum replied:

Not to the same extent that he did; that he quite clearly was required in accordance with the work that he was doing, and I assumed with the conditions under which he was appointed, he had a requirement that he would advise the public independent of government. Therefore, if he felt that there was a food safety issue that arose, he would make that information public even though it might cause difficulty for both his Department or other Departments. I, on the other hand, did not have that totally independent status, and coming back to the last question that you asked, if there had been an issue of substance where my view was different from the view of the Minister at the time, I have no doubt I would have discussed it with him and we would have agreed what I would say.

The Chief Medical Officer (CMO)

4.17 Although there were CMOs for Wales, Scotland and Northern Ireland, advising their respective Ministers on matters affecting those parts of the United Kingdom, the responsibility for advising the UK Government on matters affecting the United Kingdom as a whole fell to the CMO for England.

4.18 During the BSE period (1986–96), that post was held by Sir Donald Acheson until his retirement on 30 September 1991, and then by Dr (later Sir) Kenneth Calman from that date until March 1996 (and beyond). Sir Donald noted that his responsibilities had been both wide and deep:

The Moseley Report observed of the CMO post that ‘the sheer scale of personal responsibility seemed to have dimensions which distinguish it even from some of the highest posts of all within Whitehall’. Paper comes into the CMO’s office on a scale which normally applies to Ministers rather than to officials. There is an abnormally heavy commitment to meetings (both internal and external) and essential representational functions and international work has to be dealt with. Demands being made on the CMO in the field of public health are also unusually heavy.

4.19 He told the Inquiry that:

The Chief Medical Officer is the principal adviser on medical and public health matters, not only to Ministers in the Department of Health but to the
Ministers in other government departments and to the Government as a whole.\textsuperscript{105}

4.20 The post had a long history\textsuperscript{106} and carried a ‘complex, varied and demanding portfolio of responsibilities’.\textsuperscript{107} Unlike the CVO, however, the CMO did not have oversight of an executive organisation. Sir Donald Acheson commented:

> While the CMO may offer guidance on medical or public health matters to all doctors or to Directors of Public Health, neither he nor his predecessors, at least since 1919, have had a management line or any power of direction to doctors outside the Department of Health.\textsuperscript{108}

Although he was a member of the National Health Service (NHS) Management Board and its successor, the NHS Policy Board, this did not carry with it any executive responsibilities.

4.21 The importance of the post of CMO was reflected in its grading – 1A (Second Permanent Secretary). The post holder had direct access to Ministers, including the Prime Minister, and DH Ministers mentioned to the Inquiry the close daily contact they had with the CMO.

4.22 As well as having responsibility for medical and public health advice, the CMO was charged with ensuring that an adequate quality of advice was provided within DH by its professional staff. Until 1995, he acted as the ultimate line manager for over 100 medical and around 40 scientific personnel. A restructuring of DH in 1995 ended the direct line management role, although the CMO retained responsibility for the professional performance of these staff.

4.23 When the post was advertised immediately before Sir Donald Acheson’s retirement, its role outside the Department was described as follows:

> The CMO occupies a senior position within the medical profession nationally. The post holder is a member of key Government and professional committees, including the General Medical Council, and the Medical Research Council. He (or she) is responsible for maintaining links at the highest level between the Government and the medical profession nationally, and with colleagues in Scotland, Wales and Northern Ireland. The CMO represents the UK as appropriate on health matters within the European Community . . . and within the wider international field, including leading the UK delegation to the World Health Assembly.\textsuperscript{109}

4.24 As the ‘nation’s doctor’, issuing guidance to the public on a wide range of health and related lifestyle issues, the CMO was expected:

> To produce an independent Annual Report on the State of the Public Health and to highlight major issues where health has improved, and where there is concern about health.\textsuperscript{110}

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\textsuperscript{105} S251 Acheson p. 7 para. 12. The post in its present form dates from 1919, when the Ministry of Health was established
\textsuperscript{106} S251 Acheson p. 8 para. 14
\textsuperscript{107} Appointment of Chief Medical Officer: Appointment Analysis, DH, March 1991 (M39 tab 4), para. 1
\textsuperscript{108} S251 Acheson p. 8 para. 14
\textsuperscript{109} M39 tab 4 para. 8
\textsuperscript{110} Job Description: the Chief Medical Officer (M39 tab 4 p. 3 para. 6). The title ‘On the State of the Public Health’ dates back to 1919, and the Report is presented to Parliament. The editions for the period 1985–96 are filed in M38.
\end{flushright}
and was:

. . . a recognisable ‘public’ figure, regarded by the media as speaking with an independent and personal professional authority.\(^{111}\)

A representative of the Consumers’ Association told the Inquiry:

The role of the Chief Medical Officer is a particularly interesting one because that role is, if you like, slightly sideways the normal controls of civil servants, because that person is supposed to have a professional integrity that gives them a public role to advise Ministers in a particular kind of way.\(^{112}\)

4.25 Sir Donald Acheson added that the CMO was:

. . . not accessible to lobbyists or the representatives of commercial interest groups, eg, the food industry. At no time during the BSE crisis was I approached by, or did I meet with, any representative of the food or farming industry.\(^{113}\)

4.26 Sir Donald Acheson told the Inquiry that his advice to Ministers, the public and others was always based on briefings by officials and the views of relevant expert advisory committees (their role is described in paragraphs 4.56ff). On BSE and related issues, apart from his key advisers, he would, if necessary and time permitted, speak personally to the Chairman of the Spongiform Encephalopathy Advisory Committee (SEAC) or seek the views of the microbiologist Sir Joseph Smith,\(^{114}\) who was one of a panel of some 80 consultant advisers drawn from the top ranks of the medical profession and covering all specialities.\(^{115}\) The reasons for this support are considered in more detail later in this chapter.

4.27 The CMO attended the regular meetings between the Permanent Secretaries of DH and MAFF, along with the CVO or a deputy, and normally dealt directly with the MAFF Permanent Secretary when necessary. He also regularly met his fellow CMOs for Scotland, Wales and Northern Ireland on an informal basis.

Relationships between professional and administrative staff in MAFF and DH

Introduction

4.28 MAFF and DH employed large numbers of professional staff. During the period covered by the Inquiry, both Departments reviewed the question of how best to deploy such staff and tried different ways of doing so. Briefly, in MAFF the Headquarters Group of the SVS was merged with the Animal Health (including meat hygiene) administrators in 1990, creating an Animal Health and Veterinary Group (AHVG) headed by the CVO. In 1994, this merger was reversed. The long-standing approach in DH was to have parallel administrative and

\(^{111}\) Moseley Report (M39A tab 5), para. 5.7
\(^{112}\) T74 p. 57
\(^{113}\) S251 Acheson para. 16
\(^{114}\) S251 Acheson paras 24–5. Sir Joseph was also Director of the Public Health Laboratory Service (PHLS) from 1985 to 1992
\(^{115}\) S251 Acheson para. 12
medical hierarchies reporting to the Permanent Secretary and the CMO respectively. By 1994, there were paired medical and administrative divisions supervised by Divisional Management Boards led jointly by administrative and medical Grade 3s. A year later, the parallel structure was replaced by fully integrated divisions comprising both administrative and medical staff.

4.29 These developments and the structures associated with them are described more fully in Annex 1 on the organisation of MAFF and DH.

4.30 A number of witnesses told the Inquiry how professional and administrative staff worked together before, during and after these changes. The evidence suggests that in general the relationship was harmonious, but that there were tensions, professional and organisational.

Ministry of Agriculture, Fisheries and Food (MAFF)

4.31 A former MAFF Permanent Secretary, Sir Derek Andrews, described how:

. . . this [Animal Health] was an area of the Department where people had been working in parallel . . . in cooperation for a very long time – I think people knew . . . the ground rules for the input into policy that the vets and the scientists had as against the input that the administrators had. And in a sense there was not any individual within that organisation that had an overall policy lead. It would be a matter of discussion between them and the policy submissions that came up from that part of the Department would be prepared cooperatively between the vets, the scientists . . . and the administrators.116

4.32 The lead on a particular policy matter would depend on the type of issue being considered. Issues of veterinary science naturally fell to the veterinarians. But where wider considerations were involved (for example, the effects of a proposal on business, or relationships with other European Member States), administrators took the lead.117 Mr Cruickshank (Head of MAFF’s Animal Health Group of administrators) told the Inquiry that:

. . . policy papers to Ministers were normally submitted by administrative staff (in particular, the Under Secretary, Animal Health), whereas papers dealing with purely veterinary matters could be sent forward by the Chief Veterinary Officer. All policy papers were however drafted in the closest consultation with veterinary colleagues and agreed with them.118

4.33 Animal Health administrators sought to maintain a distinction between themselves and their professional colleagues:

I always regarded the arrangements as being a convention whereby we worked very closely with veterinarians, but there was, if you like, a dividing line where, you know, if we wanted veterinary advice then we would ask our veterinary colleagues. And I think it worked pretty well.119

116 T81 p. 18
117 T81 pp. 19–20
118 S75 Cruickshank p. 2 paras. 1.6
119 T32 p. 9 (Mr Lawrence, MAFF’s Animal Health Division)
I think it is important to remember that we were not paid to be veterinarians. It is very important for us not to try to be veterinarians . . . because we were not.\textsuperscript{120}

Veterinary scientific advice to Ministers could clearly only come from the State Veterinary Service. Most policy issues however involved not only veterinary but also legal, financial, economic and other considerations. It was the task of the administrative staff to ensure that these considerations were taken into account in the development and implementation of policy.\textsuperscript{121}

4.34 However, administrators did not unquestioningly defer to veterinarians’ advice. As Mr Cruickshank explained when giving oral evidence, if the reasoning was not clear, they would seek further background.\textsuperscript{122} They were aware of the need for policy, on issues of any kind, to be soundly based and reasonable (a point discussed in paragraphs 4.64–4.67 and, more fully, in Chapter 8).

4.35 Mr Cruickshank told the Inquiry that ‘the system worked quite well in relation to policy development’ but that ‘it worked much less well in relation to monitoring of progress on the ground, operations and management’. Hence the idea of integrated units:

\ldots for each subject there would be a group of people with the appropriate expertise for that subject . . . and each of these teams would have a . . . single budget. This would integrate policy development and management of operations on the ground.\textsuperscript{123}

4.36 The CVO at the time, Mr Meldrum, told the Inquiry that this initiative was suggested by Mr Cruickshank ‘in an attempt to streamline the Tolworth structure to reduce the need for such widespread internal consultation on policy issues’.\textsuperscript{124} Mrs Elizabeth Attridge, Mr Cruickshank’s successor, believed that in the merged AHVG which was established in due course:

\ldots the financial lines were clarified in that the animal health work was brought within the financial framework of the Food Safety Directorate, not being part of ADAS . . . It brought the veterinarians much closer to the administrative part of the complex in that they were now both directly reporting to the one Grade 2.\textsuperscript{125}

However, Mr Kevin Taylor told the Inquiry that:

The process was never completed . . . the Animal Health and Welfare Veterinary Section continued to operate . . . as a separate team of veterinary surgeons advising administrative Divisions.\textsuperscript{126}

4.37 This unified approach was to all intents and purposes reversed in 1994. The \textit{Lebrecht Report}, a review of the merged AHVG,\textsuperscript{127} commended its effective
handling of policy work, the extent to which collaborative working had developed in the integrated divisions, and the generally good relations at the personal level. However, it claimed to identify a number of weaknesses.

4.38 *Firstly*, the Report considered that the ‘unclear and potentially unstable’ relationship between the policy Grade 3 and the CVO, with ‘no clear division of responsibilities between the two’, had caused some staff to feel a lack of identifiable leadership. It was also confusing to other parts of MAFF, undermined the policy Grade 3’s authority, and put the CVO in the position of having to qualify his veterinary advice to Ministers ‘by reference to wider policy issues’.

4.39 *Secondly*, there was confusion among staff about the respective roles of veterinarians and administrators. Accountability for taking policy forward was not always clear, decision-making was reserved to senior levels to an unusual extent, particularly on the veterinary side, and consultation was complicated by the different grade hierarchies.

4.40 *Thirdly*, in the non-integrated divisions, cultural barriers remained and had led to a significant number of staff expressing ‘some distrust for the other side’. The confusion about roles had led to competition and tension: staff were unclear whether the veterinarians were there to provide technical support to administrators in developing policy, or whether the administrators were there to provide administrative support to the veterinarians in performing this task. ‘Some administrators found the greater tendency of the veterinary side to consult upwards created awkwardness or delay.’

4.41 *Finally*, some staff had complained of duplication of work and of being kept in the dark about recent developments within the other discipline.

4.42 Mr Lawrence told the Inquiry that ‘the relationship between the administrators and the veterinarians was good . . .’ prior to 1990. Ms Bronwen Jones and Mrs Jane Brown of MAFF’s Meat Hygiene (administrative) Division considered that the merger ‘made no practical difference to the way we worked with our veterinary colleagues, and Mrs Brown also took the view that its reversal in 1994 did not alter things significantly. Mrs Attridge noted that the different salary structures ‘did create some difficulties in having the right structure, if you had an amalgamated division’.

4.43 Their veterinary counterparts responsible for meat hygiene told the Inquiry that ‘the contact between the veterinarians in Tolworth and the administrators was extremely good’, although they were not co-located until February 1993. Mr Iain Crawford (Director of the Veterinary Field Service) and Mr Keith Baker (Assistant CVO, Red Meat Hygiene) both disagreed with the conclusion of the Lebrecht Report that the merger had led to inefficiencies and weaknesses. Among

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128 M25 tab 4 Appendix III para. 1
129 Animal Health (International Trade) Division and Animal Health (Zoonoses) Division, both headed by Grade 5 veterinarians -- see T34 p. 38
131 M25 tab 4 Appendix III paras 2–9
132 M25 tab 3 pp. 39–40 paras D.8–G.11
133 T32 p. 31
134 T33 p. 84
135 T33 pp. 86–7
136 T34 p. 40
137 T34 pp. 105. There were two MAFF offices at Tolworth: in the multi-storey Tolworth Tower and on the ‘Toby Jug site’ across the A3 road. After co-location, all Meat Hygiene staff were in the latter
138 T34 pp. 44–5
their Meat Hygiene colleagues, Mr Stephen Hutchins was clear that their role was to provide ‘veterinary advice which would hopefully have influenced . . . policy’, and Mr Peter Soul and Mr Alick Simmons agreed. Mr Hutchins regarded debate between veterinarians and administrators as ‘potentially, at least, quite constructive’, and neither he, Mr Simmons nor Mr Baker recalled any evidence of the ‘distrust’ identified in the Lebrecht Report.

4.44 Mr Kevin Taylor, Dr Danny Matthews and Dr Richard Cawthorne told the Inquiry that, as Animal Health veterinarians based at Tolworth, they had ignored hierarchical niceties to a considerable extent. However, there were cultural difficulties. Dr Matthews noted that it was not unusual for administrators, when seeking veterinary advice, to approach senior veterinarians rather than staff at working level, overlooking the fact that the former were often away from the office. Junior veterinary staff were occasionally thereby placed under ‘considerable pressure because [they] had to respond to something in a hurry without being fully aware of all the background’. Mr Taylor commented that, occasionally, administrators newly posted to Tolworth ‘initially at least were either inclined to ignore veterinary advice or not even to seek it in the first place’. Such issues were usually ‘resolved on a personal level fairly quickly’.

Department of Health (DH)

4.45 Until 1995, DH maintained parallel hierarchies of administrators and medical staff, reporting up separate management lines to the Permanent Secretary and to the CMO respectively. The evidence received by the Inquiry suggests that they approached the issue of how to work together effectively in a similar way to their MAFF counterparts.

4.46 A former CMO, Sir Donald Acheson, described how DH Senior Medical Officers (SMOs – Grade 5s), having been given an area of expertise, were:

. . . expected to integrate their work closely with the relevant administrative staff . . . When I needed advice in a particular field I would have a meeting which almost invariably included both the medical and administrative members of the team in question or be supplied with a jointly prepared briefing in writing.

4.47 Dr Ailsa Wight (an SMO) said that, even before the 1995 merger, she worked very closely with her administrative colleagues as part of a team and that administrators generally prepared briefings or submissions for Ministers with the assistance of medical staff. An administrative colleague, Mr Roy Cunningham, confirmed this, adding that on work with a high medical or scientific content, the professionals would take the lead with the administrators providing assistance, while issues that had a high administrative or political content would remain within the purview of the latter, consulting closely with the specialists where required.

139 T34 pp. 50–1
140 T34 p. 56
141 T34 pp. 55–6
142 T36 p. 45
143 T36 pp. 46–7
144 T36 p. 58
145 This was also true of the Medicines Division until it became an Executive Agency in 1989, as described in Annex 1
146 S251 Acheson pp. 11–12 para. 19
147 S192 Wight para. 14
148 T50 pp. 14–15
4.48 On this basis, the medical side of DH took the lead in addressing BSE. Sir Kenneth Calman, who became CMO in September 1991, told the Inquiry: ‘The administrative and medical sides both pre- and post-integration worked very closely in this area.’\(^{149}\) Miss Dora Pease (Grade 3, environmental health and food safety) recalled that:

Dr [Hilary] Pickles\(^ {150}\) would bring in whichever Division seemed most suitable depending on the . . . BSE aspect that was in question, and also depending on matters like, I think, sheer administrative time.\(^ {151}\)

4.49 Mr Charles Lister said that his contribution, as an administrator (Grade 7), was to supplement the medical perspective with his experience of Ministers and of the workings of the Department.\(^ {152}\) Mr Brian Bridges (Grade 3, successor to Miss Pease) enlarged on this:

It is undoubtedly true that the basic position on BSE/CJD would be formed by the scientists, by the Chief Medical Officer. But there were obviously lots of questions which flowed on from that – how you answered political interest in the matter, what sort of practical measures you promoted.\(^ {153}\)

4.50 Mr Thomas Murray, secretary to SEAC, 1990–93, told the Inquiry:

This is an area where I do not think the input from medical colleagues could be described as advice. They were an integral part of the policy team. They would help formulate decisions, recommendations and it went up the line with the blessing of both sides.\(^ {154}\)

He had previously described how his reporting lines on BSE were for the most part through the medical line, reflecting the personal interest taken by the CMO and the Deputy CMO in SEAC matters. However, he added that ‘I had a responsibility to make sure that my line management [ie, senior administrators] were kept fully in the picture on developments’,\(^ {155}\) and that although a paper on legislation would go up the administrative line:

. . . it is fair to say that in the area of BSE and CJD very little went up the line in my time without the close involvement of my medical colleagues.\(^ {156}\)

4.51 In 1994, a review led by a DH official, Mrs Terri Banks, assessed the system of paired administrative and medical divisions. It concluded that greater integration was necessary, because:

i. there appeared to be a lack of clarity as to where the lead lay on given areas of work, and about respective roles and responsibilities;\(^ {157}\)

ii. they had found some duplication, failure to address issues and inconsistent priorities or work programmes;

\(^ {149}\) T66 p. 66
\(^ {150}\) The Grade 4 Principal Medical Officer given the lead on BSE by the CMO in 1988
\(^ {151}\) T49 pp. 20–1
\(^ {152}\) T50 p. 17
\(^ {153}\) T50 p. 18
\(^ {154}\) T49 p. 78
\(^ {155}\) T49 p. 75
\(^ {156}\) T49 p. 77
\(^ {157}\) A similar lack of clarity had been identified within the former DH Medicines Division – see Dr N J B Evans and P W Cunliffe, Study of Control of Medicines, DHSS, December 1987 (M59 tab 12), p. 30, para. 5.21
iii. some professionals were becoming frustrated at not being more firmly within the ‘mainstream’ of DH’s work; and

iv. the need to maintain two separate management hierarchies was inefficient, as was the use of two sets of administrative and clerical support.158

4.52 The Banks Report’s recommendations led to a reorganisation of DH from April 1995 that merged the administrative and medical hierarchies and ended the line management responsibility of the CMO.

4.53 Sir Kenneth Stowe, the Permanent Secretary of DH (then the DHSS) until March 1987, recognised that such problems had existed. However, he thought that the relevance of integration to the Inquiry ‘could easily be over-stated’,159 pointing out that the issue arose in governments all over the world and that he had not yet found a solution. In his view:

... the organisational issue, however resolved, is no substitute for intelligent government in which every relevant discipline is identified and brought to bear on any given issue.160

He added that total integration within an organisation would still leave open the issue of how that organisation interfaced with others that had related or overlapping responsibilities.

4.54 Mr Murray and Miss Pease acknowledged the problems identified by the Banks Report but considered that:

... at a working level administrative and professional colleagues established a working relationship underpinned by understandings of who was doing what and who led in particular areas ... I was well used to working with colleagues and establishing effective relationships that overcome some of the problems that are mentioned here.161

There were these problems ... They were to our mind outweighed by the advantages of flexible and efficient multidisciplinary working ... on food safety, no, we had no problems. Very often it was a question of who could turn their hand to the particular job in question.162

4.55 Mr Murray concluded that:

Throughout the 1990s, as the number of staff working on food safety, BSE, CJD increased, we became more effective at multidisciplinary team working. And I think that the formation of multidisciplinary units [has] taken that a step further in increasing the effectiveness of the operation of our resources. So I would say it is still not ideal, but it is better than maybe it was five, six, seven years ago.163

159 S112 Stowe p. 2 para. 8
160 T46 p. 27
161 T49 p. 46
162 T49 pp. 47–8
163 T49 p. 49
Sources of external advice

Introduction

4.56 Although government employed professional staff qualified in a range of disciplines, they could not cover every specialised issue that arose. In dealing with BSE, MAFF and DH had to address policy issues involving new or unfamiliar science, and they therefore needed specialist advice, often at short notice. They obtained this from a number of sources:

i. advisory committees;

ii. individuals, including those appointed as consultant advisers to the CMO;

iii. outside bodies such as professional associations or medical Royal Colleges;

iv. representative bodies, such as the Joint Consultants Committee and the General Medical Services Committee;

v. networking – ie, developing a range of outside professional contacts;\(^{164}\) and

vi. advice from non-departmental public bodies (NDPBs), such as the Research Councils and the Public Health Laboratory Service (PHLS).\(^ {165} \)

4.57 This section focuses on the first of these, advisory committees of experts. Several such committees played a significant role in dealing with BSE:

i. the three set up specifically in connection with the disease – the Southwood Working Party, the Consultative Committee on Research into Spongiform Encephalopathies (known as the Tyrrell Committee, chaired by Dr David Tyrrell), and SEAC. Volumes 4 and 11 of this Report describe their role in the story;

ii. those set up under section 4 of the Medicines Act 1968 to advise on applications for licences to manufacture or sell human or animal medicinal products and to promote the collection and investigation of information on adverse reactions. The role and functions of the ‘section 4’ committees are described in volume 7;

iii. topic-specific advisory committees that were part of pre-existing networks;\(^ {166} \) for example on dangerous pathogens (ACDP), toxic substances (ACTS), hazards arising in the agriculture and related industries (AIAC), the control of pests (Advisory Committee on Pesticides), and the microbiological safety of food (;) and

iv. others – eg, the Expert Group on Animal Feedingstuffs (the Lamming Committee) and the Food Advisory Committee (FAC).

\(^{164}\) Sir Donald Acheson explained (S251 pp. 11–12) that Grade 5 Senior Medical Officers were expected to keep abreast of developments in their area of expertise through reading medical literature, attending scientific meetings, and liaising with the key medical professionals (including his consultant advisers) in that area

\(^{165}\) The Evans Report (M39 tab 3), p. 5, para. 1.10. The role of the PHLS in the BSE story, especially in respect of CJD surveillance, is discussed in vol. 8: Variant CJD

\(^{166}\) Established to advise the Health and Safety Executive (HSE) and/or DH, MAFF, etc
Reasons for calling on external expertise

4.58 Why did Departments seek external specialist advice? As the report of a review in 1995 of DH’s arrangements for obtaining such advice noted:

... the principal requirement is for informed judgement to be brought to bear on all the evidence.\(^\text{167}\)

4.59 Both DH and MAFF employed substantial numbers of qualified specialist staff. However, DH in particular relied explicitly on external experts, for a practical reason. Sir Donald Acheson told the Inquiry that:

... the field over which the CMO is required to provide advice extends far beyond his own personal professional experience. It is therefore necessary for him to be supported by an extensive advisory machinery.\(^\text{168}\)

4.60 The need was more acute by the mid-1990s, partly because of the pressure, described in Chapter 6 of this volume, to reduce administrative costs and staff numbers:

... because Ministers have to answer diverse questions of ever increasing sophistication while the professional and technical capability of their Department is falling, their need for well-marshalled external advice must continue to grow.\(^\text{169}\)

4.61 However, drawing on external advice had other less tangible advantages. Firstly, it was accepted in Whitehall that the views of eminent and respected experts who were independent of government carried weight with, and reassured, a public increasingly sceptical of official and ministerial pronouncements. As Mr Meldrum told the Inquiry (quoting remarks he had made in 1993):

... there is a view from the public that they do not totally trust civil servants, of which I am one ... the best thing you can do is to establish an expert and independent Advisory Committee who has the right to publish their views without interference from us.\(^\text{170}\)

4.62 Mr Geoffrey Hollis (Grade 3 Head of the Livestock Group in MAFF) expressed a similar view when asked ‘Part of the object of the exercise is to gain public acceptance of the recommendations that are made?’:

Yes, deliberately because they are independent, then they are not tarnished with [the] political shenanigans of government.\(^\text{171}\)

\(^{167}\) The Evans Report (M39 tab 3), p. 4, para. 1.7
\(^{168}\) S251 Acheson p. 7 para. 12
\(^{169}\) The Evans Report (M39 tab 3), p. 1, para. 1. This view was endorsed by Sir Donald’s successor as CMO, Sir Kenneth Calman—see S179 Calman para. 147
\(^{170}\) T69 p. 5
\(^{171}\) T38 p. 78
4.63 Related to this consideration was:

...the wish to secure authoritative endorsement of policy so that it will be more readily accepted, and the wish to enlist the advisers in ‘ownership’ of the advice so as to secure their co-operation in implementation.\textsuperscript{172}

4.64 Governments also recognised that decisions had to be justified, especially when they might have a negative impact on business activities and therefore on individuals’ livelihoods. The key measures taken to deal with BSE – the removal of ruminant protein from the diet of cattle and of Specified Bovine Offal from the human food chain – both had significant effects on the relevant industries. Officials and Ministers were aware that decisions could be challenged in the Courts unless they were soundly based in law, were reasonable in themselves, were consistent, and had been subject to reasonable consultation. Mr John Maslin (Head of the BSE branch in MAFF’s Animal Health Division) told the Inquiry that:

...I think every civil servant knows that whatever you do you have to be able to justify, because if you cannot justify you are subject to judicial review and things like that. Therefore, whether it is scientific or other evidence you have to have justification for things you do. I think that is something that everyone has in their mind.\textsuperscript{173}

4.65 The process of judicial review is described in Chapter 8 of this volume. Witnesses told the Inquiry that such thinking had arisen several times in connection with BSE. For example, Mr John MacGregor (former Minister of Agriculture, Fisheries and Food) considered that it had been essential to obtain external expert justification before introducing the slaughter and compensation policy. In his view:

...the really significant point in all of this at the end of the day was that Southwood came out in favour of a slaughter and compensation policy and that gave us the human health argument.

He added that such a policy:

...could have great significance for the industry and therefore I had to be sure of my ground... We had to have the view of those who could give us the best advice in relation to human health. If we had not taken that, then I think we would have been at risk of challenge, not just judicial review. I could have been challenged in the House of Commons or by the industry: what basis was there for thinking that this disease was so serious that you had to take that step?\textsuperscript{174}

4.66 Dr David Jefferys, of the Medicines Division in DH, was involved in the discussions which led to the issue of guidelines and a questionnaire to medicines licence holders in connection with the use of bovine materials. He recalled:

It was felt that the guidelines which were eventually to be approved had to be capable of withstanding scientific scrutiny and possible legal challenge. The guidelines would have to be seen to be proportionate...
A further consideration during this period was that we were all waiting for a sight of the Southwood Report. This was of particular importance not simply because it was felt that it would be the most authoritative consideration of the issues raised by BSE but also because it needs to be remembered that any action taken in respect of individual pharmaceutical products had to be justified on an evidential basis.\(^{175}\)

4.67 The Inquiry was given an example of difficulties that could arise when Ministers wished to go further than external experts advised. The Southwood Working Party had considered that ‘manufacturers of baby foods should avoid the use of ruminant offal and thymus’.\(^{176}\) Ministers had concluded that Specified Bovine Offal should be removed from the human food chain generally.\(^{177}\) Mrs Attridge (Head of MAFF’s Animal Health Group) noted:

> What we were faced with in terms of the action to be taken would be a much more regulatory approach than simply advice to manufacturers of baby food. This would be regulations which, in effect, would make people criminals if they did not obey what was in the regulation. It was a much stronger action than would have appeared to be justified if one took the Southwood Report as being the scientific base for it. That led you into a lot of potential difficulty in avoiding charges of lack of proportionality and probability of judicial review, and going further than the evidence indicated, which is always a problem in relation to action Ministers want to take unless they have the powers to take it.\(^{178}\)

The consideration by officials and Ministers of how this issue might be addressed is described in Chapter 3 of vol. 6: *Human Health, 1989–96.*

**Advisory committees**

4.68 To be effective, advisory committees needed clear remits, an appropriate and balanced membership, an effective chair, and proper secretariat support (normally provided by the relevant Department or Departments; joint secretariats were common, for the reasons noted below).

4.69 The general view was that such a committee’s remit, even if broad, should be clearly defined so that it was aware from the start of which issues it needed to address, when advice was required, and to whom this advice was to be directed.\(^{179}\) Mr Meldrum told the Inquiry that:

> I do not think it is an answer to create a committee because it might be a useful thing to do. It has to be an area where you have a clear need for advice, clear objectives, clear terms of reference.\(^{180}\)

4.70 The membership of expert advisory committees was drawn from specialists in the relevant topics and disciplines, while the HSE occupational health advisory committees also included employer and employee representatives. However, there

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\(^{175}\) S419B Jefferys paras 51–2

\(^{176}\) Report of the Working Party on Bovine Spongiform Encephalopathy, February 1989 (IBD1 tab 2), para. 5.3.5

\(^{177}\) ie, brain, spinal cord, spleen, thymus, tonsils and intestines

\(^{178}\) T33 pp. 105-6

\(^{179}\) An important aspect of the BSE story, explored in vols 4 and 6 of this Report, is the way in which the Report of the Southwood Working Party and the views of SEAC were made public

\(^{180}\) T68 pp. 110–11
were occasions, particularly if the science involved was new or controversial (as with BSE), when the Government needed a broader perspective on an issue.

4.71 The choice of members therefore involved balancing the need for highly specialised knowledge against the value of experience in and across a number of disciplines. Judgement was needed as well as scientific explanation and synthesis. Mr Meldrum told the Inquiry that:

In the early days of . . . SEAC . . . we tried to get a balance between pure veterinarians, if you wish, pure medical people on the other hand and scientists who sat in the middle and were neither vets nor medics but had a particular expertise in that particular area. So far as SEAC is concerned it is quite difficult or was quite difficult to find the appropriate calibre of person who could bring to the committee the expertise one needed to make informed judgements on the issues.\(^{181}\)

4.72 Mr Meldrum also said, since such committees were appointed to provide government with independent advice, it would be ‘most unhelpful’ to fetter their recommendations or to attempt to influence their deliberations; and Sir Donald Acheson told the Inquiry that ‘there should be blue water between the adviser and the advised’.\(^{182}\) On the other hand, a strong and independently minded committee ‘could become a “thorn in the side” of Government’.\(^{183}\) For this reason, as well as for the effective conduct of business, the choice of who chaired the committee was important. Individuals were selected for such posts on the basis of their perceived appreciation of what the Government was looking for, their committee skills, and their powers of persuasion, in addition to their eminence as scientists.

4.73 The work of advisory committee members often demanded a high level of commitment. Sir William Asscher (Professor of Medicine, London University) told the Inquiry that:

Although the work of the CSM [the Committee on Safety of Medicines] is purely advisory, it is very time consuming and demanding . . . As Chairman, I made sure that I read all the papers relating to each of the many items on the agenda of CSM meetings. Throughout the week I would receive bundles of CSM papers in ‘blue bags’ and every weekend was taken up with reading them in preparation for CSM meetings.\(^{184}\)

4.74 The workload could increase as an issue developed. Mr David Pepper (a veterinary surgeon) said that when he was invited to join SEAC, he was told that there would be a commitment to:

. . . perhaps three or four meetings a year . . . As it turned out, the commitment was a lot more than that. The amount of paperwork to read was impressive, and the number of meetings were sometimes more frequent than that and sometimes less, though as the game hotted up, of course – and as you know from your records – the number of meetings and frequency

\(^{181}\) T68 p. 109  
\(^{182}\) T69 p. 76 and T79 p. 64  
\(^{183}\) YB89/7.3/3.1–3.2  
\(^{184}\) S441 Asscher p. 3
increased. Therefore it has been a considerably greater commitment than I originally imagined or originally envisaged for the future.\textsuperscript{185}

4.75 The convention was that committee members were unpaid, and agreed to serve in the public interest.

4.76 Heavy workloads increased the reliance of committees on officials, especially their own secretariats. The role of the secretariat was crucial to the effective conduct of business. Its job was to ensure (a) that the committee functioned effectively (by arranging for suitable papers to be put before it and ensuring that the minutes recorded intelligibly its decisions and the reasons for them); (b) that its decisions were reported to the right people in the Department(s); and (c) that appropriate follow-up action was taken.

4.77 There was often a joint secretariat of officials from two Departments (for example, the Southwood Working Party was supported by Dr Hilary Pickles of DH and Mr Alan Lawrence of MAFF) or an administrative secretary and a ‘professional’ one to address the scientific aspects of the committee’s work. However, the \textit{Evans Report} recommended in 1995 that DH committees should have a single secretary, normally a professional,\textsuperscript{186} because having dual administrative and professional secretaries could lead to ‘extravagant’ secretarial work and note-taking.\textsuperscript{187}

4.78 Normally, a committee delivered its report for consideration, and Ministers then decided which of its recommendations they wished to accept. Sometimes, however, advice was needed quickly so that early action could be taken. Because so little was known about BSE, and the CMO wanted urgent advice, the Southwood Working Party did not follow the usual model, but instead provided a series of interim recommendations. Sir Donald Acheson recalled that, by the time its final report was delivered, many of these had been or were being implemented.\textsuperscript{188}

4.79 When a topic was at the cutting edge of emerging science, the ‘advisers’ could in effect become policy-makers. Between the autumn of 1995 and 20 March 1996, knowledge of vCJD was developing rapidly, and Ministers increasingly relied on SEAC’s emerging recommendations as the main basis for their policy on BSE.\textsuperscript{189}

\begin{thebibliography}{99}
\bibitem{185} T9 pp. 19–20
\bibitem{186} The \textit{Evans Report} (M39 tab 3), p 12, para. 2.21 (iv)
\bibitem{187} The \textit{Evans Report} (M39 tab 3), p 11, para. 2.19
\bibitem{188} T79 p. 43
\bibitem{189} See vol. 8: Variant CJD; vol. 6: \textit{Human Health, 1989–96}; and vol. 11: \textit{Scientists after Southwood}
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