5. Human health implications, notification, and slaughter and compensation

Introduction

5.1 In this chapter we trace chronologically the reaction of officials at MAFF and their Ministers to the human health implications of BSE during the period up to 27 July 1988, when the first regulatory measures were taken to address the risk posed to humans.

5.2 In June 1990 Dr Hilary Pickles of the Department of Health (DH) commented:

The most serious delay was in informing DH in the first place. The CVL were aware of a new disease in January 1987, they informed their Ministers in June 1987, but wrote to us... only on 3 March 1988, by which time they had 500 cases.\textsuperscript{521}

5.3 In this chapter we shall examine the consideration given within MAFF to informing DH of the emergence of BSE and the communications that took place, or were believed to have taken place, between the two Departments about BSE in the period in question. We shall consider how MAFF and DH responded to the potential risk that BSE posed to human health and whether that response was adequate. The structure of MAFF and its constituent parts, including the SVS and CVL, and of DH at this time is illustrated in Annex 1 in vol. 15: Government and Public Administration.

Chronology

December 1986

5.4 In his seminal minute to Drs Watson and Shreeve of 19 December 1986 (see paragraph 1.37), Mr Bradley commented:

If the disease turned out to be bovine scrapie it would have severe repercussions to the export trade and possibly also for humans if for example it was discovered that humans with spongiform encephalopathies had close association with the cattle.\textsuperscript{522}

5.5 Mr Bradley explained to us that although no association had been shown between scrapie and CJD, he considered that if a new species was affected this

\textsuperscript{521} YB90/6.1/3.1
\textsuperscript{522} YB86/12.19/1.1
might pose a different risk. He flagged up the possibility that there might be a risk for human health that should be considered. 523

5.6 Mr Bradley went on to say that it remained his view that:

It was inappropriate for veterinarians to be responsible for advising or anything in regard to public health in that particular context. It was for medical doctors to decide. 524

5.7 At the back of his mind was the requirement that, at some stage in the future, the medical authorities should be informed about BSE. 525

5.8 Mr Rees told us that in early 1987 he reached the provisional conclusion, on the basis of the information known about BSE at the time, that it was unlikely that the disease posed a risk to human health. 526 The outcome of his discussions with senior veterinary staff was that it was unlikely that BSE would affect humans, as no existing animal spongiform encephalopathies had been linked to human disease. That possibility could not, however, be ruled out. 527

5.9 Dr Watson’s evidence indicated that, in the early days, he was principally concerned with what he considered to be:

. . . the most serious problem in the livestock industry we were likely to encounter since foot and mouth disease in 1967. 528

5.10 Mr Cruickshank’s view of the risk to human health was based upon conversations with Mr Rees and, initially at least, they held similar views. 529

5.11 Mr Wells told us that in the early days none of those that he talked to discussed the question of risk to human health. The veterinary viewpoint was that BSE would behave very much like scrapie in sheep. 530

5.12 The contemporary documentation suggests that in the first half of 1987, Mr Rees, Dr Watson and his staff at the CVL were principally concerned with the animal health risk posed by BSE and the commercial implications that this might have. Accordingly, it is possible to move some months forward in the story to the first occasion on which there was communication about BSE to members of the medical profession.

May 1987

5.13 Mr Wells made his impromptu presentation to the joint meeting of the Medical and Veterinary Research Clubs on 29 May (see paragraph 2.46). Mr Rees observed to us that while this did not amount to formal notification to DH about BSE, it was one of the ways of making the new condition known. 531
June 1987

5.14 The note addressed by Mr Rees to the Parliamentary Secretary (Mr Donald Thompson) on 5 June (see paragraph 2.52) stated: ‘There is no evidence that the bovine disorder is transmissible to humans.’ In his oral evidence, Mr Rees said that the CVL had not at that stage concluded that there were possible implications for humans; nor was there any evidence of any potential effect on humans. When asked if he thought it important for the Minister to know that implications for humans could not be ruled out absolutely, Mr Rees replied that the Minister would have been able to infer that from what was written and from the subsequent discussions.

5.15 At the meeting held by the MAFF Permanent Secretary (Sir Michael Franklin) a few days later (see paragraph 2.57), Mr Rees advised that it was not yet known how the disease was transmitted nor whether there was any evidence connecting BSE to similar conditions in humans. Sir Michael agreed that MAFF should ensure that investigations were under way into the possibility of any link between BSE and human disorders.

5.16 In his oral evidence Sir Michael stated that the possibility of any link with human disorders was a paramount concern. However:

The prevailing impression was that, because this disease bore such close similarities to scrapie, and because scrapie had been around for a long time and had not been known to cause any ill health to humans, BSE was similarly unlikely to be a risk to human health.

5.17 On 30 June Mr Bradley sent Dr Watson a note that read:

May I formally draw attention to the need to acquaint the medical profession with our discovery without alarm. I gather this is being done by John Bell to staff at Colindale.

Mr Bradley told us he understood that Mr Bell had been communicating information to the Communicable Disease Surveillance Centre (CDSC) but that he had no detail of this. He considered that it might be necessary to go further than just the one localised contact.

5.18 Mr John Bell was a Senior Veterinary Officer working at the State Veterinary Service headquarters at Tolworth. His duties included liaising with the CDSC, part of the Public Health Laboratory Service (PHLS) at Colindale, about the surveillance and investigation of communicable diseases reported by the PHLS to the CDSC and thought to be associated with animals. Accordingly, Mr Bell made weekly visits to the CDSC to confer with medical epidemiologists, scrutinise PHLS reports, and consider whether farm investigations by the Veterinary Investigation Service (VI Service) were appropriate. It was Mr Bell’s practice to give brief oral reports on incidents which had been reported by the VI Service and were likely to be of interest.
to medical epidemiologists. The meetings were attended by Dr Bartlett, Director of the CDSC, and his medical staff.\(^538\)

**5.19** Mr Bell could not recall when or how he first became aware of BSE. He told us he would have received the circular to Senior Veterinary Investigation Officers of 8 June 1987 (see paragraph 2.45) but did not think that he discussed this at the CDSC. He did not remember reading Mr Wells’s article published in the *Veterinary Record* of 31 October 1987 but had he done so, he would have been unlikely to discuss it at the CDSC as the final paragraph stated that no link with other encephalopathies had been established. He said that he reported to the CDSC what he knew from reading and occasional conversations with Mr Wilesmith and Mr Bradley at the CVL.\(^539\) This must we think have been at a later stage of the story, when the presumed link with scrapie had been accepted.

**July 1987**

**5.20** Mr Cruickshank, Mr Suich, Mr Kevin Taylor, Dr Watson, and Mrs Susan Cunningham met with Mr Donald Thompson and Sir Michael Franklin and discussed BSE on 22 July. Mr Thompson asked whether BSE could be transmitted to humans. Dr Watson replied that he could not give a categorical answer, but that there was no evidence to suggest that it could. Mr Thompson asked that a paper be prepared for the Minister (Mr John MacGregor) outlining the steps taken and the research necessary to assess the dangers of BSE for both cattle and humans. Sir Michael observed that ‘the establishment of any risk to human health was the highest priority’\(^540\). Mr Thompson said that he was particularly concerned about this and wanted work to be done to rule it out.\(^541\)

**5.21** On 29 July Mr Rees sent Mr Thompson a paper prepared by Dr Watson pursuant to his request at the 22 July meeting. The paper stated:

> The occurrence of a disease of this nature in milking animals could give rise to concern about any human health risks, although there is no reason at all to believe that such risks exist. Any possible relationship between BSE and similar diseases in humans could only be demonstrated by analysis of clusters of cases in the respective populations. Experimental work to prove animal to human transmission is impossible, although material could be inoculated into laboratory primates.\(^542\)

This paper was subsequently placed before the Minister.\(^543\)

**September 1987**

**5.22** Dr Tony Little, then Deputy Director of the CVL, had responsibility for veterinary medicines. On 9 September 1987 he attended a meeting of the Biologicals Sub-Committee of the Committee on Safety of Medicines. Present at that meeting was Mr John Sloggem, a principal pharmaceutical officer in the Biologicals Unit of DH’s Medicines Division. Mr Sloggem was, at the time,
considering an application for a clinical trial certificate for a drug which consisted of a bovine brain extract containing phospholipids.\textsuperscript{544}

\textbf{5.23} After the formal meeting was over, we believe Dr Little had a conversation with Mr Sloggem and other colleagues about this application in the course of which he discussed BSE (for more detail see vol. 7: \textit{Medicines and Cosmetics}). Dr Little told us that:

Although the minutes of the meeting make no reference to it, I made a mention at the meeting of the occurrence of BSE in cattle. I believe (although I cannot now be sure) that I mentioned BSE during the course of the formal meeting. I can remember that a discussion of scrapie resulted from my mention of BSE.\textsuperscript{545}

\textbf{5.24} Dr Watson was aware that Mr Rees was in the course of preparing a progress report about BSE for Ministers. On 10 September he sent him a minute suggesting that he include the following additional information:

\textit{DHSS are aware of the problem. Concern is being expressed about the possible human health risks due to products for human use which contain an emulsion of bovine brain.}

By way of explanation he added:

This matter was discussed by Dr Little with DHSS colleagues attending the Committee on Safety of Medicines Sub-Committee on Biological Products on Wednesday 9 September, and I understand that they will be writing to us.\textsuperscript{546}

\textbf{5.25} On 11 September Mr Bradley sent Dr Watson a note suggesting that it would be worthwhile considering publication of information about the disease in the medical literature, such as the \textit{British Medical Journal} or \textit{The Lancet}. He added: ‘There are of course pros and cons. What do you think please?’ Dr Watson replied:

\textit{Not at present. It would over emphasise the possible link to human spongiform encephalopathies.}\textsuperscript{547}

\textbf{5.26} On 16 September Mr Rees sent his progress report (see paragraph 2.105) to Mr Thompson and Mr MacGregor. He accepted Dr Watson’s suggestion and included this information:

\textit{DHSS are aware of the problem and have informally expressed some concern about any possible human health risks due to products for human use which contain an emulsion of bovine brain. However, there would be no risk provided the brains are from clinically healthy cattle.}\textsuperscript{548}

Mr Rees said that he believed the last sentence must have represented advice that he had been given by Dr Watson.\textsuperscript{549}
October 1987

5.27 On 15 October Mr Suich circulated information in Question and Answer form to enable press officers and others to answer queries about BSE. This included:

Q. Can it be transmitted to humans?
A. There is no evidence that it is transmissible to humans.550

This is the first appearance in a Q&A briefing of what became a familiar refrain.

November 1987

5.28 In the light of increased media interest in BSE, Mr Thompson had on 30 October requested a strong defensive briefing on both action taken by MAFF up to that point and action being contemplated.551

5.29 Mr Suich’s response included a statement that there was no evidence that BSE was transmissible to humans. He added that because direct research could not be carried out, it would take many years to build up sufficient data to establish whether or not it was transmissible. Mr Suich drew an analogy with scrapie, which had been present in British sheep for many decades and had shown no correlation with the incidence of spongiform encephalopathies in humans.552

December 1987

5.30 We referred in Chapter 2 (see paragraph 2.125) to the query made in November 1987 by Mr Coultous, an Environmental Health Officer, as to the appropriate approach at the slaughterhouse to the carcass of a BSE suspect. At that point Mr Bradley did not consider that this had become an issue that justified circulating information to EHOs.553 The first written expression of concern about animals affected by BSE entering the human food chain appears to have come not from MAFF officials but from Lord Montagu of Beaulieu. On 4 December he wrote to Mr MacGregor, having had his attention drawn to BSE by one of his tenants:

My concern in writing to you, and indeed the concern of my tenant, is that in present legislation there is nothing which prevents veterinary officers from certifying the carcass of an animal infected with this disease as fit for human consumption. Indeed, it is my understanding that many such cattle may already be sold through abattoirs for this purpose.

At the present time I understand little or no research has been done on whether this disease can be transmitted to humans through the consumption of beef from infected animals, and, until this is known, it seems quite wrong to me that it is possible to sell infected carcasses for this purpose. As you will appreciate, there is a substantial financial incentive on farmers to sell a carcass for human consumption, as I understand it is worth approximately £300, as against a price of £50 if sold for pet food. Perhaps this is an area

550 YB87/10.15/1.3
551 S303 Thompson para. 46
552 YB87/11.11/3.1
553 S71D Bradley para. 5
where the Ministry should make the disease notifiable and pay compensation at the full value for animals infected?

I wonder if this is something which should be taken up urgently through your Ministry, at least until a clearance is placed on any possibility of risk arising from the consumption of carcasses affected with this disease. 554

5.31 Mr Cruickshank told us that he felt that a slaughter and compensation scheme would have been mentioned in informal discussions a lot earlier, but that MAFF only really focused on the point formally at the time of Lord Montagu’s letter. 555

5.32 Mr Alan Lawrence, of MAFF’s Animal Health Division, told us that he was not aware of any detailed consideration being given to making the disease notifiable or to a slaughter and compensation policy prior to receipt of Lord Montagu’s letter in early December. 556

5.33 On 11 December Dr C E C Wells, a retired neurologist with considerable experience of cases of CJD, wrote to Dr Watson raising concerns about BSE. He asked whether BSE had been discussed with clinical neurologists and neuropathologists individually or through their professional bodies. He went on to ask a number of questions about the disease. 557

5.34 Dr Watson sent his draft letter to Mr Suich for clearance. 558 Mr Suich approved the letter, 559 and Dr Watson then sent his response to Mr Wells. In this letter he stated:

Whilst we share your concern about BSE and also your desire not to cause alarm I wish to reassure you that medical colleagues have been kept informed and indeed we are collaborating in our research programme with the Neuropathogenesis Unit Edinburgh. All the points raised in your letter and a number of others are being investigated although, as you appreciate, this type of work is expensive, difficult and long-term. 560

5.35 At a meeting of MAFF officials on 15 December, chaired by Mr Rees, it was agreed that an options paper should be prepared and considered at a further meeting, on 8 January, prior to making a submission to Ministers. This would look at a number of options including making the disease notifiable with or without slaughter and compensation. 561

5.36 In a note the day after the 15 December meeting, Dr Watson asked Mr Bradley to consider further research into the risk of transmission of BSE by placenta, milk and heat-treated tissue. The sooner the information on possible modes of transmission was available the better, particularly if the policy to be adopted was notification and the slaughter with compensation of affected cattle. 562
5.37 On 20 December Mr Bradley sent a minute to Dr Watson, attaching his thoughts on a logical approach to research and the BSE infection network. He felt MAFF needed to know ‘Is BSE transmissible to primates (& by inference to man)?’, and suggested experiments to transmit BSE and scrapie to marmosets. Mr Bradley also suggested experiments to establish which tissues contained the BSE agent, and in what concentrations, and experiments to establish the minimum infective dose for a) a primate and b) a calf.

5.38 Mr Bradley’s minute went on to recommend that consideration be given to a number of methods of interrupting the potential chain of transmission. These included:

i. Incinerating all positive BSE carcasses.

ii. Sending the head to MAFF and the carcass to the abattoir.

iii. Condemning all offals and spinal cord and passing the carcass on its merits.\(^\text{563}\)

5.39 On 29 December an article on BSE in *The Times* raised the question of whether it might be a zoonosis.\(^\text{564}\)

Mystery Disease Strikes at Cattle

The arrival of an unknown disease is inevitably a subject of curiosity and concern. When that disease appears to be confined to a single country – Britain – there are bound to be calls for urgent investigations and for more information to be made public . . .

There is no indication of whether it can infect other animal species or whether it is zoonotic, namely transferable to humans.

There have been suggestions that it could be linked to a sheep disease called scrapie.

January 1988

5.40 Following the 15 December meeting, three possible policy options were set out in a paper circulated among MAFF officials on 4 January 1988, and the pros and cons of each presented. Those options were: maintaining the existing policy; making BSE notifiable only; and making the disease notifiable while also introducing a slaughter and compensation scheme.\(^\text{565}\)

5.41 On 8 January Mr Rees chaired a meeting at which Mr Cruickshank, Dr Watson, Mr Meldrum, Dr Peter Dawson, Mr D Kyle, Mr Wilesmith and Mr Lawrence were present. The options paper was discussed. The minutes record:

After discussion it was concluded that a ‘halfway house’ of making the disease notifiable was not a viable proposition and that the real choice lay between maintaining the present policy (at least for a further period of time) or recommending to Ministers that we should adopt a slaughter with

\(^{563}\) YB87/12.20/1.1–1.6

\(^{564}\) YB87/12.29/5.1

\(^{565}\) YB88/1.4/1.1–1.4. The options paper was circulated to Mr Rees, Dr Watson, Mr Cruickshank, Mr Meldrum, Dr Peter Dawson, Dr Cawthorne, Mr Suich and Mr Wilesmith
compensation policy. In concluding that, on balance, the latter should be recommended the following points were made:

(a) From the evidence gained so far there was a strong welfare case for killing clinically affected animals on farm and not allowing them to be moved to a slaughterhouse . . .

(b) There was a good veterinary case for the slaughter of affected animals – it can be accurately diagnosed on a clinical basis and whilst investigatory research continues into the cause and transmissibility of the condition it would, at least, be helping to control the problem. By tackling it now it may be that we can get on top of it before it becomes too late to do so.

(c) Although there is no evidence so far that the condition is transmissible to man – if at some future date it turns out that this is the case – the Government would be held responsible.

(d) Although a slaughter policy would focus attention on the condition and may stimulate importing countries into (at least) seeking health conditions (herd/area freedom) this may happen anyway. By making the condition notifiable and adopting slaughter/compensation we would probably be able to provide certification, which would not be possible by maintaining the current arrangements.566

5.42 In his oral evidence, Mr Rees said that carcass destruction was, at the time, primarily directed towards protecting animal health against further spread of the disease. If there was a danger to human health, however, carcass destruction would also achieve the secondary objective of preventing the carcasses from entering the human food chain.567

February 1988

5.43 In mid-January Mr Lawrence circulated a first draft of the submission inviting comments from those who had been present at the meeting on 8 January.568 On 16 February, following a series of revisions, Mr Cruickshank minuted Mr Edward Smith, the Deputy Secretary for Land and Resources, with the agreed submission to the Minister as prepared by Mr Suich. The minute and its enclosure were copied to officials in MAFF569 and the Scottish, Welsh and Northern Ireland Offices.570

5.44 In his covering minute, Mr Cruickshank stated:

1. The attached submission, prepared by Mr Suich in consultation with veterinary colleagues, deals with the very difficult question of what to do about this new disease.

2. We do not know where this disease came from, we do not know how it is spread and we do not know whether it can be passed to humans. The last
point seems to me to be the most worrying aspect of the problem. There is no evidence that people can be infected but we cannot say that there is no risk. We shall not be in a position to give a definite view on this until the current tests on marmosets yield results – possibly in two years’ time. In the meantime Ministers will be exposed to considerable risk of criticism if the meat from diseased animals continues to go for human consumption.

3. If we believed the risk to human health was so remote as to be negligible we might advise Ministers to ride out the criticism. I would however be reluctant to say the risk is negligible. One theory is that BSE may have originated from sheep affected with scrapie . . . If this theory is correct – and I emphasise that it is only one of a number of possible explanations – we have to face up to the possibility that the disease could cross another species gap . . .

6. Of the two main options discussed in the submission, I see little real merit in the first – making the disease notifiable but not requiring slaughter of affected animals. This would increase anxieties about the disease without doing anything to answer the human health question or to stem further spread. Only if we introduce compulsory slaughter with compensation can we ensure that affected animals are taken promptly and that the carcasses are destroyed. This course would in fact give us a good deal more control over the situation, and I think the submission is right to advocate it. 571

5.45 The submission itself, in setting out the reasons for reviewing the current policy, included:

More importantly, although there is no evidence to suggest that the condition can be transmitted to humans we cannot be sure there is no risk; we could therefore be criticised for allowing affected animals to be sold for human consumption. MAFF are already being asked to advise on whether there is any risk to humans. There have also been a number of letters from the general public on this issue and correspondence between the Minister and Lord Montagu of Beaulieu. 572

5.46 The submission then set out the options, including:

Option (2): Slaughter and Compensation

12. The second possibility would be to adopt a policy of slaughter and compensation for those animals in which the condition is confirmed. The principal advantages of taking this course are that it would avoid any welfare problems arising and enable Government to answer criticism about the human health implications. It might also help to stem any possible spread of the disease. The availability of compensation would reduce the temptation for farmers to send suspect animals for slaughter without notifying suspicion of the disease. 573
5.47 Paragraph 16 discussed the possibility of industry funding:

It would not be the first time that the industry agreed to meet the costs arising from a slaughter/compensation policy. Both Newcastle disease in poultry (from 1981–1985 through an insurance arrangement) and Aujeszky’s disease eradication have been funded by industry . . . BSE, moreover, differs from Aujeszky’s disease and Newcastle disease in that there would be less obvious economic benefit to the industry from a slaughter policy, the main reasons for considering such a policy being public health safeguards and animal welfare. Furthermore with BSE we cannot say, as we could with Aujeszky’s disease, that eradication is a feasible option. 574

5.48 Under the heading ‘Performance Evaluation’ the submission stated:

18. The main reason for introducing a policy of slaughter with compensation would be to safeguard public health in the absence of knowledge about possible transmissibility to humans. This objective would be achieved immediately on introduction of the policy. It will be possible to re-examine the need for the policy in this respect when the results of the research on transmissibility of the condition are available. 575

5.49 The submission concluded by recommending:

20. . . . that the most appropriate course of action would be to make the condition notifiable and to introduce a policy of compulsory slaughter with compensation. 576

5.50 The Permanent Secretary, by now Mr Derek Andrews, received the submission under cover of a minute from Mr Edward Smith setting out his agreement with the notification, slaughter and compensation proposal. Mr Smith added the following comment:

I have also considered whether we should recover the cost from the industry. I was an architect of the development of policy in the early 1980s that, where the industry wished us to introduce an eradication scheme, they should foot the bill, since they would receive the economic benefits of the eradication. This however is not the case here – we are recommending this course primarily in view of our public health and animal welfare concerns. It would not therefore be appropriate to require the industry to fund the programme – and in any case levy funding would require primary legislation. 577

5.51 Mr Brian Dickinson, Principal Finance Officer at MAFF, minuted Mr Andrews on 19 February with reservations about the proposed policy. These included concern about where the money for the compensation policy would be coming from. 578 Mr Dickinson explained to us that the Public Expenditure Survey (PES) position for 1988/89 had recently been settled. It was not therefore a good time to approach the Treasury for more money. He thought that public funding of
compensation would only exacerbate the difficulties facing MAFF from the 1988/89 PES cutbacks. 579

5.52 In relation to this point Mr Cruickshank stressed in a minute to Mr Andrews that the submission had been cleared in draft by the Financial Guidance Division and reflected their advice. He added:

(i) BSE is invariably fatal in cattle and would also be fatal if transmitted to humans . . .

(ii) human spongiform encephalopathies exist and there is some evidence that they may be transmissible through meat.

We have to weigh the cost of the suggested policy against the cost of doing nothing. It may be that doing nothing would prove painless, but there is a real possibility that it would prove extremely costly. 580

5.53 The submission was forwarded to the Minister, Mr John MacGregor, on 24 February. In his covering minute Mr Andrews advised:

If you took no action now and worrying positive results were to emerge from these studies, you would have laid yourself open to criticism for not acting to reduce the risks to public health. I do not see how you could defend taking no action now unless you had the support of the Chief Medical Officer. But, on the face of it, it seems unlikely that he would feel able to endorse a wholly reassuring statement of the likely risks of transmission of this disease to man until we have much more information available. 581

5.54 Mr Andrews’s conclusion was:

I am reluctantly led to the conclusion that, unless the Chief Medical Officer is ready to support you in taking no immediate action, you are faced with no real option but to move to a slaughter and compensation policy. But I do not think that you should take a decision on this until we have consulted the CMO. 582

5.55 In his written statement to us Mr Andrews said:

I recall that my overriding concern at the time [February 1988] was the possible risk to human health. I felt that the correct way forward on the basis of the information we had was to introduce a slaughter and compensation policy as soon as possible. I advised the Minister that anything short of that would need to be agreed by the CMO. I had reached this conclusion despite the fact that this policy could turn out to be costly and that we were unlikely to persuade the industry to meet the cost of compensation. I had also decided that this was the correct policy in spite of any adverse repercussions on our exports of cattle, semen and embryos to other countries. 583

579 T38 p. 33
580 YB88/2.22/2.1
581 YB88/2.24/2.1
582 YB88/2.24/2.2
583 S281 Andrews para. 35
5.56 Two days later, Mr Andrews and other MAFF officials met Mr Thompson, the MAFF Parliamentary Secretary, to discuss the submission. According to a minute by Mr Thompson’s private secretary, Mr Rees was able to report that recent enquiries appeared to establish a link with feedstuffs containing MBM and tallow, the use of which had increased in the 1980s. The minute noted further discussion on this aspect:

The Secretary felt that, since the evidence on the link with feedingstuffs had been firmed up, it might be possible to effectively contain the problem thus obviating the need to rush into a slaughter policy which would undoubtedly have immediate detrimental effect on exports. It was generally agreed that there would therefore be no need to enter into an open-ended commitment but that it would not deal with the problem of the disease in the national herd at present.

The Secretary felt that it was now necessary to consult the Chief Medical Officer (CMO) on the question of human health. He should be told the decision that Ministers were being asked to take and should be asked for his opinion on the possibility of BSE’s transmissibility to humans. He would undoubtedly take a very cautious line on this, but we would, of course, need to be guided by him on this.584

5.57 Mr Andrews explained to us that this comment was simply addressing the suggestion that a slaughter policy should be introduced as a step towards eradicating the animal disease. So far as the potential risk to human health was concerned, his advice was to approach the CMO. The minute captures this.585

5.58 Mr MacGregor received a copy of this minute. His reaction to this and the submission was described in a minute dated 29 February sent by his private secretary to Mr Andrews’s private secretary:

2. He has commented that he is very cautious about this.

3. He does not see how we could proceed without being clear where the offsetting savings are coming from; and it is not just the first year estimate which is relevant here. The figures for later years – which could possibly be much higher – also need to be taken into account.

4. More importantly, there is a read-across to such things as rhizomania. The Minister has commented that although he knows the analogy is not completely exact, he feels that this is not the way it will be seen. The argument that a slaughter and compensation policy would help to stem the spread of the disease (advocated in these papers) is precisely the one sugar beet growers have been making, and which we have strongly and publicly been rejecting.

5. He also thinks that action along the lines recommended now would make the export position much worse, not better.586
5.59 Whether this correctly reflected Mr MacGregor’s reaction to the submission we shall consider in due course. What is not in doubt is that he did not reverse the decision taken on 26 February that Mr Andrews should seek the advice of the CMO on the possibility of the transmission of BSE to humans. We shall consider the terms in which that advice was sought and subsequent developments later on in this chapter.

The introduction of the slaughter and compensation policy

March 1988

5.60 The CMO, Sir Donald Acheson, was notified about BSE by a letter from Mr Derek Andrews dated 3 March 1988. Having set out the nature of the disease, its incidence and clinical signs, the letter went on to explain that research was focusing on the possibility of its source being animal feed containing material derived from sheep, which were known to be susceptible to encephalopathies. Turning to the question of whether BSE might be transmissible to humans, Mr Andrews wrote:

\[
\ldots \text{the human health considerations must be an important consideration here. It would be very helpful therefore to have your advice on the view we should take of the possible human health implications and how we should handle questions about the risks to human health.}^{587}
\]

5.61 On the same day, Mr Rees and Dr Watson held a meeting with Dr Diana Walford, Senior Principal Medical Officer at the DH; Dr Ann Dawson, of DH’s International, Microbiology, and Communicable Diseases Division; and Dr Murrell, also of DH, to discuss BSE. A minute of the meeting, dated 7 March 1988, and submitted by Dr Ann Dawson to Sir Donald Acheson, explained that the CVL believed that BSE was connected with animal feed. It went on to record that Mr Rees wanted to prevent cattle with BSE getting into the food chain and that this could only be achieved if the cattle were destroyed and incinerated. The question for DH was therefore whether the affected cattle entering the food chain posed a public health risk.\(^{588}\)

5.62 In his statement, Sir Donald Acheson explained that he considered there was insufficient evidence for him to be able to rule out the risk to human health posed by BSE. He therefore called for a meeting to be held as soon as possible between officials from DH, MAFF and the PHLS to discuss possible measures to protect human health.\(^{589}\) On 7 March his private secretary recorded his comments:

\[
\begin{align*}
\text{If, as seems likely, this behaves like scrapie and kuru there should not be a problem in man. However, we need to take urgent advice from the experts} \\
\ldots \text{This raises again the issue of sterilising animal feed.}^{590}
\end{align*}
\]

\(^{587}\) YB88/3.3/8.1–8.2; S251 Acheson para. 42  
\(^{588}\) YB88/3.7/6.1–6.2  
\(^{589}\) S251 Acheson para. 43  
\(^{590}\) YB88/3.7/5.1
5.63 Sir Donald told us that his experience in relation to CJD governed his reaction to the news of the BSE epidemic in cattle. He determined that ‘high priority’ should be given to discovering whether there were risks of its spreading to man and the limiting of any such risks.\textsuperscript{591}

5.64 The interdepartmental meeting requested by the CMO took place on 17 March 1988. Together with Sir Donald, the meeting was attended by DH officials including Dr E L Harris (Deputy CMO), Mr Cruickshank (MAFF), Dr Watson (CVL), Dr Joan Davies (PHLS) and Dr Galbraith (Communicable Disease Surveillance Centre).

5.65 The DH note of the meeting records:

Sir Donald Acheson divided possible action into three categories:

(1.) nothing to worry about;

(2.) something to worry about that should be considered by an expert group (for which Ministerial consent was required);

(3.) the threat was sufficient to require an immediate recommendation for action.

Views within this framework were sought from those present.\textsuperscript{592}

5.66 Mr Cruickshank is recorded as stating that with 40 or so cases a month the disease would soon become newsworthy, and that it was important that both Government Departments should arrange appropriate action before this happened.\textsuperscript{593} Mr Cruickshank’s minute to Mr Andrews describing this meeting records:

After some discussion of the data provided by CVL, it became clear that all those present found it very difficult to give any clear advice on the subject. The meeting appeared to be tending towards the view that there is probably no risk in drinking milk or eating flesh from animals affected with BSE, but that the position was much less clear in relation to brains, spleens and other organs. This raised questions about the safety of human vaccines prepared using bovine material.

The CMO concluded the meeting by saying that he suspected there was no risk, but that it could take 30–40 years to prove this. In the meantime, Ministers would be very exposed if, as seems inevitable, the press began to devote attention to the subject. He proposes therefore to minute Health Ministers recommending that a small group of internationally recognised experts should be set up; this group should meet two or three times and examine all the information available; it should then deliver advice which would go to Agriculture and Health Ministers. It might be asked as a priority to advise on the use of bovine material in manufacturing vaccines and on the disposal of carcasses of affected animals. Sir Donald added as an aside that
he thought it highly likely that the advice would be that carcasses of affected animals should not go for human consumption.\(^{594}\)

**5.67** On 21 March 1988 Sir Donald Acheson forwarded a submission to Health Ministers, informing them of BSE, and seeking their agreement to the setting up of an expert group to advise on the human health risks and possible preventive measures. Sir Donald advised that although the risk was likely to be low, further expert advice was needed as soon as possible in light of the lethal nature of BSE and the uncertainties surrounding this disease. The minute drew attention to the risk of public concern and suggested that one approach which would play down the human health issue would be for the group to be set up jointly by MAFF and DH with strong public health input. Sir Donald put forward the name of Sir Richard Southwood, Professor of Zoology at Oxford and an ecologist, to chair the expert group.\(^{595}\)

**5.68** In a minute to Mr John MacGregor dated 22 March, Mr Andrews expressed the view that there was no alternative but to accept the CMO’s proposed suggestion. If the conclusion was, as Sir Donald Acheson had suggested it might be, that carcasses of affected animals should not go for human consumption:

\[
\ldots \text{we shall have great difficulty in avoiding a compulsory slaughter and compensation scheme.}^{596}\]

**5.69** Mr MacGregor noted his reaction on the minute:

> We have some time to think this through. I am concerned at the thought of a Government scheme. It runs the risk of reopening the compensation question.

**5.70** On 23 March Sir Donald Acheson wrote to Mr Andrews summarising the results of the 17 March meeting and enclosing his submission to Health Ministers. Sir Donald reported ministerial approval to the setting up an ‘Expert Working Party’, and he repeated that he would not be surprised if the expert group, as a matter of prudence, recommended that the carcasses of affected animals should not go for human consumption.\(^{597}\)

**5.71** These two officials spoke on the same day. Mr Andrews’s private secretary minuted Mr Cruickshank about the conversation and recorded that Health Ministers:

\[
\ldots \text{had agreed that a small expert group should be set up to look at the health implications. Since the CMO’s advice was that there was unlikely to be a health risk, it might be best to have a joint working party so as to avoid the implication that our sole preoccupation was the health risk.}^{598}\]

**5.72** At the meeting on 30 March between Mr Andrews, Mr Rees, Mr Cruickshank and Mr Bradley (see paragraph 3.43) there was discussion about the disposal of affected animals. Mr Andrews mentioned concern on the part of Mr MacGregor...
about having to finance a compulsory slaughter scheme. Mr Cruickshank said that he was looking into the possibility of an industry-funded compensation scheme. Mr Rees considered that, since the primary concern was over public health aspects ‘despite the need to play them down’, there would be difficulty in getting the industry to pay.  

April 1988

5.73 At the meeting on 14 April between Mr MacGregor, Mr Thompson, Mr Andrews, Mr Edward Smith, Mr Meldrum and other MAFF officials (see paragraph 3.51) slaughter and compensation was again discussed. The minute records that Mr MacGregor commented that the issue needed to be considered particularly carefully, given the read-across to diseases such as rhizomania and Aujeszky’s disease. The question was raised as to whether elimination of BSE was more a matter of public than industry interest.

5.74 One of the key issues was whether eradication of BSE was possible, which Mr Cruickshank noted was not yet clear. In the light of this and other uncertainties, the meeting concluded that further work was needed on the efficacy of a slaughter policy in eradicating the disease, and on whether compensation was appropriate.  

5.75 On 19 April 1988 Sir Richard Southwood was formally asked to chair the expert Working Party.  

5.76 On 22 April Farming News carried on its front page an article which suggested that many cases of BSE were going unreported.  

Spongiform Fear Grows

The Ministry of Agriculture has been accused of seriously underestimating the true extent of bovine spongiform. The charge, by vets up and down the country, is made more acute by fears that the brain disease could be transmitted to humans.

Ministry sources say that a slaughter policy has been discussed but no decision reached. Ministry vets are severely worried that the escalating disease will cause problems for UK cattle exports . . .

Dr Tony Andrews of the Royal Veterinary College confirmed that there is disquiet about whether the disease – which affects the brain tissue – could be a danger to humans.

‘We simply don’t know,’ he said.

It’s time the Ministry came clean about its findings. There is a distinct feeling that the investigation centre at Weybridge is over-secretive about its findings.

‘We have got to know how the disease is going to be tackled nationally. At the moment the Ministry has neglected to give farmers or vets any guidelines about spongiform.’
The latest Ministry figures show that there are 421 confirmed cases of bovine spongiform in 352 herds. But these figures mask the true picture as many farmers and vets are not bothering to report an outbreak to MAFF . . .

Roger Eddy, British Veterinary Association officer, has 25 cases of BSE in his Somerset practice. He is annoyed that he has not been given clear guidelines from the Ministry about the disease.

He argues that if the disease is similar to scrapie, then it is most virulent at calving.

‘Many farmers are keeping infected animals until they calve down, and then send them for slaughter. This could be leading to a huge spread of the disease.’

May 1988

5.77 Mr Rees’s submission to Mr MacGregor of 6 May,\(^{603}\) which recommended a ruminant feed ban (see paragraph 4.4) discussed two further recommendations:

(1) Making BSE notifiable. The advantage of making it notifiable would be firstly that the Government would be seen to be taking positive steps to deal with the problem and secondly it would provide a better overall picture of the disease’s prevalence.\(^{604}\)

(2) Slaughter with compensation. In view of Minister’s reservations about the possibility of a slaughter and compensation policy funded by the Exchequer it might be appropriate now to initiate discussion with the industry to explore the possibility of an industry funded slaughter/compensation scheme to back up the notification proposal.\(^{605}\)

5.78 By way of overall strategy the submission stated:

It is the CVO’s opinion that action should now be taken with two objectives in mind:

(1) To eliminate the continuing source of infection by a temporary withdrawal of meat and bone meal from ruminant feedingstuffs until effective processing systems are operating.

(2) To dispose of affected animals at an early stage in the clinical syndrome to establish control of the disease pending the long term study into cattle to cattle transmission.

This action would also help to protect our exports by making export certification possible – if later required by some importing countries – and raising confidence that positive action to control the disease is being taken.

In the light of what has been described the Minister is recommended to agree:–

\(^{603}\) YB88/5.6/6.2–6.8
\(^{604}\) YB88/5.6/3.5
\(^{605}\) YB88/5.6/3.6
(a) that urgent discussions take place with the feed trade with a view to a temporary and voluntary withdrawal of meat and bonemeal which is currently used as an ingredient in feed for ruminants;

(b) discussions take place with the NCBA [National Cattle Breeders Association], breed societies and the NFU’s with a view to making the disease notifiable and introducing an industry funded slaughter policy for affected animals;

(c) that Sir Richard Southwood be informed of the action we propose taking.\(^{606}\)

5.79 It was suggested that such action would not be seen as pre-empting the Southwood Inquiry because it would be introduced primarily for animal health reasons, whereas the emphasis of the Southwood Inquiry was on public health implications.\(^ {607}\)

5.80 Mr Rees’s submission was discussed at the meeting held on 18 May between Mr MacGregor, Mr Thompson, Mr Andrews, Mr Cruickshank, Mr Wilesmith, Mr Coe, Mr Suich and Mr Meldrum (see paragraph 4.9). In addition to the introduction of a ruminant feed ban it was agreed that officials should inform the agricultural industry of the intention to make BSE notifiable. However:

The Minister stressed that the industry should not be under any illusions that there would be any Government funding for any slaughter policy which might be introduced for affected animals.\(^ {608}\)

5.81 On 19 May Mr Andrews met Sir Richard Southwood and Sir Donald Acheson. The note of the meeting recorded a comment by Sir Richard that ‘it might be necessary to take steps to deal with any direct sources to humans’.\(^ {609}\) When he subsequently read the record of the meeting, Mr MacGregor asked for advice in due course on the possible steps to cut off the various sources of BSE to humans.\(^ {610}\) Mr Cruickshank was sent this request.

5.82 On 26 May Mr Cruickshank minuted Mr Suich indicating the line he proposed to take in response. Compulsory slaughter was the most effective way of stopping BSE-affected cattle from entering the human food chain. MAFF could then insist on safe disposal of the carcasses, whether by incineration, burial or otherwise. He had looked at making use of the Meat Inspection Regulations instead, but there were major obstacles.\(^ {611}\) He put forward a fuller version of this advice on 7 June (see below).\(^ {612}\)

5.83 While progress with a slaughter policy was held up by the question of discussions with industry, further progress was being made in making BSE a notifiable disease. At a meeting on 27 May between Mr Thompson and Messrs Meldrum, Rees and Cruickshank to discuss the imminent ruminant feed ban, it was
noted that the feed ban Order would also provide for compulsory notification of BSE.

5.84 Mr Cruickshank explained that the Order would confer the power to impose movement restrictions, so as to give MAFF more control over preventing affected animals coming to market. Mr Thompson said that a licence would be granted for slaughter of infected animals provided that they could be certified as fit to travel and there was no public health risk. He enquired whether it was possible to condemn only the heads and possibly the offal of affected animals, which would allow farmers to sell the rest of the carcass on for human consumption. Mr Cruickshank said this would be difficult as there were no similar exceptions for sheep infected with scrapie.

5.85 In response to the point that questions might be asked about why so much trouble was being taken to ban the source of BSE, when products from infected animals were still being allowed to enter the food chain, Mr Thompson felt that officials should continue to take the line that BSE posed no dangers to human health.

5.86 Mr Rees felt that the industry should be encouraged to set up a compensation scheme, so that there would be no need to allow infected animals to go for slaughter and hence into the human food chain. He had been told that the Milk Marketing Board had a mechanism which could be used and had funding available.613

June 1988

5.87 On 1 June 1988 Mr Meldrum became the CVO. On the same day he chaired a meeting with cattle industry representatives concerning the possible introduction of a slaughter and compensation policy. They were informed that the forthcoming ruminant feed ban Order would include provisions making BSE notifiable. Mr Meldrum explained that cattle owners could be prosecuted if they passed on to slaughter animals they suspected of having the disease.

5.88 Slaughter and compensation was discussed. Mr Meldrum made it clear that the industry should not expect the Government to fund compensation. Mr Cruickshank explained the Government position that there was no evidence of human risk, but that an ‘expert Working Party’ was looking at all aspects of the disease. Industry representatives indicated that it was very unlikely that the industry would agree to fund a scheme.614

5.89 On 4 June an article on BSE was published in the *British Medical Journal* of which Dr T A Holt, a house officer at St James’s Hospital in London, and Ms J Phillips, a dietician, were co-authors. The article opened with the following statement:

Press announcements released last year about an outbreak of a brain disease, spongiform encephalopathy, in the cattle of South West Britain were received with alarming indifference by the medical profession as well as by the general public. Fears that transmission of the disease to man might occur through the sale of animal products were immediately allayed by
reassurances largely from the veterinary profession, but no contribution was made from the food industry, and the basis for this confidence was not adequately explained. It has generally been accepted that the slaughter of animals showing characteristic signs of infection – such as behaviour changes – as well as the usual processes of sterilisation and pasteurisation, are enough to remove any risk to the consumer. Unfortunately, this is a view that is naïve, uninformed, and potentially disastrous. 615

5.90 The article then described the analogies between BSE, CJD, scrapie and kuru. It went on to discuss the circumstances in which cattle brain could enter the food chain and it concluded:

In summary, we are faced with the fact that spongiform encephalopathy, whether or not we are at risk from it ourselves, is now established in the cattle of this country. This is a disease for which there is no serological marker, and the incubation period is probably long. There is no way of telling which cattle are infected until features develop, and if transmission has already occurred to man it might be years before affected individuals succumb. It is possible, but unproved, that many asymptomatic cattle are nevertheless as infective as those symptomatic animals which are immediately destroyed for public health reasons. So should not the use of brains in British foods be either abolished outright or more clearly defined? Then in the absence of more compelling evidence those of us who wish to exclude it from our diets at least have that choice. 616

5.91 On 6 June 1988 Mr Alan Lawrence (now joint secretary, with Dr Pickles of DH, to the Southwood Working Party) wrote to Sir Richard Southwood summarising the latest developments. Ministers had decided to make BSE notifiable and at the same time to prohibit the use of ruminant protein in ruminant feed. Although at that stage slaughter and compensation was not envisaged, MAFF would require the brains of affected animals which were moved off farms for slaughter to be sent to the CVL for histological examination. This might help to allay some of the human health fears expressed. 617

5.92 The next day Mr Cruickshank submitted advice to Ministers on the possible steps MAFF might take to prevent meat from affected cattle entering the human food chain. He advised that compulsory slaughter on farms was the most effective option. MAFF could then ensure the carcass was incinerated. If this were done, concerns raised about human health implications, however ill-founded, would be largely dispelled.

5.93 The minute went on to explain that just making BSE notifiable would permit control over affected animals, but could not ensure material derived from such animals did not enter the food chain, except for the brains, which would be sent for examination. He passed on the views of the cattle industry that without compensation, farmers might simply send affected animals to the abattoir without reporting them as BSE cases.

615 YB88/6.4/1.1
616 YB88/6.4/1.2
617 YB88/6.6/3.1
5.94 Finally, Mr Cruickshank referred to the possibility of the Milk Marketing Board funding compensation. The next day, Mr MacGregor authorised Mr Cruickshank to enter into discussions with the Milk Marketing Board.618

5.95 An article in *Farming News* of 10 June discussed the ruminant feed ban and notification requirement and commented on the possibility of a slaughter policy.619

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<th>Spongiform Cash Clash</th>
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<tr>
<td>The Ministry is considering a compulsory eradication scheme for bovine spongiform (BSE). And the NFU fears producers will have to pay for it.</td>
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<tr>
<td>The union has told the Ministry it wants compensation for any ‘inconvenience’ associated with the disease. But the Ministry insists that if an eradication policy goes ahead, it must be industry-funded.</td>
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5.96 On 11 June 1988 Mr Bradley minuted Dr Watson with some additional information on BSE generally. Among his comments, Mr Bradley referred (at his paragraph 16) to Mr Cruickshank’s minute of 7 June to Mr MacGregor. Mr Bradley pointed out that although the plan to retain bovine brains for analysis would help calm public health fears about them, Mr Cruickshank had ignored ‘spinal cord and spleen which are likely to be infected tissues’.620

5.97 In the meantime, discussions with the cattle industry were progressing. The overall message to come out of these talks was that the representative bodies were generally supportive of a slaughter policy for affected animals. However, while the industry felt the Government should provide compensation, officials stuck to the Government line that this should be financed by the industry, as there was no public money available.621

5.98 On 14 June the Bovine Spongiform Encephalopathy Order 1988 was made. On 21 June it brought into force the notification requirement in relation to BSE. The ruminant feed ban was to come into force on 18 July.622

5.99 On 21 June Sir Richard Southwood wrote to Mr Andrews setting out the recommendations that his Working Party had agreed at their first meeting the previous day. These included a recommendation that carcasses of infected animals should be condemned and destroyed by incineration or a comparable method:

> ‘Removal of the head is not an adequate safeguard, they are not the only source of infection.’623

5.100 In a minute to Mr Andrews covering a progress report on BSE, Mr Cruickshank said of the recommendation:

> This advice is not of course unexpected, but it is somewhat surprising that it has come so soon. I gather the Working Party felt unanimously and quite strongly on the point.624

618 YB88/6.7/5.1–5.2
619 YB88/6.10/12.1
620 YB88/6.11/2.1–2.4
621 See for example YB88/6.10/9.1; YB88/6.20/5.1; YB88/6.13/1.1; YB88/6.20/9.1
622 L2 tab 1
623 YB88/6.21/1.2
624 YB88/6.22/1.1
5.101 Mr Cruickshank’s minute went on to state that the Southwood advice had significantly altered the Government’s bargaining position, by giving the industry grounds to say that the Government had no alternative but to require affected animals to be slaughtered. Accordingly, under the Animal Health Act 1981, compensation would have to be paid. However, he did note:

We can argue in reply that the Animal Health Act does not say how much compensation should be paid, and that in the circumstances, given that BSE-affected animals will have little market value anyway, we would be justified in paying only a small amount. We could then invite the industry to top up an Exchequer financed scheme. But I do not think we could avoid accepting that there would need to be some Exchequer financing.625

5.102 Following discussion with Mr Andrews, Mr Cruickshank prepared a submission for the Minister explaining the Southwood advice and recommending a slaughter and compensation policy with a compensation level of 50 per cent of market value. This recommendation was based on the knowledge that affected animals would have to be culled anyway, and would be unlikely to achieve anything like the full market price. It was also backed by precedent.626 Less than 50 per cent, however, gave rise to the danger of non-reporting. On that basis, annual costs were estimated at about £300,000 to £350,000.627

5.103 It was recommended that Mr MacGregor write to Mr John Major, then the Chief Secretary to the Treasury, along the lines of a draft attached to the submission.

5.104 The submission, which had been copied by Mr Cruickshank to colleagues in Scotland, Wales and Northern Ireland, was forwarded by Mr Andrews to Mr Thompson under a covering minute expressing Mr Andrews’s agreement with its advice. Although MAFF should press the case for industry to fund half the cost of compensation, Mr Andrews felt that there was little prospect of success in this.628

5.105 Mr Andrews and Mr Cruickshank met Mr MacGregor on 28 June to discuss Mr Cruickshank’s submission. Mr MacGregor was very concerned about the possible read-across to other diseases, and felt that the letter to the Treasury should make it clear that the proposed action was being taken on public health grounds, and that was why it was considered that government funding was inevitable. Mr Cruickshank agreed to revise the draft letter to the Treasury.629

5.106 Following their meeting with the Minister, Mr Meldrum, Mr Cruickshank and other MAFF officials met with representatives of the cattle industry and made one final, unsuccessful, attempt to persuade them to agree to contribute to a compulsory slaughter scheme.630

5.107 On 29 June Mr MacGregor wrote to Mr Major, Chief Secretary to the Treasury. He explained that, despite his reluctance to introduce a government-funded disease control scheme, BSE raised public health implications. He stressed

625 YB88/6.22/1.1
626 The precedents of government-funded compensation schemes were set out in Annex 2 to the submission: foot and mouth disease – market value; classical swine fever – 50 per cent; tuberculosis/brucellosis – 75 per cent market value
627 YB88/6.23/1.1 and 1.5
628 YB88/6.24/6.1
629 YB88/6.28/7.1
630 YB88/6.28/4.1
his belief that it was essential to take immediate steps to implement the Southwood recommendation to protect public health.

5.108 In asking for authority to proceed, Mr MacGregor pointed out that MAFF should be able to contain what were expected to be the relatively small costs for that year within its existing public spending provision. This assertion was made on the basis that cases would continue at 60 per month and total expenditure would be around £200,000 – £250,000 in a full financial year.631

5.109 On the same day Sir Donald Acheson forwarded the Southwood Working Party recommendations to the Minister for Health, Mr David Mellor. As to the recommendation to destroy the carcasses of clinically affected animals, Sir Donald informed Mr Mellor that MAFF Ministers were minded to accept the advice. He advised Mr Mellor that ‘such action is indeed essential’, on the grounds of risk to man.632

July 1988

5.110 Mr Major replied to Mr MacGregor on 6 July 1988. Although he did not consider that a case had been made out for a government-funded scheme to control BSE, he approved the introduction of the slaughter and compensation at 50 per cent of the market value for affected cattle, on the basis that, until it was established whether the disease was transmissible to humans, special care was necessary. Mr Major based his decision on the need to protect human (and not animal) health, and stressed that this must be made clear in industry discussions and public announcements. Because of the clear benefits to the industry arising from the policy, Mr Major considered that it should continue to be pressed for a contribution. As to the costs, Mr Major noted that compensation for that year was being covered by MAFF’s existing budget, and indicated that, in future years, MAFF should be able to contain what were expected to be the relatively small costs within its programme.633

5.111 On 7 July 1988, in answer to a written Parliamentary Question, Mr Thompson announced that the Government had accepted the Southwood Working Party’s interim recommendation that ‘as a precautionary measure’ the carcasses of affected cattle should be destroyed. Pending the Working Party’s final conclusions, compulsory slaughter and the destruction of carcasses would be introduced, with compensation payable at 50 per cent of market value.634 Following this, MAFF issued a news release in similar terms.635

5.112 On 21 July Mr Cruickshank updated Ministers on the progress in implementing the slaughter and compensation scheme. Two Orders were in draft, one to amend the existing Bovine Spongiform Encephalopathy Order 1988 to provide for compulsory slaughter of affected animals, and the other to provide for compensation. Mr Cruickshank felt that the Orders should come into force on 8 August 1988, to allow time for detailed instructions to staff and arrangements for slaughter, transport, valuation and disposal to be in place. Although incineration had
been envisaged for all cases, cost and practical considerations meant that in some cases burial would be a cheaper option.636

5.113 The two Orders were enacted on 28 July 1988.637 A MAFF news release the next day announced that both Orders would come into force on 8 August 1988.

Discussion

5.114 In Chapter 3 we traced the steps taken by the Epidemiology Department of the CVL to identify the source of infection of BSE. By May 1988 this had been identified as MBM in feed with a sufficient degree of probability to lead Mr MacGregor to decide on a compulsory ruminant feed ban.

5.115 While epidemiological investigations were in progress, consideration was being given within MAFF as to what action, if any, should be taken in respect of cattle that developed clinical symptoms of BSE. While they lived there was at least the possibility that they might transmit the disease to other cattle. For some, such as Mr Rees, who saw BSE as an animal health problem, this was the primary consideration.

5.116 Others had concerns about whether it was safe to permit cattle showing symptoms of BSE to be slaughtered for human consumption. In this chapter we have shown how these concerns were first considered within MAFF at the end of 1987. However, it was not until February 1988, after officials had formulated a submission for their Minister recommending slaughter and compensation, that the decision was taken to ask the CMO for his view of the implications that BSE had for human health.

5.117 The CMO’s decision was to refer the question to an independent committee – the Southwood Working Party. The Southwood Working Party held its first meeting on 20 June 1988 and immediately advised that animals showing symptoms of BSE should be slaughtered and destroyed. The Order was made on 27 July 1988.

5.118 In an article in the Guardian dated 11 July Mr James Erlichman, the newspaper’s Consumer Affairs Correspondent, launched a swingeing attack on MAFF for the delay in introducing this measure. After pointing out that 18 months had elapsed from the discovery of the disease to the Slaughter and Compensation Order, he commented:

Outrageous, you might think, that the authorities could sit on their hands for so long without taking action.638

5.119 He went on to suggest that:

We now know that the Government’s own scientific advisers warned how important this might be – but they were repulsed by Ministry officials who insisted that a sudden move to compensation and carcass destruction would

636 YB88/7.22/6.1
637 L2 tab 1A (compulsory slaughter) and L2 tab 1B(compensation)
638 YB88/7.11/14.1
sap money from the public purse and decrease meat sales by causing unnecessary public alarm.\textsuperscript{639}

5.120 The facts summarised in the first part of this chapter demonstrate that the attack on MAFF officials had no foundation. There are, however, aspects of this part of the story which constituted a less than adequate response to the emergence of BSE.

Collaboration with the Department of Health

5.121 MAFF officials told us that communication with the Department of Health (DH) should take place on two different levels, depending upon the circumstances. Any aspects of animal health that might be of interest to those responsible for public health could and should be communicated by MAFF officials to DH officials in the course of informal discussions between them. Such communications could take place at junior level.

5.122 Where a policy decision fell to be taken in respect of a matter which had human health implications, there should be formal communication between officials at senior level.

5.123 Mr Cruickshank told us that he would have assumed that initially there would have been contacts between the veterinary staff and the medical staff because at that point what was of interest was of a technical nature. Administrative staff would only have become involved when some decision had to be made about policy.\textsuperscript{640} . . . I would draw a distinction between the passing of facts of a professional interest, which as I have indicated I think was more appropriately done by the professional people at whatever level, on the one hand, and on the other hand, the question of correspondence between the Departments on policy issues, saying, ‘Here we have a problem, what are we going to do about it?’ That I think would be quite appropriate for somebody at Under Secretary level or higher to do, but I distinguish between that and the passing of basic factual information, to put the Department of Health in a position to know what is going on.\textsuperscript{641}

5.124 Mr Rees also drew a distinction between informal discussions on a day-to-day basis and initiating contact with DH on an important policy issue. Whereas his staff had authority to communicate on a day-to-day matter, policy issues had to be raised at Assistant CVO level or above. Approaches about the introduction of new national policies would be made by the administrators.\textsuperscript{642}

Mr Cruickshank

5.125 Mr Cruickshank elaborated on the understanding that he had at the time of the communications that were taking place between MAFF and DH. So far as information communications were concerned, he stated:

\textsuperscript{639} YB88/7.11/14.2
\textsuperscript{640} T101 pp. 12–13
\textsuperscript{641} T101 pp. 16–17
\textsuperscript{642} S126D Rees paras 15–16
The implications of BSE for public health were considered as soon as the similarities with other diseases emerged. For many months the information available was too scanty to permit any conclusions to be drawn. In any case although there did appear to be similarities to certain very rare human diseases, there was also a similarity with the very common sheep disease, scrapie, which had no known implications for human health. The latter point was seen as more significant than the former. Throughout this period my understanding was that DHSS [ie, DH] were taking the same view as MAFF, namely that any decisions on action would have to await further information. This seemed entirely reasonable at the time.

My understanding at this stage was that DHSS were fully in the picture. One of the veterinary staff based at Tolworth was responsible for liaison with the PHLS Communicable Disease Surveillance Centre at Colindale and attended weekly meetings there. I understood that this was the established mechanism for informing DHSS of developing animal health situations which might have implications for human health. It is normal in the civil service to operate on the assumption that information passed to any one part of an organisation will find its way to all parts of that organisation with an interest. This assumption is usually well founded.

My understanding of the situation was that DHSS were aware of what was happening, and it would be for them to say, as more information emerged, what the implications were for human health. During this period, DHSS’s only expressed concern was with the implications for certain products for human use containing an emulsion of bovine brain. If DHSS had had wider concerns at this stage I am sure they would have aired them. My understanding was that DHSS, like MAFF, found it necessary to await further information before reaching decisions on action.

5.126 When giving oral evidence Mr Cruickshank said that on two or three occasions during 1987 he asked Mr Rees ‘what the Department of Health felt about this and I think his reply was “much the same as us”.’

5.127 He told us:

My impression was that what we were doing was perfectly acceptable to the Department of Health, in that we were feeding them information, they were getting the information they needed as the disease developed and as our knowledge of it developed. When the time came that we thought we could see a strategy, we could devise a strategy, then we approached them about that.

5.128 Thus when, at the meeting on 22 July 1987, Mr Thompson asked for a paper to be prepared for Mr MacGregor covering research in relation to the risk to humans (see paragraph 5.20), Mr Cruickshank assumed that the CVL was in touch with DH or the Medical Research Council about this.
5.129 Mr Cruickshank was asked about his understanding of the statement in Mr Rees’s progress report of 16 September that ‘DHSS are aware of the problem’. He said that he understood this to refer to:

All those professionals in the Department of Health who had an interest in this.

5.130 As to formal communications between the Departments, once the stage had been reached of taking a policy decision, Mr Cruickshank said that the policy issue was whether there was a risk to human health, and that was ‘essentially for the Department of Health to assess’.

5.131 He went on to say that before December 1987 MAFF had insufficient information to raise the question of policy with DH. December 1987 was a critical month:

I think it really all came together in December 1987, when suddenly I heard then, for the first time, of the theory that ruminant feed material was implicated in the disease. A number of other theories had, of course, been circulated before this, and when I heard this mentioned, this new theory, in December, it was only the latest of a number of theories, but it pretty quickly became obvious it was more than that, it pretty quickly became obvious that this was likely to be the correct explanation, and it was then that I think people’s thinking underwent quite a sea change, and we were really able to get to grips with the problem at last.

5.132 Mr Cruickshank agreed that it would have been useful to write to DH in December 1987 so that they would have been better prepared if MAFF had written shortly afterwards to recommend a slaughter and compensation policy. They had, however, delayed in anticipation that they would be seeking DH support for such a policy:

... in December and January, I think we all believed that we were going straight for a slaughter and compensation policy and that we would be writing to the Department of Health pretty quickly with a recommendation to that effect, and of course, that is not what happened [see below].

**Mr Rees and Dr Watson**

5.133 Mr Rees was asked whether, at the time of the preparation of the paper of 29 July (see paragraph 5.21) he had considered informing DH formally about the disease. He answered, no, because it was being investigated as an animal health problem. He was also asked whether, after being informed by Dr Watson that the Biologicals Sub-Committee of the Committee on Safety of Medicines (CSM) had been informed of BSE, he had given any further consideration to approaching anybody at DH. He answered:
No, I think as far as we were concerned then they were informed. These were fairly senior people, we presumed they would pass this message up the line. If they wanted to know any more they would have come back to us, but they did not. We assumed they were content it was basically an animal health problem at that stage.\(^{654}\)

5.134 In a written statement, Mr Rees made his position plain:

Although the number of cases of BSE increased in the latter half of 1987, there were no developments that caused me to change my opinion that there was no reason to believe that BSE might present a danger to humans . . .

It is worth noting that if:

(a) I had reason to believe between December 1986 and March 1988 that BSE might present a danger to humans (even though other spongiform encephalopathies, indeed TSEs, were not recognised as a potential danger); and
(b) a minimum amount of scientific information about BSE had been collated,

I would formally have informed the DHSS, who would have primary responsibility for producing any reasoned examination of possible implications for humans. However, the factors set out at (a) and (b) above were not in my opinion fulfilled.\(^{655}\)

5.135 Dr Watson took a similar view to Mr Rees. He emphasised that, in his view, there was insufficient information in June 1987 to carry out a reasoned examination or scientific judgement on the possible implications for humans, and that there was no reason to suspect that BSE might be transmissible to man.\(^{656}\)

Mr Andrews

5.136 Mr Andrews, who had taken up his post as Permanent Secretary of MAFF on 17 October 1987, had no detailed knowledge of BSE at that time. He was aware from a reference in one of his papers that there had been some contact with officials in DH. In February 1988 Mr Andrews received the submission from his officials recommending slaughter and compensation. That submission made no reference to DH. Mr Andrews advised Mr MacGregor that he should not take a decision until MAFF had consulted the CMO (see paragraph 5.53). This was sound advice.

Ministers

5.137 Mr Thompson and Mr MacGregor were asked about their understanding of communications in relation to BSE with DH. They had both read the statement in Mr Rees’s progress report of 16 September\(^{657}\) that ‘DHSS are aware of the problem’. Mr MacGregor commented that this suggested that the problem had been discussed ‘at an appropriate level’ between both Departments. Neither felt able to

\(^{654}\) T54 p. 77
\(^{655}\) S3 Rees paras 38–9
\(^{656}\) S70F Watson para 43
\(^{657}\) YB87/9.16/1.1
Conclusions

5.138 The evidence that we have summarised portrays a breakdown in communications on more than one level. The only informal discussion between MAFF and DH officials before March 1988 was the conversation which we believe took place between Dr Little of the CVL and Mr Sloggem and other DH colleagues in the margins of a meeting of the Biologicals Sub-Committee of the CSM. This did not even result in the CSM being informed of BSE and its possible implications – nor did Dr Little suggest that it was the occasion for this to happen. (Communication between DH and MAFF in relation to the impact of BSE on medicinal products is considered in vol. 7: Medicines and Cosmetics.)

5.139 We were inclined to wonder whether Dr Watson’s suggestion that Mr Rees refer to this informal communication in his progress report for Ministers did not indicate a recognition by Dr Watson that DH should have been informed about BSE by this stage. Mr Bradley had formally drawn the attention of Dr Watson to the need to acquaint the medical profession with the news of BSE (see paragraph 5.17) but Dr Watson does not seem to have reacted to this advice. No one had informed Mr Bell that BSE had potential implications for human health, so he did not, it seems, think to mention it on one of his routine visits to the CDSC at Colindale.

5.140 Dr Watson informed Mr Rees of the limited nature of the communication to DH (see paragraph 5.24) on 9 September 1987. Regrettably Mr Rees did not do the same in his progress report to Ministers. The effect of his report was to convey to Ministers the impression that there had been a more general communication of information about BSE to the DH at an appropriate level.

5.141 None of this, however, lies at the heart of our concern. The possibility that BSE might pose a risk to human health was not a consideration which called simply for DH officials to be told informally of the emergence of the disease. It was a possibility which required urgent exploration in collaboration with DH because of its obvious policy implications.

5.142 Mr Bradley appreciated the potential human health implications of BSE from the outset, and did not lose sight of them. Dr Watson has confirmed to the Inquiry that he believed that the risk to humans was minimal. Mr Rees was firmly of the opinion that BSE did not present a risk. At the meeting on 22 July 1987, however, both the MAFF Permanent Secretary, Sir Michael Franklin, and the Parliamentary Secretary, Mr Thompson, emphasised the paramount importance of investigating the potential risk to human health.

5.143 At this stage MAFF should have approached DH to suggest collaboration in the task of assessing whether BSE posed a risk to human health. The stage had not yet been reached for taking a policy decision on action. Numbers of suspect cases were still modest, but they had begun to increase. By the end of July, 46 probable cases had been identified and 18 herds were involved.
5.144 It must have been evident that if the incidence of the disease continued to grow, action would be called for and that the question of whether BSE posed a risk to human health would be likely to influence that action.

5.145 In a written statement to the Inquiry, Mr Bradley observed:

CVL did not have any medically trained staff and was not in a position to make a detailed assessment of the possible risk that BSE could transmit to man. Neither was the necessary expertise to make this type of assessment available elsewhere in MAFF. Assessment of the possible risk to man was a matter for the Department of Health, who had the necessary medical expertise to consider these matters. Initially CVL, and MAFF generally, set about gathering together as much information as possible about the new disease in cattle to allow MAFF to assess the risk to animal health and allow others to assess the risk to human health. 659

5.146 This is an over-simplification. Both MAFF and DH had contributions to make to the consideration of whether BSE posed a risk to human health. The likelihood that BSE was a TSE had already been recognised at the CVL and was shortly to be confirmed by the experts at the NPU. Assessment of the risk of transmissibility to humans required consideration of all that was known of TSEs in both humans and animals.

5.147 In the same written statement, Mr Bradley stated:

Although there were contacts with DH, the actual carrying out of research was not something which could be done jointly because MAFF and DH each had expertise in different areas and responsibility for their respective area. It was not therefore practical or a sensible use of resources to attempt to carry out joint experiments although NPU was jointly funded by the [Medical Research Council] and [Agriculture and Food Research Council]. 660

5.148 This comment has limited relevance to events in the latter half of 1987. Transmission experiments could be expected to throw some light on whether BSE posed a risk to humans, but such experiments take a long time. What was required at this stage was joint consideration by MAFF and DH, with assistance from experts in TSEs at the NPU and perhaps elsewhere, of whether BSE might be transmissible to humans. Contingency plans, which would inevitably, as BSE cases escalated, have developed into policy decisions, should also have been considered jointly.

5.149 An example of the practical questions that MAFF officials were bound to be called upon to answer about the risk posed by BSE to human health was the enquiry from Mr Coultous as to how a Meat Inspector should react to the carcass of an animal affected by BSE. That was a matter that MAFF officials needed to discuss with DH. In the event, they were in no position to give guidance to Mr Coultous or to others who might have had similar concerns.

5.150 In the event MAFF officials prepared their submission on policy without consulting DH. Indeed it is notable that, while the submission’s recommendation ended ‘If Ministers agree with the course recommended, Treasury agreement will
need to be sought, followed by discussions with the industry’, no mention was made of seeking the approval of DH.661

5.151 Why did MAFF officials not involve DH in considering the implications of BSE after the 22 July meeting, or indeed at any stage of the formulation and consideration of policy options that led finally to a submission to Mr MacGregor in February 1988? We believe that there were two principal reasons. First, officials continued to regard BSE as essentially an animal health problem. Thus, in a note to Dr Watson reporting on a visit by Mr Rees to the CVL, Mr Bradley reported that although the Minister took the view that human health was the most important matter to consider and research, Mr Rees indicated that in his view it was a veterinary not a medical problem.662

5.152 The second reason why MAFF did not seek collaboration with the DH was, in our view, a degree of interdepartmental reserve – which is not something that witnesses have been prepared to admit. Nonetheless we have come across repeated indications of this in internal communications within each Department.663 Mr Cruickshank painted a picture of each Department pursuing its consideration of identical data in parallel and independently. His attitude seemed to be that it was not appropriate for one Department to make a formal approach to the other until it had reached its own conclusions and formulated a policy to propose to the other. We find such a picture bizarre. In the event it did not happen, for DH was given no data.

5.153 We believe that Dr Watson, Mr Rees and Mr Cruickshank all considered BSE to be MAFF’s problem to be resolved by MAFF without the need for outside assistance – or interference – from DH. In this they were at fault. Mr Cruickshank accepted that if he had any reason to believe arrangements between MAFF and DH were not working satisfactorily, it was part of his job to deal with this. He told us that he did not believe that the time had come to involve DH in considering policy before December 1987 (see paragraph 5.131). He was wrong. He accepted that he had responsibility for seeing that any action called for as a result of the meeting on 22 July 1987 was taken.664 Finally he accepted that DH professionals had cause for grievance if – as we find was the case – they had received no communication about BSE from MAFF before March 1988.665

5.154 There were passages in Mr Rees’s evidence which might suggest that he was not responsible for communications between MAFF and DH.666 We do not believe that Mr Rees intended to assert that he had no responsibility to see that there was satisfactory liaison between the two Departments in respect of matters of common concern to the professionals in each. BSE was – or should have been – such a matter. It was open to Mr Rees to make a direct approach to the CMO for assistance in assessing the public health implications of BSE, or to suggest to Mr Cruickshank that this should be done. He did neither.

5.155 As Director of the CVL we consider that Dr Watson should also have recommended involving both DH and the NPU in consideration of the human health implications of BSE. In the event, in the paper which he prepared for Mr MacGregor pursuant to Mr Thompson’s request at the meeting of 22 July, Dr Watson pointed

661 YB88/2.16/1.9
662 YB87/8.18/1.1
663 T84 pp. 23–4
664 T101 p. 39
665 T101 p. 50
666 See for example T98 p. 92, p. 136
out the problems in the way of experimental research into transmissibility of BSE to humans, without suggesting that assistance might be sought from DH or the NPU.\textsuperscript{667}

5.156 Mr John Suich, who was head of MAFF’s Animal Health Division until April 1989, has since died. In these circumstances we have not found it possible to explore fairly whether he should share in the responsibility for the failure to involve DH in the consideration of the public health implications of BSE before March 1988.

5.157 We have considered the failure to involve DH at the appropriate time in some detail, for we believe it was significant. When asked, out of the blue, in March 1988 for an opinion on the human health implications of BSE, Sir Donald Acheson decided to refer this question to an independent committee. We think it unfortunate that he did so (see paragraph 5.206), but, as he indicated, part of his problem was that the question was put to him without warning:

\ldots to be, off the cuff, asking the CMO, at a moment’s notice, personally to give advice to take diseased cattle out of the food chain is a gross misunderstanding of the nature of the job.\textsuperscript{668}

5.158 Had DH been involved with MAFF from the summer of 1987 in considering the human health implications of BSE, we have little doubt that, by the time a policy decision was required, DH would have been at one with MAFF in concluding that it was not safe to eat cattle affected by BSE. There would have been a joint departmental recommendation for a slaughter and compensation policy which might have been introduced as much as six months earlier than it was.

5.159 Further conclusions are more speculative. If from the summer of 1987 the human health implications of BSE had been considered by professionals within MAFF and DH, with assistance from one or more experts in TSEs such as Professor W B Matthews of the University of Oxford or Dr Kimberlin, it is at least possible that the desirability of excluding Specified Bovine Offal (SBO) from the human food chain would have been identified at the same time as the need to slaughter and destroy animals showing symptoms of BSE.

The submission to Mr MacGregor

Why was the submission made?

5.160 The first record of consideration by MAFF officials of a slaughter and compensation policy is a minute of the meeting chaired by Mr Rees on 15 December 1987 (see paragraph 5.35). Slaughter and compensation was one of a number of options that it was agreed should be considered at a meeting on 8 January prior to making a submission to Ministers. Slaughter and compensation was the option adopted at that meeting. What were the factors that led officials to consider slaughter and compensation at this stage?
5.161 It seems that Lord Montagu’s letter of 4 December was one of the factors that led officials to give formal consideration to this measure, as the evidence of Mr Lawrence and Mr Cruickshank so suggested (see paragraphs 5.30–5.32 above). Lord Montagu’s letter set out the case for slaughter and compensation with admirable clarity. His logic was to be adopted by MAFF officials in their submission to Mr MacGregor and was the logic that led the Southwood Working Party to recommend slaughter and compensation at their first meeting over six months later. He is to be congratulated.

5.162 Another factor that led officials to conclude in December that the time for action had come was the escalation of the numbers of confirmed and suspected cases of BSE. Dr Peter Dawson advanced this as the primary factor responsible for the move towards slaughter and compensation. Mr Rees said that before December 1987 he did not believe the number of BSE cases would have justified a requirement for notification, whereas by 8 January, 157 cases had been confirmed on 35 farms, justifying a recommendation for notification, slaughter and compensation.

5.163 Reports of suspected cases were, indeed, rising at an alarming rate: the total was 66 on 4 September, 82 on 2 October, 128 on 6 November, 303 on 10 December, and 398 on 7 January. We can well understand why, in December, MAFF officials decided that they would have to consider the options for action. Had they, as we consider they should have done, started to discuss with DH the human health implications of BSE in the summer, they would have been much better placed to consider those options in December.

The slaughter and compensation recommendation

5.164 Mr Cruickshank told us that the critical factor leading to recommendation of a slaughter and compensation policy was learning, as he did in mid-December 1987, of the theory that BSE was caused by scrapie crossing the species barrier through MBM.

Until we had a reasonably plausible theory as to the origin of the disease it was extremely difficult to address the question of how to stop it. The difficulty had two aspects: science related and resource related. As regards the former, it was only when the crossing of a species barrier was perceived as a real rather than a theoretical possibility that we could begin to grasp the nature of the risk to human health. This risk had up till then been seen by both MAFF and, apparently, DHSS as rather theoretical; now it appeared as real albeit remote. On the resource point, it was only once this step change in perception of the problem took place that there was any realistic chance of justifying the use of significant amounts of money to tackle the problem.

The meeting on 8 January 1988 was the first opportunity to consider the issues following this step change in perception. This meeting did indeed decide that a slaughter and compensation policy should be recommended. It is difficult even in retrospect to see how this decision could have been reached much earlier. Progress in tackling the disease depended crucially on
progress with the epidemiology, which in turn depended on having sufficient data to draw meaningful conclusions. At the end of 1987 there were 132 confirmed cases, so that the situation was totally transformed by comparison with the previous July.672

5.165 Not all shared Mr Cruickshank’s appreciation that the identification of scrapie as the origin of BSE carried adverse implications for human health. On the contrary, most found the scrapie theory reassuring. His input into the discussion of the policy options, the drafting of the submission and the covering minute was commendable. He spelt out clearly the fact that the primary justification for the slaughter and compensation policy was the protection of human health.

5.166 Other justifications were advanced for recommending the slaughter and compensation option. It dealt with the animal welfare problem that arose when sick animals were taken to the slaughterhouse. It also precluded the risk that BSE might be transmitted from one animal to another. In that respect a slaughter policy represented a conventional approach to disease containment. We are inclined to think that Mr Rees saw this as the principal justification for the slaughter and compensation policy.673

5.167 One feature of the submission to Mr MacGregor, and of the minutes relating to it, was the emphasis placed on the distinction between BSE and diseases for which eradication policies had been funded by industry. Thus the submission itself pointed out that BSE could not be treated as comparable to Newcastle disease or Aujeszky’s disease, for which industry had funded eradication programmes. Mr Cruickshank’s covering minute said that there was little prospect of industry agreeing to fund an eradication scheme.674 Mr Edward Smith, in his covering minute, explained why he considered an industry-funded scheme to be inappropriate.675

5.168 All of this suggests that officials anticipated a degree of resistance on the part of Mr MacGregor to the suggestion that MAFF should fund compensation for animals compulsorily slaughtered. Mr MacGregor was aware that a submission was being prepared in which one of the options under consideration was slaughter and compensation.676 It may be that he had already expressed reservations about paying compensation which had percolated to officials.

5.169 Alternatively, officials may have been doing no more than anticipating a probable reaction having regard to the fact that there was likely to be resistance from the Government to paying compensation to farmers677 and that Mr MacGregor’s previous post had been that of Chief Secretary to the Treasury.

Mr Thompson’s meeting on 26 February

5.170 The minute describing the meeting on 26 February records that Mr Andrews felt that it was now necessary to consult the CMO on the question of human health and that the CMO should be told the decision that Ministers were being asked to

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672 S75B Cruickshank paras 19–20
673 See T98 pp. 119–21
674 YB88/2.16/1.2 and 1.8
675 YB88/2.18/1.1
676 T104 p. 14
677 T101 pp. 67–9, 98; T104 p. 5
take. This minute also recorded that it was agreed that the options in Mr Andrews’s
minute of 24 February could not be considered until the new evidence on feedstuffs
had been fully researched. This we found puzzling, for we could not see how
research into feedstuffs could impact on the risk to human health. We explored what
had transpired at this meeting with the witnesses.

5.171 Mr (now Sir Derek) Andrews told us that the minute describing the meeting
telescoped two separate questions which were being considered in parallel: what to
do about animal health and what to do about human health. Whether action should
be taken to deal with the risk to human health depended upon advice from the CMO.
If he advised that no action was necessary, the question would remain of what action
should be taken to deal with the animal disease. That question could not be
answered until there had been further research into the theory that BSE was
transmitted through feed.

From my point of view, I think throughout this period, I was convinced in
my own mind that unless we got a response from the CMO in terms that
enabled us to set on one side the human health issue, we would have to go
down the slaughter and compensation route. That was clearly my judgement
at that time.\textsuperscript{678}

5.172 Sir Derek stated:

The evidence before the Inquiry shows therefore that the Minister was aware
of the different policy considerations which applied depending upon whether
or not there was a risk to human health.\textsuperscript{679}

5.173 Mr (now Sir Donald) Thompson was not able to assist us with any
recollection about this matter. He remarked to us:

It seems, with hindsight, that Mr Andrews must have thought that once we
changed the feed the disease would stop immediately. That was not so and
Mr Andrews realised it was not so soon afterwards. But that is what I think
now. I do not know what I thought at the time.\textsuperscript{680}

5.174 So far as his own view was concerned, Sir Donald told us that it was that
MAFF should make the disease notifiable and should introduce a slaughter and
compensation scheme. That was his view before the meeting of 26 February and he
pursued that line privately with Mr MacGregor and other Ministers throughout.\textsuperscript{681}

5.175 Mr Cruickshank described the suggestion that a slaughter and compensation
policy might be obviated by evidence of a link with feedstuffs as:

. . . a bit of a pious hope actually, which was expressed briefly but I do not
think was pursued. As I recall, the Permanent Secretary was pretty strongly
in favour of the recommendation in the submission.\textsuperscript{682}

\textsuperscript{678} T124 pp. 113–17, incorporating revisions proposed in S281E Andrews
\textsuperscript{679} S281A Andrews para. 36
\textsuperscript{680} T90 p. 41
\textsuperscript{681} T90 p. 40
\textsuperscript{682} T101 p. 100
Mr MacGregor’s reaction

5.176 We have set out above (see paragraph 5.58) the description of Mr MacGregor’s reaction to the submission and the accompanying papers in the minute his private secretary, Mrs D B Haine, sent to Mr Andrews’s private secretary, which was copied to Mr Thompson’s private secretary and to senior MAFF officials.

5.177 Mr Cruickshank described to us Mr MacGregor’s response in this way:

All the senior staff concerned had been very disappointed with the Minister’s reaction to our February submission. It should be noted that, contrary to normal practice, officials had not been given an opportunity of discussing that submission with the Minister. So far as we could see, it had simply been rejected peremptorily. ⁶⁸³

5.178 In oral evidence Mr Cruickshank explained why he and his colleagues considered Mr MacGregor’s response to be a peremptory rejection of the submission:

It does not address what seemed to us the essential point of the health risk, and it dealt with rhizomania, which seemed to us to be quite irrelevant. ⁶⁸⁴

5.179 He said that the submission repeatedly said that there was a human health aspect, but Mr MacGregor:

. . . did not seem to have fastened on to it. He had not picked it up at all, so far as we could see. ⁶⁸⁵

5.180 Rhizomania is a disease of sugar beet. Mr Cruickshank’s view of the significance of this in the context of BSE appears from the following passage of his evidence:

Q: Rhizomania seemed to you to be quite irrelevant. One of the reasons I imagine it was irrelevant was that it did not pose a risk to humans?

A: (Mr Cruickshank) Yes.

Q: Was it not appropriate to point that out to the Minister?

A: The Minister was extremely familiar with rhizomania. I think in fact he was the Constituency MP for the area in which rhizomania occurred. If it was not in fact his constituency, it was the neighbouring one.

Q: Would it not have been appropriate to say to him ‘You need not worry about this having an effect on rhizomania, there is a perfectly valid distinction, rhizomania poses no risk to human health’?

A: I think that was entirely obvious. Everybody knew rhizomania was no risk to human health.

⁶⁸³ S75B Cruickshank para. 27
⁶⁸⁴ T101 p. 105
⁶⁸⁵ T101 p. 115
Q: So it is a question of the difference between perception of officials and perception by the Minister. Officials thought rhizomania was completely irrelevant, the Minister thought it was relevant, but you could see no basis for him thinking so?

A: I think one could see the political relevance of it. One could see that the sugar beet growers in East Anglia would get upset if the cattle rearers were getting money for compensation for a disease when they were not getting compensation for their disease. That was clear. So to that extent it was relevant, but it seemed to us to miss the fundamental point, that BSE was something really to worry about.\footnote{T101 pp. 106–7}

5.181 Mr MacGregor did not accept that he had rejected the submission. He said that far too much significance was being attached by the Inquiry to the reference to rhizomania in Mrs Haine’s minute. In accordance with his normal practice he would have scribbled that word on his papers as an \textit{aide-mémoire}, being shorthand for compensation schemes in general. His private office had put their own interpretation on his shorthand and circulated it around officials so that they could be briefed before they came to have discussions with him. Mr MacGregor said in oral evidence:

I am a little surprised to find significance attached to things which were an \textit{aide-mémoire} to me as to the detailed points I wanted to raise. That is relevant to rhizomania actually, because rhizomania was a big issue at that time. It was worrying sugar beet growers enormously and they were asking for compensation for any steps we took to eradicate it through not letting them grow the beet on the farms which one had to fumigate and do other things on the field which meant that they were not available for sugar beet growing for ten, twenty years. They were asking for compensation.

I had much more in mind other areas like Newcastle disease, Aujeszky’s disease. There was a very clear policy at the time. We had made clear that Government compensation, Government funding would only come where there were clear public health analogies and I was anxious to make sure we had the public health side correct, otherwise (a) I probably would not have got any agreement in Government for Government compensation, and (b) it would set dangerous precedents, it would change the policy. What I was raising there was we need to get clear the grounds for compensation. That was the point, it was an \textit{aide-mémoire} to me.\footnote{T90 pp. 44–7}

5.182 Mr MacGregor said that at the time that the submission was put forward:

\ldots the Permanent Secretary suggested to me that we would have to give a lot of thought to this, that there were a lot of difficult decisions to be made, and that we could not do so until further evidence had come forward, particularly in relation to what the cause of the disease was . . .\footnote{T104 p. 17}

5.183 He said that he regarded the submission as:
... a very early draft submission, it is quite clear from later papers that there was a good deal of discussion among officials as to whether this was the right course of action or not. I think that you will see on 26 February the Permanent Secretary himself wondered whether it was the right thing to do ... 689

5.184 He added a little later:

... within a few days of getting that submission, you could see that a number of officials were wondering whether it was the right solution, because of all the uncertainties. I was conscious of that; I was conscious that we all knew that it was not a clear-cut issue.690

5.185 Mr MacGregor said that it was made clear that there would have to be further thought given to all the issues before a decision could be taken. These included the question of whether MBM was definitely the cause. When asked why it was so critical to establish whether MBM was the cause, he replied that this was important for the understanding of all the various courses of action that should be taken and that it was important to act in a comprehensive way.691

5.186 Mr MacGregor’s evidence on his approach to the slaughter and compensation recommendation is encapsulated in the following paragraphs from one of his written statements:

The submission stated that a number of epidemiologic and other studies were underway or planned, that new experiments were focusing on the possibility that the cause was linked to feedstuffs derived from sheep carcasses, and that discussions were taking place with representatives of the feed industry to obtain more information about the production and composition of animal feed since the late 1970s.

Thus, the position at the date of the submission, 24 February 1988, was that there was no evidence that the disease was transmissible to humans and its cause was uncertain.

I knew from my experience as Chief Secretary that I had to be sure of my ground before making an application to Treasury to fund a compensation scheme. If I had made an application to Treasury at the end of February 1988 the likelihood was that the proposal would have been rejected on the state of the evidence at that time. Alternatively, I would have been told to come back later when the evidence had firmed up. The crucial point was that we needed to be sure of the public health grounds if we were going to introduce a compulsory slaughter scheme and if we were going to persuade Treasury that the Government should fund the compensation.

Furthermore, I was conscious that if I made a decision at that point in time to introduce compulsory slaughter when there was no firm information available about the cause of the disease and no evidence that the disease was transmissible to humans, there might be grounds to challenge that decision by way of judicial review.
I was also conscious that we had to be as sure as we could be of the basis on which we were taking action because if we took a step such as slaughter and compensation, which would have considerable consequences for the industry, and were then found to have done so on an insecure and possible false basis, we would have been subjected – and rightly – to serious parliamentary and public criticism.692

5.187 Later, Mr MacGregor commented that he was astonished to discover that Mr Cruickshank thought that his comments recorded in Mrs Haine’s minute of 29 February 1988693 were indeed his definitive answer. Mr MacGregor told us that his method of working on complex papers like the minute of 24 February 1988694 and the Animal Health submission695 was to give some immediate reactions to enable officials to know the kind of issues that he would want to explore at a meeting, and a number of those were outlined in the minute of 29 February 1988.696 He thought it must have been obvious that he could not, over a weekend, which was always busy with other things anyway, have given full consideration to a document that had taken months to produce on one of the most complex areas of policy, and without consulting anyone else, have come to a conclusion. Even if he had come to a conclusion, the minute would have done much more than just raise a few questions. It would have responded to all the detailed points in the submission sent to him by Mr Andrews under cover of his note of 24 February 1988697 summarising ‘our present state of knowledge on BSE’, and those in his own note. It very clearly did not. Indeed, it made no references at all to the full submission, and so patently was not a response to that.

5.188 Mr MacGregor made the point that he lost no time in acceding to Mr Andrews’s suggestion that the advice of the CMO should be sought. He emphasised that this was the obvious first step, something that had to be done before they could proceed further with the submission.

Conclusions

5.189 The submission made to Mr MacGregor represented a classic example of the precautionary principle. There was a possibility that BSE might be transmissible to humans. The position was succinctly described by Mr Cruickshank in correspondence about the draft submission with Mr George Thomson of the Department of Agriculture and Fisheries for Scotland:

. . . our vets take the view that, looking at the balance of probabilities, the likelihood is that BSE is not transmissible to man. The problem is that we cannot say there is no risk – indeed, I do not think we can even say the risk is insignificant. So we are dealing with a relatively low probability of a very serious danger.698

5.190 In these circumstances MAFF officials had decided to recommend that a slaughter and compensation policy should be introduced, for both animal and public health reasons, the latter being paramount. Mr Andrews endorsed this approach,
advising that unless the CMO supported Mr MacGregor in taking no immediate action, there was no real option but to proceed to a slaughter and compensation policy (see paragraph 5.54). At the meeting on 26 February Mr Donald Thompson lent his support to this approach. It was agreed that the CMO should be told of the decision Ministers were being asked to take and asked for his opinion on the possibility of BSE’s transmission to humans.

5.191 Approximately four months elapsed between the receipt by Mr MacGregor of the submission recommending a slaughter and compensation policy and Mr MacGregor’s request for Treasury approval of such a policy. We have been concerned to explore whether this delay was attributable to an initial rejection by Mr MacGregor of that submission, or to opposition to the policy falling short of rejection and, if so, whether Mr MacGregor’s reaction was one which warrants criticism.

5.192 In oral evidence Sir Derek Andrews did not agree with Mr Cruickshank that there was a peremptory rejection of the submission. He observed that Mr MacGregor:

. . . was concerned, and he was quite rightly concerned, that we should have a proper basis upon which to approach the Treasury, if we had to approach the Treasury, in order to tackle this through slaughter and compensation . . .

. . . I do not recall that the submission was rejected. It was not pursued immediately. There was some further discussion before we settled down to a policy decision on it, but I do not recall he rejected it as such.699

5.193 We agree with Mr Andrews that Mr MacGregor did not reject the submission, but he did not accept it either. His initial response was one of reservation as to whether a slaughter and compensation policy could be justified as a precautionary measure against what was no more than a possibility of a risk to human health. His reaction was that more positive evidence of risk to humans was required before the expense of government compensation could be recommended.

5.194 We consider that the advice in the submission was sound and that it was unfortunate that it did not immediately commend itself to Mr MacGregor. Had he rejected it out of hand, as Mr Cruickshank suggested that he had, he would have been open to criticism. We do not consider, however, that he can be held at fault for what was no more than an initial reaction, albeit we believe a strong one. What mattered was the action that he decided to take.

5.195 That action was to agree to Mr Andrews’s suggestion that the views of the CMO should be sought. We consider that this was an appropriate course to take – indeed, we believe that it was the appropriate course having regard to the fact that the submission had been proposed without involvement on the part of DH.

The letter to Sir Donald Acheson

5.196 Mr Cruickshank told us that the original intention of MAFF officials was that DH should be asked to approve a slaughter and compensation policy.700 The minute

699 T124 pp. 117 and 118, incorporating revisions proposed in S281E Andrews
700 T101 p. 34
describing the meeting of 26 February 1988 noted that Mr Andrews felt that it was now necessary to consult the CMO on the question of human health. He should be told the decision that Ministers were being asked to take and should be asked for his opinion on the possibility of BSE’s transmissibility to humans. We believe he clearly intended by this that the CMO should be told that Ministers were being asked to introduce a slaughter and compensation policy. In the event the CMO was simply asked for his advice:

... on the view we should take of the possible human health implications and how we should handle questions about the risks to human health.701

5.197 Mr Cruickshank said that Mr MacGregor’s reaction, as expressed in Mrs Haine’s minute, was critical in bringing about the change in drafting of the letter to Sir Donald. The letter could no longer say that MAFF were proposing to implement a slaughter and compensation policy.702 He added:

I think it is difficult to overestimate the point, because I think it is clear from papers I have seen more recently that people like Sir Donald Acheson and Sir Richard Southwood did not understand that MAFF officials were actually keen to get the carcasses taken out of the human consumption chain, because this letter did not say that...703

5.198 Sir Derek Andrews initially did not think that the Minister’s reaction affected the way in which the matter was raised with the CMO. On reflection, however, he acknowledged that the Minister’s response made it difficult for him to raise matters with the CMO in the way he had planned, and he agreed that the letter had to reflect what Mr MacGregor was telling him at the time.704

5.199 Sir Derek Andrews, who drafted the letter to Sir Donald Acheson, was asked why he did not inform him of the policy options in front of MAFF Ministers. He replied that he was seeking advice on the particular point of the risk to human health. He would have thought it unnecessary and a bit surprising to rehearse everything in the submissions he had put to Mr MacGregor, particularly as he knew that MAFF officials were going to discuss details with DH officials.705 Later in his evidence he agreed that in drafting the letter he had to have regard to what his Minister was telling him. His own view was that unless MAFF got clear advice that there were no implications for human health he ‘did not see any alternative but to go down the slaughter and compensation route’.706

5.200 Had Mr MacGregor shared that view, and had he made this plain to Sir Donald Acheson, the question arises as to whether there might have been a different outcome. We asked Sir Donald what he would have said if told that MAFF intended to introduce a slaughter and compensation policy unless he advised that this was not necessary:

Q: If you had been asked the direct question: should we introduce a slaughter and compensation policy, Sir Donald, what might you have said?
A: It is easy to say now, is it not, with knowledge? I hope I would have said: do it now.

Q: This minute does not suggest to me that that was the way it might have been put to you. The minute suggests it might have been put to you: we think, unless you can reassure us, that we ought to introduce such a policy. Can you reassure us there is no need to do anything at the moment?

A: The answer is I would not have reassured them there is no need, I would have said do it. I think that is putting it the same way. Do it now, we do not need to have a meeting for that but let us have a meeting anyway. Well, no, I think I would have said: let us organise a meeting and consider it there, to be fair, which is going to be within a couple of weeks.707

5.201 Views expressed by witnesses about hypothetical situations have limited value. Faced with the letter he did receive, Sir Donald, after consultation, decided that the situation did not warrant immediate action, but could await the time necessary to set up an independent working party and obtain their advice.

5.202 We cannot be sure that the result would have been any different had Sir Donald been asked whether he could provide reassurance that there was no need immediately to introduce a slaughter and compensation policy. We think the likelihood is, however, that if told that MAFF’s provisional intention was to introduce such a policy, he would have endorsed that policy.

5.203 We have thus concluded that, although Mr MacGregor cannot be held at fault for expressing reservations about the policy recommended by his officials, the fact that he had those reservations resulted in the issue of the appropriate response to the risk posed by BSE to human health being passed to the CMO without any steer as to the direction in which MAFF officials were minded to go.

Sir Donald Acheson’s advice

5.204 After receipt of Mr Andrews’s letter of 3 March, Sir Donald received Dr Ann Dawson’s minute of the meeting between DH professionals and Mr Rees and Dr Watson on the same day. Apart from the information already summarised (see paragraph 5.61), this inaccurately stated that the Treasury had refused to meet the cost of culling and incinerating BSE suspects.

5.205 On 17 March Sir Donald chaired the meeting that he had called to discuss the response to Mr Andrews’’s letter (see paragraph 5.64). At that meeting it was decided that there was ‘something to worry about which should be considered by an expert group’ but that the threat was not ‘sufficient to require an immediate recommendation for action’.708

5.206 On the first occasion that Sir Donald gave evidence he was asked for the reasoning that led him to conclude that the situation did not require him to advise ‘stop feeding these to humans now’ but permitted passing that question to an expert committee. He answered:

707 T79 pp. 33–4
708 YB88/3.17/8.1–8.3
. . . honestly I cannot remember. I suspect I felt I needed the help of some experts first.\textsuperscript{709}

5.207 We had serious concerns about a decision which was likely to allow BSE-affected animals to continue to enter the human food chain for the period of months that would probably elapse while an independent committee was appointed and deliberated. We asked Sir Donald to provide us with further information about this decision.

5.208 Sir Donald dealt with this matter first of all in a written statement. The principal point he made in this statement was that the decision taken at the meeting was the unanimous decision of all present and that he had in practice no option but to accept it.

I believed at the time, and even with the benefit of hindsight continue to believe, that the correct course of action on 21 March 1988 was to seek Ministerial permission to appoint an independent group of distinguished scientists in the relevant disciplines to evaluate the issue in a more considered manner. I would emphasise that there was no support at the meeting from any of the officials or scientists present for the view that the risk to human health was such as to require immediate action in relation to animals entering the food chain.\textsuperscript{710} Had I attempted to overrule the unanimous advice of the scientists at the meeting on this point, I regard it as highly unlikely that my personal advice, unsupported by experts, would have been accepted by the Treasury.\textsuperscript{711}

5.209 Sir Donald made a further point:

. . . it was reported that within MAFF there had already been considerable controversy and concern about the issue of the cost of introducing a slaughter and compensation policy. In consequence, both Dr Watson and Mr Cruickshank stated at the meeting that formal appraisal of the risk to human health was a prerequisite for the introduction of such a measure. In other words, a more considered view than was possible at a single meeting summoned at short notice and without pre-circulated papers was necessary if the costs of a slaughter and compensation policy were to be justified to the Treasury.\textsuperscript{712}

5.210 In oral evidence he reiterated both points. He emphasised the calibre of those whom he had summoned at short notice to advise him on 17 March, and their universal response was that immediate action was not necessary but that the matter should be considered by an expert group.\textsuperscript{713}

5.211 On the second point, Sir Donald said:

. . . the excellent group of people I managed to get together, which included four excellent scientists and officials, including Mr Cruickshank, made it
absolutely clear that it was necessary to get further information before a proper decision could be made to advise MAFF.

I should point out that when Mr Cruickshank minuted Mr Andrews about the 17 March meeting he omitted – and I am not suggesting it was deliberate – to say that it was he at the 17 March meeting that had said it was necessary for further information and assessment to be made before it would be justifiable to incur the costs.\footnote{128 p. 12}

5.212 It became apparent to us as Sir Donald gave evidence that the passage of time had robbed him of a reliable recollection of events in 1988 and that his oral evidence was in large part an attempted reconstruction based on contemporary documents.

5.213 We cannot accept Sir Donald’s evidence that he was told by Dr Watson and Mr Cruickshank at the meeting on 17 March that they required a more formal appraisal of the risk to human health than could be provided at that meeting. There was no hint of such a requirement in any of the evidence of the MAFF witnesses and it was in conflict with the evidence of Mr Cruickshank, whom we found an impressive witness.

5.214 Nor can we accept that there was unanimous agreement from all present at the meeting on 17 March that the appropriate course was to refer the issues raised to a group of experts. On the first occasion that Mr Cruickshank gave evidence he told us:

I think all the officials concerned were quite clearly of the view we should go for a slaughter and compensation scheme quickly. I recall at the meeting with the Chief Medical Officer I attended and when he suggested setting up a committee, my initial reaction was one of apprehension that this would delay us getting a move on with the business of setting up the scheme.\footnote{32 p. 107}

\ldots my initial reaction was, ‘Oh no, that will delay us moving on with this’, but when I left the meeting, and was walking back up to my own office, I thought: ‘Oh well, perhaps he was right after all, that we do need these experts in’.\footnote{32 pp. 107–8}

5.215 We accept this evidence. It accords with his recorded comment at the meeting that ‘it was important that both government departments arrange appropriate action’ before the disease became newsworthy.\footnote{YB88/03.17/8.3}

5.216 Mr Cruickshank recorded that Sir Donald expressed the view that he thought it highly likely that the expert group would advise that carcasses of affected animals should not go for human consumption.\footnote{YB88/3.17/7.1} That was indeed the advice the Southwood Working Party gave at their first meeting.

5.217 We asked Sir Donald whether, when the Working Party made that recommendation, he discussed with Sir Richard Southwood why they had formed that view. He replied:

\footnotesize
\begin{footnotes}
\item[714] T128 p. 12
\item[715] T32 p. 107
\item[716] T32 pp. 107–8
\item[717] YB88/03.17/8.3
\item[718] YB88/3.17/7.1
\end{footnotes}
I honestly cannot remember. I think I can remember my reaction, which was one of relief. I thought it was an excellent thing to do on commonsense grounds; and an excellent thing not to wait until he concluded his report.\(^{719}\)

5.218 It seems to us that once those at the meeting on 17 March had concluded that they could not be sure that it was safe to eat cattle sick with BSE and that an expert committee should be constituted to consider this, common sense suggested that BSE-affected cattle should be removed from the food chain in the meanwhile. We would have expected the CMO to take the lead in suggesting this.

5.219 While Sir Donald’s response to MAFF’s request for advice was disappointing, we do not consider that it was blameworthy. He was put in an invidious position, being asked for advice without notice on policy that had significant consequences. Had he been told, as MAFF officials originally intended, that MAFF proposed to introduce a slaughter and compensation policy unless he advised that this was unnecessary, we think it unlikely that he would have dissented. As it was, the onus was put on him to advise whether positive measures were called for. In the face of uncertainty on the part of those he had summoned to consider this, we do not feel he can be held at fault for recommending that the matter be referred to an expert group.

March to July 1988

5.220 The second quarter of 1988 saw growing confidence on the part of the Epidemiology Department of the CVL that ruminant protein was indeed the source of BSE infection. This led to Mr MacGregor’s commendable decision to introduce a compulsory ruminant feed ban (see paragraph 4.9).

5.221 However, despite the fact that the source of BSE now seemed relatively clear, Mr MacGregor remained opposed to government funding for a slaughter and compensation scheme. When his officials once again recommended such a scheme, he stressed that industry should be under no illusions that it could be government-funded. Mr Cruickshank received a request from Mr MacGregor only a few days later to advise on steps to cut off the sources of BSE to humans (see paragraph 5.81). Once again he recommended compulsory slaughter and compensation. Mr MacGregor’s response was to authorise exploration of whether the Milk Marketing Board might be a source of funding for such a scheme.

5.222 Mr MacGregor has urged that his insistence that industry funding should be explored was beneficial. It meant that when the Southwood Working Party recommended the compulsory slaughter and destruction of clinically affected animals, he was in a position to demonstrate to the Treasury that industry funding was not an option.\(^{720}\) We consider that there is some force in this point.

5.223 The reality was that once the CMO had advised that the possible risk to human health did not justify immediate action, but that scientific advice should be sought, the die was cast. Treasury approval to paying compensation could not be anticipated unless and until supported by the advice of the appointed Working Party. In the interim attempts to find an alternative source of funding for compensation were not unhelpful. Once the Working Party had recommended

\(^{719}\) T128 p. 38
\(^{720}\) S302B MacGregor para. 18 (x, xi)
slaughter and destruction of BSE-affected animals, Mr MacGregor lost no time in seeking, and obtaining, Treasury approval of a compensation scheme.\textsuperscript{721}