1. Introduction to Southwood

1.1 We turn now to consideration of the appointment of, and the advice given by, the Southwood Working Party, chaired by Sir Richard Southwood. This is an area we consider in some detail, for the Working Party’s advice had important impacts, both in the short term and in the long term. The Working Party were asked to advise on the risks posed by BSE and the measures that should be taken to counter those risks. They addressed both matters, but sought to make it plain that they were doing their best on very limited data, that much further research was necessary, that their assessment of risk might be wrong and that, were it wrong, the consequences would be extremely serious. Unhappily, the Southwood Report was treated by many officials in the Ministry of Agriculture, Fisheries and Food (MAFF) and the Department of Health (DH) and, at times, by Ministers as if it contained definitive conclusions based on an evaluation of adequate data by expert scientists in relation to the extent both of the risk and of the precautionary measures necessary to counter that risk.

1.2 In his written statement prepared for the Inquiry, Sir Richard explained:

We were also conscious that there were uncertainties in virtually every aspect and that all we had to go on were analogies with scrapie in sheep and goats, and kuru and CJD in humans. We accepted that the agent seemed to be what was termed a ‘slow virus’ and therefore it could be a long time before the many necessary experiments would give results. Therefore these should be started as soon as possible, for until there was more knowledge, policy would have to be based on probabilities rather than scientific certainty.¹

1.3 When giving oral evidence to us, Sir Richard said of his Report:

We were very particular about the wording of paragraphs; and that we did not want it to be too reassuring. We wanted to point out that there were enormous uncertainties. And that if these uncertainties turned out to be more likely than we had judged there could be catastrophic and very profound consequences.²

1.4 How was it that this message seems to have been lost on so many? We shall first give a factual summary of the work of the Southwood Working Party before turning to consider the issues that arise in relation to their Report.

Terms of reference

1.5 On 21 March 1988 Sir Donald Acheson, the Chief Medical Officer (CMO), put a submission forward to the Minister of Health, Mr Antony Newton (now Lord Newton), to tell him of the emergence of BSE and its possible implications for human health, and to recommend the setting up of an expert group to advise

¹ Southwood para. 10
² T3 p. 149
‘whether or not there is a risk to man and, if so, what preventative action should be taken’. Sir Donald drew attention to the public relations aspect of such action and suggested:

One approach which would play down the human health issue would be for the group to be set up jointly by MAFF and DHSS, with strong public health input.\(^3\)

1.6 This suggestion was supported by Mr (now Sir) Derek Andrews, the MAFF Permanent Secretary, who commented two days later in a minute to Mr Alistair Cruickshank (Head of the Animal Health Group at MAFF) that 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’.\(^4\) On the same day the CMO sent Mr Andrews a copy of his submission to Health Ministers and said that it had been approved by them. They favoured ‘a low-key announcement by MAFF, in view of the fact that it is important that the public should not be given a false impression that a health risk in man is likely’.\(^5\)

The suggested terms of reference for the expert group were:

To consider the cause, nature and means of spread of the outbreak of Bovine Spongiform Encephalopathy including its potential implications (if any) for human health and to make recommendations.\(^6\)

1.7 The suggested terms of reference did not find favour with officials in MAFF’s Animal Health Division, who feared that any necessary actions which they might wish to take might be unduly delayed if they had to await the outcome of the Working Party. In a minute to Mr Andrews, Mr Alan Lawrence of MAFF’s Animal Health Division recommended a DH group with a restricted public health remit to which MAFF might provide advice and expertise when required.\(^7\)

1.8 Mr Andrews did not share this view, and advised Mr John MacGregor, the MAFF Minister at the time, to agree to a small group of experts being invited to advise on both the animal and human health aspects of BSE.\(^8\) This advice was accepted and in due course, after discussion with Sir Richard Southwood, who was anxious that his terms of reference should be drawn as widely as possible, these were agreed to be:

To advise on the implications of Bovine Spongiform Encephalopathy and matters relating thereto.\(^9\)

### Membership and assistance

1.9 Sir Richard Southwood was appointed as Chairman of the Working Party on the recommendation of Sir Donald Acheson. In recommending Sir Richard as a possible chairman, he said:

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\(^3\) YB88/3.21/2.2. The Department of Health and Social Services (DHSS) split into two separate Departments during 1988: DH and DSS. For ease of reference we generally refer to DH alone.

\(^4\) YB88/3.23/7.1

\(^5\) YB88/3.23/1.1

\(^6\) YB88/3.29/6.4

\(^7\) YB88/3.29/1.2

\(^8\) S281 Andrews para. 43

Sir Richard is Professor of Zoology at the University of Oxford and Chairman of the National Radiological Protection Board. He was lately Chairman of the Royal Commission [on] Environmental Pollution. He is Vice-Chancellor Designate of Oxford University. His scientific interests include ecology and are appropriate to the study of this condition.\textsuperscript{10}

1.10 When writing to Sir Richard on 8 April 1988, Sir Donald said:

It seems to me that it would be highly desirable to have the group set up and have its first meeting as soon as possible. A small number of additional meetings could then be held at the end of the summer. A very brief note with recommendations is all that is expected.\textsuperscript{11}

1.11 Subsequently Sir Richard agreed with Sir Donald and Mr Andrews on three additional members of the Working Party, each with wide experience in an area that would be of value when considering BSE. These were:

- Professor (now Sir Anthony) Epstein, FRS, a virologist who had just retired from the headship of the Department of Pathology at Bristol University and was continuing research in the Nuffield Department of Clinical Medicine at Oxford;
- Sir John (now Lord) Walton, a clinical neurologist who had just retired from the Chair of Neurology at Newcastle to become Warden of Green College, Oxford. He was the author of the then current edition of the standard text Brain’s Diseases of the Nervous System and was President of the General Medical Council; and
- Dr William B Martin, a veterinarian with a broad research background and some direct knowledge of scrapie in that he had just retired from the Directorship of the Moredun Research Institute in Edinburgh, where he was nevertheless continuing to carry out research.

These members received and accepted invitations to join the Working Party between 9 and 18 May.

1.12 It had been suggested to Sir Richard Southwood that Dr Richard Kimberlin, who had for a short time been Acting Director of the Neuropathogenesis Unit (NPU) in Edinburgh, should serve on the Working Party. Sir Richard demurred. He was aware that the nature of the agent that transmitted spongiform encephalopathies was a matter of controversy among the experts and did not wish to have any experts who were ‘almost too close to the front line to take the slightly broader view that we needed’.\textsuperscript{12} Both Sir Donald and MAFF officials were anxious that the Working Party should have the benefit of Dr Kimberlin’s experience.

Mr Cruickshank advised the Permanent Secretary:

... it is important that Dr Kimberlin’s advice should be available to the working group as he has a lifetime’s experience of work on the scrapie agent. I would suggest that we should make it clear to Sir Richard Southwood that we expect him to consult Dr Kimberlin.\textsuperscript{13}
And Mr Andrews in turn wrote to Sir Richard:

I am sure however that Dr Kimberlin, even though he is not a member of your Group, would be able to assist you with valuable information derived from his many years of work on the scrapie agent.\(^\text{14}\)

1.13 As noted above, the CMO and Health Minister had been anxious lest the setting up of the Working Party should give the public a false impression that a health risk in man was likely.\(^\text{15}\) In view of this, Mr Andrews and the CMO had agreed that there would be no need to make a formal announcement of the appointment of the Working Party. This decision was reversed as a result of a sudden increase of media interest in BSE, and the formation of an expert Working Party, to be chaired by Sir Richard, ‘to study Bovine Spongiform Encephalopathy, a nervous disease in cattle which has been recognised in the last two years’, was announced by MAFF in a press release on 21 April.\(^\text{16}\) Sir Richard told us that he was determined that their Report would be published.

1.14 Assistance to the Working Party was provided by Mr John Wilesmith, whose role was to provide expert advice from his viewpoint and experience of BSE as the Central Veterinary Laboratory’s (CVL’s) epidemiologist. Mr Lawrence of MAFF and Dr Hilary Pickles, a Principal Medical Officer at DH, were joint secretaries to the Working Party.

1.15 Mr Lawrence saw it as part of his duty to keep his superiors informed of the deliberations of the Working Party. Similarly Dr Pickles reported direct to the CMO. She took the lead in preparing drafts of the Report and continued as secretary to two subsequent committees concerned with BSE – the Tyrrell Committee and the Spongiform Encephalopathy Advisory Committee (SEAC). As secretary to these committees she was adept at translating views expressed, or half expressed, at meetings into lucid papers and reports. She played an active role in conveying the concerns of the Working Party that urgent action be considered in the fields of medicinal products and environmental health. Until July 1991 she had lead responsibility in DH for BSE.

The proposal of a ruminant feed ban

1.16 On 6 May 1988 Mr William Rees, the Chief Veterinary Officer (CVO), submitted his recommendation to Ministers that animal feed manufacturers should be asked to withdraw ruminant feed made with meat and bone meal, on a voluntary basis (see vol. 3: The Early Years, 1986–88). This included a statement that the proposed ban would not in any way be seen as pre-empting the Southwood Working Party as it would be introduced primarily for animal health reasons, whereas the emphasis of the Southwood Working Party was on the public health implications.\(^\text{17}\)

\(^{14}\) YB88/4.26/1.1
\(^{15}\) YB88/3.23/1.1
\(^{16}\) YB88/4.21/1.1
\(^{17}\) YB88/5.6/6.1–6.15
Meetings on 19 May

1.17 On 19 May, before the Working Party had been officially constituted, Sir Richard met Sir Donald Acheson, Mr Andrews and Mr Cruickshank to discuss what would be expected of him. He was informed that MAFF intended to introduce a ruminant feed ban.\(^\text{18}\) He commented that this was an excellent first step and the one immediate piece of advice he had planned to offer. The minute of the meeting by Mr Frank Strang, Private Secretary to Mr Andrews, records that:

. . . the Working Party had been set up to look at both human and animal health . . . In particular the Working Party should consider the following:

(i) whether the action we [MAFF] had taken on the animal health front had been sensible, and what further steps we should consider;

(ii) whether the results of our further work implied that there was a safe method of processing [meat and bone meal] which we could authorise;

(iii) the transmissibility of the disease and, very importantly, whether it was likely that it could be eradicated.\(^\text{19}\)

1.18 Sir Donald, dealing with the risk to human health, said that advice was wanted on the chances of the agent being transmitted from affected cattle to man through meat, offal or milk and on the risks inherent in using bovine material in the preparation of biologicals.\(^\text{20}\) He later asked for urgent advice from Sir Richard on the question of the manufacture of biologicals from cattle material.

1.19 In relation to the risk to human health, Mr Strang’s minute records these comments from Mr Andrews:

Compulsory slaughter might well lock us into a very large public expenditure commitment, particularly if there was no prospect of eradication, because the current legislation required us to compensate. We would need to look very carefully at alternatives – such as dealing with the problem at the slaughterhouse by meat inspection – before deciding on that option. The important point was that Sir Richard’s role would be to carry out a thorough assessment of the scientific data available (and we would make all that we knew available) and to provide advice on the dangers which that data implied. However, he [Sir Richard Southwood] should not put Ministers in a box as to the policy line they should take in deciding how to implement the scientific advice.\(^\text{21}\)

1.20 Insofar as this reflects, and we think it does, a concern on the part of Mr Andrews that the Working Party should not usurp the role of MAFF Ministers in taking policy decisions that involved substantial expenditure, we do not consider that this was a matter for criticism – particularly having regard to the concerns that his Minister had expressed in relation to paying compensation (see vol. 3: The Early Years, 1986–88).

\(^\text{18}\) YB88/5.19/4.1–4.3
\(^\text{19}\) YB88/5.19/4.1
\(^\text{20}\) Medicinal and other products made from biological materials
\(^\text{21}\) YB88/5.19/4.2
1.21 Sir Richard’s response, as recorded by Mr Strang, was that:

. . . his past record showed that he was well aware of the sensitivities involved and in particular the pressures on public expenditure. It would be his public duty to set out clearly the dangers which were revealed by the scientific evidence and to say that the chain needed breaking, if that were the case. However, the Group would not specify what administrative mechanisms would be appropriate. That would be a matter for the Government. 22

1.22 Sir Richard, in evidence, said that this accorded with his recollection that he said that the Working Party would recommend what they thought was needed and that it was up to MAFF how they achieved it. In the event it will be seen that the Working Party was to show no inhibitions about advising on practical measures to counter the risks posed by BSE, nor was there any suggestion that this was inappropriate.

The key questions

1.23 Sir Richard had a second meeting on 19 May 1988, this time with Mr Cruickshank, Mr Wilesmith, Dr Pickles, Mr Lawrence and Mr Peter Lister (DH) who, as we understand the position, was originally intended to provide a link between the Working Party and DH, but whose role was subsumed in that of Dr Pickles. This was a ‘nuts and bolts’ meeting at which the future procedure of the Working Party was discussed.

1.24 A list of 22 questions was agreed, which included questions formulated by Sir Richard and the CMO. To these Dr Pickles was subsequently to add a further six.

1.25 Sir Richard’s note of the meeting recorded that ‘a list of background questions was agreed and scientific/medical staff agreed responsibility for formulating answers’. 23 By the time of the first meeting Mr Wilesmith and Dr Pickles had formulated answers to all the questions. Since these provided the foundation for the Working Party’s analysis, we have included them in full in the Annex to this volume.

1.26 Some of these questions related to background facts, others to existing scientific opinions, and yet others seem to have been questions of policy, for example, Question 18:

What steps if any would it be prudent to take in respect of clinically affected animals covering (a) meat offal and meat products for human consumption; (b) milk; (c) material used in preparation of biologicals; and (d) pet food?

1.27 Insofar as the answers to these questions were to form the basis for the Southwood Report we were concerned to explore the attitude of the Working Party to the questions and the answers that were provided. Did they question the answers or simply treat them as accurate? Sir Richard explained how Sir Donald Acheson

22 YB88/5.19/4.2
23 YB88/5.19/1.1
had assured him that first-class civil servants would carry out a literature search and present all the background material in an objective way. It was, however, for the Working Party to evaluate that material.\textsuperscript{24} He said that they certainly questioned the ‘answers’. It was their job to probe and the questions and answers were designed to give them a framework within which to probe.\textsuperscript{25}

\textbf{1.28} The questions and answers were circulated to the Working Party before their first meeting.

\textsuperscript{24} T\textsc{3} pp. 76–7
\textsuperscript{25} T\textsc{3} p. 91